Abstract: The Cost of Keeping a Home

Introduction

Leonard Powell, 78, is an African American retired postal worker and army veteran who lives in south Berkeley, CA. Powell paid off his home in full in 1996, just a year before his wife passed away of a heart attack. She'd lived seven more years than doctors expected her to because Powell had given her a kidney. He shows me a long scar running along the right side of his torso and tells me he jokes that he gave cesarean birth to his wife through what became this scar.

Powell's lived in his home since 1974, back when no one in Berkeley would rent to a family of 8, he says. It's filled with memories of his wife today, and it's where his children and grandchildren grew up, in the historically African American and Japanese district in Berkeley.

That means that after 45 years in his home, 78 year old Mr. Powell may not be able to pass it down to his kids and grandkids after all. His home is no longer his today. Not only does he owe back the $22,500 he originally paid for it, he owes hundreds of thousands.

It all started with the city's police department at his door followed by a notice of violations to the city's housing code that city officials claimed were so severe, and Mr. Powell so unresponsive, that it became necessary to appoint someone else to take over the "public nuisance" and make the needed repairs on his dime. According to a document obtained from the city's case against Mr. Powell, "BPD had observed potentially-substandard conditions at the property during [an] execution of a search warrant and arrest" of a grandson of Mr. Powell's "who admitted to dealing crack cocaine from the property." A case report obtained from BPD on the incident was almost entirely redacted.

What started off as a $100,000 project soon turned to one that's over $800,000 and a push to sell Mr. Powell's home, now worth $1.2 million in the hottest Bay Area housing market in decades.

Thanks to the efforts of community organizing and a little bit of coincidence (a neighbor ran into W. Kamau Bell at a cafe and convinced him to tweet a link to Powell's GoFundMe campaign, which raised over $80K from nearly 2K donors), Mr. Powell was able to raise and borrow enough funds to return to his home.

But others aren't as fortunate, and community groups and city councilmembers say this is a pattern: African American families have been getting pushed out of Berkeley for years now, and intercepting property that can be passed down from one generation to the next through debilitating complex and costly civil court proceedings is just one of the tools that's made that

possible. Berkeley's African American population has declined by nearly half between 1970 and 2000, and by another 37% since then.

This story is about how systems for housing within Berkeley are still set up to better serve those with more monetary resources, financial literacy, and connections; and enable displacement of Berkeley's black residents. In this story, we look at one method in which displacement can happen: housing code enforcement. This is a story about access, belonging, and identity. The idea that what we may think is true about us as a homeowner -- more secure than a renter, an achiever of the "American Dream" -- can be painfully false and fragile.

An Alameda County Superior Court judge presides over Mr. Powell's continuing case today. Later this year, he is expected to make a determination regarding whether Mr. Powell will be responsible for paying the receiver's attorney's fees or if the city of Berkeley will. The next hearing has been continued to June.

Assets

As part of my Master's Project I produced a 3,000 word text story and 74 high resolution photographs to combine with an audio component for a multimedia news package titled "The Cost of Keeping a Home: How a city's cookie-cutter approach to housing safety displace and endanger some of its most vulnerable residents."

The text component of my thesis attempts to explain the complexities of Leonard Powell's case specifically, using expert voices like Ben Bartlett and Maeve Elise Brown, and relying on records from the Berkeley Police Department and Alameda Superior Court to contextualize Mr. Powell's temporary displacement from his Berkeley home and subsequent piling debt.

Audio elements to be added to the multimedia news package will provide additional expert testimonies from Beth Ribet to better contextualize lack of court oversight over third-party appointees/guardians, and Nicole Montojo to explain the historical involvement of private entities with city governance to produce implicitly exclusionary housing policies in the Bay Area -- including in the city of Berkeley's Elmwood and Claremont neighborhoods. The audio component will also add context as to the city's side of the ordeal through testimonies from former city attorney Zach Cowan and code enforcement officer Thong Phan-Quang.

The photographs, taken by journalist Drew Costley, attempt to capture Leonard Powell's relationship with his daughter Bernadette, granddaughter Myla and other family members; and how their Berkeley home, and its loss, has impacted their lives. They attempt to visualize the complexities Mr. Powell has had to navigate in the way of local bureaucracy and lack of legal

resources. Finally, they attempt to capture Powell's relationship to his long time neighbors, his ever-changing neighborhood, and who Powell himself is as a resident, neighbor, veteran, retired postal worker, father, and grandfather.

The Cost of Keeping a Home:
How a city's cookie-cutter approach to housing safety displace and endanger some of its most vulnerable residents

Seventy-eight-year-old Leonard Powell walks over to the back room of his home in south Berkeley and opens the door. "This was my brother's room," he says "The windows have been upgraded. That's a good thing," The bathroom nearby is also different now, "Smaller," he says, "but it is pretty nice."

Despite paying off his mortgage in 1996, the unthinkable happened. Powell lost his home to the City of Berkeley in June of 2017. After the Herculean task of making payments for 15-years accomplishing a feat most people only dream of—and for a fixer upper no less—Powell's home was taken away from him.

It all started one July day in 2014 with a knock at his door from the Berkeley Police Department. Sometime later, the city's Code Enforcement Supervisor Gregory Daniel and Housing Inspector Supervisor Brent Nelson inspected the property. A notice naming Powell's home substandard and a public nuisance, and marking 33 housing code violations to Berkeley municipal code that needed fixing, was issued later in the year. The notice cited improper maintenance that caused unsanitary conditions, improper venting and waterproofing, heating, unsafe electrical conditions, and lack of smoke detectors among the code violations. Additional zoning violations marked included the conversion of the duplex into a single family home through the removal of an interior wall and an exterior door without the proper permits.

Powell's inability to fix the conditions to the city's satisfaction by 2016 led the city to appoint a receiver to take over the job of making the needed repairs to the house—on Powell's dime.

This is a process known as a safety receivership, and was approved by the Alameda County Superior Court.

According to the city's case against Powell, the Berkeley Police Department had noted the condition of the property while they executed a search warrant and arrest of a grandson of Powell's. A case report obtained from BPD on the incident was almost entirely redacted.

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Powell has lived in his home with his wife and children since 1974. He'd served in the Army, then worked as a postal worker. He married into a family, he says. And together Powell and his wife settled into the historically African-American and Japanese Ashby district of the city of

Berkeley. Powell's wife primarily stayed in the house due to a disability. She would take care of things around the house and they'd occasionally take drives along the coast. It's where his children and grandchildren grew up, and neighborhood kids who call him "Grandpa." This spot is filled with memories for Powell, his daughter Bernadette, and his granddaughter Myla.

But at 78 years old -- and after 46 years having lived in the home -- Powell doesn't know what exactly he'll be passing onto his kids and grandkids. The home that was previously "free and clear," as he calls it, has now become a debt.

What started off as a $100,000 price tag in order to bring it into compliance with the City of Berkeley code enforcers soon ballooned to $800,000. The receiver, Gerard Keena II, claims additional repairs were needed, and he needed to hire an accountant—at Powell's request—to prove accurate billing of the process. Due to rising housing prices in the Bay Area, and with some repairs underway, Powell's home is now worth $1.2 million. Keena, the receiver, asked the court to approve its sale to cover the cost of the repairs that Powell can no longer afford.

Powell's plight of nearly losing his home to the city for code enforcement infractions received media attention after a member of Friends of Adeline, a Berkeley advocacy group, launched a GoFundMe campaign to help Powell pay for the needed repairs. With the help of funds received through the campaign, a senior rehabilitation loan, and another loan, Powell was able to keep his home for the time being.

Berkeley District 3 council member Ben Bartlett, who's been advocating on Powell's behalf, says Powell was among the lucky ones. A member of Friends of Adeline ran into comedian and TV show host W. Kamau Bell at a coffee shop and asked him to share a GoFundMe campaign that the group had urged Powell to launch. Bell tweeted a link to the campaign to his 290k followers and tagged other prominent Twitter users/celebrities. Within 3 hours the campaign had raised approximately $17,000. It eventually raised over $80,000 from nearly 2,000 donors.

"In this case, we had a famous person tweet out the situation and that's what raised the money from donations," Bartlett says. Otherwise, "the donations would not have come in and he would have lost his house and no one would have ever cared or believed our story."

But others aren't as fortunate, and community groups and city councilmembers say this is a pattern: African American families have been getting pushed out of Berkeley for years now. And intercepting property that can be passed down from one generation to the next through debilitating code citations and other civil court processes are some of the tools that have made that possible.

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The city of Berkeley, like most cities, conducts housing inspections geared at making sure homes are up to safety standards. The rules exist to keep people safe. In 2016, building code violations were referenced in relation to the death of 36 people in the Ghost Ship Fire in Oakland, which borders Berkeley. And a few years earlier, building code violations were referenced in the death of six individuals after a balcony collapsed at a party in Berkeley.

But these inspections are done on a complaint basis. So a tenant or neighbor, for example, could call in potential violations on their neighbors and result in an inspection. Berkeley's former city attorney Zach Cowan says that leaves room for vendetta between neighbors, and the city often refuses to take part in that.

In Powell's case, it was Berkeley Police Department personnel who called in to report the condition of his home, according to the report submitted to court.

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Powell's wife died in 1997, a year after the two finally paid off the home they raised their family in. Powell's wife lived seven more years than doctors expected her to because Powell gave her one of his kidneys, he says, showing me a long scar running along the right side of his torso. A running joke while his wife lived was that he'd given cesarean birth to her through what became this scar.

If you talk to Steve Martinot or Mari Mendonca, two Friends of Adeline members and friends of Powell's, you'd find out he's the kind of friend who finds it difficult to ask for help. Mari says the group had to sell him on the idea of a GoFundMe page, and check in with him every step along the way. Powell says he wants to sue the city for several reasons, among them so he can repay the money that was donated to the online campaign.

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Powell's granddaughter, Myla Hedge, is a shy 28-year-old who's creative, intelligent and funny, studying Art at Berkeley City College, and watching comics tutorial videos on YouTube in her spare time. She tells how hard it was when Powell, her mom Bernadette and other family members were relocated for almost two years outside of their south Berkeley home for the repairs beginning June 2017. All of Bernadette's dialysis supplies had to be moved, a sterile environment recreated so as not to endanger her delicate treatment.

The peak of Hedge's worry came when her grandpa wouldn't talk about the house altogether. Since the beginning of the battle with the city and courts in 2014, Powell had been reassuring. She took his temporary silence on the matter to mean he was truly worried they would lose their home. Afterward, he started talking about the case again, and she knew they were out of the woods for the moment.

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Ben Bartlett, a third-generation African-American Berkeley resident and city council representative for the district where Powell lives, has seen similar cases happen to other families throughout his council term, including his own.

“I ran for office in the first place because many of my community members -- my mother and her friends and a lot of elderly African Americans -- were losing their houses or being subjected to extreme evictions and rough treatment,” Bartlett says.

Bartlett says he ran for office in order to try to come up with solutions for problems like the one Powell is facing. He pushed for the creation of an anti-displacement public legal advocate who can defend people in court when they’re at risk for losing their homes. Bartlett says when his team began advocating for this, “no one understood what I was doing because there was no big example to look to.” For better or worse, Powell’s case became that example.

When it comes to Powell’s case, Bartlett expressed skepticism toward the receiver. “The receiver’s job is to make sure the repairs are made and that it’s taken care of. And the receiver then goes along to hire people to do the work and then bill the homeowner for the bill,” explains Bartlett. But those expectations shifted repeatedly in this case, according to Bartlett. “This was going to be a $60,000 set of repairs,” Bartlett says. “When the receiver was finished, his bill became more than $700,000, so a ten fold increase. That’s alarming and ridiculous. But that’s how it always is.”

Bartlett recounts his first meeting with Powell and Keena, from the Bay Area Receivership Group. According to Bartlett, Keena was quick to recommend a reverse mortgage as Powell’s only solution, one that Bartlett says is often used to remove property from families.

“This is a big deal because property is really the only basic wealth you have in this country and for many of us, we were not allowed to own property until late in the last century. And so this family by benefiting from the Fair Housing Act was able to buy property and the goal is to pass it on to your children as wealth,” Bartlett says. “We’re all behind because everyone else got property handed down to them from the government, from land grants, from families, labor unions, etc. -- all of which African Americans were cut out of. So when we do have property, it’s sacrosanct almost to protect it.”

Bartlett grew up in the part of the city he now represents on the Berkeley city council. He says the community was victimized by redlining before community members turned it into a place of

prosperity and black-owned businesses and cultural events. It was a state legislator from south Berkeley -- William Byron Rumford -- who introduced the Fair Housing Bill.

Bartlett points to pressures the city faces regarding housing availability as the University of California, Berkeley continues to expand its enrollment. “And then you also have pressure from wealthy San Franciscans coming in, who want to live in Berkeley because of good schools.” Bartlett says the result is a pressure to “rapidly gentrify by any means necessary.”

Maeve Elise Brown, founder and executive director of the housing group Housing and Economic Rights Advocates (HERA), explains how she has seen this take place. Her organization provides legal counsel throughout California. Cases like Powell’s, quickly accrue fines and fees due to housing code citations, lack of legal representation, and generate a lot of confusion. Brown says her organization can easily add another ten staff members to take on the cases they’re asked to help with. Although it remains a small percentage of the calls they receive daily, she’s seen it on the rise, including in Oakland, another city whose Black population is dwindling as the city gentrifies.

Brown says she sees a lack of data tracking take place when it comes to who is being affected by housing code citations [and NM pointed to this to, citing lack of funding and prioritization from city government], but when it comes to who calls in for help, Brown says, that’s consistent: it’s older adults. “Most older adults in America are also homeowners,” Brown says. “And especially in many of our high cost parts of our state, the family home is going to be the least expensive, and most affordable housing that a senior is going to be able to hold onto.”

But there’s a myth that remains when it comes to home ownership and access to legal representation, according to Brown. “People assume that if you own a home that means you're wealthy or that you somehow made it if you're going to be able to survive in this,” Brown says, “but it's absolutely not the case.”

It certainly wasn’t the case for Powell, who’s had to take out two new loans on his home, and use funds collected through the online campaign to save his home, to make a dent in the city inspectors’ and the receivers’ demands.

“Being able to keep your home in decent repair is difficult and expensive and when you have a lot of equity a home may be worth a lot. But that doesn't mean that you have the cash to actually repair it or that there are good financing program structures to be able to help you prepare it,” Brown says.

She points out that although many cities and counties offer programs to help seniors and low income residents with that, often there are barriers to actually accessing these programs in a meaningful way, such as liens on homes. Seniors don't discover until their eligibility for these programs is being reviewed, she says, at which point it's too late.

"It is also true that most older adults are carrying more mortgage debt into their later years than ever before in US history," Brown adds. She says that can be traced back to a combination of things, "but some of it has to do with having been victims of predatory mortgage lending in this last go around, some of it has to do with carrying student loan debt. Sometimes it belongs to the senior directly or from their own schooling, sometimes because they co-signed for a child or grandchild's loan."

Brown says her organization often gets reports of code citations given from inspections triggered by neighbors complaining to the city about the perceived condition of a neighbor's property.

"That's extremely troubling because we usually see race seems to be a component as well as class and age, when it comes to who's making a complaint against who," Brown says. That pattern looks like "younger white, more affluent, middle class [neighbors] complaining about older African American neighbors or neighbors who are of varying ages but are disabled, and of poor or modest means."

"There's a question about gentrification here," Brown says. The consistent class and race element has popped up in every case they've taken.

Other times, she says, the complaints are made by tenants who are "justifiably complaining" in order to live in a "safe and decent habitable dwelling and they're renting a room in a home. And the senior is struggling to actually keep the home in decent repair."

"It's just a rat's nest, a real nightmare. I don't see how any human handles this without legal representation," Brown says. And that's exactly what Powell has had to do, for nearly five years now, all while helping house and care for a daughter who's on dialysis and several grandchildren.

That rat's nest, according to Brown, consists of rapidly accruing fees and fines, conflicting information regarding the cited violations -- sometimes with turnover in city inspectors -- and the enforcement of these accruing penalties through the tax assessor's office, who comes to act as the city's collection agency for these citations, adding them onto the property tax bill.

“The question is why are the fees and fines racking up so much? Part of it is because the fees and fines are kinda high, and the other one is that sometimes they're being double fined,” Brown says, “and part of the reason this goes on so long is because you're dealing with...very vulnerable adults who are here on fixed income.”

And then there are reports of code inspectors who seem to take on a personal interest in the outcome of the case, Brown says.

“We would like to do a lot more of this work because we're seeing an increase in it and the cases that we've seen are ugly and troubling,” Brown says. She says that across different California jurisdictions, her organization has received reports of the same types of problems with code enforcement: inconsistent inspections, confusing standards, and uneven enforcement.

“You want folks to be safe and have ways to be able to handle stuff as they become more inferm and have worked so hard,” Brown says. “Almost all the people that I've talked to are trying to hang onto the family home to give to their kids.”

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After his most recent court hearing, in which the judge continued the hearing to a later date with the objective of further examining whether the city of Berkeley should be held more culpable for a portion (or all) of the receiver’s attorneys’ fees—a sum in excess of $200,000—a member of the group asks Powell how he feels about the proceedings. He looks to the dozen or so people who came to support him, and confidently says he feels hopeful. One member asks him about exploring legal representation again and says it might be a good time to circle back to some prospects. Powell says he will. He’s been granted 30 days to do so. But the case has been ongoing for five years now.

In the parking lot later, surrounded by a few people now, he doesn’t say he’s hopeful this time. He says he’s concerned. He doesn’t know how it’ll go. He wonders aloud what will become only words over time and what will amount to action. Then he gets into the van of Mari, who drove him and a few members of the Friends of Adeline, to the court, and they drive away.

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