THE ARSENAL OF EXCLUSION & INCLUSION: SIGNS OF THE TIMES

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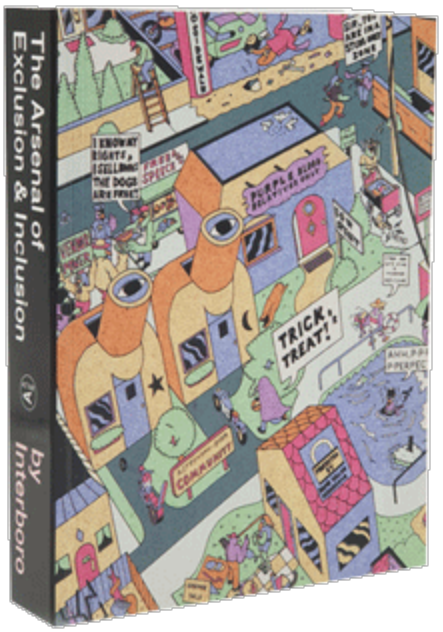

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In the storefront window of an otherwise unremarkable real estate office a few blocks from our office in Downtown Brooklyn, one can witness—amid the clutter of posters advertising eye-poppingly-priced triple-mint brownstones, full-service starters, Newswalk duplexes, and other "picturesque Park Slope gems".

Here are two ubiquitous signs making two very different—if not contradictory—statements about urban space and how people should use it. The sign on the right, which advertises the real estate office's compliance with the *Fair Housing Act's* mandate that it not discriminate on the grounds of race, color, religion, sex, disability, familial status, or national origin, is the open housing movement's most prominent emblem—its presence in real estate offices, lending institutions, and apartment buildings across the country the spoil of a patient, hard-fought victory in the ongoing struggle to make more communities more accessible to more people.

The smaller sign on the left is a prominent emblem earned by the agents of another struggle,

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namely the struggle to limit your constitutional right to assemble. Quite contrary to the sign on the right, the sign on the left marks an attempt to make a space *less* accessible.

The "equal housing opportunity" sign is serious business. It represents a policy that in turn represents a national housing strategy that regulates housing everywhere in the U.S. The *"No Loitering" Sign* doesn't really represent a policy at all: while most municipalities have loitering ordinances that vaguely prohibit, for example, "remain in any one place with no apparent purpose," "No Loitering" Signs don't designate officially recognized "No Loitering" zones, even when they proclaim, presumably in an effort to sound more official, how many feet from the sign one can't loiter. Posting an "equal housing opportunity" sign is required by law: failure to display it prominently is evidence of a discriminatory housing practice and can result in a lawsuit. Posting a *"No Loitering" Sign* is at best a guerilla tactic—an attempt to regulate a space that isn't necessarily the sign poster's to regulate.

Redrawing the Lines

These ordinary and otherwise unremarkable artifacts give a small glimpse into the everyday struggles over who gets to live, hang out, work, or play where and for how long. They illustrate that access to urban space is governed by a diverse, contingent, and often contradictory set of policies, practices, and physical artifacts. Legitimate and illegitimate, official and unofficial, strategic and tactical, intentional and habitual, these policies, practices, and physical artifacts are the subject of this book. Without trying to be comprehensive, the book examines a few of them that, like the *"No Loitering" Sign* and the *Fair Housing Act*, have been used by planners, policymakers, developers, real estate brokers, community activists, and other urban actors to draw, erase, or redraw the lines that divide. The book inventories these weapons of exclusion and inclusion, describes how they have been used, assesses their legacy, and speculates about how they might be deployed (or retired) for the sake of more open cities in which more people have more access to more places.

While the weapons in the Arsenal of exclusion and inclusion can be categorized in any number of ways, this book presents them alphabetically. Per the image of the storefront window, it includes housing-related weapons used to influence who gets to live where (e.g., the Fair Housing Act) and public space–related weapons used to influence who gets to hang out where (e.g., *"No Loitering" Sign*). It includes policies like *Expulsive Zoning* and *Annexation*, but also practices like *Blockbusting* and physical artifacts like *Bombs* and the *Armrests* that park designers put on benches to prevent homeless people from getting too comfortable. (Despite the form they take, these weapons all sway

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us, persuade us, shape our behavior and beliefs, and ultimately influence outcomes in the built environment.) The Arsenal includes minor, seemingly benign weapons like *Buzzer* and *Bouncer*, but also big, headline-grabbing things like *Eminent Domain*. It includes historical artifacts that aren't talked about too much anymore (e.g., *Ugly Law*), tools that might seem like historical artifacts but aren't (e.g., *Racial Steering*), and tools that are brand new (e.g., *Aging Improvement District*). It includes powerful weapons like *Racial Deed Restriction* and *Jim CrowLaw*, but also irreverent, more or less benign weapons like *Halloween* and *Famous Person's House*. Some of the weapons in the Arsenal—like *Hoop, Questionnaire*, and *Book*—are probably things you didn't know had anything to do with cities at all, let alone the accessibility of cities.

The sheer quantity of weapons included in the Arsenal shouldn't suggest that this is a comprehensive or authoritative list. The book's table of contents is a product of what we happen to have read, who we happen to have talked to, and, most im portantly perhaps, who we happen to be and what we happen to have experienced. Three different people, with three different backgrounds, living in three different places, would certainly have come up with a very different list. Also, in selecting these weapons, we made the very arbitrary decision to only look at weapons that operate in the United States. The U.S. border, an excellent example of the kind of arbitrary, human-made arti facts that we try to denaturalize in this book, is therefore not included, despite its obvious status as a weapon of exclusion.

We did not sort the entries by whom the weapons are aimed at (a list that includes just about anyone who has ever been thought of as an "undesirable"), who is wielding the weapon (a list that includes planners, policymakers, developers, real estate brokers, appraisers, churches, newspaper editors, store owners, neighborhood associations, and just about everyone else), or what the incentive is for wielding the weapon (incentives in clude racism, classism, ageism, ableism, prude-ism, fear, greed, a desire to preserve property values, a desire to maintain public order, and a simple desire for peace and quiet).

We also opted not to categorize weapons as unequivocally ex clusionary or inclusionary. The line between exclusion and inclusion can be very fuzzy indeed, since what seems exclu sionary to someone might seem inclusionary to some other. Many weapons in fact exclude one group to include another. By all accounts, very few senior citizens swam in New York City's public pools before adult swim hours were instituted. The often pedantic *Covenants, Conditions*, and *Restrictions* (CC&Rs) that homeowners associations enforce exclude by us ing lifestyle characteristics as a proxy for race or class (CC&Rs have banned non-American flags, basketball

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hoops, trailers, and hundreds of other seemingly benign things), but these kinds of rules have also been used to facilitate uncommon (yet non-obtrusive) needs and desires. In Arizona's Sky Village, amateur astronomers are able to indulge a passion for the night sky by strictly regulating the use of lights. In Snowflake, Arizona's "Environmental Isolation Neighborhood," residents with debilitating chemical sensitivities were able to put a ban on certain chemical products, thereby facilitating basic sur vival. And in Nalcrest—"The retirement community created *by* letter carriers *for* letter carriers"—retired postal workers no longer have to live in fear of big barking dogs.

At a more basic level, making a street accessible to the larger public might mean excluding some by way of a teen *YouthCurfew, Drug-free zone*, or *"No Loitering" Sign*. Crime and the fear of crime keep people indoors and away from neigh borhoods they feel unsafe in. As Jerry Frug writes in the essay "Legalizing Openness," a city "cannot be open if people don't feel safe in all parts of town."

When we look at the complicated legacies of policies, practices, and physical artifacts that attempt to demolish barriers and open the spaces of our cities and suburbs, we learn that they do not necessarily work the way they are supposed to. Loopholes abound. Many policies begin with great promise but are quickly watered down and effectively neutralized. As Matthew Lassiter shows in this book, 1969's landmark *Busing* case *Swann v. Charlotte Meck lenburg* required the two-way exchange of white students from the suburbs and black students from the city, but after 1974's *Milliken v. Bradley* overturned a similar metropolitan-wide busing plan in Detroit (by arguing that the suburbs had no historical or legal responsibility for the existence of racial segregation inside the city limits), most court-ordered busing plans excluded the suburbs and confined integration remedies to transitional urban neighbor hoods. Many weapons promoting accessibility are de-facto can celled out by counter weapons devised to neutralize them. Thanks to the *Fair Housing Act*, a developer who wants to build a commu nity for Catholics cannot explicitly deny access to non-Catholics, but as Lior Jacob Strahilevitz points out in this book, developers do nothing illegal when they build a Catholic Church at the center of a gated community and require all residents to pay dues to main tain it, creating an *Exclusionary Amenity* that results in a disin centive for non-Catholics. Thanks to the *Public Trust Doctrine*, suburban beachfront towns in most states cannot explicitly restrict access to their beaches, but these towns do not necessarily violate the law when they de-facto restrict access through Beach Tags, Fire Zones, or Dunes. And thanks to the *First Amendmen*t through a *Beach Tag, Fire Zone,* or *Dune*, owners of convenience stores cannot explicitly prevent skateboarders from congregating on the sidewalk in front of their stores, but they do nothing illegal when they blare the sounds of Vivaldi or Kenny G. from roof-mounted speakers in the hopes of scaring them away (See: *Classical Music*).

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Finally, history is full of examples of how measures designed for one purpose proved useful for another: neighborhood-wide bans on *"For Sale" Signs* were pioneered by Civil Rights groups and integrationists who feared that unscrupulous real estate brokers were using the signs to peddle panic in white neighborhoods and incite "white flight," but the sign ban was quickly appropriat ed by racists to maintain or promote segregation. The strategy? Taking away homeowners' right to sell their house with a simple *"For Sale" Sign* would make them more likely to list their homes through brokers, who, through their multiple listing service, segregated classifieds, and racist *Code of Ethics*, would ensure that a white home would not be sold to a black family and vice versa.

Tourguide

While we have generally avoided categorizing the weapons, we are offering six thematic tours through the material, based on what we consider to be some of the most important themes. Readers can read these tours as six separate volumes. They can also make their way through the book's content with the aid of the editorial texts that appear with each entry: these are meant to offer some context and commentary but also relate the weap on to other weapons in the book. For example, if readers begin by reading, say, *Feeding Ban*, the editorial text will invite them to read entries about other anti-homeless policies, including *Busking Ban, Business Improvement District, Camping Ordi nance, "No Loitering" Sign, Seating for Ticketed Passengers, Sidewalk Management Plan,* and *Ugly Law.* Many entries also contain bonus material: short texts, timelines, and other ma terials that supplement the main text in one way or another. Finally, some entries also include what we call "Voices from the Battlefield": short quotes—primarily taken from newspapers—from a range of urban actors that illustrate strong positions against or in favor of the use of the weapon.

Tour 1: So you want to understand why America is soracially segregated?

A most depressing history lesson, the purpose of this tour is to remind readers that racial segregation is the product of doz ens of local, state, and federal policies aimed at creating two Americas, separate and unequal. The story told through this tour is a familiar one, especially in light of the many autopsies of the uprisings in Ferguson, which have effectively demon strated the degree to which white supremacy has shaped and continues to shape our urban environments. Though many of the weapons in this tour are used a lot less than they used to be,

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the legacy of each is nonetheless evidenced by a walk through any of America's older former manufacturing cities or by census maps that show race, income, and home values in America's Metropolitan Areas. While many of these weapons arguably had good intentions (*Urban Renewal, Public Hous ing,* and *Freeway* come to mind), many, obviously, did not, as evidenced by entries on *Racial Zoning, Racial Deed Restric tion*, and *Racial Steering*, to name a few.

Tour 2: So you want to understand why segregationpersists almost 50 years after the Fair Housing Act?

Nearly 50 years have passed since the Fair Housing Act out lawed discrimination in the sale, rental, and marketing of homes, in mortgage lending, and in zoning, and still most Americans live in environments that are radically segregated, especially by race. How can we explain this? Is racial segrega tion merely the legacy of weapons—like *Racial Zoning*—that no longer operate? Or are there newer, subtler weapons that continue to produce racially homogeneous communities? This tour is meant to support the latter claim. It contains entries on Blood; *Covenants, Conditions* and *Restrictions;* and *Exclu sionary Amenity*, to name a few.

Tour 3: So you want to understand the weak tacticsof the strong . . .

To restrict access to its waterfront, a small town in Massa chusetts installed superfluous fire hydrants on access paths, restricting parking and thereby preventing those not from the immediate area from accessing the waterfront (*Fire Hydrant*). *"No Cruising" Zone, Residential Parking Permit, Armrest on park bench, Farmers Market*: this tour highlights what we call the "weak tactics of the strong": subtle, often pathetic attempts to restrict access to public spaces by "undesirables" without too much fanfare.

Tour 4: So you want to see what is working undercoverfor accessibility . . .

This tour includes entries on *Flat Fare, Famous Person's House,* and *Halloween*, among others. These weapons are a collection of everyday phenomena that are working for accessibility un intentionally. Not conceived of by architects, planners, or pol icymakers, these accidental weapons are capable of increasing accessibility in surprising ways.

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Tour 5: So you want to know who is doing the everydaywork of increasing access?

In this tour you can find some of the policies, practices, and ar tifacts that are doing the silent work of increasing accessibility every day, in some small way. These are not accidental weapons like the ones in Tour 4 but were deliberately invented to help us, for example, access the beach in a wheelchair (*Beach Wheel chair*), safely cross the street (*Raised Crosswalk*), or use the bath room when we are in a public place (*Public Bathroom*).

Tour 6: So you want to fight fire with fire . . .

The weapons in this tour are the legacy of planners, policymak ers, and community activists bent on opening the city with ambitious, immodest, game-changing policy tools. *Busing, Inclusionary Zoning, Community Land Trust*: these strong tactics of the weak look to undermine market idealizations and reverse some of the longstanding damage done by the weapons in Tours 1 and 2. While the respective successes of these weapons are sometimes difficult to evaluate (see *Busing* and *Public Hous ing*), they represent the progressive urbanist's best foot forward, embodying a willingness to fight fire with fire.

Here and Now

Why did we assemble these weapons of exclusion and inclusion?

We study history so that we don't repeat the mistakes of the past but also to denaturalize and expose the constructedness of the present. First and foremost, then, we hope that this book will help us understand that things like segregation and spatial injustice aren't the product of invisible, uncontrollable market forces but of human-made tools that could have been used differently (or not at all). How dominant would the suburbs have been in the twentieth century without *Freeways*? How much more equitable would our metropolitan areas be if *Residential Security Maps* hadn't steered federal mortgage insurance towards the suburbs? Would city and suburban high school graduation rates be as different as they are if desegregation Busing programs had moved students around a metropolitan area and not just a city? And what if the pejorative adjective "forced" hadn't been successfully wedded to the word "busing" in the public imagination? We hope that by highlighting

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some of the tools that build cities, we can make a compelling case that there is nothing inevitable about the cities we have built and that they could have been built a lot differently.

In the same way, we hope that this book will encourage people to be more critical about the here and now and see beyond ap pearances. This means seeing, for example, that the Armrest on the bench in the park probably wasn't put there solely for your seating comfort, or that those Fire Hydrants lining the beach front streets in the expensive part of town have little to do with fighting fires, or that the Vivaldi you hear coming out of the rock-shaped speakers in front of the lifestyle center is not ow ing to shoppers' love of *Classical Music*.

But we also hope that this book will be practical: by assembling best (and worst) accessibility practices, we hope that this book can be used as a sort of toolkit for building more accessible cities and suburbs. We'd like to see more *Inclusionary Zoning, Housing Vouchers, Community Land Trusts*, and many other inclusionary weapons profiled in this book. Towards this, we would like to remind readers that they exist and have had some success. As for the worst practices, making more people aware of the exclusionary effects of things that seem benign or even inclusionary can also contribute to the goal of more accessible cities and suburbs.

Space Matters

With the basic understanding that there is nothing inevitable about the built environment—that the built environment is the product of human decisions—we hope this book will shed light on how damaging some of these decisions have been. First and foremost, where you live has enormous implications for who you are and what opportunities you'll have. Because America's metropolitan regions are so uneven—because basic amenities like education, wealth, and wellness are found in some communities and not others—restricting access to the communities that have them amounts to depriving people of basic things we all want and deserve equal access to. As an ex ample, compare the white St. Louis suburb of Ladue with the black neighborhood of St. Louis Place. People born in Ladue are significantly more likely to survive infancy and four times more likely to graduate college; they will live in households that earn over $100,000 more every year and live in a house worth nearly 10 times as much. In a study on life expectancy in the St. Louis metropolitan area, it was revealed that persons born in Ladue live on average 16 years longer than the average African American male born in the city of St. Louis. If people have a right to health, wealth, and education, shouldn't they have a right to live in the communities where these things are found? Wouldn't

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barriers placed to restrict the accessibility of those communities—in the form of, say, a Blood *Relative Ordi nance, Racial Steering,* or *Single- Family Zoning*—be barriers to health, wealth, and education?

Another reason why exclusion can be so pernicious has to do with the fact that exclusion on the grounds of race, religion, income, age, etc., can lead to homogeneous communities that exacerbate fear and prejudice of the other. As Dr. Martin Luther King Jr. said, it is "a very tragic thing for young people, children to grow up in association, communication with only people of their own race. Prejudices develop from the very beginning be cause of this." More recently, it's the kind of argument that Bill Bishop makes in the *Big Sort*. Bishop warns that while America is diverse, "the places where we live are becoming increasingly crowded with people who live, think, and vote as we do," and that "our country has become so polarized, so ideologically in bred, that people don't know and can't understand those who live just a few miles away." This sorting is not accidental. Ger ald Frug, in *Citymaking: Building Communities Without Building Walls*, writes that "the overall impact of American urban policy in the twentieth century has been to disperse and divide the people who live in America's metropolitan areas and, as a result, to reduce the number of places where people encounter men and women different from themselves."

Exclusion and inclusion matter when it comes to public space, too. As Michael Kimmelman has pointed out, "Free speech in public space may be America's most undemocratic and rarely admitted NIMBY." The restrictive measures taken to exclude demonstrators, vendors, teenagers, the homeless, and others from streets, parks, and other public spaces can be just as dam aging as the restrictive measures taken to exclude people from living in "good" neighborhoods, as we try to demonstrate in our entries on, for example, the *Busking Ban, Camping Ordinance, Feeding Ban,* and *Sidewalk Management Plan*.

And it's important to remember that public space is the arena of citizen discourse and association and that democracy is not possible without it, as so many before us have persuasively ar gued. This is one reason why, at the 2004 Democratic National Convention, there was such an uproar about the imposed "*Free Speech Zone*," which marshaled protesters into a pen enclosed by jersey barriers, barbed wire, and a chain link fence and separated from the convention by service roads, train tracks, and a parking lot.

Exclusion in public space also undermines what's great about a city, namely, heterogeneity and encounters with the unfamiliar. This is the kind of argument that is made by people like Iris Marion Young, when she describes cities as "heterogeneous, plu ral, and playful … place where people

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witness and appreciate diverse cultural expressions that they do not share and do not fully understand."

Into Focus

When we began this book in 2008, the full effects of the hous ing crisis were still coming into focus (most of the essays in this book were written between 2011 - 2015). The St. Louis suburb of Ferguson was unknown to most Americans outside Missouri. "Black Lives Matter" was not yet exploding across social media platforms. Zuccotti Park was just another Privately Owned Public Space in Lower Manhattan. *Time* magazine hadn't de clared the protester as its "Person of the Year." Freddie Gray, Mi chael Brown, Sandra Bland, Eric Garner, Tamir Rice, Trayvon Martin, and so many other black Americans were still going about their lives. Donald Trump was just a buffoonish reality television star with an exotic hair weave and a bad tan.

A lot has changed, both for better and for worse. On the one hand, the aforementioned buffoonish reality television star was elected to become our 45th president (as this book goes to press, Donald Trump is still President- elect). Blatantly racist, sexist, and xenophobic opinions that until very recently only seemed safe for white nationalist websites and the uncurated comment threads of more mainstream news sources are now regularly espoused by the elected leader of the free world.

On the other hand, there has been progress. A quote from Xavi er de Souza Briggs in a much earlier version of this introduction about how "racial segregation has, as a public concern, receded into memory, the stuff of civil rights lore and the integrationist aims of a bygone era" seems borderline antiquated. Thanks in part to the tireless work of grassroots organizers, national con versations on racial and economic inequality have intensified. Cellphone and surveillance footage has rendered the precarity experienced in public space by many people of color, and black people in particular, highly visible to the larger public—even if it has generally failed to affect outcomes in the legal system. Today we see the very same infrastructures that tore through black communities decades ago—for example, I-94 in St. Paul, Minnesota—being utilized as sites of protest for black lives. We see more viral articles with titles like "The Racist Housing Poli cies That Built Ferguson" and "How Urban Design Perpetuates Racial Inequality—And What We Can Do About It."

We have also seen the rumblings of a shift in architectural practice. "Scratch an architect and you find a frustrated low cost housing designer. Low-cost mass housing is high on the list of interests of

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most young architects," wrote Denise Scott Brown and Robert Venturi in 1970. While this statement certainly does not yet accurately characterize the interests of young architects today, it is also true that affordable housing has recently become a topic of creative engagement again, after it had practically disappeared from the pages of design magazines and the curricula of architecture schools for 40 years. The linkages between housing affordability, access to the city, and displacement are being widely discussed today, often in the broad terms of gentrification and amplified by the con tinuing draw of city living.

These are encouraging developments.

We mentioned earlier that this book is neither comprehensive nor authoritative. Neither is it complete. In light of the above mentioned trends, new narratives of discrimination will almost certainly need to be written, and new weapons of exclusion and inclusion are certain to proliferate. We hope that after reading this book, some readers will feel inclined to help define these narratives, keep an eye out for the new forms that exclusion and inclusion take, and, ultimately, work to build more equitable, accessible cities.

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