

# Heritagizing Housing: A Solution for Overtouristed Cities or Wishful Thinking?

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## I. INTRODUCTION

As a result of the outbreak of COVID-19 across the world, many nations were forced to close their borders.<sup>1</sup> In the years leading up to the COVID-19-induced border closures, tourist numbers and the revenue they generated were higher than they had ever been.<sup>2</sup> While nations were cognizant of the benefits the increased revenue and attention afforded them, residents of the cities frequented by tourists were becoming increasingly aware of the negative side effects of tourism and of the phenomenon known as “overtourism.”<sup>3</sup> When tourists disappeared from cities in the wake of border closures, the negative effects of unregulated mass tourism came into sharper focus for residents, and they were given the opportunity to imagine what life could be like in a world with no tourists.<sup>4</sup> While some symptoms of overtourism were ameliorated by tourists’ absence, housing availability and affordability, a problem allegedly exacerbated by overtourism in pre-pandemic years, was further

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1. See *Coronavirus: Europe Plans Full Border Closure in Virus Battle*, BBC (Mar. 17, 2020), <https://www.bbc.com/news/world-europe-51918596>; see Philip Connor, *More Than Nine-In-Ten People Worldwide Live in Countries with Travel Restrictions Amid COVID-19*, PEW RESCH. CTR. (Apr. 1, 2020), <https://www.pewresearch.org/fact-tank/2020/04/01/more-than-nine-in-ten-people-worldwide-live-in-countries-with-travel-restrictions-amid-covid-19/>.

2. See United Nations World Tourism Organization, *Tourism Grows 4% in 2021 but Remains Far Below Pre-Pandemic Levels*, (Jan. 18, 2022), <https://www.unwto.org/news/tourism-grows-4-in-2021-but-remains-far-below-pre-pandemic-levels> (estimating that tourism’s economic contribution in 2019 was 3.5 trillion USD, and 2021 tourist numbers were seventy-two percent lower than pre-pandemic levels, even with 415 million international tourist arrivals counted).

3. United Nations World Tourism Organization, *‘Overtourism’?—Understanding and Managing Urban Tourism Growth Beyond Perceptions*, 4 (2018), <https://www.e-unwto.org/doi/pdf/10.18111/9789284420070> (defining overtourism as “the impact of tourism on a destination, or parts thereof, that excessively influences perceived quality of life of citizens and/or quality of visitors [sic] experiences in a negative way”). See generally Bailey Ashton Adie & Martin Falk, *Residents’ Perception of Cultural Heritage in Terms of Job Creation and Overtourism in Europe*, 27 TOURISM ECON. 1185 (2021) (discussing 2017 survey data indicating that one-third of Europeans believed that tourism could endanger heritage); Alberto Amore et al., *One Visitor Too Many: Assessing the Degree of Overtourism in Established European Urban Destinations*, 6 INT’L J. OF TOURISM CITIES 117 (2020) (discussing the problem of overtourism across Europe).

4. See Stephen Burgen, *Barcelona Without the Tourists: ‘We’ve Reclaimed Our City but Inherited a Ghost Town,’* GUARDIAN (May 11, 2020, 1:30 AM), <https://www.theguardian.com/travel/2020/may/11/barcelona-without-tourists-coronavirus-lockdown-residents-reclaim-city-inherit-ghost-town>; Barbie Latza Nadeau, *Deserted Venice Contemplates a Future Without Tourist Hordes After Covid-19*, CNN (June 19, 2020), <https://www.cnn.com/travel/article/venice-future-covid-19/index.html>; Paige McClanahan, *In Empty Amsterdam, Reconsidering Tourism*, N.Y. TIMES (Mar. 31, 2021), <https://www.nytimes.com/2021/03/31/travel/amsterdam-tourism-post-pandemic.html>.

exacerbated in tourists' absence.<sup>5</sup> Airbnb, and short-term rental properties generally, are often the ones blamed for driving up housing-related costs and causing tourists to crowd residents out of local neighborhoods, with a number of European cities calling on the European Union for help in mitigating their effects on their local housing markets.<sup>6</sup>

In discussions about tourism and housing affordability and availability, residents identified a related problem: culture, heritage, and their creation and preservation.<sup>7</sup> By residents' logic, and indeed by a growing consensus' logic, how can a culture and a people's heritage survive when residents, who create the culture and heritage that tourists seek out, are displaced in favor of the tourist?<sup>8</sup> Addressing tourism, housing, heritage preservation, and their concomitant problems requires a delicate balancing act, balancing the citizen and resident's right to housing with the tourist's right to travel and the future person's right to their people's heritage. For some cities, designating their housing developments as heritage sites might help to strike this balance. Regardless of whether heritage designation is a viable option for immunizing housing markets against overtourism and its effects, it provides a useful framework for rethinking and better understanding housing's role in society.

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5. See generally European Parliament Resolution on Decent and Affordable Housing for All, 2021 O.J. (C 456) 145 (calling attention to rising housing-related costs in pre-pandemic years, resulting housing insecurity, and the aggravation of these problems by COVID-19); Lindsay B. Flynn, *The Pandemic Worsens Europe's Housing Problems*, 121 CURRENT HIST. 83 (2022).

6. See generally Jon Henley, *Ten Cities Ask EU for Help to Fight Airbnb Expansion*, THE GUARDIAN (June 20, 2019), <https://www.theguardian.com/cities/2019/jun/20/ten-cities-ask-eu-for-help-to-fight-Airbnb-expansion>; Paul Tullis, *After a Year Without Rowdy Tourists, European Cities Want to Keep It That Way*, CHIC. TRIB (Aug. 26, 2021), <https://www.chicago.tribune.com/travel/sns-bb-european-cities-no-to-tourists-20210826-agoqtmwvfvj7fe2sutsklm-eyi-story.html> (discussing how in many European cities regulations on short-term rentals were being drafted and implemented, with that process expedited over the course of the COVID-19 pandemic).

7. See Daniel Guttentag, *What Airbnb Really Does to a Neighbourhood*, BBC (Aug. 30, 2018), <https://www.bbc.com/news/business-45083954> (discussing results of numerous studies that interviewed residents of numerous cities around the world, many of which found that "rapid expansion of short-term lets can alter an area's atmosphere").

8. See generally Agustín Cocola-Gant et al., *Tourism, Gentrification and Neighbourhood Change: An Analytical Framework—Reflections from Southern European Cities*, in THE OVERTOURISM DEBATE 121-135 (Jeroen A. Oskam ed., 2020).

## II. THE UNIVERSAL HUMAN RIGHT TO HOUSING AND THE COMPETING RIGHT TO TOURISM

In Article 25 of the Universal Declaration of Human Rights, the United Nations (UN) recognized the right to housing to be inherent in the right to an adequate standard of living.<sup>9</sup> Later, the UN made the right to housing explicit by adopting the International Covenant on Economic, Social, and Cultural Rights (ICESCR), and the right to housing has come to be defined by seven elements: “(1) security of tenure; (2) availability of services, materials, and infrastructure; (3) *affordability*; (4) accessibility; (5) habitability; (6) *location*; and (7) *cultural adequacy*.”<sup>10</sup>

The UN has also recognized what has become something of a competing right: the right to tourism.<sup>11</sup> Under the UN World Tourism Organization’s Global Code of Ethics for Tourism, tourists are to enjoy freedom to move within and between nations, access to all forms of communication, administrative, consular, legal, and health services, and to benefit from the same privacy rights as citizens of host countries.<sup>12</sup> In order to realize this right and encourage competitiveness in the tourism industry, border crossing procedures should be adapted to allow maximum freedom of movement and taxes and penalties on the tourism industry should be phased out.<sup>13</sup> Above all, the Code commands that “national and international tourism should be regarded as one of the best possible expressions of the sustained growth of free time, and *obstacles should not be placed in its way*.”<sup>14</sup>

In addition to defining the rights of the foreign tourist, the UN also recognizes the rights of local citizens and residents as well as those working in the tourism industry.<sup>15</sup> The Code broadly defines the rights of residents and citizens and only vaguely defines the tourism industry’s or

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9. See Universal Declaration of Human Rights, G.A. res. 217A (III), U.N. Doc A/810 (1948), at art. 25.

10. See Office of the High Commissioner for Human Rights, Committee on Economic, Social and Cultural Rights (CESCR) General Comment No. 4: The Right to Adequate Housing U.N. Doc. E/1992/23 (December 13, 1991) at 7 (commenting on Art. 11 (1) of the ICESCR) (emphases added).

11. See *Global Code of Ethics for Tourism*, UNITED NATIONS WORLD TOURISM ORG., art. 7, ¶ 1 (“the right to tourism must be regarded as the corollary of the right to rest and leisure . . . guaranteed by Article 24 of the Universal Declaration of Human Rights and Article 7.d of the International Covenant on Economic, Social and Cultural Rights”).

12. See *id.* at art. 8, ¶¶ 1-3.

13. See *id.* at art. 8, ¶ 5.

14. *Id.* at art. 7, ¶ 1 (emphasis added).

15. See *id.* at arts. 5, 9.

states' specific responsibilities to them, outlining that "[l]ocal populations should be associated with tourism activities and share equitably in the economic, social, and cultural benefits they generate, and particularly in the creation of direct and indirect jobs resulting from them."<sup>16</sup> Those who work in the tourism industry are granted slightly more specific protections, with the Code requiring that "workers in the tourism industry . . . have the right . . . to acquire appropriate initial and continuous training; they should be given adequate social protection; job insecurity should be limited so far as possible; and a specific status, with particular regard to their social welfare, should be offered to seasonal workers in the sector."<sup>17</sup> In recognizing the rights of both tourists and citizens and residents of host countries, the UN implicitly recognizes that their rights are in tension with one another and that both of their rights must be protected so one's quality of life does not suffer at the expense of the other's.

The UN arguably has its own mechanism for striking the balance between the rights of tourists to travel and the rights of citizens or residents to housing: United Nations Educational, Scientific, and Cultural Organization (UNESCO) world heritage designation.<sup>18</sup> In 1972, UNESCO adopted the Convention Concerning the Protection of the World Cultural and Natural Heritage, which sought to protect "cultural and natural heritage of outstanding universal value" in the face of "not only [] the traditional causes of decay, but also by the changing social and economic conditions which aggravate the situation with even more formidable phenomena of damage or destruction."<sup>19</sup> The Convention created a framework for sites to be identified and listed as sites of world heritage,<sup>20</sup> to be afforded protections to preserve designated sites' heritage,<sup>21</sup> and for nations or cities to receive funding and international assistance to implement conservation and preservation measures.<sup>22</sup>

While seemingly entirely beneficial to world heritage on its face, UNESCO, its selection of world heritage sites and cities, and its enforcement of its world heritage protection policies has faced extensive criticism. Some have criticized UNESCO's list for being Eurocentric, as

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16. *See id.* at art. 5, ¶¶ 1, 2.

17. *See id.* at art. 9, ¶ 1.

18. *See generally* Convention Concerning the Protection of the World Cultural and Natural Heritage, Paris, 16 November 1972, *United Nations Treaty Series*, vol. 1037, No. 15511, p. 151 [hereinafter World Heritage Convention].

19. *See id.* at Preamble.

20. *See id.* at arts. 1-3, 11.

21. *See id.* at arts. 4-7, 13.

22. *See id.* at arts. 15-26

a vast majority of listed sites are either located in Europe or are the physical manifestations of European colonialism, like colonial buildings in former or current European colonies or territories.<sup>23</sup> Others have called attention to heritage preservation's colonial qualities, recognizing that conservation and preservation funding is routinely directed toward settler communities, not Indigenous communities, in the Global North and is rarely directed toward the Global South generally, which "perpetuat[es] a narrow, Eurocentric view, and mirror[s] colonial legacies that continue to shape . . . funding globally."<sup>24</sup> Still others have made even more dire assessments, colloquially referring to World Heritage List inscription as "UNESCOcide," a "kiss of death" for the newly-listed site.<sup>25</sup>

### III. AIRBNB: AT THE DIGITAL INTERSECTION OF HOUSING AND TOURISM

Airbnb is a platform on which a city's residents can offer their private residences as tourist accommodations.<sup>26</sup> As a result, Airbnb can potentially affect both the tourism and housing sectors of a city since it is so closely linked to the commodities central to each of those sectors. This has also led it to receive extensive criticism as a major driver of increased housing prices, gentrification, and resident depopulation.<sup>27</sup> Residents' concerns are lent some legitimacy by the tourism philosophy that Airbnb has encouraged: to live like a local, even if only temporarily.<sup>28</sup> This has led tourism to place increased demand on housing that is typically reserved for long-term residents and in neighborhoods in cities not

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23. See generally Christoph Brumann & Aurélie Éliisa Gfeller, *Cultural Landscapes and the UNESCO World Heritage List: Perpetuating European Dominance*, 28 HERITAGE 147 (2022) (arguing that the introduction of a new cultural landscape category to address a lack of non-European heritage sites on UNESCO's World Heritage List reinforced rather than reduced the list's Eurocentrism).

24. See generally Columbia Climate School, *Colonialism Distorts the Quest to Save Heritage Threatened by Climate Change, Say Researchers*, (Feb. 14, 2022), <https://news.climate.columbia.edu/2022/02/14/colonialism-distorts-the-quest-to-save-heritage-threatened-by-climate-change-say-researchers/>; Simpson et al., *Decolonizing Climate Change—Heritage Research*, 12 NATURE 210 (2022) (discussing the role of colonialism in deciding what heritage should be preserved).

25. See generally Marco D'Eramo, *UNESCOCIDE*, 88 NEW LEFT REVIEW 47 (2014) (introducing, defining, and discussing the term "UNESCOCide").

26. *What is Airbnb and How Does it Work?*, AIRBNB, <https://www.Airbnb.com/help/article/2503/what-is-Airbnb-and-how-does-it-work> (last visited Apr. 6, 2022).

27. See generally Cocola-Gant, *supra* note 8.

28. See Katie Benner, *Airbnb Wants Travelers to 'Live Like a Local' With Its App*, N. Y. TIMES (Apr. 19, 2016), <https://www.nytimes.com/2016/04/20/technology/Airbnb-wants-travelers-to-live-like-a-local-with-its-app.html>.

frequented by tourists.<sup>29</sup> Airbnb’s philosophy has been widely adopted by tourists, and, lately, people have taken Airbnb’s offer to live like a local into the long term, with Airbnb’s cofounder and CEO noticing a growing trend ever since the pandemic has untethered workers from their offices and borders have reopened to tourists: people are living in Airbnbs.<sup>30</sup>

While the ways in which people are using Airbnb may be new, the problems posed by the platform are not new. Long before residents identified problems related to Airbnb’s presence in their cities, philosophers identified a problem that inheres in tourism generally and the type of tourism that Airbnb and its users engage particularly. Henri Lefebvre is chief among those philosophers.<sup>31</sup> In his book *The Right to the City*, Lefebvre posited that cities today “survive[] because of . . . place consumption and consumption of place.”<sup>32</sup> Lefebvre, deriving from Marxist philosophy, posited that a city’s residents create what we know most fundamentally as “sense of place,” what often times we refer to as “culture” or “heritage,” “creat[ing] and consciously transform[ing] the city, shaping and transmitting their own personality to it.”<sup>33</sup> Lefebvre observed that commodification of property, among other things, in capitalist societies has interrupted and undermined residents’ place creation, resulting in residents feeling a sense of alienation from the cities they call home.<sup>34</sup> He observed this alienation occurring in Hausmannian Paris, writing that Hausmann’s urban planning projects operated as a mass eviction of the working class to the city’s suburbs so the city could better accommodate consumerist culture.<sup>35</sup> He also paid particular attention to

29. See generally Cocola-Gant, *supra* note 8 (describing short-term rental properties’ gentrifying effect in European cities).

30. See Brian Chesky (@bchesky), TWITTER (Nov. 8, 2021, 8:54 PM), [https://twitter.com/bchesky/status/1457904388366692354?s=20&t=jvURac4mXOjFcZ\\_erqu5TA](https://twitter.com/bchesky/status/1457904388366692354?s=20&t=jvURac4mXOjFcZ_erqu5TA) and accompanying Tweets (“Before the pandemic, most people were tethered to the place they worked because they had to go into an office . . . The pandemic accelerated the mass adoption of technologies (like Zoom) that allowed millions of people . . . to work from home . . . Millions of people can now travel anytime, anywhere for any length—and even live anywhere . . . We’re seeing this in our own data . . . Travel anytime: Monday’s and Tuesday’s are our fastest growing days of the week for families to travel . . . Live anywhere: between July and September, 1 in 5 nights booked were for a month or longer. This is our fastest growing category by trip length . . . So basically, people aren’t just traveling on Airbnb, they’re now living on Airbnb.”).

31. See generally HENRI LEFEBVRE, *LE DROIT À LA VILLE* [THE RIGHT TO THE CITY] (Anthropos ed., 1st ed. 1968) [hereinafter THE RIGHT TO THE CITY].

32. See *id.* at 9.

33. See Iban Diaz-Parra & Jaime Jover, *Overtourism, Place Alienation and the Right to the City: Insights from the Historic Centre of Seville, Spain*, 29 J. OF SUSTAINABLE TOURISM 158 (2021).

34. See *id.* at 162.

35. See *id.* at 162.

Venice and its struggles with tourism in his work, writing that “tourists make the authenticity they seek in the historic city disappear. Venice, with 200,000 tourists, is not Venice anymore. The object vanishes with the activity by which it is used . . . tourists become their own spectacle.”<sup>36</sup> In short, in Lefebvre’s concept of the city, residents produce the sense of place in cities that tourists visit to consume, and, as resident displacement occurs as a result of commodification of property, the process of place production ceases, leaving urban space devoid of the “rich authenticity of everyday life” in its wake; residents who are left behind in these urban spaces are left to feel alienated from the place that once existed.<sup>37</sup> Residents’ concerns, unconsciously echoing Lefebvrian concepts, highlight the importance of housing in a place’s heritage, and they may also indicate that housing itself is heritage that should be protected as such.

#### IV. “OVERTOURISTED” CITIES: AT THE PHYSICAL INTERSECTION OF HOUSING AND TOURISM

Barcelona is one of the most notable examples of cities dealing with overtourism in Europe. From 1990 to 2016, Barcelona’s tourist numbers increased from 1.7 million to 8 million per year.<sup>38</sup> Further, according to data from 2019, Barcelona contains 19,819 listings on Airbnb, and twenty-seven percent of Airbnb owners rent out more than one room or apartment while twenty-two percent rent out more than five properties.<sup>39</sup> For areas of Barcelona with the largest concentrations of Airbnbs, rental prices increase by seven percent, and some estimates indicate that for every 100 Airbnb listings in Barcelona, rental prices increase by three percent.<sup>40</sup> Barcelona residents have staged protests in response to tourism’s ramifications, namely rising rents, rising prices in local shops,

36. HENRI LEFEBVRE, *DU RURAL A L’URBAIN [FROM RURAL TO URBAN]* 205 (Anthropos ed., 3rd ed. 2001).

37. See Diaz-Parra & Jover, *supra* note 33, at 163-64. For further discussion of Lefebvrian philosophy as it applies to Airbnb, see generally Anna Farmaki et al., *A Lefebvrian Analysis of Airbnb Space*, 80 ANNALS OF TOURISM RSCH. 1 (2020).

38. See Dan Hancox, *Is This the World’s Most Radical Mayor?*, THE GUARDIAN (May 26, 2016, 1:00 AM), <https://www.theguardian.com/world/2016/may/26/ada-colau-barcelona-most-radical-mayor-in-the-world>; Alex Ledson, *Barcelona Is Threatening to Shut Out Tourists*, FORBES (July 12, 2019, 8:58 AM), <https://www.forbes.com/sites/alexledson/2019/07/12/barcelona-is-ready-to-shut-out-tourists/?sh=4298dfe75546>.

39. See Lagonigro et al., *Understanding Airbnb Spatial Distribution in a Southern European City: The Case of Barcelona*, 115 APPLIED GEOGRAPHY 1, 2-3 (2020).

40. Miquel-Àngel Garcia-López et al., *Do Short-Term Rental Platforms Affect Housing Markets? Evidence from Airbnb in Barcelona*, 119 J. OF URB. ECON. 2 (2020).



a perceived loss of neighborhood identity and spirit, and, for some residents, being forced to move out of neighborhoods they have always lived in.<sup>41</sup>

A number of Italian cities have major overtourism problems, too. At its peak before COVID-19, Venice hosted 10.2 million guests, not counting the city's day guests, while other estimates put the tourist count closer to 20 million guests each year.<sup>42</sup> These tourists are largely concentrated in a two square mile area of the city, where only fifty-thousand residents live.<sup>43</sup> A report from Italy's Bureau of Statistics from 2018 noted that Rome was Italy's most-visited city, with 29 million guests in that year.<sup>44</sup> Estimates from 2015 found that Florence, a city of 350,000 residents, received 16 million visitors each year.<sup>45</sup> As tourist numbers have grown in these cities, researchers have noticed that resident apartments have slowly been converted to tourist accommodations, particularly short-term rentals, like Airbnbs, which has led to residents depopulating city centers.<sup>46</sup> These researchers found that Rome's central and most tourist-dense parts have been depopulating quickly since the advent of Airbnb, with those parts of Rome losing one third of their original inhabitants between 2010 and 2014.<sup>47</sup> In Venice and Florence, the resident populations of the cities' historic centers have been declining as well.<sup>48</sup> Researchers also found that Airbnb concentration is strongly correlated with resident depopulation in these cities and most strongly correlated with Airbnb rentals that are whole-home rentals.<sup>49</sup>

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41. See Neil Hughes, *'Tourists Go Home': Anti-Tourism Industry Protest in Barcelona*, 17 SOC. MOVEMENT STUD. 471, 475 (2018).

42. See Anna Momigliano, *Venice Tourism May Never Be the Same. It Could Be Better*, N. Y. TIMES (July 2, 2020), <https://www.nytimes.com/2020/07/02/travel/venice-coronavirus-tourism.html>.

43. See *id.*

44. *Movimento Turistico in Italia, Anno 2018, Turismo ancora in crescita: presenze +2%, arrivi negli esercizi ricettivi +4%* [Tourist Movement in Italy, 2018, Tourism Still Growing: Attendance + 2%, Arrivals in Accommodation Establishments + 4%], ISTITUTO NAZIONALE DI STATISTICA [NAT'L INST. OF STAT.], (Nov. 27, 2019), <https://www.istat.it/it/archivio/236148> (last visited Apr. 6, 2022).

45. Emily Payne, *Save Florence from Mass Tourism! New Campaign Bids to Reclaim City from Its 16 Million Visitors and Monitor the Damage They Cause*, DAILY MAIL (Apr. 15, 2015, 6:22 AM), [https://www.dailymail.co.uk/travel/travel\\_news/article-3041513/Save-Florence-mass-tourism-New-campaign-bids-reclaim-city-16million-visitors-monitor-damage-cause.html](https://www.dailymail.co.uk/travel/travel_news/article-3041513/Save-Florence-mass-tourism-New-campaign-bids-reclaim-city-16million-visitors-monitor-damage-cause.html).

46. See Filippo Celata & Antonello Romano, *Overtourism and Online Short-Term Rental Platforms in Italian Cities*, 30 J. OF SUSTAINABLE TOURISM 4 (2020).

47. See *id.* at 12-13.

48. See *id.*

49. See Celata & Romano, *supra* note 46, at 14.

Amsterdam has experienced rapid Airbnb growth, too.<sup>50</sup> Researchers report that prior to 2009, Amsterdam had only a few Airbnb listings, but in 2013 and afterwards, the number of Airbnbs in the city grew exponentially.<sup>51</sup> It has been estimated that in 2020, there were 20,420 Airbnb listings across Amsterdam, growing by more than 1,000 listings from 2018's estimates of 19,345 listings in the city.<sup>52</sup> Researchers have found a statistically significant relationship between Airbnb growth in Amsterdam and the city's housing prices.<sup>53</sup> This relationship has existed since Airbnb entered Amsterdam's market, but after 2014, when the city's government simplified the process of legally operating a short-term rental, housing prices increased five-fold.<sup>54</sup>

Paris's Airbnb market has grown considerably since its introduction into the city's market, too.<sup>55</sup> In the year Airbnb entered Paris's market in 2009, it had only 66 listings within the city.<sup>56</sup> By 2015, over a span of just six years, that number grew to 39,608 listings.<sup>57</sup> Paris is a major market for Airbnb, with the company reporting that one-third of its users visit the city.<sup>58</sup> Despite Airbnb's massive growth in Paris and the city's being a key player in the Airbnb market, researchers have found only weak relationships between Airbnb density and the prices of rental properties on the private market.<sup>59</sup> Their findings reflected that a one-point increase in Airbnb density in Paris lead to a 0.5242 percent increase in rental prices.<sup>60</sup> When the researchers measured the effect of hosts with at least two listings and hosts whose units were occupied for more than 120 days each year, they found that these types of listings led to a 1.2372 percent increase in Parisian rental prices.<sup>61</sup> The researchers concluded their

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50. See generally Mariia Artemova et al., *To Regulate or to Deregulate: Effect of Airbnb Activity on the Amsterdam Housing Market*, ECONOMETRIC GAME, VRIJE UNIVERSITEIT AMSTERDAM (2021), <https://wceconometrics.com/wp-content/uploads/2021/04/VU.pdf>.

51. See *id.* at 1-2.

52. See *Number of Airbnb Listings in Amsterdam 2018-2020*, STATISTA, <https://www.statista.com/statistics/1267092/Airbnb-listings-amsterdam-netherlands/> (last visited April 6, 2022).

53. See Artemova et al., *supra* note 50, at 15.

54. See *id.*

55. See generally Cindy Yoonjoung Heo et al., *What is Happening in Paris? Airbnb, Hotels, and the Parisian Market: A Case Study*, 70 TOURISM MGMT. 78 (2019).

56. See *id.* at Table 1.

57. See *id.*

58. See *id.* at 81.

59. See generally Kassoum Ayouba et al., *Does Airbnb Disrupt the Private Rental Market? An Empirical Analysis for French Cities*, 43 INT'L REG'L SCI. REV. 76 (2020).

60. See *id.* at 101.

61. See *id.*

findings by noting that regardless of the type of Airbnb listing that was analyzed, Airbnbs always lead to some increase in the city's rental prices.<sup>62</sup> Meanwhile, an increase in the density of hotels in the city actually lead to a decrease in Parisian rental prices.<sup>63</sup>

Berlin has dealt with overtourism, too, with thirteen million tourists having traveled to Berlin in 2017.<sup>64</sup> Residents in numerous Berlin neighborhoods have complained that they are being displaced by rental price increases caused by short-term tourist accommodations.<sup>65</sup> Researchers have corroborated this, repeatedly finding that greater concentrations of Airbnbs in Berlin neighborhoods have caused long-term rental price increases.<sup>66</sup> Some researchers have noted that rental prices have increased sixty percent between 2010 and 2018, and that according to data from 2013 to 2015, Airbnb drove a 17.4% increase in rental prices for small apartments in those neighborhoods with particularly high densities of Airbnb offerings.<sup>67</sup> Other researchers have produced similar results, finding that the density of Airbnbs is positively correlated with rental prices, but that nearby homes on Airbnb increased rental prices per square meter by ten cents according to some years' data, while other years' data showed that nearby Airbnbs led to smaller increases in rental prices per square meter.<sup>68</sup>

What is clear across all of the examples discussed above is that regardless of whether researchers have found a significant relationship between Airbnb listing density and housing price increases, government officials still have a problem on their hands, and possibly an even more difficult one to deal with. In places where there actually is a relationship between Airbnb listing density and housing price increases, government officials must regulate Airbnb's activity in some way as to mitigate its effects on local housing markets. The potentially more difficult problem is that in places where this relationship is nonexistent or negligible at most, government officials are left to manage residents' subjective

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62. *See id.*

63. *See id.*

64. *See* Andreas Kirchhoff, *Overtourism: Where Will It Take Us?*, DEUTSCHE WELLE (Mar. 7, 2018), <https://www.dw.com/en/overtourism-where-will-it-take-us/a-42863355>.

65. *See id.*

66. *See generally* Feliz Mindl, *The Effect of Short-Term Rental Platforms on Rental Prices: Evidence from Airbnb in Berlin*, CONF. OF THE ASS'NS FOR SOC. POL'Y (2020), <https://www.econstor.eu/handle/10419/224613>; Tomaso Duso et al., *Airbnb and Rents: Evidence from Berlin*, DEUTSCHES INSTITUT FÜR WIRTSCHAFTSFORSCHUNG [GERMAN INST. FOR ECON. RSCH.] (2020).

67. *See* Mindl, *supra* note 45, at 1, 19-20.

68. *See* Duso et al., *supra* note 66, at 18, 21, 27-28.

experiences and perceptions of housing price increases and other negative effects of Airbnbs. Local governments in particular have attempted to address both problems in a number of ways.

## V. CITIES' RESPONSES TO AIRBNB-RELATED HOUSING ISSUES

As Airbnb's presence throughout Europe has grown and exerted increased pressure on the housing markets of individual European nations and as residents of individual European cities have made their voices heard through protests against Airbnb and similar services, local governments have taken actions to limit Airbnb and similar services' influence over their local markets.

### A. Bans and Other Restrictions on Short-Term Rental Properties

Some cities have put blanket bans in effect that prohibit property owners from offering their properties on platforms like Airbnb.<sup>69</sup> Over time, (1) those bans have been loosened to be less restrictive (such as allowing property owners to offer their properties as short-term rentals but restricting the number of days per year the property owner is allowed to let their property); (2) local governments have ended the bans altogether and/or replaced them with similarly restrictive rules on property use; or (3) courts have stepped in and ended the bans altogether or modified their terms.

Berlin is among the cities to have enforced a ban on property owners offering their properties as short-term rentals. In 2016, Berlin's local government enacted the *Zweckentfremdungsverbotsverordnung*, which effectively banned short-term rental properties from operating in the city.<sup>70</sup> At first, courts were receptive to the ban,<sup>71</sup> but as time wore on, they became more hostile towards it, ruling that Berlin was required to grant licenses it otherwise would not have.<sup>72</sup> Two years later, in 2018, the city

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69. See, e.g., *Zweckentfremdungsverbotsverordnung [ZwVbG]* [Act on the Prohibition of Misappropriation of Housing] GVBI § 1131, <https://gesetze.berlin.de/bsbe/document/jlr-WoZwEntfrGBErahmen>.

70. See generally *id.*

71. See Tina Bellon, *Berlin Court Upholds Short-Term Home Rental Ban*, REUTERS (June 8, 2016, 12:00 PM), <https://www.reuters.com/article/germany-housing-court/update-1-berlin-court-upholds-short-term-home-rental-ban-idUKL8N1903XN>.

72. See Press Release, *Verwaltungsgericht Berlin* [Administrative Court Berlin], *Zweckentfremdung: Anspruch auf Erteilung von Ausnahmegenehmigungen für Ferienwohnungszwecke bei Zweitwohnungen* (Nr. 34/2016) [Misappropriation: Right to grant exemptions for holiday apartment purposes for second homes (No. 34/2016)] (Aug. 9, 2016), <https://www.berlin.de/gerichte/verwaltungsgericht/presse/pressemitteilungen/2016/pressemitteilung.507033.php>.

assembly overturned the law, returning to allowing property owners to offer their properties as short-term rental properties, but they replaced it with a number of similarly restrictive rules.<sup>73</sup> Under these rules, (1) property owners must apply for and receive a permit from the borough their property is located in.<sup>74</sup> The rules make receiving permits for secondary residences more difficult than receiving a permit for a primary residence, and a special permit is required to offer properties that have been vacant for more than three months without a registered, permanent tenant at that address.<sup>75</sup> While these rules are less restrictive than a blanket ban, the fine for violating these rules is five times higher than the fine for violating the terms of the ban, with maximum fines set at five hundred thousand euros, or six hundred and seventeen thousand dollars.<sup>76</sup>

Barcelona has also attempted a ban, a quasi blanket ban, on short-term rental properties. When the mayor of Barcelona, Ada Colau, took office in 2015, her administration put a number of controls in place to attempt to mitigate the toll the ever-growing tourism industry was having on the city.<sup>77</sup> One of these measures was placing a moratorium on the city's issuance of licenses to property owners who requested permission to use their properties as whole-home rentals on short-term rental platforms.<sup>78</sup> Later, in 2021, the administration went even further, placing a ban on private room short-term rentals in owner-occupied properties, making Barcelona the only major European city with such a ban.<sup>79</sup> The city's government spends about two million euros each year investigating properties suspected of violating its property use rules and issues fines

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73. See Feargus O'Sullivan, *Berlin Just Canceled Its Airbnb Ban*, BLOOMBERG CITYLAB (Mar. 23, 2018, 2:27 PM), <https://www.bloomberg.com/news/articles/2018-03-23/berlin-s-Airbnb-ban-is-over-but-the-new-rules-are-serious>.

74. See *id.*

75. See *id.*

76. See *id.*

77. See Paige McClanahan, *Barcelona Takes on Airbnb*, N. Y. TIMES (Sept. 22, 2021), <https://www.nytimes.com/2021/09/22/travel/barcelona-Airbnb.html> (noting that the Colau Administration "enacted a moratorium on new tourist licenses for entire-apartment rentals; launched a major crackdown on illegal apartment listings; banned the construction of new hotels in the city center; and introduced neighborhood-specific rules to regulate the establishment of souvenir shops and other businesses that cater to tourists"). The Colau Administration has also attempted appropriation of bank-owned properties to put vacant housing units back on the housing market in hopes of addressing rising housing prices. See Feargus O'Sullivan, *Barcelona Forces Banks to Turn Repossessed Homes Into Affordable Housing*, BLOOMBERG CITYLAB (Apr. 17, 2018), <https://www.bloomberg.com/news/articles/2018-04-17/in-search-of-affordable-housing-barcelona-turns-to-reposessed-homes>.

78. See McClanahan, *supra* note 77.

79. See *id.*

starting at six thousand euros to property owners operating illegal listings, but, despite this surveillance and threat of fines, listings that violate the city's rules still often wind up listed on Airbnb.<sup>80</sup> Barcelona has recognized, though, that Airbnb has historically cooperated with the city in removing illegal listings from the platform, often times merely days after the city notifies Airbnb of the illegal listing.<sup>81</sup> The Colau Administration's rules remain in effect as of this writing.<sup>82</sup>

In 2020, Amsterdam attempted a partial ban on short-term rental properties, but it was short-lived.<sup>83</sup> The ban encompassed all vacation rentals located within three areas in the city that compose its central canal ring, notably a UNESCO world heritage site.<sup>84</sup> The city noted that ninety-five percent of Airbnb listings are outside of this newly proscribed area and that those properties would remain subject to its existing rules, which allows for short-term rental use by groups of no more than four people, only up to thirty days each year, and only after receiving a permit from the city.<sup>85</sup> Airbnb challenged Amsterdam's ban in court, arguing that it violated residents' basic rights.<sup>86</sup> In its legal challenge to the ban, Airbnb argued that Amsterdam's ban exceeded the scope of the Housing Act.<sup>87</sup> The court agreed with Airbnb, finding that the Housing Act, as it existed at the time of the city's enactment of the ban, could not form the basis for the city's ban.<sup>88</sup> The court noted that the provisions that would have given the city authority to enact and enforce a ban—Articles 3.1.1 and 3.3.8b of the Housing Act—only granted the city authority to impose licensing conditions or requirements on extraction permits.<sup>89</sup> Contrary to the city's

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80. *See id.*

81. *See id.*

82. *See Cataluña / Barcelona*, AIRBNB, <https://www.Airbnb.com/help/article/862/cataluña-barcelona> (last visited Apr. 6, 2022); *Catalonia's Tourist Accommodations Registration Process: Frequently Asked Questions*, AIRBNB, <https://www.Airbnb.com/help/article/2265/catalonias-tourist-accommodations-registration-process-frequently-asked-questions> (last visited Apr. 6, 2022).

83. *See Airbnb Says Amsterdam Old Town Home Sharing Ban is 'Damaging,'* REUTERS (June 25, 2020, 1:14 PM), <https://www.reuters.com/article/us-netherlands-Airbnb/Airbnb-says-amsterdam-old-town-home-sharing-ban-is-damaging-idUSKBN23W31H>.

84. *See id.*

85. *See id.*

86. *See id.*; *see generally* Rb. Amsterdam [Court of Amsterdam] 12 maart 2021, TBR 2021, 75 m.nt. R. van der Hulle (P.A. Willemsen v. Het college van burgemeester en wethouders van de gemeente Amsterdam) [(P.A. Willemsen v. the college of mayor and aldermen of the municipality of Amsterdam)].

87. *See id.* ¶ 5.

88. *See id.* ¶¶ 6.1, 7.3.

89. *See id.* ¶¶ 7.2, 7.3.

arguments, the court found that a ban could not be interpreted to be a licensing condition or extraction permit requirement.<sup>90</sup> In its decision, the court signaled that it is amenable to stricter rules governing short-term rentals in the city, going so far as to offer its recommendations as to how the city could amend the Housing Act and its ban in order to survive judicial scrutiny.<sup>91</sup> The court recommended that the city amend Article 3.3.1(5) of the Housing Act to include (1) provisions that would allow the city to refuse to grant short-term rental licenses out of concern for residents' quality of life; or (2) "a quota in conjunction with a night criterion."<sup>92</sup> The court then ordered Amsterdam to allow Airbnb rentals in the area it once proscribed, an order Amsterdam has since complied with.<sup>93</sup>

France, and Paris in particular, has forgone a blanket ban, opting instead for rules more similar to those that replaced Berlin's ban. In France, property owners are allowed to rent the entirety of their primary residence for only 120 days each year, but they are allowed to rent a room within their primary residence for the entirety of the year if they choose to do so.<sup>94</sup> Secondary residences are more difficult to rent to tourists, with the French government requiring that property owners declare their rental activity to the city in which their property is located or, in some instances, file a change of use application in order to receive special permission to rent secondary residences to tourists.<sup>95</sup> Property owners failed to comply with these rules, and in 2020, the European Court of Justice, in a case first beginning in 2018, ruled that the Parisian government could legally levy fines against Parisian property owners who rented properties to tourists through Airbnb without first receiving permission from the local government.<sup>96</sup> In February 2021, France's Cour de Cassation affirmed Paris's prosecution of and levying fines against property owners who

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90. *See id.* ¶ 7.3.

91. *See id.* ¶ 8.

92. *See id.*

93. *See Amsterdam to Allow Airbnb Rentals in City Centre After Court Order*, REUTERS (Mar. 16, 2021, 7:29 AM), <https://www.reuters.com/article/us-netherlands-airbnb-amsterdam/amsterdam-to-allow-airbnb-rentals-in-city-centre-after-court-order-idUSKBN2B81NS>.

94. *See Responsible Hosting in France*, AIRBNB, <https://www.airbnb.com/help/article/1383/responsible-hosting-in-france#regulations> (last visited Apr. 6, 2022); *see Service Meublés touristiques [Tourist Apartments]*, VILLE DE PARIS [CITY OF PARIS], <https://www.paris.fr/pages/meubles-touristiques-3637>.

95. *See id.*

96. *See generally* C-724/18, *Cali Apartments SCI and HX v. Procureur général près la cour d'appel de Paris and Ville de Paris* [Attorney General at the Court of Appeal of Paris and City of Paris], (2020).

violated the city's rules around short-term rental properties.<sup>97</sup> Later in 2021, following the Cour de Cassation's ruling, a Paris court ruled that Airbnb, who shares responsibilities with property owners in ensuring that they are in compliance with Parisian law, was required to pay 8.08 million euros, or 9.6 million dollars, to the city after approximately 1,000 apartments were found to be in violation of Paris's short-term rental property regulatory requirements.<sup>98</sup>

### B. Expropriation

One of the more extreme approaches to addressing tourism-related housing issues has been expropriation of bank- or privately-owned properties. In 2007, Catalonia, the autonomous region of Spain of which Barcelona is the capital city, enacted Decreto-Ley 18/2007, which reiterated the importance of the right to housing granted by the Spanish constitution and recognized the availability and affordability issues in the region's housing market.<sup>99</sup> Later, Decreto-Ley 4/2016 was enacted and set up the framework under which the Catalanian government could expropriate properties.<sup>100</sup> Property can be expropriated under this law if and when property does not comply with "the social function of property" as it has been defined by Catalanian law, which includes properties located in areas contemplated by 18/2007 and those that are allowed to remain unoccupied.<sup>101</sup> Under this law, both private citizens and legal entities, like "asset securitization funds," are subject to expropriation if they do not keep their properties on the housing market and occupied.<sup>102</sup> A few years after the Catalanian government enacted Decreto-Ley 4/2016, on December 23, 2019, it enacted Decreto-Ley 17/2019.<sup>103</sup> In Section I of its Explanatory Statement, the law contemplates the impact of Catalonia's previous laws on the government's power to expropriate, noting that "it is worth highlighting the extension of the power to expropriate [introduced in article 15 of Decreto-Ley 4/2016]."<sup>104</sup> The law

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97. See generally Cour de cassation [Cass.] [supreme court for judicial matters] 3e civ., Feb. 18, 2021, No. 17-26.158 (Fr.).

98. See Romain Dillet, *Paris Court Fines Airbnb \$9.6 Million for Illegal Listings*, TECHCRUNCH (July 1, 2021 11:07 PM), <https://techcrunch.com/2021/07/01/paris-court-fines-Airbnb-9-6-million-for-illegal-listings/>.

99. See B.O.E. 2008, 3657.

100. See *id.* at art. 15; see B.O.E. 2016, 11476.

101. See *id.* at art. 15, ¶ 1-2.

102. See *id.* at art. 15, ¶ 2(b).

103. See B.O.E. 2020, 2509.

104. See *id.* at Explanatory Statement § 1. ("Among the changes introduced in article 15 of Law 4/2016, it is worth highlighting the extension of the power to expropriate, which not only



then went on to expand the expropriation power established by earlier laws, allowing governments in the region to purchase offending properties outright at fifty percent of the property's value.<sup>105</sup> Barcelona seized on the opportunity posed by this new law, sending warnings to fourteen companies, which together own 194 apartments and all of which have remained empty for a period of two or more years.<sup>106</sup> The city warned that merely offering the properties for rent would not be enough to comply with its warnings; instead, companies would be required to have their properties occupied by tenants within one month of receiving a warning in order to avoid their properties being seized by the city and used as public housing in addition to facing fines between 90,000 euros and 900,000 euros.<sup>107</sup>

In early 2021, the Spanish Constitutional Court considered and ruled on the constitutionality of Catalonia's far-reaching self-granting of expropriation powers.<sup>108</sup> Those appealing the law alleged that the law was unconstitutional and null on the grounds that it regulates and abridges property rights beyond the scope allotted to decree-laws and weakens property rights in Catalonia as compared to other Spanish territories.<sup>109</sup> The Court largely agreed with the appellants, finding that nearly all of the provisions of Decreto-Ley 17/2019 alleged to be unconstitutional were, in fact, unconstitutional.<sup>110</sup> Notably, those provisions ruled

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covers the temporary use of homes registered or likely to be registered, but also their domain; as well as the reduction of the content of the property right in the face of the breach of the obligation to legally and effectively occupy the house by 50 percent of its value, the difference corresponding to the expropriating Administration according to the legislation on land and urban rehabilitation, since it entails the breach of the duty of ownership of buildings to dedicate them to uses compatible with territorial and urban planning. On the other hand, the entities under public and private law that can be beneficiaries of expropriation are established.”)

105. *See id.* at art. 2, §§ 1, 5; *id.* at art. 6, § 3.

106. *See* Feargus O'Sullivan, *Barcelona's Latest Affordable Housing Tool: Seize Empty Apartments*, BLOOMBERG CITYLAB (July 16, 2020, 11:48 AM), <https://www.bloomberg.com/news/articles/2020-07-16/to-fill-vacant-units-barcelona-seizes-apartments>.

107. *See id.*

108. *See generally* *The Spanish Constitutional Court Annuls the Limitations on Lease Rentals Imposed in Catalonia Since September 2020*, ASHURST, <https://www.ashurst.com/en/news-and-insights/legal-updates/the-spanish-constitutional-court-annuls-the-limitations-on-lease-rentals-imposed-in-catalonia/> (last visited Apr. 6, 2022); *see* T.C., Jan. 28, 2021 (B.O.E., num. 46, p. 22004) (Spain) (invalidating Decreto-Ley 17/2019 on constitutional grounds).

109. *See id.* ¶¶ 1(c)-(d).

110. *See id.* at Failure, ¶ 1. (“[We] declare unconstitutional and null articles 2.2, 2.3, 2.4, 2.5, 2.7, 2.10, 2.11 (paragraph “without prejudice to the referred to in article 42.6”), 2.12, 4.2, 4.5 (subsection “and section 2 of the first additional provision”), 5.5, 5.6, 5.7, 6.3 and 6.6 and the first transitory provision of the Decree Law of the Government of the Generalitat of Catalonia 17/2019, of December 23, on urgent measures to improve access to housing.”).

unconstitutional encompass the expansions of the government's expropriation powers.<sup>111</sup>

### C. *World Heritage Designation*

Some cities have taken yet another approach, opting to have their housing formally designated as part of their world heritage assets in order to combat tourism-related housing issues.<sup>112</sup> For example, in 2008, Berlin successfully petitioned UNESCO to make world heritage sites out of six social housing complexes designed in the Modernist style by world-renowned architects, like Mies van der Rohe.<sup>113</sup> Proponents of these housing developments receiving world heritage designation noted that Berlin owes its reputation as a center of Modernist design largely to its housing developments, which were developed through state-assisted programs whose results set new standards for housing programs across Post-War Europe.<sup>114</sup> These proponents also noted that designating Berlin's housing developments as sites of world heritage would fill gaps in the World Heritage List as it existed prior to 2008.<sup>115</sup> The inscribed developments are still being used as social housing today, even after inscription, acting as an example of the possibility of pursuing inscription for other notable housing developments.<sup>116</sup> For proponents, Berlin's housing developments represent a departure from those architectural sites already on the list, exemplifying "a contribution with social orientation for solving the housing question in cities and providing tenement flats for workers and petty bourgeoisie" as opposed to the cultural elite and "city-scale solutions . . . in [] dense urban space of an industrial metropolis[,] . . . characteristic for the 20<sup>th</sup> century" as opposed to "model urban settlements in rural areas."<sup>117</sup>

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111. *See id.*; see B.O.E. 2020, 2509.

112. *See Berlin Modernism Housing Estates*, UNITED NATIONS EDUC., SCI. AND CULTURAL ORG., <https://whc.unesco.org/en/list/1239/> (last visited Apr. 6, 2022).

113. *Siedlungen der Berliner Moderne sind Welterbe* [Settlements of Berlin Modernism are World Heritage], FRANKFURTER ALLGEMEINE (July 8, 2008, 9:26 AM) <https://www.faz.net/aktuell/feuilleton/unesco-siedlungen-der-berliner-moderne-sind-welterbe-1668085.html>.

114. Jörg Haspel, *The Heritage of the Berlin Modern Style. Nomination of Housing Estates for Inscription on the UNESCO World Heritage List*, INT'L COUNCIL ON MONUMENTS AND SITES (2006), [https://www.icomos.org/risk/2007/pdf/Soviet\\_Heritage\\_30\\_IV-6\\_Haspel.pdf](https://www.icomos.org/risk/2007/pdf/Soviet_Heritage_30_IV-6_Haspel.pdf) (last visited Apr. 6, 2022).

115. *See id.* at 134-135.

116. *See Living in a UNESCO World Heritage Site*, DEUTSCHE WOHNEN, <https://www.deutsche-wohnen.com/en/building-living/new-developments-and-neighbourhoods/our-unesco-housing-estates> (last visited Apr. 6, 2022).

117. *See Haspel, supra* note 114, at 135.

The designation of Berlin's social housing as sites of world heritage seems to have set off greater interest in preserving housing as sites of heritage. In UNESCO's next round of World Heritage site designations in 2016, a slew of Le Corbusier's housing developments were designated sites of world heritage, such as his *Unité d'Habitation* in Marseilles, France, *Immeuble locatif à la porte Molitor* in Paris, France, and his *Immeuble Clarté* in Geneva, Switzerland.<sup>118</sup>

#### VI. A TALE OF TWO CITIES: WHERE THE CITY IS HERITAGE BUT HOUSING IS NOT

Designating housing developments as sites of world heritage seems to achieve a utopian ideal, but, in many ways, world heritage designation carries with it a unique set of problems of its own. Perhaps most apparently, a newly-designated site joins the list of widely-known sites across the world, receives widespread media attention, and, as a result, might renew and increase tourist interest in newly-designated sites.<sup>119</sup> In this way, though, world heritage site designation might further fuel the overtourism that some cities have been working to stop, drawing even more tourists than before to the cities that host newly-designated sites.<sup>120</sup> However, world heritage site designation also carries with it access to funding and sustainability and preservation experts cities might not otherwise have access to, which may outweigh the effects that increased tourist numbers can, and do, cause.<sup>121</sup>

When a site achieves UNESCO world heritage site designation, it is tasked with responsibly managing and preserving the very heritage recognized by the designation.<sup>122</sup> Failure to maintain a site to the standards promulgated by UNESCO will land a site on the committee's "World Heritage in Danger" list, and if this does not spur site managers into action, the site will be removed from the committee's list of world heritage sites.<sup>123</sup> A number of cities and sites within them have been

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118. See Anna Winston, *UNESCO Adds 17 Le Corbusier Projects to World Heritage List*, DEZEEN (July 19, 2016), <https://www.dezeen.com/2016/07/19/unesco-adds-17-le-corbusier-projects-world-heritage-list/>.

119. See Lilit Marcus, *How Does a UNESCO World Heritage Rating Affect a Tourist Destination?*, CNN (Aug. 1, 2021), <https://www.cnn.com/travel/article/unesco-world-heritage-sites-travel-tourism-cmb/index.html>.

120. See *id.*

121. See *id.*

122. See World Heritage Convention, *supra* note 18, at arts. 4-7.

123. See Julia Eskins, *What Historic Sites Are Doing to Protect Their UNESCO World Heritage Status*, CONDÉ NAST TRAVELER (Sept. 8, 2021), <https://www.cntraveler.com/story/what-historic-sites-are-doing-to-protect-their-unesco-world-heritage-status>.

threatened with inscription on the in-danger list or have had their world heritage designation removed entirely.

For example, in 2019, UNESCO began considering responses to what it deemed to be threats to Venice's heritage.<sup>124</sup> The committee warned Venetian officials that if they did not make significant progress towards addressing these threats, Venice would be added to its in-danger list.<sup>125</sup> Listing the threats it found particularly alarming, the committee noted that "the complex impacts of mass tourism, the constant decrease of population and the basic deficiencies in governance and cooperated management which have led to a significant loss of historical authenticity within Venice and the other historic centres within the property . . . threaten to result in irreversible change [to Venice's world heritage]."<sup>126</sup> In a 2019 report, the committee largely focused on cruise ships and the masses of tourists aboard them as a leading cause of these problems and urged the Venetian government to direct cruise ships elsewhere in order to avoid the city's heritage being labeled "in danger."<sup>127</sup> After a series of government actions resulted in banning cruise ships from entering Venice's lagoon,<sup>128</sup> UNESCO withdrew Venice from consideration for inscription on its in-danger list.<sup>129</sup>

Liverpool fared much differently while under UNESCO's supervision and serves as a cautionary example to cities and nations contemplating petitioning for world heritage site designation.<sup>130</sup> In 2004, Liverpool was inscribed on UNESCO's list of world heritage sites on the grounds that the city played a prominent role in international mercantile trade in the eighteenth and nineteenth centuries, and the World Heritage

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124. See *UNESCO Closely Monitoring Ongoing Threats to Venice World Heritage Site*, WORLD HERITAGE CONVENTION, <https://whc.unesco.org/en/news/2043> (last visited Apr. 6, 2022).

125. See *id.*

126. See *State of Conservation, Venice and Its Lagoon, 2021*, WORLD HERITAGE CONVENTION, <https://whc.unesco.org/en/soc/4102> (last visited Apr. 6, 2022).

127. See also *State of Conservation, Venice and Its Lagoon, 2019*, WORLD HERITAGE CONVENTION, <https://whc.unesco.org/en/soc/3966> (last visited Apr. 6, 2022).

128. See generally Julia Buckley, *Venice Finally Bans Cruise Ships from Its Lagoon*, CNN (Apr. 1, 2021), <https://www.cnn.com/travel/article/venice-cruise-ship-ban/index.html>; see generally Julia Buckley, *Venice Bans Cruise Ships from the City Center—Again*, CNN (July 14, 2021), <https://www.cnn.com/travel/article/venice-cruise-ship-ban-government/index.html>; see generally Gaia Pianigiani and Emma Bubola, *Italy's Government to Ban Cruise Ships From Venice*, N. Y. TIMES (July 13, 2021), <https://www.nytimes.com/2021/07/13/world/europe/venice-italy-cruise-ship-ban.html> (noting that Italy's cabinet declared Venice's lagoon a national monument and subsequently banned cruise ships from entering it).

129. See generally World Heritage Committee Dec. 44 COM 7B.50 (July 2021).

130. See *Liverpool Stripped of Unesco World Heritage Status*, BBC (July 21, 2021), <https://www.bbc.com/news/uk-england-merseyside-57879475>.

Committee conditioned Liverpool's inscription on the city complying with strict requirements on new construction in historic areas.<sup>131</sup> In 2012, Liverpool was placed on UNESCO's in-danger list and was given an ultimatum: reject a developer's proposal to build skyscrapers with housing and office space or be removed from UNESCO's World Heritage List.<sup>132</sup> Liverpool approved the construction of this and other developments, and it was stripped of its world heritage site designation in 2021 on the grounds that "inadequate governance processes, mechanisms, and regulations for new developments in and around the World Heritage property, have resulted in serious deterioration and irreversible loss of attributes conveying the [outstanding universal value, or] OUV[,] of the property."<sup>133</sup> Mayor Steve Rotheram, mayor of the Liverpool City Region, criticized UNESCO's decision and voiced what should be every city's concern in contemplating petitioning for inscription: "[O]ur heritage is [] a vital part of our regeneration . . . . Places like Liverpool should not be faced with the binary choice between maintaining our heritage status or regenerating left behind communities . . . We did not want to lose our World Heritage Status, but nor could we allow it to preserve our region in aspic, while the world evolves around us."<sup>134</sup> Academics in the city voiced similar concerns: "[Liverpool] has [] been treated like a monument or a museum, not a living city."<sup>135</sup>

#### VII. A TALE OF TWO (MORE) CITIES: WHERE HOUSING IS HERITAGE BUT NOT FORMALLY DESIGNATED AS SUCH

Vienna and Singapore offer two examples of places where housing has become a heritage asset without being formally designated as such. As such, they act as a counterpoint: housing markets can be protected

131. See World Heritage Committee Dec. 28 COM 26 (October 29, 2004).

132. See World Heritage Committee Dec. 36 COM 7B.93 (July 2012).

133. See World Heritage Committee Dec. 44 COM 7A.34 (July 31, 2021).

134. See Steve Rotheram (@MetroMayorSteve), TWITTER, (July 21, 2021, 5:01 AM), <https://mobile.twitter.com/metromayorsteve/status/1417786739461083138?lang=bn>.

135. See Michael Parkinson, *I've Been Chronicling Liverpool's Renaissance for 40 Years—Here's Why the City's Unesco Status Should Not Have Been Removed*, THE CONVERSATION (July 21, 2021, 12:49 PM), [https://theconversation.com/ive-been-chronicling-liverpools-renaissance-for-40-years-heres-why-the-citys-unesco-status-should-not-have-been-removed-164719?utm\\_medium=email&utm\\_campaign=Latest%20from%20The%20Conversation%20for%20July%2022%202021%20-%202009819742&utm\\_content=Latest%20from%20The%20Conversation%20for%20July%2022%202021%20-%202009819742+CID\\_b8730c2ac82114a5d958f3890b2c3037&utm\\_source=campaign\\_monitor\\_uk&utm\\_term=Ive%20been%20chronicling%20Liverpool's%20renaissance%20for%2040%20years%20%20heres%20why%20the%20city%20unesco%20status%20should%20not%20have%20been%20removed](https://theconversation.com/ive-been-chronicling-liverpools-renaissance-for-40-years-heres-why-the-citys-unesco-status-should-not-have-been-removed-164719?utm_medium=email&utm_campaign=Latest%20from%20The%20Conversation%20for%20July%2022%202021%20-%202009819742&utm_content=Latest%20from%20The%20Conversation%20for%20July%2022%202021%20-%202009819742+CID_b8730c2ac82114a5d958f3890b2c3037&utm_source=campaign_monitor_uk&utm_term=Ive%20been%20chronicling%20Liverpool's%20renaissance%20for%2040%20years%20%20heres%20why%20the%20city%20unesco%20status%20should%20not%20have%20been%20removed).

without resorting to formal heritage designation. However, with their growing tourism industries, Vienna and Singapore may otherwise serve as case studies of whether having a culture of respect toward the role and importance of housing in society and foregoing formal heritage designation is enough to immunize themselves against tourism-related housing issues that may arise in the near future.

A. *Vienna*

Vienna created a name for itself as contemporary Europe's foremost provider of affordable housing during its Red Vienna period in the early twentieth century.<sup>136</sup> The city's legacy of successfully executing large-scale housing projects began around the end of World War I as part of a new social democratic government's social reform plan.<sup>137</sup> Over the course of this political regime, about 60,000 housing units were constructed, and one in ten Viennese residents lived in government-constructed housing.<sup>138</sup> Vienna's government has reported that, today, two-thirds of Viennese residents live in social housing and that eight out of ten units on Vienna's housing market are in some way part of the city's social housing system.<sup>139</sup> Vienna's contemporary housing policy, with its roots in the Red Vienna period, relies on three principles: (1) housing is a basic right; (2) social housing should be widely accessible to the population and provided by the municipality as well as housing associations; and (3) housing construction should be subsidized in order to encourage the development of affordable housing.<sup>140</sup> This policy has led to almost half of the Viennese housing stock being secure and affordable social housing stock.<sup>141</sup>

While the Viennese municipal government originally owned, developed, and administered a large portion of the city's housing stock, the city has been increasingly moving toward a model wherein limited-profit housing associations do this work.<sup>142</sup> The city partially reentered

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136. See generally Katharina Litschauer & Michael Friesenecker, *Affordable Housing for All? Challenging the Legacy of Red Vienna*, in *VIENNA: STILL A JUST CITY?* (Katharina Litschauer & Michael Friesenecker eds., 1st ed. 2021).

137. See Dietmar Steiner, *Housing in Vienna, The City's Actual World Heritage Assets*, in *AFFORDABLE HOUSING* (Sandra Hofmeister ed., 2d ed. 2018).

138. See *id.*

139. See *Municipal Housing in Vienna. History, Facts, & Figures*, STADT WIEN, at 22 [hereinafter *Municipal Housing in Vienna*].

140. See Litschauer & Friesenecker, *supra* note 136, at 55.

141. See *id.*

142. See *id.* at 56.

housing development in 2016, planning construction of 4,000 units.<sup>143</sup> Despite largely exiting the business of directly providing affordable housing stock, Vienna plans to continue offering a large stock of affordable housing by shifting its policies toward subsidizing new construction by housing associations in order to encourage continued affordable housing development in the city.<sup>144</sup>

Policy is not the only notable thing about Vienna's social housing stock. It is also architecturally distinctive, with the *Höfe* perhaps the most idiomatic.<sup>145</sup> While some have noted that there is uncertainty about whether the *Höfe* are the result of some urban planning or architectural doctrine, it has also been observed that housing was built in the super-block, conventional brick building style as opposed to the Modernist style of the 1920s in order to employ as many people as possible in the construction of the buildings, which is evidence of some amount of social policy creating their aesthetics.<sup>146</sup> Further, the *Höfe* are built around large central courtyards, and they contain a number of shared facilities located within the housing development, including rest areas, kindergartens, laundries, public baths, cooperatives, clinics, children's pools, common rooms, [and] district libraries, all of which encourage residents to live collectively.<sup>147</sup> The *Höfe* are distinctly recognizable to the Viennese, with "all of them hav[ing] a 'certain something' in common . . . perhaps it's the architecture, which [has] managed to evolve and keep pace with the trends of the various eras and people's changing needs whilst still proudly retaining a special character of its own."<sup>148</sup>

Some have observed Vienna's social housing's architecture and underlying social policy and deemed it so significant as to explicitly label it as the city's actual world heritage.<sup>149</sup> This idea is rooted in the observation that Vienna's social housing is both a product of and a monument to the social progress that was achieved by the Red Vienna period's social policies.<sup>150</sup> Vienna's housing developments accomplished many things, both foreseen and perhaps some unforeseen. Their development and construction successfully put twentieth century

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143. *See id.*

144. *See id.* at 58.

145. *See generally* Alessandro Porotto, *Utopia and Vision. Learning from Vienna and Frankfurt*, JOELHO REVISTA DE CULTURA ARQUITECTONICA (2016); Municipal Housing in Vienna, *supra* note 139.

146. *See* Steiner, *supra* note 137, at 9.

147. *Id.* at 93, 96.

148. Municipal Housing in Vienna, *supra* note 139, at 17.

149. Steiner, *supra* note 137, at 10.

150. *See generally id.*

Viennese residents to work in developing in constructing them and they housed the same Viennese residents that developed and constructed them upon their completion.<sup>151</sup> Later, Vienna's housing developments largely accomplished the government's goal of class integration, creating places where all social classes mix, and preventing gentrification, social inequality, and social insecurity.<sup>152</sup> Having created a large stock of affordable housing, Vienna may have also immunized itself against the housing affordability and availability issues faced by other large European cities today. Since so much of the housing stock in Vienna is government-owned and so many of Viennese residents live in these housing units, they are subject to close government regulation with little leeway in compliance with the government's regulation of its own properties. As a result, Vienna may have also unintentionally immunized itself against many of the practical regulatory issues faced by other large European cities with smaller or nonexistent government-owned housing stock.

Admittedly, Vienna's overtourism problem is not as acute as that faced by other European cities.<sup>153</sup> In 2017, Vienna had 13 million occupied beds in tourist accommodations, while London and Paris, considered major European tourist destinations, had more than 29 million each.<sup>154</sup> Considering tourist numbers alone obscures the relationship Airbnb has with the city, though. In 2016, Vienna had 6.42 million overnight visitors, which represented a 350 percent growth in tourist numbers since the mid-1970s.<sup>155</sup> In 2014, there were 1,300 Airbnb listings in Vienna, but that number grew to 8,600 listings by 2017, representing a 560 percent increase in just four years.<sup>156</sup> When the growth of tourism in Vienna is viewed alongside the growth of Airbnb in Vienna, the city's ranking among European cities in terms of tourist numbers matters less, and the growth of Airbnb becomes perhaps even more disturbing, as Airbnb's growth has managed to outpace tourism's growth in a fraction of the amount of time it took tourism to grow.

While Vienna's social housing might arguably be its actual world heritage, the United Nations has not always deemed the city respectful of

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151. *See id.* at 9.

152. *See id.* at 12.

153. Justin Kadi et al., *Airbnb As a Tool for Inclusive Tourism?*, 24 TOURISM GEOGRAPHIES 669 (2022).

154. *See id.* at 679.

155. *See id.*

156. *See id.* at 680.



the formally designated world heritage sites within its limits.<sup>157</sup> In 2017, UNESCO inscribed Vienna's Historic Centre on its List of World Heritage in Danger after warning the city to put a stop to real estate developments in the city's center.<sup>158</sup> UNESCO's concern extended beyond this development, as it also expressed concern over "the critical level of urban development reached since [Vienna's] inscription and its cumulative impacts on the [site's] Outstanding Universal Value."<sup>159</sup> Specifically, UNESCO warned the city to adjust its proposed development of the Vienna Ice-Skating Club-Intercontinental Hotel complex by reducing the height of the development, scaling the development to be more in line with surrounding heritage sites, aligning the development aesthetically with surrounding heritage sites, and ensuring that the development did not impact views of surrounding heritage sites.<sup>160</sup> Vienna made adjustments to the plans, but UNESCO deemed the city noncompliant with the requests set forth in its earlier warning and decided to inscribe the city on its in-danger list.<sup>161</sup> Vienna continued to make alterations to the development's plans, and in 2021, UNESCO commented on its progress, noting that it "[w]elcome[ed] the significant progress made . . . in implementing previous Committee decisions" and "[c]ommend[ed] the State Party on . . . [its] particularly productive collaborative process with the World Heritage Centre."<sup>162</sup> Some have read UNESCO's tone to mean that Vienna's removal from the List of World Heritage in Danger is imminent, possibly as soon as 2022.<sup>163</sup>

If social housing is Vienna's actual world heritage, the city has been proactive in protecting it from any potential damage that tourist traffic associated with short term rentals might cause.<sup>164</sup> Vienna has proscribed the subletting of government-owned or -subsidized housing units by residents,<sup>165</sup> a proscription that derives from Austria's *Österreichisches*

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157. See Press Release, United Nations Educational, Scientific, and Cultural Organization, Historic Centre of Vienna inscribed on List of World Heritage in Danger (July 6, 2017).

158. See World Heritage Committee Dec. 41 COM 7B.42 (July 12, 2017); see also World Heritage Committee Dec. 40 COM 7B.49 (Nov. 15, 2016).

159. See *id.* ¶ 2.

160. See *id.* ¶¶ 9(a)-(d).

161. See *id.* ¶ 6.

162. See World Heritage Committee Dec. 44 COM 7A.32 (Mar. 31, 2009), ¶¶ 3, 8.

163. See Denis Balgaranov, *UNESCO May Remove Vienna from Endangered Heritage List by 2022*, THE MAYOR (June 23, 2021), <https://www.themayor.eu/en/a/view/unesco-may-remove-vienna-from-endangered-heritage-list-by-2022-8249>.

164. *Airbnb in Gemeindebau: Stadt Wien klagt [Airbnb in Municipal Construction: City of Vienna sues]*, DIE PRESSE (July 20, 2020, 6:30 PM), <https://www.diepresse.com/5842037/Airbnb-im-gemeindebau-stadt-wien-klagt> [hereinafter City of Vienna Sues Airbnb].

165. See *id.*

*Mietrechtsgesetz* (MRG) (Tenancy Law Act) and *Wohnungsgemeinnützigkeitsgesetz* (WGG) (Housing Non-Profit Act), which prohibit subletting of this housing by tenants.<sup>166</sup> Given that two-thirds of the city's residents live in government-owned or -subsidized housing, about two-thirds of the city's residents are barred from offering their housing to tourists through platforms like Airbnb.<sup>167</sup> Viennese officials admit that it is difficult, and often times impossible, to investigate and confirm illegal use of government-owned or -subsidized housing, which has led a number of these housing units being offered through Airbnb despite a law proscribing them being in place.<sup>168</sup> The city called on Airbnb to cooperate with the city by automatically blocking any listings on its platform that are located at addresses known to be associated with government-owned or -subsidized housing complexes.<sup>169</sup> Airbnb refused to enforce the rule the city proposed, leading the city to file suit with the Commercial Court of Vienna.<sup>170</sup> In 2021, the Commercial Court sided with the city.<sup>171</sup> Following the Commercial Court's ruling, Airbnb appealed to the Higher Regional Court, requesting review of the Commercial Court's decision.<sup>172</sup> In late 2021, the Higher Regional Court upheld and finalized the Commercial Court's decision, effectively banning government-owned or -subsidized housing units from being offered through Airbnb and requiring Airbnb to cooperate with the city to remove these housing units from its platform.<sup>173</sup>

### B. Singapore

Singapore, too, has a legacy of providing affordable housing to its residents and citizens, albeit under a markedly different model.<sup>174</sup> The

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166. See *Wohnungsgemeinnützigkeitsgesetz* (WGG) [Housing Non-Profit Act] § 8, ¶ 3 (interpreting § 20, ¶ 1 of the Act to proscribe housing within the scope of the Act from being used for the purposes of short-term commercial use for tourist accommodation purposes); see WGG, § 20, ¶ 1(ee).

167. See *id.*; see Municipal Housing in Vienna, *supra* note 139, at 22.

168. See City of Vienna Sues Airbnb, *supra* note 164.

169. See *id.*

170. See *id.*

171. See *id.*

172. See *Wiener Gemeindebauten nicht mehr auf Airbnb* [Viennese municipal buildings no longer on Airbnb], DIE PRESSE (Oct. 14, 2021, 12:12 PM), <https://www.diepresse.com/6047189/wiener-gemeindebauten-nicht-mehr-auf-Airbnb?from=rss>.

173. See *id.*

174. See Sock-Yong Phang, *The Singapore Model of Housing and the Welfare State*, in HOUSING AND THE NEW WELFARE STATE: PERSPECTIVES FROM EAST ASIA AND EUROPE 15, 19 [hereinafter *The Singapore Model of Housing*]; see Sock Yong Phang & Matthias Helble, *Housing Policies in Singapore*, ADBI WORKING PAPER 559 (March 23, 2016).

Singaporean model was created with the goal of making homeowners out of its population rather than keeping the housing stock exclusively in the government's hands to be maintained and administered by the state.<sup>175</sup> After Singapore secured independence from the British Empire in 1959 and subsequently elected the People's Action Party into power, it put substantial effort into creating employment and providing housing for its citizens in response to widespread unemployment, chronic housing shortages, poor conditions in the existing housing stock, and rapid population growth.<sup>176</sup> With help from the Central Provident Fund, the Singaporean government's Housing and Development Board (HDB) has been the largest housing developer in the city-state for three decades.<sup>177</sup> In this time, the HDB has offered its housing options below market rates, allowing for ninety-two percent of Singaporeans to own homes by 2000, making Singapore's housing sector largely privatized as compared to Vienna's.<sup>178</sup> In the early days of the government's program, resale of HDB-constructed homes was impossible, with residents required to return properties to the HDB instead of being allowed to put their homes on the market, and, through the 1990s, resale of HDB-constructed homes was strictly regulated to prevent speculation from driving up prices on the secondary market.<sup>179</sup> Over the course of the government's program, the HDB has also strictly regulated who could purchase HDB-constructed properties on the primary market as well as on the secondary market, further preventing excessive pressure on the HDB's housing stock.<sup>180</sup>

Reading deeper into the policies underlying and the aesthetics of Singapore's HDB-constructed housing stock reveals the heritage they carry. Some observe that the developments' "copy-and-paste architecture [] make[s] finding one's way using architectural landmarks virtually impossible."<sup>181</sup> However, others have described the HDB's developments in ways fitting of no other government-constructed housing, save for perhaps Vienna's.<sup>182</sup> While the oldest developments are described as

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175. See The Singapore Model of Housing, *supra* note 174, at 18.

176. See *id.* at 15, 19.

177. See *id.* at 18.

178. See *id.* at 21.

179. See *id.* at 22, 23.

180. See *id.* at 23.

181. See Courtney Banker, *The Urbanism Of Singapore's Public Housing*, THE HOMAGE PROJECT (Aug. 3, 2018), <https://www.homageproject.org/southeastasia/the-urbanism-of-singapores-public-housing>.

182. See generally Erik S. Mustonen, *From Slums to Sky Gardens—Singapore's Public Housing Success*, THE FIELD, ASLA [AM. SOC'Y OF LANDSCAPE ARCHITECTS] PROF. PRAC.

being “very basic 12-story apartment blocks,” as the HDB’s program matured, it moved to a “‘Housing-in-a-Park’ concept with public gathering areas on green roofs—some with community gardens, sky gardens at 10-story intervals up the building, and landscaped plazas over underground parking garages. Green walls are also common.”<sup>183</sup> The HDB developments are further characterized by other outdoor communal spaces containing play structures and fitness equipment on upper levels and shopping malls, food courts, and service providers on lower levels.<sup>184</sup> Still others have observed that as the developments have become more sustainable, they have implemented “man-made waterways, energy, water and waste management, rooftop greenery providing passive cooling systems, and urban vertical gardens.”<sup>185</sup> Photographers in particular have called attention to these structures’ cultural significance.<sup>186</sup> Kevin Siyuan’s photographic project “Corridors” depicts the cultural diversity and heterogeneity in HDB-constructed housing by putting together images captured in the corridors of the housing developments.<sup>187</sup> Across all of the images, “unique objects in the public space” make visible the Singaporean government’s integration project underlying its housing developments, bringing together a culturally diverse mix of people and their objects into one space.<sup>188</sup> Architects, too, have called attention to the heritage inhering in Singapore’s public housing, with some even calling for them to be protected as major heritage assets.<sup>189</sup>

Singapore’s housing developments seem to have created the sense of community among residents that they were planned to create, with a strong majority of Singaporean homeowners supporting a ban on short-term rentals for stays shorter than three months, which Singapore’s

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NETWORKS’ BLOG (Sept. 6, 2018), <https://thefield.asia.org/2018/09/06/from-slums-to-sky-gardens-singapores-public-housing-success/>.

183. *Id.*

184. *See id.*

185. *See generally* Ariana Zilliacus, “Corridors of Diversity”: Showcasing the Secret of Singapore’s Public Housing Success, ARCHDAILY (Mar. 15, 2017), <https://www.archdaily.com/866987/corridors-of-diversity-showcasing-the-secret-of-singapores-public-housing-success>.

186. *See id.*

187. *See id.*

188. *See id.*; *see* The Singapore Model of Housing, *supra* note 174, at 34.

189. *See* Ng Keng Gene, *Public Housing Should be Protected as Heritage for Future Generations: DP Architects CEO*, THE STRAITS TIMES (Jan. 24, 2022, 8:39 PM), <https://www.straitstimes.com/singapore/public-housing-should-be-protected-as-heritage-for-future-generations-dp-architects-ceo> (“DP Architects chief executive Seah Chee Huang . . . [r]esponding to a question . . . on whether there are buildings that reflect the spirit of present-day Singapore and could thus be protected as heritage, Mr Seah said Singapore’s public housing is distinctive both as a form of urban architecture and as a type of social infrastructure”).

government describes as intended to prevent the destruction of the residential character of residents' communities.<sup>190</sup> Short term rentals were originally banned in 2017 in response to Singapore's Urban Redevelopment Authority (URA) receiving a sixty-one percent year-to-year increase in complaints related to short term rentals from residents.<sup>191</sup> Singapore's government conducted a survey in 2018 in order respond to pushback from both short term rental platforms and residents by potentially amending its ban.<sup>192</sup> Airbnb was among the short-term rental platforms lobbying the government to reduce its six-month proscription to a three-month proscription, and when the government decided to keep its ban as-is after its survey, Airbnb expressed disappointment at this result after working with the government for four years in hopes of a different result.<sup>193</sup> As of this writing, Singapore's ban on renting properties for fewer than three consecutive months remains in effect.<sup>194</sup>

Unlike some jurisdictions, which enacted bans on short-term rentals but did not enforce them, Singapore has routinely enforced its ban from its first moments in effect, with both property owners and visitors affected by its enforcement.<sup>195</sup> The URA was reported to have investigated 800

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190. See Press Release, Urban Redevelopment Authority, Status quo for regulations on short-term accommodation in private residential properties (May 8, 2019) <https://www.ura.gov.sg/Corporate/Media-Room/Media-Releases/pr19-21>; see also Short-Term Accommodation, URB. REDEVELOPMENT AUTH., <https://www.ura.gov.sg/Corporate/Property/Residential/Short-Term-Accommodation> (summarizing that under the Planning Act in its current form, it is illegal for any residential property in Singapore to be rented for stays of less than three consecutive months, punishable by a minimum penalty of a \$5,000 fine or, alternatively, heavier court-imposed fines) [hereinafter URA Short Term Accommodation].

191. Toh Yong Chuan, *Parliament: Short Term Home Rental Illegal Under New Law*, THE STRAITS TIMES (Feb. 6, 2017, 9:34 PM), <https://www.straitstimes.com/politics/parliament-short-term-home-rental-illegal-under-new-law> (noting that the Urban Redevelopment Authority received 608 complaints in 2016 compared to 377 complaints in 2015, representing a 61 percent year-to-year increase in complaints related to short term rentals).

192. Grace Leong, *Airbnb-Style Short-Term Home Sharing Still Illegal, 3-Month Minimum Period Continues to Apply for Private Homes: URA*, THE STRAITS TIMES (May 8, 2019, 1:28 PM), <https://www.straitstimes.com/singapore/housing/3-month-minimum-stay-duration-will-continue-to-apply-for-private-accommodation-ura>.

193. See *id.*

194. See URA Short Term Accommodation, *supra* note 190.

195. See Aradhana Aravindan, *Two Airbnb Hosts Fined in Singapore's First Such Case*, REUTERS (Apr. 3, 2018, 12:57 AM), <https://www.reuters.com/article/us-singapore-crime-Airbnb-idUKKCN1HA0KF>; see Fathin Ungku, *Two Singapore Airbnb Hosts Plead Guilty to Unauthorized Short-Term Rentals*, REUTERS (Feb. 26, 2018, 8:25 PM), <https://www.reuters.com/article/us-singapore-crime-Airbnb/two-singapore-Airbnb-hosts-plead-guilty-to-unauthorized-short-term-rentals-idUSKCN1GB070>; see Selina Lum, *Fine Raised from \$88,000 to \$158,000 for Ex-Property Agent Who Provided Illegal Short-Term Stays on Airbnb*, THE STRAITS TIMES (Oct. 30, 2020, 5:30 PM), <https://www.straitstimes.com/singapore/courts-crime/fine-increased-from->

properties suspected of being used as short-term rentals in 2019 and 750 properties in 2018 under the same suspicions.<sup>196</sup> Despite the government's persistence, three hundred Airbnbs were reported to be listed on the Airbnb platform in 2020.<sup>197</sup> The URA has briefly mentioned that it intends to partner closely with property management groups in order to more stringently enforce its ban, as they are better equipped to implement security checks and visitor registries, which would help the URA identify potential short-term rental presence in housing developments.<sup>198</sup>

#### VIII. CONCLUSION: REFLECTIONS ON INSCRIPTION AND ITS IMPLICATIONS

Just because Vienna, Singapore, or any other city's housing might qualify for inscription, whether internationally or locally, should a city pursue it as a viable option for insulating housing from the pressures faced by the many cities dealing with overtourism today? Designation comes with many benefits, including funding and international assistance in implementing conservation and preservation measures.<sup>199</sup> These benefits do not come without a cost, though, and it's the costs of inscription that might very likely caution a city or nation against pursuing inscription of its housing developments.

First, in exchange for the benefits conferred by inscription, a city relinquishes much of its ability to govern itself in terms of its urban planning and real estate development.<sup>200</sup> In the case of large portions of

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88000-to-158000-for-ex-property-agent-who-provided; see Tessa Oh, *About 600 suspected cases of illegal short-term rentals investigated each year*, TODAY (Sept. 2, 2019), <https://www.todayonline.com/singapore/about-600-suspected-cases-illegal-short-term-rentals-investigated-each-year>; see Derek Wong, *NZ Family That Unknowingly Booked Illegal Airbnb Stay in Singapore Turned Away*, THE STRAITS TIMES (Mar. 15, 2018, 6:55 PM), <https://www.straitstimes.com/singapore/housing/nz-family-that-unknowingly-booked-illegal-Airbnb-stay-in-singapore-turned-away>.

196. See Cindy Co, *Illegal, Short-Term Rentals in Your Condo? Tell Us About It, Say Property Managers*, CNA (Mar. 1, 2020, 6:11 AM), <https://www.channelnewsasia.com/singapore/report-illegal-short-term-rentals-singapore-condo-Airbnb-778781>.

197. See *id.*

198. See also *id.*

199. See World Heritage Convention, *supra* note 18, at arts. 15-26.

200. See *id.* at art. 6 (“Whilst fully respecting the sovereignty of the States on whose territory the cultural and natural heritage . . . is situated . . . States Parties to this Convention recognize that such heritage constitutes a world heritage for whose protection it is the duty of the international community as a whole to co-operate”). The language used in Article 6 is in tension with UNESCO's treatment of State Parties when it issues decisions and demands that warn cities and nations of their inscription status. See World Heritage Committee Dec. 44 COM 7A.34 (July 31, 2021) ¶ 3(c) (requesting Liverpool to place a moratorium on planning permissions which may negatively impact the city's Outstanding Universal Value); see World Heritage Committee Dec. 40 COM 7B.49 (November 15, 2016) ¶ 7(d) (requesting Vienna place a moratorium on approvals

cities being inscribed on UNESCO's list, like Liverpool, their independent governance is much more circumscribed than, say, cities that only have individual buildings or monuments inscribed, due to the simple fact that UNESCO's rules govern drastically different footprints in these contexts. An example of this can be found in UNESCO's decisions warning cities of the potential for their delisting, sometimes even asking for moratoriums on real estate development.<sup>201</sup> Demanding such extensive measures, with the penalty for not complying with such a large demand being delisting and its repercussions, effectively circumscribes a city's ability to govern itself, even if that circumscription is not formalized by some explicit transfer of power.<sup>202</sup> Even if a city is only seeking to inscribe a smaller section of its territory, like a housing development, it may well be discouraged from seeking inscription out of fear of running into the same conflicts as those faced by heritage cities like Liverpool and Vienna.

Second, cities are required to submit to extensive bureaucratic procedures in exchange for inscription.<sup>203</sup> Even while in good standing, cities and nations with inscribed properties must periodically submit reports to UNESCO, ranging from reports on legal measures taken to preserve sites' heritage to compiling lists of and updating UNESCO on

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of future high-rise projects); *see* World Heritage Committee Dec. 41 COM 7B.42 (July 12, 2017) ¶ 11 (inscribing Vienna on its in-danger list after Vienna failed to "adopt a moratorium on projects that involve any modification of the roofscapes within the property").

201. *See id.*

202. Article 6 does not formally transfer power from the State Party to the United Nations. *See* World Heritage Convention, *supra* note 18, at art. 6. However, both Liverpool and Vienna have been threatened with removal from UNESCO's World Heritage List if they did not comply with UNESCO's extensive demands, which included moratoriums on real estate development. *See* World Heritage Committee Dec. 36 COM 7B.93 (July 2012) ¶ 7 ("[c]onsiders that the proposed development of Liverpool Waters constitutes a potential danger to the World Heritage property and, therefore, decides to inscribe Liverpool . . . on the List of World Heritage in Danger, with the possibility of deletion of the property from the World Heritage List, should the current project be approved and implemented"); *see* World Heritage Committee Dec. 44 COM 7A.34 (July 31, 2021) (removing Liverpool from the World Heritage List after Liverpool refused to cease a particular real estate development); *see* World Heritage Committee Dec. 40 COM 7B.49 (November 15, 2016) ¶ 7(d) (requesting Vienna place a moratorium on approvals of future high-rise projects); *see* World Heritage Committee Dec. 41 COM 7B.42 (July 12, 2017) ¶ 11 (inscribing Vienna on its in-danger list after Vienna failed to "adopt a moratorium on projects that involve any modification of the roofscapes within the property").

203. *See* World Heritage Convention, *supra* note 18, at art. 29 ("The State Parties to this Convention shall, in the reports which they submit . . . give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of this Convention"); *See id.* at art. 11, ¶ 1.

potential heritage sites within their borders.<sup>204</sup> If a city or nation is threatened with in-danger status or delisting, their reporting responsibilities become even more demanding, as can be seen in the examples of Liverpool, Venice, and Vienna.<sup>205</sup> In the case of Liverpool, the city was asked to “develop, in consultation with the World Heritage Centre and the Advisory Bodies, a proposal for the Desired state of conservation for the removal of the property from the List of World Heritage in Danger and a set of corrective measures” after it was inscribed on UNESCO’s in-danger list.<sup>206</sup> Venice has similarly been asked to develop and report on a set of corrective measures and an implementation timeframe for those measures, in addition to updating UNESCO on the state of conservation in the city and the implementation of the measures it develops.<sup>207</sup> Vienna has been asked on a number of occasions to submit revisions to development plans for approval by UNESCO subcommittees.<sup>208</sup> Increasing cities’ and nations’ reporting responsibilities in the midst of dealing with problems that all parties can recognize as threatening to heritage sites adds to the weight of the burden of dealing with those problems. Additionally, these extensive reporting responsibilities slow cities’ and nations’ responses to threats to their heritage sites and other issues related to or near their heritage sites, limiting their ability to dynamically respond to a rapidly changing world.

Yet another issue in pursuing and achieving inscription is some likelihood that doing so will increase tourism in the city or at the site inscribed, which could be problematic, especially for those cities already dealing with overtourism-related issues, as many of the ones discussed here do.<sup>209</sup> The overtourism problems that may accompany inscription are

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204. *See id.* at art. 29.

205. For Liverpool, *see generally* World Heritage Committee Dec. 36 COM 7B.93 (July 2012); *see generally* World Heritage Committee Dec. 44 COM 7A.34 (July 31, 2021). For Venice, *see generally* State of Conservation, Venice and its Lagoon, 2021, WORLD HERITAGE CONVENTION, <https://whc.unesco.org/en/soc/4102> (last visited Apr. 6, 2022); *see generally* State of Conservation, Venice and its Lagoon, 2021, WORLD HERITAGE CONVENTION, 2019, <https://whc.unesco.org/en/soc/3966>. For Vienna, *see generally* World Heritage Committee Dec. 40 COM 7B.49 (Nov. 15, 2016); *see generally* World Heritage Committee Dec. 41 COM 7B.42 (July 12, 2017).

206. *See* World Heritage Committee Dec. 36 COM 7B.93 (July 2012) ¶ 8.

207. *See* World Heritage Committee Dec. 44 COM 7B.50 (July 2021) ¶¶ 14-15.

208. *See* World Heritage Committee Dec. 40 COM 7B.49 (November 15, 2016) ¶¶ 8, 10; *see* World Heritage Committee Dec. 41 COM 7B.42 (July 12, 2017) ¶¶ 6, 8.

209. Claims of increased tourism rates following inscription are supported by anecdotal reports, but empirical meta-analyses have found inscription to have an insignificant effect on tourism rates. *See* Jo Caust, *Is UNESCO World Heritage Status for Cultural Sites Killing the Things It Loves?*, THE CONVERSATION (July 10, 2018, 4:04pm), <https://theconversation.com/is->



compounded by the fact that short-term rental properties, which are usually the primary target of cities' and nations' responses to overtourism, are not automatically excluded from inscribed heritage sites, so inscription is not an automatic solution to problematic short-term rental property behavior.<sup>210</sup> This would leave cities and nations, who might seek inscription of their housing developments to keep short-term rental properties out of them to mitigate their effects on the local housing market, to enforce limits on short-term rental properties in some other way, as Vienna has.<sup>211</sup> However, the increased funding<sup>212</sup> that comes with inscription may help to combat undue pressure on local housing markets, with cities and nations citing heritage preservation-related concerns in enforcing measures they deem appropriate. Cities and nations prospectively seeking inscription will have to weigh these concerns in their decision-making, too.

Of course, while UNESCO's measures discussed and described here might arguably be the least restrictive measures necessary to actually achieving UNESCO's goals in preserving world heritage for generations to come, they nevertheless must be weighed by cities and nations considering inscription for their heritage sites.

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unesco-world-heritage-status-for-cultural-sites-killing-the-things-it-loves-98546 (describing Angkor Wat's tourist numbers as having grown by more than three hundred percent following its inscription in 1992); see generally Yang Yang et al., *Tourism-Enhancing Effect of World Heritage Sites: Panacea or Placebo? A Meta-Analysis*, 75 ANNALS OF TOURISM RESEARCH 29 (2018) (finding UNESCO inscription has insignificant effect on tourism rates at inscribed sites).

210. See Sophie Dickinson, *This Spectacular Le Corbusier-Designed Unesco World Heritage Site is Now on Airbnb*, TIMEOUT (Feb. 22, 2022), <https://www.timeout.com/news/this-spectacular-le-corbusier-designed-unesco-world-heritage-site-is-now-on-airbnb-022222>.

211. See generally *Wiener Gemeindebauten nicht mehr auf Airbnb*, DIE PRESSE (Oct. 14, 2021, 12:12 PM), <https://www.diepresse.com/6047189/wiener-gemeindebauten-nicht-mehr-auf-airbnb?from=rss> (detailing Vienna's litigation against Airbnb, resulting in Airbnbs being removed from social housing developments).

212. See World Heritage Convention, *supra* note 18, at arts. 15-26.