

EXPULSION FROM SKATEOPIA:
Urban Skateboarding and the Role of Law
in Determining Children's Place in the City.

John Carr
Department of Geography
University of Washington

Abstract: Young peoples' claims upon public space have long posed a paradoxical challenge to the ordering of such "adult" places as the city. On one hand, public groups of young people have long been associated with disorder, crime, and delinquency. On the other hand, children are revered as a population deserving of unique societal protections and prerogatives. This paradoxical challenge to social order finds a particularly disruptive embodiment in the urban skateboarder. The youth, mobility, and visibility of urban skateboarders pose a host of challenges to efforts to regulate and control public places. This paper proposes to explore the evolution of this challenge as a product of legally articulated logics of private property. In short, this paper argues that, in seeking a place for themselves in the city, young urban skaters have transformed skating and the city itself, in response to developments in the legal assertion and regulation of property rights.

1. Introduction, Urban Skateboarding and the Legal Manifestation of the Power to Shape the City through Exclusion.

This paper seeks to argue a proposition that may appear facially absurd; namely that amid the noise, speed, movement and apparent chaos of urban skateboarding, we may see reflected the ostensibly neutral, dispassionate, and orderly system of laws by which the city is governed.

While there is a longstanding literature addressing the traditional concerns with young peoples' presence in the city (Brown, 2006; Jackson, 1998; Lucas, 1998; Rosenzweig & Blackmar, 1992; Valentine *et al.*, 1998), there has been little attention given to the role that law plays in either setting the conditions for the presence of youth in the city's public spaces, or simply excluding them from the city altogether (But see, e.g., Mitchell & Staeheli, 2005). That said, it is undeniable that law is an essential framework for understanding how power manifests itself through spatial order. As Blomley has noted, "socially produced space is saturated with power relations," and such relations are inevitably the product of social norms embodied and reinforced

by the law (Blomley, 1998). Thus, space and place are inseparable from law in that they inherently manifest the ordering of law. Stated conversely, “[a]n adequate understanding of the legal system must account for the way the rule of law ideal is rooted in a peculiar form of social life” (Unger, 1976) at 57.

Specifically, I seek to argue that the intersections between power, law, and the lived experiences of young people in public space may be explored particularly fruitfully through an investigation of how the “lawless” culture of urban skateboarding has developed around, responded to, and even transformed the legal landscape of the city. Where the law has sought to order space through the exclusion of skateboarders, skaters have responded by adapting and evolving their use of the urban environment. And when the law’s exclusionary challenge has threatened to preclude skaters’ presence in the city, the response has been to challenge these fundamental legal logics, and in so doing to claim a permanent space in the city.

This paper is based upon my involvement as an advocate and activist with the burgeoning movement for public skateparks in Seattle, Washington from August 2004 onward, and my subsequent qualitative research on this movement. Like many cities, Seattle has struggled with how best to maintain “order” in its public spaces in light of a variety of perceived threats to that space, including the homeless, panhandlers, and young people. And, like an increasing number of cities around the U.S., Seattle has been particularly torn by how to deal with skateboarders’ challenge to conventional conceptions to urban order. As it now stands, it appears that the city’s response to this challenge will be a combination of inclusion and exclusion – through the construction of public skateparks and the continued criminalization of skateboarding in all other spaces of the city. This decision, however, must be understood within a broader historical dialectic. On one hand, a number of legally articulated logics have continually worked to

exclude young people who skate from the spaces of the city. On the other hand, skaters have likewise continually adapted to continue to place a claim upon the city. Throughout this process, the law and the young people the law has sought to order have existed in a mutually constitutive state, each developing in reaction to each other.

2. The Challenge and Critique of Urban Skateboarding

“Smash the State...Learn to Skate”
- T-Shirt Slogan (Larson, 2006).

Like many other “problem populations” – including the homeless, the mentally disabled, and street gangs – urban skateboarders create by their mere presence a crisis for public space. By their refusal to behave in accepted, orderly ways in public space, urban skateboarders transgress both understandings of what public space should be and who it should be for, as well as beliefs in the power of such spaces – and society in general – to render such populations less problematic. Moreover, because of the very power of skateboarding to critique the city as a landscape of capital accumulation, it inherently conflicts with dominant ideologies about civic belonging generally, and neoliberal ideologies and policies more specifically. This has set the stage for more aggressively exclusionary approaches to skateboarders – in keeping with a move towards aggressive exclusion of all “undesirables” from the urban core.

At the same time, the challenge posed by urban skateboarders – and the range of responses available to those who would regulate them – is complicated by both the current economic status of skating and the youth of most of its practitioners. Because of the special status of children in our society, simply prohibiting them from public space becomes problematic. Likewise, the fact that skateboarding now represents a substantial manufacturing and entertainment industry complicates efforts to proscribe urban skating in the name of protecting business and localized competitiveness in a global race for capital.

A. Skateboarding 101; “new-school street” vs. “vert.”

As a preliminary matter, the skateboarding activities that most typically challenge dominant understandings and uses of the city and its public spaces spring from a specific sub-discipline that is commonly referred to as “street” skating, but is more accurately described as “new-school street skating.” Understanding and contextualizing both new-school street skating and the rise of skateparks as a governmental response to that activity, however, requires a brief overview of the brief history and development of skateboarding and the spaces in which it is practiced.

From its roots as a surfer’s attempt to emulate the experience of riding waves on the land when the surf was flat, to skaters’ re-invention of empty pools as skate-playgrounds, to the appropriation of the zero-architecture urban furniture of bus benches, planters and handrails, skateboarding has always been constituted by and constitutive of the specific environments where it is performed (Brooke, 1999; Thatcher, 2001). Indeed the variety of spaces where skateboarding is performed has led to the definition of a variety of disciplines explicitly articulated in terms of those terrains. Slalom racing, downhill speed racing, ditch skating, pool skating, flatland freestyle, banked slalom, park, and street skating (both “new-school” and otherwise) each constitute a sub-genre defined by the environment encountered and utilized. A specific skating culture has developed within each of these terrains, often (but not always) involving equipment specially developed for the specific demands of the particular environment.

Of all the sub-genres of skating, two general categories have competed for dominance in terms of popularity, numbers of participants, and media and cultural prominence over the past 20 years, namely new school street and “vert” skating. From its earliest inception, streets and

sidewalks have been the primary location for almost all skateboarding. Skating on the street originated with the very first skateboards – typically steel roller-skate wheels and trucks mounted to a board or plank – which began to emerge in the late 1950’s and early 60’s as a toy for mobility and for the emulation of surfing where and when waves were not available (Brooke, 1999). With the advent of the urethane wheel and the proliferation of empty swimming pools during the Southern California drought of 1976-77, “vert” skating – that is, skating on curved surfaces transitioning to vertical walls such as the sides of an empty pool, paved embankment, concrete drainage ditch or pipe, or ramp – gained popularity throughout the 1970’s and 80’s, particularly with the growth of commercial skate parks designed to emulate these often illicit environments (Borden, 2001; Peralta & Stecyk, 2001). Vert moves, and the very concept of skating vertical surfaces, were largely inspired by surfing. In turn, surfing eventually became heavily influenced by the new vert moves pioneered by skaters, leading to a reciprocal cross-sport cycle of influence (Brooke, 1999; Peralta & Stecyk, 2001).

While skating on the street for transportation and recreation never truly disappeared, it enjoyed an explosion of popularity from the early 1980’s onward, after a hyperactive Jewish kid from Florida named Alan “Ollie” Gelfand invented his signature move, a no-handed vertical jump accomplished by “popping” the tail of the board. The effect of an ollie is to allow the skater to jump perpendicular to the riding surface, with the skateboard apparently sticking to the skater’s feet – notwithstanding the lack of a physical bond between shoes and board. To an onlooker, an ollie on a horizontal surface appears to be magic. The skater jumps and, somehow, the board rises up with her or his feet.

Once translated from vert to street, the “ollie” transformed skating by allowing the skater to jump up, over, and onto a variety of surfaces, and especially the otherwise mundane features

of the urban environment including benches, stairways, stairway handrails, planters, loading docks, and ledges. As one respondent – a designer of skate park “street” style features commented – “now, if you are street skating, the entire city is basically a hundred-square-mile skate park.” The transformative nature of the ollie and the dramatic expansion of terrain that it entailed effectively heralded the sub-discipline of “new school” street skating. New school effectively became the dominant cultural and economic discipline of skating from the late 1980’s onward due to a combination of factors, including the widespread closure of vert oriented skate parks in the mid-eighties due to liability and financial feasibility problems, a recognition by the skateboarding industry and skateboarders themselves of the expanded opportunities represented by forms of skateboarding that did not require users to access skate-specific terrain, the concomitant explosion of media coverage of street skating, and a general cultural consensus that new school was more “real”, urban, gritty, and tough than vert.¹

For the purposes of this paper, the distinctions between street and vert skating are important to the extent they require two very different forms of built environment. On one hand, both street and vert were born from, and developed within environments intended for other activities. Just as the street skater reenvisioned the street, the curb, the sidewalk (and later the handrail, staircase, planter, ledge, bench, loading-dock, etc.), the vert rider reinterpreted the use value of the swimming pool, drainage ditch, and hydroelectric pipe. Moreover both of these performances originated as profoundly transgressive spatial practices. Just as vert skating largely began with “poaching” (trespassing) drained swimming pools, so too has street skating

¹ It is worth noting that for many skaters, the line between, street, vert, downhill, and the like is often and quite intentionally blurred or non-existent. To the extent that these different disciplines require substantially different environments, however, they will be treated as distinct practices in this work.

been associated with the illicit use of sidewalks, public parks, and the varied urban furniture of the urban core.

That said, the greatest difference between street and vert (from a purely environmental perspective) is the role and demand for simulacra of the “natural” spaces of those performances. Because the generative spaces of vert – such as empty pools and flood management systems – are unevenly distributed spatially and almost never legally accessible, most skaters require either a public skate park in which the traditional features of vert skating are reproduced, or substantial real-estate and resources to build their own simulacrum in the form of a wooden ramp or even concrete pool. In contrast, the street skater needs little more than the ubiquitous “zero-degree architecture” (Borden, 2001) of the city or suburb. While an increasing number of public skate parks do, in fact, include “street courses,” permanent sections that combine ramps, ledges, rails, steps and other elements of valued urban architecture, skaters often disparage even precisely replicated copies of beloved skate spots and features within skate parks as “unauthentic.” According to one Seattle area skatepark designer; “there are guerilla spots all over, that if you replicated them in a park, people would say they are crap, but because they are underground, people dig them.” Thus, notwithstanding the greater popularity of street skating currently, vert skating inherently involves a greater demand for purpose built spaces such as skate parks, as access to its generative environments is almost always scarce.

B. The Dilemma of Urban Skateboarding as Youthful Disorder.

In light of both the youth of its typical practitioner, and the unconventional mobility within the city that it provides to its practitioners, new-school skating represents a particularly potent challenge to the city as a landscape of safe and orderly capital accumulation. Indeed, in their potent combination of youth, mobility and (as discussed in the following section) re-

envisioning of the very nature of the city, urban skaters have become a particularly problematic population of “undesirables” to those vested in neoliberal ideologies and practices (Nolan, 2003). At the same time, the very youth of skaters complicates the ability to regulate them in the same manner as homeless or the mentally disabled.

As a preliminary matter, the fact that skateboarding draws groups of young people to the urban core represents an inherent transgression of place. Recent data suggests that the average skateboarder is young, male, and of relatively modest socioeconomic background.² For at least the past 150 years, young people – and especially working class youth – have been associated with a lack of discipline, disorder, immorality, and crime, leading to a definition of “youth as trouble” (Brown, 2006; Jackson, 1998; Lucas, 1998; Rosenzweig & Blackmar, 1992; Valentine *et al.*, 1998, at p. 4).

Traditionally, concerns with the risks posed by youth have been heightened where young people congregate in the public spaces of the city (Baumgartner, 1988; Fyfe & Bannister, 1998; Irwin, 1985; Lucas, 1998). It is typically argued that groups of youth will displace of other potential users, while signaling a general sense of lawlessness and disorder as they, “experiment[] with their freedoms, . . . assert[ing] themselves and let[ting] it be known that they’re young and free and they’re going to be wherever they want to be” (Mitchell & Staeheli, 2005, at p. 13). Often lacking spaces of their own, young people occupy and thus reinvent public spaces in ways that inherently transgress the hegemony of adult understandings of who and what is in-place in such places (Nolan, 2003). Because of such undisciplined use of space,

² Data from 2004, indicates that 83% of all skateboarding participants are under 18 years old, 81% of frequent participants are male, and 74.2% come from annual household incomes of less than \$50,000 (SGMA International, 2005).

unchaperoned teens are typically considered a “polluting presence on the street” that demands adult regulation and control (Baumgartner, 1988; Lees, 1998; Lucas, 1998; Nolan, 2003; Valentine, 1996, at p. 214). Accordingly, groups of kids who occupy and use the urban space without engaging in conventional consumption and production have been lumped in with other “undesirables” as “[p]rostitutes, drug-dealers, the homeless” (Cresswell, 2004, at p. 94; Lees, 1998). Given the predominant youthfulness of most urban skateboarders, regulations aimed at prohibiting skateboarding in the city have been understood by both skateboarders and cities as representing a broader drive to remove all types of young people from the urban core in order to preserve the city as a space for conventional adult consumption and production (Valentine et al., 1998; Wilson & Kelling, 1997). “[A]s one planner put it, ‘for all practical purposes we threw our teenagers off’ the Plaza” when Santa Fe prohibited skateboarding in the city’s traditional urban core (Mitchell & Staeheli, 2005, at p. 14).

Beyond the disorderly presence that inheres to the youthfulness of most urban skateboarders, the disorderly and unbounded mobility of their pursuits heightens their threat. Indeed, because new-school urban skating is, by its nature, not tied to a single “home” it represents an inherent challenge to order. Comparing the threat of mobility to the stability and order of the home, Cresswell has argued that,

Place, home and roots are profoundly moral concepts in the humanist lexicon. By implication, mobility appears to involve a number of absences – the absence of commitment, attachment and involvement – a lack of significance. The more widespread associations of mobility with deviance, shiftlessness and disrepute come to mind (Cresswell, 2001, at pp. 15-16).

Much as the tramp before, the urban skateboarder inherently transgresses disciplinary senses of in-placeness due to their exercise of a mobility that is “totally unpredictable and thus threatening” (Cresswell, 2001, 2004). Or as Bauman has noted,

What made the vagabond so terrifying was his apparent freedom to move and so to escape the net of the previously locally based control. Worse than that, the movements of the vagabond were unpredictable; unlike the pilgrim or, for that matter, a nomad, the vagabond has no set destination (Bauman, 1995).

This sentiment was repeatedly applied by non-skaters that I spoke with to skateboarders they had encountered in the urban environment. Respondents, including administrators of a number of public spaces that are popular with Seattle skateboarders continually objected to the fact that one never knows what the skateboarder will do next, or where the skateboard (often inadvertently freed from the control of its rider) will go.

Ultimately, it is no coincidence that urban skateboarders share much the same status within the city as the homeless and transient. Indeed, both Borden and Flusty draw strong parallels between the policing of skaters and the policing of the homeless in the 21st century city (Borden, 2001; Flusty, 2000). The inherent disorderliness that youth share with the homeless and the mobility skaters share with the tramp mark skateboarding as one of the most threatening of all activities to the city as orderly landscape of capital accumulation. And accordingly, when asking who public space belongs to, and who belongs to public space, the answer, “seems to be that vendors [and tourists] belong, but poor transients and skateboarders do not” (Mitchell & Staeheli, 2005, at p. 16).

At the same time, the fact that most skateboarders are children complicates the ability of regulators to address their inherent disorder. While groups of youth in public space have long served as symbols of disorder, danger, and urban decline, they also represent the public that is to be protected from the myriad threats of the street. Representing a “major point of symbolic investment for society as a whole,” children represent not only the future of society, but inherently serve as the focus for society’s aspirations (Valentine et al., 1998, at p. 9). Thus

protecting children from the danger of the street becomes a “moral imperative” (Cresswell, 1998).

C. Skateboarding as Critique of the City.

Beyond its ability to disrupt the landscape of the city as an orderly environment for capitalist production and consumption, urban new-school skateboarding may be seen as a powerful critique of market based conceptions of the city in general, and of neoliberal policies more specifically (Nolan, 2003). This perspective was first articulated in an academic context by Iain Borden who has argued that skateboarding effectively represents a new performativity of urban space that holds the promise of representing and embodying a particularly utopic articulation of the urban. Operating from a largely Lefebvrian theoretical perspective, Borden argues that skateboarding effectively prefigures the type of “differential space in which socio-spatial differences are emphasized and celebrated” that reinterprets and critiques the urban as a pure space of capitalist economic production.

Focusing almost entirely on new-school street skating, Borden argues that skateboarding’s use of the city in a manner that does not contribute to either capitalist consumption or production, and does not lay an exclusive claim to temporal or spatial use, effectively points to a new urban existence freed from the self-reproducing logics of capitalism (Borden, 2001) at 89. In particular, by reinterpreting the very meaning of the urban landscape as a place for the pure production of play, street skateboarding provides an implicit critique of the city.

Architecture is intended for the production of things – either products as commodities in factories, knowledge in universities and museums, labour power in housing, information and decisions in offices, and so on. . . . Skateboarding, however offers no such contribution, consuming the building while not engaging with its productive activity. Consequently, it implicitly denies both that labour

should be productive of things and that architecture should be directed toward that purpose (Borden, 2001, at 231).

The ability to reconfigure some of the most power and authority laden spaces of the city through play lies at the heart of both skateboarding's utopic promise and broad international appeal, as, "more than any other phase of skateboarding, streetsyle is based on the everyday activities of its millions of practitioners conducted in cities worldwide. . ." (p. 83). By reintroducing play to the city, skateboarding begins the transformation of the urban realm into what Foucault described as a "heterotopia" – that is, a space in which "the random juxtapositions of disparate objects, activities and people not normally found together challenge hegemonic modes of regulating and representing space" (Edensor, 1998, at p. 218). Thus, while logic of the city as capitalist engine of production continues to reproduce itself globally at an accelerated scale, bringing with it a functional urban Esperanto of "degree zero architecture," the countervailing spread of skateboarding concomitantly provides individuals with the opportunity to reinscribe themselves onto this functionalist landscape and thus, "challenge . . . our everyday concepts of the functions of building, and . . . the closed world we create for ourselves out of this massively unlimited city" (Borden, 2001, at p. 191). Accordingly, Borden argues that, by embodying performances of the urban that are based solely on play, expression, and sensuality, "skateboarding is a small fragment of that utopian conception of the urban as use, not exchange" (p. 239). Moreover, by returning the meaning of architecture, the city, and life itself to those performing them, "skateboarding brings back that which strictly economic Marxism evacuates – it brings back the dream, imaginary and 'poetic being'" *Id.* at 217. As such, skateboarding represents a reintroduction of the Dionysian culture of "sensuality, abandon and intoxication" into streets that, under the Western tradition, have been given over to the Apollonian culture of "structure, order and self discipline" (Edensor, 1998).

Indeed, skaters themselves are, at times aware of both the Dionysian expression and the critique implicit in their activities. As one skater quoted by Borden noted, “the corporate types see their structures as powerful and strong. I see them as something I can enjoy, something I can manipulate to my advantage” (2001, at p. 187). Indeed, the availability of skateboarding as an explicitly utopian alternative to conventionally disciplined life patterns was expressed by one of my respondents, a skater in his mid 30’s:

Society is so rigid and structured. You know that novel “1984”? It’s similar. Live. Consume. Die. There is no excitement, no drama. But you go skating and immediately you have adrenalin. It’s immediate. You are just trying not to eat shit [fall hard]. Just like if you are going to skate somebody’s pool. You pull up to the house to skate, and you just have to combat your own adrenalin. You don’t know what is going to happen. Will you get to skate? Will the cops come? I tell you, it’s better than drugs and better than sex.

By embodying performances of the urban that are based solely on play, expression, and sensuality, “skateboarding is a small fragment of that utopian conception of the urban as use, not exchange” *Id.* at 239. Needless to say, such an activity and approach profoundly contradicts the core of the urban neoliberal project, which is the protection of the city as a machine for business, and the concomitant maintenance of order in public space to ensure that machine’s proper functioning (Mitchell, 2003). “Seen in relation to a downtown comprised increasingly of tightly restricted quasi-public spaces, however, this persistent and highly visible play becomes a stark refusal to disappear beneath the imperatives of spatial regulation that favors select target markets” (Flusty, 2000). Thus, by conspicuously engaging in an activity – aggressive play – in an environment where it is profoundly out-of-place – the productive and consumptive spaces of the city, skateboarding transforms the urban into a place “where the previously unquestioned becomes questioned and powerful groups seek to defend the ‘order of things,’” and thus reveal the latent power behind the previously naturalized order (Cresswell, 1996, at p. 20).

Urban skateboarding's challenge to conventional capitalist systems of accumulation, however, is complicated by the fact that skateboarding has become a vast entertainment and manufacturing industry on its own. Moreover, new-school street skating – with its emphasis on transgression – plays an essential catalytic role in maintaining the economic viability of that industry. Commerce in skateboard equipment and apparel (shoes in particular) become an enormous market that has grown with the substantial market for skateboarding entertainment in a variety of forms – including videos, television programs, contests, tours, and videogames. For example, in 2004 revenues from the skateboarding industry were estimated at approximately 5.7 billion dollars, with shoe sales accounting for approximately 1.5 billion of that income (McMahon, 2005; Washburn, 2004). Skateboarding has become a staple of the videogame industry, and major studios have begun releasing feature films such as “Legends of Dogtown,” “Wassup Rockers,” and the forthcoming “Paranoid Park” that focus on urban skateboarders as dramatic characters, and skateboard culture as a distinct milieu. On television, skateboarding is now a staple not just of ESPN's extreme games, but such active sports channels as the FUEL network. Skateboarding even boasts its own cross-country arena tours, such as Tony Hawk's “Boom, Boom Huck Jam.”

Ironically, the very transgressive, “outlaw” status of skateboarding that poses such an inherent threat to urban order, and market-protective ideologies such as neoliberalism, also effectively drives ongoing appeal and commodification of skateboarding. This has led sales of skate apparel (particularly footwear) to extend well beyond skateboarders (McMahon, 2005). In turn the image of skateboarding as a semiotic indicator of libidinal and transgressive performativity has become a powerful marketing tool for a variety of other commodities. In

turn, this commodification has bestowed a degree of unexpected legitimacy upon the sport. As one of Seattle's early skate advocates noted in discussing the focus on vert terrain in skateparks,

All the emphasis on bowls is really a blessing and a curse. On one hand, you have everybody whoring themselves out to make a buck. Like Tony Hawk doing ads to sell you big gulps, and a bunch of other shit that skaters wouldn't even buy because they can't carry it on their boards. . . . On the other hand, we are creating all these awesome parks to skate.

Accordingly, skateboarders – unlike other transgressive and disorderly populations such as the homeless – present a paradox to market protective ideologies such as neoliberalism. On one hand, they are intensely disruptive of the urban center as landscape of orderly capitalist production and consumption. On the other hand, skateboarding is legitimated under such ideologies by its increasing econo-cultural footprint.

3. Skateparks and Politics in Seattle; the invisible hand of law.

Broadly speaking, the experience of skateboarding in Seattle has been – from its inception – a product of, reaction against, and mirror to more broadly articulated legal responses to the challenges to urban order posed by that activity. All human behavior must have a place in which to occur (Waldron, 1991), and skateboarding is no exception. That said, much like other types of urban “undesirables” skateboarders find themselves caught between two powerful legal logics, namely private property and state regulatory power. Faced with a legally articulated geography that leaves no space for such transgressive behavior as skateboarding, Seattle's activists have largely responded by attempting to claim spaces that effectively rework the logics of private property and/or state regulatory power so as to render skateboarding “in place.”

A. The Relationship Between Property and Regulation

As a preliminary matter, the law of private property effectively serves as an omnipresent yet invisible guiding and limiting logic for skateboarding, just as it does for all forms of human activity in modern western societies. As Nick Blomley has noted, “[e]mbedded within law are a rich and complex set of ‘maps’ of social life. Legal categories are used to construct and differentiate material spaces which, in turn, acquire a legal potency that has a direct bearing on those using and traversing such spaces”(Blomley, 1994, p. 54). Primary among the cartographic elements of these legal “maps” is the defining frame of private property ownership. Although entire multi-volume treatises are devoted to sketching the details and workings of property law, legal theories of private property tend to cluster around a limited but diverse set of concepts, practices, and power relationships most of which are encapsulated by the following entry in Black’s Law Dictionary:

Property. That which is peculiar or proper to any person; that which belongs exclusively to one. In the strict legal sense, an aggregate of rights which are guaranteed and protected by the government. . . . The term is said to extend to every species of valuable right and interest. More specifically, ownership; the unrestricted and exclusive right to a thing; the right to dispose of a thing in every legal way, to possess it, to use it, and to exclude every one else from interfering with it. . . . The highest right a man can have to anything; being used to refer to that right which one has to lands or tenements, goods or chattels, which no way depends on another man’s courtesy (Black, 1990, p. 1216).

While the foregoing is but a small extract of the entire Black’s entry on property, it is both representative of the broader legal literature and sufficient to illustrate how a number of disparately arrayed and powerful ideologies and practices congregate within this single legal concept. In particular, property is articulated in terms of a radical and absolute possessiveness. The defining character of that possessiveness, however, is one of exclusion reinforced by the power – and thus potentially the violence – of the state. And because all human activity must

take place somewhere (Mitchell, 2003), the power to exclude also implies the power to regulate those to whom a license of access is granted.

In practice, the concept of property and the terms by which the power to use and exclude are exercised are typically categorized by only two types of ownership – namely public and private – with private property ownership serving as the defacto norm (Blomley, 2004). Where there is collective ownership, it is presumed to be within “organized governments” that act much as a private owner (Blomley, 2004, at p. 3). Thus, governments set their own rules for use and exclusion in the form of laws regulating access to and behavior within those spaces deemed “public” property. Accordingly, the power of the government to regulate public space must be considered to be an extension of the very powers of exclusion inherent to “private” property ownership.

B. The Invisible Role of Property in the Development of Skating and Skatable Terrain

As discussed above, the “second wave” resurgence of skating in the late 1970’s was due to advances in both technology, with the advent of the urethane wheel, and terrain. Because of the Southern Californian drought of 1976-77, skaters were suddenly presented with new type of built environment – the empty swimming pool – that was unintentionally perfect for the further development of their activity (Borden, 2001; Peralta & Stecyk, 2001). Because most property owners, however, were not willing to give permission for youth to skate their pools, the development of this activity depended either on the illegal transgression of others’ property rights through trespass, or the development of private commercial skate parks designed to emulate these often illicit environments (Peralta & Stecyk, 2001; Thatcher, 2001). Indeed, because of the rapid spread of media images of pool skating, the demand for vert terrain in areas

where skaters either could not or did not want to trespass on private pools led to a boom in skatepark building throughout the country (Brooke, 1999).

The status of such terrain as private property, however, ultimately led to the general demise of vert skating, and the ultimate rise of new-school street skating. The immense jump in skateboarding's popularity in the late 1970's and 80's was followed by a precipitous dip in the mid 1980's. The inevitable decline in skatepark revenues, combined with an escalating number of personal injury suits against skatepark operators led to the closure and destruction of almost all of the facilities from this period (Brooke, 1999). Pool skating, because of its limited geographic range, and sporadic and illegal nature at the best of times, could not sustain vert skating through the end of the 1980's. Contingent upon the permission of private property owners who were more than not dependent upon market forces, vert skating had all but disappeared as an activity by the 1990's.

Effectively forced out of privately owned property, skaters made the only logical move – into publicly owned property. As described above, the no-hands jump called the “ollie” had originally been developed as a vert trick, to be performed at the top (or above the top) of a vertical surface. With the disappearance of commercial vert terrain, the ollie was repositioned as a flat land move, effectively turning every public street, sidewalk, plaza, and other form of publicly owned or publicly accessible property into a potential impromptu skatepark. However, by shifting the terrain of skating from privately owned vert property to publicly owned property (or private property that is “open to the public”), the performance of skating became inherently opposed to dominant philosophies of public space and the resulting legal regimes of regulation.

Indeed, given the challenges to urban order and dominant conceptions of the very nature of the city (as discussed in Chapter 3), State responses to skateboarding's move to the streets

have typically been aggressive. While a substantial literature has outlined the emergent ideologies and practice of urban “order” as an extension of the state’s need to maintain territorial dominance, these measures have come down particularly hard on those, such as skaters, who make a claim to the city without engaging in the city as a place of exchange value. See, e.g. (Davis, 1990; Mitchell, 2003). As Cresswell has noted, “transgressive events prompt responses that defend and seek to reproduce established geographies,” thereby exposing the spatial orderings of those geographies as neither uncontested nor natural (1996, at p. 104).

For skaters, this has manifested itself in both active legal pressure to push skateboarders off the streets and out of public and commercial spaces, and passive measures to “skateproof” public and private urban furniture – for example by welding blocks on hand rails or benches – so as to preclude skating (Nolan, 2003). Following former New York Mayor Rudolph Giuliani’s “zero tolerance” policies, increasing numbers of both U.S. and international cities are taking aggressive steps to remove such “unsightlies” as skaters through legal regulation. See, e.g., (Bailey, 2004; Flusty, 2000; Nemeth, 2004; Nolan, 2003). In Seattle, this effort has taken the form of prosecuting skaters for violating the municipal ordinances prohibiting “playing in the street”³ and permitting police officers a broad discretion in citing skaters for the “use of skateboards or roller-skates on sidewalks or public paths.”⁴ The combination of aggressive

³ SMC 11.40.250 Playing in streets.

No person upon roller skates, or riding in or by means of any coaster, skateboard, toy vehicle or similar device, shall go upon the roadway of any arterial street or transit coach route, except while crossing such street at a crosswalk; or engage in any sport, amusement or exercise or play in the roadway of any street.

⁴ SMC 11.40.255 Use of skateboards or roller-skates on sidewalk or public path.

Every person using a skateboard or roller-skates upon any sidewalk or public path shall use the same in a

criminalization of skateboarding and private alteration of the built environment has been effective in many cities. As one skate park designer noted,

there just aren't any more benches you can skate like mine [a guerilla ledge installed in public space without state permission]. There is nothing like that any more, where you have a ledge with a good clear runway. Almost all street spots have disappeared. By the end of the 1990's street was pretty much bust and skate-proofed. In fact, most big cities are almost unskatable now.

While anti-skating initiatives are frequently articulated in both definitional terms (the need to protect the economic activity of vendors, and permit the city to place market itself), and in aspirational terms (the need to protect skaters and onlookers from injury, the need to discourage kids from engaging in destructive, unproductive activity), they have the same cumulative effect of rendering skaters out-of-place while cementing skateboarding's reputation as illegal, "wild", disorderly, and edgy. Writing in 2001, Borden likewise recognized that, "the intensification of skateboarding in public streets has led to a more pervasive form of repression," including surveillance, curfews, public skating bans, skate-proofed architecture and anti-skate legislation (Borden, 2001) at 250. Since then, the policing of skating has only intensified. As one skater noted, "there is a huge difference between 2001 and 2004. In 2001, you could still find a marble ledge to go skate. In 2004, there is nothing." While neoliberal and welfarist logics blur in the policing of skating, the combined pressure on both urban skaters and those charged with maintaining order in the city has been substantial.

C. Development of Seattle's Skateparks, and the Emergence of Skate Advocacy, as a Response to the Logics of Private and Public Property.

careful and prudent manner and at a rate of speed no greater than is reasonable and proper under the conditions existing at the point of operation, taking into account the amount and character of pedestrian traffic, grade and width of sidewalk or public path, and condition of surface, and shall obey all traffic-control devices. Every person using a skateboard or rollerskates upon a sidewalk or public path shall yield the right-of-way to any pedestrian thereon.

As in many cities, the development of skateparks in Seattle at the turn of the century may be understood most easily as a product of and response to the combined legal logics that have successively restricted both vert and street skating terrain. Forced off of private property through either active or passive measures, and increasingly surveilled, regulated, and prosecuted in publicly owned property, skaters have increasingly turned to alternative means of creating terrain. Indeed, the history of Seattle's skateparks may be seen as a struggle to find spaces that are governed by neither the market driven logics of much private property, nor the traditionally order driven (and increasingly neoliberally inspired) regulatory logics of the urban streetscape.

Inspired by the experience of skaters in Portland, Oregon, Seattle's skaters have attempted to resolve this struggle by attempting to claim their own discrete space in the city for non-commercial, publicly accessible skate terrain, rather than simply skating the preexisting built environments of publicly and privately owned property. Ironically, the move towards petitioning Seattle city government for "official" state sponsored urban skateparks has been a direct outgrowth of a burgeoning movement by skaters to reclaim unused urban environments for user designed, built, funded, and regulated public skateparks, as well as a fundamental shift in the legal landscape structuring public recreational spaces.

The Puget Sound region is the birthplace of a growing movement towards user motivated, do-it-yourself, supra-governmental reclamation of unused space for public skateparks. Specifically, the Burnside skatepark in Portland, Oregon effectively created a model for claiming and rehabilitating otherwise unused governmental property for user designed and built guerrilla skateparks that has since been transplanted to Seattle. Starting in approximately 1990 a number of Portland area skaters began to build a series of skatepark features in an abandoned parking lot underneath the Burnside Bridge. Constructed without governmental permission, approval, or

input, the Burnside park represented the first of what was to become a series of skateparks across the U.S. that have been consciously created as public spaces outside the logics of private property ownership or government regulation of public property. “Burnside is the skateboard equivalent of a community squat, a collective-labour developing facility without private ownership – effectively creating a skatepark as a continual appropriation of urban space with the semi-condonement of official institutions” (Borden, 2001, at 76-77).

Since the mid 1990’s both the spirit of Burnside, and some of its founders and builders have migrated to Seattle. While a number of Burnside inspired projects have been initiated in Seattle, the first major success for the guerilla reclamation of space was the “Ballard Bowl” skatepark. The original impetus for what ultimately became the Ballard Skate Park came from a small group of approximately half a dozen young Seattle skaters, with the support of their parents, who began efforts to have a wooden-ramp based park built in Northern Seattle. Ultimately a number of older skaters, including a project manager volunteered to help, a ten thousand dollar development grant was obtained, and the city of Seattle made an initial commitment to allow the facility to be constructed at Golden Gardens Park. After ultimately rejecting the Golden Gardens site out of concerns of liability arising from the proximity of train tracks to the planned site, the city proposed an alternate site in Ballard in the parking lot of an abandoned Safeway grocery store that was slated to become the Ballard Civic Center Park (Bush, 2003). The Ballard organizers accepted the new site, on the condition that the facility could include a concrete bowl, rather than the temporary wooden ramps originally planned. As one of the volunteers recalled, “the city told me this was going to be temporary. . . . But my only plan was, let’s get this thing built and see where the cards fall.” As another early Ballard Bowl activist recalled, “It is really unbelievable that the Ballard Bowl now exists in Seattle. We just

ramrodded this thing into existence. We got the volunteers. We got the donations. We just ignored all of the ‘no’s.’”

The Ballard Skate Park was ultimately completed in 2002, entirely utilizing volunteer labor and with a budget composed of private contributions and some city matching funds. As built, the park included both a wooden ramp on asphalt street section, a masonite “half pipe,” and what soon became its signature feature, the “Ballard Bowl” an approximately 1800 square foot pool-like vert structure including such elements as authentic swimming pool coping (the concrete block edging between the deck and vertical pool surfaces), and a “shallow” and “deep” end. Due to its substantial steel and concrete construction, the difficulty of working with concrete on vertical surfaces, and the attention to detail required to make all surfaces and transitions smooth, the bowl component represented the greatest investment of time and labor at the facility. Likewise it was these same features that ultimately led to the regional and national popularity of the Ballard Bowl.

The creation of Ballard, however, was the product of more than the tireless efforts of a handful of skatepark advocates and builders. It was also the product of a fundamental, but largely unheralded shift, in the legal landscape of Washington’s public spaces. Following the lead of a large number of other states, in 2003 Washington passed RCW 4.24.210, entitled “Liability of owners or others in possession of land and water areas for injuries to recreation users — Limitation.” Effectively eliminating personal injury liability for “any public or private landowners or others in lawful possession and control of any lands ... who allow members of the public to use them for the purposes of outdoor recreation,” RCW 4.24.210 effectively opened the door to public, non-commercial facilities such as skateparks. Because of this shift in liability law – and the resulting alteration of the nature of property ownership throughout the state – Seattle

was able to approve of the temporary construction of the Ballard Skatepark free from the legal liability concerns that had closed down a prior generation of private skateparks.⁵

Notwithstanding the City's conditional approval of the Ballard Skatepark as a temporary facility, however, skaters ultimately mobilized around the concrete skate bowl to claim a permanent, governmentally approved space for a public skatepark in Ballard. By the end of 2003 the city of Seattle had announced its intention to destroy the facility along with the original Safeway structure to clear way for the construction of Ballard Civic Center Park. Organizing primarily (but not entirely) around the threat to Ballard Bowl itself, the Puget Sound Skate Park Association ("PSSA") organized its first meeting on January 18, 2004. Parents for Skate Parks ("PSP") formed shortly thereafter. The PSSA organized a skate jam/fund raiser on March 6, aggressively sought media coverage of the city's demolition plans, and was planning a protest for May 15, 2004 when good news finally arrived. On May 10, Seattle Mayor Greg Nickels publicly announced his support for the Ballard Bowl, with the Parks Department Board of Commissioners endorsing a skate feature in the Ballard Park three days later on May 13 (Jenniges, 2004). The skaters' victory proved to be somewhat illusory, however, once the city Parks Department announced its plan on May 21 to demolish the existing Ballard Bowl, and replace it with a new skate facility in a different part of the park site (Bush, 2004). Because of the Parks Departments' failure to guarantee the size, budget, designer or builder of the replacement facility (all factors directly impacting whether a park will be a success or failure), as well as a sense that city dollars should be spent building a second skate park on another site, instead of demolishing and rebuilding an existing facility, the PSSA and PSP continued their

⁵ Indeed, because statutes enabling the liability-free construction of public skateparks such as RCW 4.24.210 are a fairly recent development, there has as of yet been very little academic literature addressing this phenomenon in the U.S.

organizing and activist efforts throughout the summer of 2004. Finally, the city broke ground for a permanent replacement for the original Ballard Bowl in August 2005, although not after the overall facility was carved down to approximately 1/3 of its original size, leaving only a replacement of the “bowl” feature.

Ultimately, the ramifications of the activism surrounding the Ballard Bowl extended far beyond that skatepark. By serving as a flash point and rallying call for a fairly disparate group of individuals loosely joined by their interests in skateboarding, youth, public space, and/or neighborhood activism, the Ballard Bowl controversy served as a catalyst for a host of differing efforts to claim a space in the city for skateboarders. At a political level, the threat the Ballard Bowl effectively placed skateboarding and skateparks on the agenda of City government. Activists working with both the Puget Sound Skate Park Association and Parents for Skate Parks parlayed the P.R. successes of the “Save Ballard Bowl” movement into political leverage with Seattle Parks and Recreation and the City Council. Concerned with criticisms of indifference to Seattle’s children and skaters, the Seattle Parks Department created a standing “Skatepark Advisory Committee” (“SPAC”) to form skatepark use, siting, and design policies, and to provide the Department with a resource for skateboard related issues. While the membership on the SPAC has varied over time, there has been substantial cross-over between its membership and the early Ballard Bowl activists. In response to the heightened public profile of skateboarding and the Ballard Bowl controversy, Seattle Parks and Recreation began planning for the city’s first “blank slate” skatepark in Lower Woodland Park, near the Woodland Zoo.

One of the first tests of the political clout of Seattle’s newly minted skatepark advocates, however, came with the announcement in 2005 that the Bill and Melinda Gates Foundation would be purchasing a large parking lot belonging to the Seattle Center for \$22 Million in order

to construct their new world headquarters (Anderson, 2005). This was a potential blow to Seattle's skateboarders as the parking lot was also the location of Seattle's first public skatepark, and – upon the demolition of the original Ballard Skate Park – the only legal public terrain for new-school street skating. Still stinging from the controversy over Ballard, the City conditioned the sale of the lot upon the allocation of \$900,000 from the purchase price to rebuild a replacement of the Seattle Center skatepark and a basketball court (Anderson, 2005; Galloway, 2006). The City also agreed with the Gates Foundation that ground would be broken for the replacement facility before the existing skatepark was demolished. While this development served as a powerful victory for Seattle's skatepark advocates, the extent of this victory was almost immediately tested. When the City announced that the replacement facility would be located several miles outside of downtown on Elliot Avenue, next to a waste-water pumping station and between a railroad line and a major 6 lane arterial (Seattle Post-Intelligencer Editorial Board, 2005; Slovan, 2006), the skate advocacy community was immediately faced with the challenge of halting a project that the City, the Seattle Center, and the Bill and Melinda Gates Foundation were all pushing to complete. After advocates successfully lobbied for a reconsideration of the site on the basis of noise, pollution, and accessibility concerns, the Mayor put a halt on the project and retained a real estate consultant to perform an analysis of alternative sites. When the consultants' report again came under fire from advocates for methodological problems – and for once again naming the Elliot Avenue site as the best location – the mayor vetoed the Elliot site and pushed the entire project over to City Council to resolve (Galloway, 2006). This decision has led to months of political struggle between Seattle Center, Parks and Recreation, and City Council over whether or not the skatepark would ultimately be placed on the Seattle Center campus itself, a struggle that continues to this day.

Nothing better symbolized the changing political tides of skatepark advocacy by 2006, however, than the City Council's decision to undertake a master planning exercise to locate a city wide system of skateparks in response to the political difficulties encountered with Ballard, Lower Woodland, and the Seattle Center Skatepark replacement. Acting on suggestions by skatepark advocates, the Council passed and funded an ordinance empowering Parks and Recreation to hire a planning firm consultant to conduct a skatepark site master plan, with the process too be overseen by a Task Force comprised of non-voting city officials and citizen volunteers. Again, the crossover between early skate activism and this highly structured State effort has been high, with three of seven citizen members of the Task Force coming from the Ballard Bowl movement. Taken together, these efforts represent an attempt to recreate the types of skate-specific terrains once provided by the private market in the 1970's outside the vicissitudes of private property ownership. By seeking to have the state formally recognize, sanction, and fund such places, however, such skateparks also represent an effort to use city government's power as property owner to protect skaters from the very forms of state control, surveillance, and prosecution that skaters normally encounter within urban "public" spaces.

Beyond such formal, state sponsored endeavors to claim a space for skaters in Seattle, the Ballard Bowl has also spawned a number of efforts to create alternate skateboarding spaces completely liberated from the logics of either private property, or the regulatory influence of City government. Frustrated by the slow pace of government based activism and the compromises involved in "saving" the Ballard Bowl, a number of skaters involved in the Ballard Bowl effort organized the Marginal Way skatepark project. Working without government permission, and heavily influenced by the Burnside model of reclaiming a largely abandoned space under a raised roadbed, the Marginal Way organizers simply began constructing a skatepark of their own design

at their own expense under a raised portion of State Route 99. Over time, the Marginal Way activists both expanded their project, while successfully seeking informal *post facto* City approval of the project with the assistance of skatepark activists still engaged with city government. In so doing, Marginal Way's organizers have effectively garnered the benefits of state sanction while avoiding much of the regulation inherent to dealing with conventional governmental planning and construction processes. The trade-off for Marginal Way has been a site that was available in large part because of its overall undesirability – set near railroad tracks, under an arterial, out of sight, in the center of a sprawling industrial district, far from neighborhoods and amenities. As one organizer noted, "We figured that the area was already so bad that it would just be an improvement [to build a skatepark there.] There were trailers parked down there, nasty cars, and people changing oil" (Hansen, 2006).

Similarly unwilling to wait for the City to provide skateparks for their community, another group of activists have organized a public skatepark on land donated by a community health provider in the Southpark neighborhood of Seattle, with labor to be donated by a local construction company. This project – named the River City Skatepark – is explicitly intended to provide a public space in an underserved neighborhood without implicating either the city Parks Department, or other conventional commercial funding processes. While the location for River City Skatepark is upon private property, the organizers have chosen to obtain a long-term lease agreement from the non-profit organization as a way of circumventing the types of market driven logics that have so often foiled private skateparks. And by constructing the park on private land solely with private donations, the park's organizers hope to circumvent both the bureaucracy and regulation that comes from working with a City agency such as Parks and Recreation. Again, however, this decision has come at a cost. By opting out of the constraints that come from City

oversight and management, River City has likewise missed out on City funding, and even some large corporate donations that are intended for state initiated public space projects.

4. Conclusion - Law as both the Invisible Medium and Ultimate Prize of Young Peoples' Efforts to Claim a Space in Seattle.

The discourses surrounding the creation of Seattle's skateparks – and skateboarders' conceptions of what they do – rarely explicitly addresses the legal landscapes of property. That said, it would be a critical mistake to ignore or overlook the legal geographies within which Seattle's skatable terrain have been found, claimed, used, planned, built, and contested. For although the “law” is rarely raised in the various discourses surrounding these places, what is at issue in these debates is ultimately the law and the way that state power enforcing the prerogatives of property ownership will shape the spaces skaters – and by analogy all young people – use. It is within the framework of how the state will use its power as property owner to exclude – and thus regulate and/or exclude – that the contest between youthful disorder and adult conceptions of order in public space are ultimately negotiated. Thus, by examining how the struggle over skateparks is framed and fought, I hope to shed light on the concrete ways in which the otherwise invisible workings of law come to shape the places in which we must exist – and in turn shape us.

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