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CO-LIVING ASSESSED IN A TIME OF COVID-19: CRITICAL INTERVENTION OR MILLENNIAL FAD?

DIANE KLEIN¹

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¹ Professor of Law, University of La Verne College of Law, Ontario, California (2004-2020). An earlier version of this essay was presented at the University of St. Thomas (MN) *Journal of Law and Public Policy* Symposium, “Inequality of Wealth, Race, and Class, Equality of Opportunity,” on March 27, 2020 (by Zoom). The author thanks Amanda Gonzalez Ross, University of St. Thomas School of Law ’20, and the staff of the *Journal* for their efforts in ensuring that this Symposium took place, even as the COVID-19 crisis unfolded nationwide. More than at any time in the author’s 20-year career, unfolding public events related *directly* to both the subject matter of the presentation and resulting Article, and to the very mode of presentation itself. The Article which would have been written absent COVID-19 was rendered, if not obsolete, hopelessly incomplete by subsequent developments, which the author has sought to reflect here.

INTRODUCTION

A home of one's own, even if burdened by a mortgage, has long been the American dream. Most renters hope someday to own a home² and most homeowners were renters at another time in their lives.³ But owning a home or apartment, or renting a similar dwelling, to live in alone, with family, or a romantic or sexual partner, is not the only way to live. American life has always featured a panoply of residential arrangements: some intentional or experimental, some regarded as a life-stage transition, and some simply the product of necessity.

The latest entry is something called “co-living,” or sometimes “co-housing,”⁴ and among the most attention-getting of the companies pioneering it is California's PodShare Inc.⁵ In a nutshell, PodShare offers renters (called

² *Most Renters Want to Own a Home; Lifestyle Changes Are Top Motivation to Buy*, NAT'L ASS'N REALTORS, Feb. 7, 2018, <https://www.nar.realtor/newsroom/most-renters-want-to-own-a-home-lifestyle-changes-are-top-motivation-to-buy>.

³ Jon Coile, *Profiles of first-time buyers show the many paths to homeownership*, WASH. POST, Mar. 30, 2020, <https://www.washingtonpost.com/business/2020/03/30/profiles-first-time-buyers-show-many-pathways-homeownership/>.

⁴ *Cohousing*, Merriam-Webster.com, <https://www.merriam-webster.com/dictionary/cohousing#h1> (last visited Jul. 22, 2020) (this term is defined here as “semi-communal housing consisting of a cluster of private homes and a shared community space, as for cooking or laundry facilities,” but “co-living” is frequently defined similarly. For example, the practice of living with other people in a group of homes that include some shared facilities, like areas, rooms, equipment, or services for particular activities: <https://dictionary.cambridge.org/us/dictionary/english/co-living>).

⁵ STATE OF DELAWARE, DEPARTMENT OF STATE: DIVISION OF CORPORATIONS, <https://icis.corp.delaware.gov/ecorp/entitysearch/NameSearch.aspx> (last visited Sept. 22, 2020); *Statement and Designation by Foreign Corporation*, BUSINESSSEARCH.SOS.CA.GOV (last visited Sept. 22, 2020), <https://businesssearch.sos.ca.gov/Document/RetrievePDF?Id=03905879-20758400> (PodShare Inc. was actually incorporated in Delaware in 2015 and registered in California in 2016); *Search Properties*, PODSHARE, https://thepodshare.cloudbeds.com/?_ga=2.90265747.801467569.1595465375-2037997302.1595029741#/?check_in=23/07/2020&check_out=24/07/2020&page=1 (last visited Sept. 22, 2020) (all of PodShare's seven PodShare locations are in California – five in the L.A. area, one in San Francisco, and one in San Diego); see France Svistovski, *Burning Down the Housing Market: Communal Living in New York*, 47 FORDHAM URB. L. J. 463, 472 (2020) (analyzing New York City co-living as practiced by Ollie, Common, Node Living, The Collective, and The Backyard for a definition of co-living) (“[A] co-living arrangement consist[s] of landlord-developers grouping individual, unrelated tenants together in a community-focused

“pedestrians” in company lingo) a “hand built, high-end bunk bed complete with your own flat screen tv, personal outlets and night light,”⁶ in a space that is a cross between a high-end hostel and a Japanese capsule hotel, at a monthly rate about half that of a shared apartment in the same neighborhood. Rent includes access to shared facilities, Wi-Fi, cleaning services, and other amenities.⁷ Co-living bills itself as a way to save our cities and keep them affordable while also offering a radical anti-materialist housing alternative for those who value experiences over possessions and sharing over exclusion.⁸

OpenDoor, another somewhat more upscale co-living entity, rents private bedrooms in a shared domicile by the month and requires a security deposit.⁹ It describes itself in this jargon-laden passage, with markedly less emphasis on affordability:

As we define it, coliving is a modern form of housing where residents share living space and a set of interests, values, and/or intentions. It’s a new take on an old idea, imagined by a millennial generation that values things like openness and collaboration, social networking, and the sharing economy. Fundamentally, coliving is a cultural distinction, as it can encompass many structural forms, including rental and ownership, urban and rural. Still, in its current embodiment, coliving tends to be urban and integrated into a single building, house, or apartment. And the

space comprising of private sleeping quarters and communal living spaces for at least 30 days, with the cost of rent including amenities such as internet, cleaning services, and the like.”).

⁶ PODSHARE AFFORDABLE CO-LIVING, <https://www.podshare.com/about/faq> (last visited Sep. 21, 2020).

⁷ See France, *supra* note 5 (this is typical of co-living; identifying “internet, utilities, laundry services, cleaning services, and social events”).

⁸ *Co-Living: Shared Housing*, PODSHARE (Jul. 13, 2019), <https://medium.com/@PodShare/co-living-access-not-ownership-e6eb68cd8ef>.

⁹ See, e.g., *Loft*, OPENDOOR (last visited Sept. 22, 2020), <https://opendoor.io/properties/the-loft/>; *Grove*, OPENDOOR, <https://opendoor.io/properties/grove/> (last visited Sept. 22, 2020) (Open Door maintains several properties in the San Francisco Bay Area in California, and in Portland, Oregon.).

demographics tend towards 20 and 30 something professionals more than families, boomers, and retirees.¹⁰

Should we believe the hype? Or is so-called “co-living,” hyphenated or not, just another real estate developer’s attempt to extract more dollars per square foot while making Millennials feel better about their downward economic mobility – a piece of avocado toast you can live in, as it were? However we might have thought about co-living before 2020, any current appraisal of it must necessarily take into account COVID-19, the U.S.’s failed response to the pandemic, and the consequent risks of dense living with a group of transient strangers in a time of stay-at-home orders, isolation/quarantine, and social distancing protocols.

Unlike the novel coronavirus, neither the problem of providing affordable housing in desirable locations nor the hip urbanite’s critique of the suburbs is new. Thus, to understand whether PodShare and its ilk live up to their own virtue-signaling, both historical context and current alternatives are helpful. Co-housing’s antecedents, from communes and hostels to SROs (single room occupancy) and capsule hotels, reflect earlier attempts to balance competing goals and accomplish similar aims, whether utopian or practical. Current alternative-housing concepts like van life¹¹ and the tiny house movement¹² strike a different balance among the same *desiderata*: elevating privacy and the right to exclude over communal living, achieving affordability by sacrificing space and sometimes permanence. Is one or another of these better, wiser, or more sustainable? Or is it simply a matter of personal taste?

I. CO-LIVING AND THE PROBLEM OF AFFORDABLE URBAN HOUSING

Unquestionably, the high cost of housing is one of the greatest challenges facing young adults transitioning into the world of work. Forget marriage, a home, and children before the age of 30; too many working

¹⁰ *So What Exactly Is Coliving?* OPENDOOR, <https://opendoor.io/so-what-exactly-is-coliving/> (last visited Sept. 22, 2020).

¹¹ *Van Life Basics*, PROJECT VAN LIFE (May 3, 2018), <https://projectvanlife.com/what-is-van-life/#:~:text=To%20put%20it%20simply%2C%20van,than%20what%20meets%20the%20eye.>

¹² *The Tiny House Movement*, TINY HOME BUILDERS, <https://www.tinyhomebuilders.com/help/tiny-house-movement> (last visited Sept. 22, 2020).

people cannot even pay the rent or save enough for a first month, last month, and security deposit.¹³ More and more working but non-affluent residents of many American cities cannot afford to live near where they work, or even within commuting distance.¹⁴ Making matters worse, the spread of AirBnB and similar companies have reduced the stock and increased the price of rental housing.¹⁵ Homeownership, even “condominium,” may be permanently out of reach for many; homelessness has become a constant crisis, especially in large cities.¹⁶

Even those who can afford housing frequently face unpleasant trade-offs between space, privacy, location, price, and co-habitants. To be in a convenient or congenial neighborhood, the renter or buyer must often pay more, get less space, live with strangers, or do all of these. For more space, or a better price, people must reside further away from school or work, necessitating a commute.¹⁷

¹³ *Survey: Americans Squeezed on Saving Money Even While Hoping for Retirement at 60*, VARO (Feb. 28, 2019), [https://www.varomoney.com/money/survey-americans-squeezed-on-saving-money-even-while-hoping-for-retirement-at-60/#:~:text=Six%20in%2010%20\(61%25\),in%20cash%20for%20an%20emergenc](https://www.varomoney.com/money/survey-americans-squeezed-on-saving-money-even-while-hoping-for-retirement-at-60/#:~:text=Six%20in%2010%20(61%25),in%20cash%20for%20an%20emergenc) y.

¹⁴ Christopher Ingraham, *Nine days on the road. Average commute time reached a new record last year*, WASH. POST (Oct. 7, 2019), <https://www.washingtonpost.com/business/2019/10/07/nine-days-road-average-commute-time-reached-new-record-last-year/>; Christopher Ingraham, *The American commute is worse today than it's ever been*, WASH. POST (Feb. 22, 2017), <https://www.washingtonpost.com/news/wonk/wp/2017/02/22/the-american-commute-is-worse-today-than-its-ever-been/>; Gabriela Saldivia, *Stuck In Traffic? You're Not Alone. New Data Show American Commute Times Are Longer*, NAT'L PUB. RADIO (Sept. 20, 2018), <https://www.npr.org/2018/09/20/650061560/stuck-in-traffic-youre-not-alone-new-data-show-american-commute-times-are-longer>.

¹⁵ Pablo Muñoz & Boyd Cohen, *A Compass for Navigating Sharing Economy Business Models*, 60 CAL. MGMT. REV. 114, 114 (2018).

¹⁶ See, e.g., THE COUNCIL OF ECONOMIC ADVISERS, THE STATE OF HOMELESSNESS IN AMERICA (2019), <https://www.whitehouse.gov/wp-content/uploads/2019/09/The-State-of-Homelessness-in-America.pdf> (estimating homelessness at more than 550,000 in January 2018); *State of Homelessness: 2020 Edition*, NAT'L ALL. TO END HOMELESSNESS, <https://endhomelessness.org/homelessness-in-america/homelessness-statistics/state-of-homelessness-2020/> (last visited Sept. 22, 2020) (estimating homelessness at nearly 570,000 in January 2019).

¹⁷ See *Nine days on the road*, *supra* note 14.

PodShare, and similar companies, present “co-living”¹⁸ as a radical solution to some of these problems, and a reconceptualization of others. For about \$1000 a month in Los Angeles, where the median price for a studio or one-bedroom apartment is \$1500-2000,¹⁹ the resident, a “podestrian,” in PodShare lingo, has access to a nightly “pod” in a building in any of several desirable locations. The PodShare building has been configured for this purpose, and roughly resembles a high-end hostel. There are no private bedrooms. The sleeping pods themselves are low-ceilinged spaces just large enough for a bed but too low to stand up in, with only a curtain separating them from shared open space. The monthly fee also includes other shared facilities in the building: a kitchen, laundry, a TV room, and shared dining and workspace.²⁰ For an affordable price, the resident lives in a desirable neighborhood or neighborhoods – at the cost of any semblance of privacy or any significant amount of space to oneself.

Cramming lots of people into dilapidated apartments or overstuffed homes is as old as tenements and as perennial as college towns, pre-COVID, at least. But PodShare sees itself as an intentional community and an alternative lifestyle in which transience, an ever-changing array of people, and a dramatic reduction in possessions, privacy, and control over space, are touted as virtues.²¹ The problems PodShare hopes to address reach far beyond the high cost of housing, to issues of loneliness and social isolation.²² Its self-conception includes a critique of purportedly unexamined norms around the desirability of acquiring personal possessions, a permanent home, and significant privacy and ability to exclude unwanted others from one’s living space.²³

Co-living presents some obvious advantages: affordability, some comforts, and even luxuries, the opportunity to live in different places and meet an ever-changing array of people. Co-living also presents some obvious

¹⁸ Melia Robinson, *Millennials are paying thousands of dollars a month for maid service and instant friends in modern ‘hacker houses’*, BUSINESS INSIDER (Mar. 8, 2017), <https://www.businessinsider.com/what-is-co-living-2017-2>.

¹⁹ *Rental Stats and Trends: Los Angeles, CA*, RENTHOP, <https://www.renthop.com/average-rent-in/los-angeles-ca> (last visited Sept. 22, 2020).

²⁰ *About Co-Living*, PODSHARE, <https://www.podshare.com/about/co-living>, <https://www.podshare.com/about/co-living> (last visited Sept. 22, 2020).

²¹ PodShare, *Co-Living: Shared Housing*, MEDIUM (July 13, 2019), <https://medium.com/@PodShare/co-living-access-not-ownership-e6eb68cd8ef>.

²² *Id.*

²³ *Id.*

disadvantages: lack of privacy, nowhere for sexual intimacy, the inability to put one's own "stamp" on one's living space, no storage beyond what one can carry, and no permanent address if one does not commit to a particular location. Some of its less obvious risks and disadvantages have been observed elsewhere in the sharing economy: the possibility of private discrimination in who is accepted into the PodShare²⁴ on the one hand, and on the other, the indiscriminate admission of possibly dangerous individuals, with no locking door between them and other residents.²⁵ Yet these concerns, valid as they are, are currently dwarfed by the basic public health concerns raised by the ongoing COVID-19 crisis.

II. CO-LIVING ANTECEDENTS

Unrelated adults living together is nothing new. It has been a staple sitcom premise for fifty years, and existed long before it was mined for its humorous potential on *The Odd Couple*,²⁶ *Laverne and Shirley*,²⁷ *Three's Company*,²⁸ *Bosom Buddies*,²⁹ *The Golden Girls*,³⁰ *Living Single*,³¹ *Friends*,³²

²⁴ See, e.g., Alison Griswold, *The dirty secret of Airbnb is that it's really, really white*, QUARTZ (Jun. 23, 2016), <https://qz.com/706767/racist-hosts-not-hotels-are-the-greatest-threat-to-airbnbs-business/>; Kirsten West Savali, *Airbnb Works To Clean Up Its Reputation For Racial Discrimination In New 3-Year Report*, ESSENCE (Sept. 11, 2019), <https://www.essence.com/news/airbnb-works-to-clean-up-its-reputation-for-racial-discrimination-in-new-3-year-report/>.

²⁵ Aarian Marshall, *A Criminologist Says Uber's Crime Report Is 'Highly Alarming'*, WIRED (Dec. 6, 2019), <https://www.wired.com/story/criminologist-uber-crime-report-highly-alarming/>; Patrick May, *Airbnb properties have seen their share of crimes and other troubles*, THE MERCURY NEWS (Nov. 1, 2019), <https://www.mercurynews.com/2019/11/01/airbnb-properties-have-seen-their-share-of-crimes-and-other-troubles/>.

²⁶ *The Odd Couple (1970 TV Series)*, WIKIPEDIA, [https://en.wikipedia.org/wiki/The_Odd_Couple_\(1970_TV_series\)](https://en.wikipedia.org/wiki/The_Odd_Couple_(1970_TV_series)) (last visited Sept. 22, 2020).

²⁷ *Laverne & Shirley*, WIKIPEDIA, https://en.wikipedia.org/wiki/Laverne_%26_Shirley (last visited Sept. 22, 2020).

²⁸ *Three's Company*, WIKIPEDIA, https://en.wikipedia.org/wiki/Three%27s_Company (last visited Sept. 22, 2020).

²⁹ *Bosom Buddies*, WIKIPEDIA, https://en.wikipedia.org/wiki/Bosom_Buddies (last visited Sept. 22, 2020).

³⁰ *The Golden Girls*, WIKIPEDIA, https://en.wikipedia.org/wiki/The_Golden_Girls (last visited Sept. 22, 2020),.

³¹ *Living Single*, WIKIPEDIA, https://en.wikipedia.org/wiki/Living_Single (last visited Sept. 22, 2020),.

³² *Friends*, WIKIPEDIA, <https://en.wikipedia.org/wiki/Friends> (last visited Sept. 22, 2020),.

Will and Grace,³³ *How I Met Your Mother*,³⁴ and *The Big Bang Theory*.³⁵ Despite what we usually see on TV, this arrangement is not just for impecunious divorcees or 20-somethings trying to make it in the big city, or working in a tech incubator, as on HBO's *Silicon Valley*.³⁶ There are also communes, group houses, boarding houses, SRO hotels, hostels, and dorms. Some of these are intended to be permanent living arrangements, while others are temporary, but each has contributed to this latest variation on the theme.

A. Japanese “capsule” hotels

Before there were “pods,” there were “capsules.” Any discussion of PodShare housing must therefore begin with its most direct ancestor, the Japanese “capsule” hotel. Pioneered in 1979 in Osaka by leading Japanese Metabolist architect Kisho Kurokawa,³⁷ these hotels feature spaces not much larger than coffins, designed for the weeknight use of the “salaryman” with a long commute at the end of an even longer workday,³⁸ the man “who miss[es] the last train” home; or for “the un- or temporarily-employed” for whom “capsule hotels are often the cheapest housing option available, as they can rent by the month for about 1,000 yen, or about US\$10, per night.”³⁹ Originally for men only, there has been some change: there are now both all-women capsule hotels and floors in standard capsule hotels set aside for women.⁴⁰

³³ *Will & Grace*, WIKIPEDIA, https://en.wikipedia.org/wiki/Will_%26_Grace (last visited Sept. 22, 2020).

³⁴ *How I Met Your Mother*, WIKIPEDIA, https://en.wikipedia.org/wiki/How_I_Met_Your_Mother (last visited Sept. 22, 2020).

³⁵ *The Big Bang Theory*, WIKIPEDIA, https://en.wikipedia.org/wiki/The_Big_Bang_Theory (last visited Sept. 22, 2020).

³⁶ Robinson, *supra* note 18.

³⁷ Alina Cohen, *The Japanese architects who treated buildings like living organisms*, CNN (Aug. 22, 2019), <https://www.cnn.com/style/article/metabolism-japanese-architecture-artsy/index.html>; John Zukowsky, *Kurokawa Kishō*, BRITANNICA, <https://www.britannica.com/biography/Kisho-Kurokawa> (last visited Sept. 22, 2020).

³⁸ *Capsule Hotels*, HOTEL ZEN TOKYO, <https://www.hotelzen.jp/blog/capsule-hotels/> (last visited Sept. 22, 2020).

³⁹ Non Arkaraprasertkul, *In Praise of the “Coffin”: Urban Sociality in the Japanese Capsule Hotels*, in *POLITICS AND AESTHETICS OF CREATIVITY: CITY, CULTURE AND SPACE IN EAST ASIA* 96, 96 (Wong et. al., eds., 2015).

⁴⁰ See, e.g., *Best Capsule Hotels in Shibuya 2020*, JAPAN WIRELESS (Jan. 22, 2020), <https://jw-webmagazine.com/best-capsule-hotels-in-shibuya/>; *5 Best Female*

One Western travel writer describes them this way: “capsule hotels...offer Japanese businessmen and women coffin-like spaces to crash in at rock bottom, hourly prices. These days they also attract the budget tourists – but the average customer is still an overworked, completely stressed out office worker.”⁴¹

Their physical features were well-described in 2015 by sociologist Non Arkaraprasertkul:

On average about seven feet long, four feet wide, and three feet tall, these coffin-like boxes stacked on top of one another are in fact spaces where people must crawl in to sleep. There is nothing more than just that space with some basic amenities such as a small, built-in television and an electronic alarm clock, and a bonus: some air inside to breathe. Once you are in the capsule, you cannot do anything but sleep. The height of the capsule is just enough that you cannot sit up straight. The width of it is just small enough that you would not be able to rotate your body full-circle. You will be cut off from the world, at least visually, because all three sides around you will be walls that are less than two feet away from your face. The capsules have been designed to maximize utility, vis-à-vis saving space.⁴²

He continues, “[E]ach capsule has only a thin bamboo shutter in the front (through which you would crawl into your capsule), and thin plastic panels on both sides that separate your body from the corridor and your neighbors’ capsules.”⁴³

Arkaraprasertkul describes capsule hotels as “coffins for temporary sleeping,” noting provocatively, “the hotels only provide what an unconscious body needs, and unconscious bodies do not mind if they are stacked on top of each other.”⁴⁴ But what Arkaraprasertkul *also* identifies

Only Capsule Hotels in Tokyo, JAPAN WIRELESS (Mar. 12, 2020), <https://jw-webmagazine.com/5-best-female-friendly-capsule-hotels-in-tokyo-27a930ed2a3e/>.

⁴¹ Paula Froelich, *Inside Japan’s Disturbing Capsule Hotels*, A BROAD ABROAD (Sept. 19, 2017), <http://www.abroadabroad.com/2017/09/19/inside-tokyos-creepy-capsule-hotels/>.

⁴² Arkaraprasertkul, *supra* note 39, at 94.

⁴³ *Id.* at 95.

⁴⁴ *Id.* at 100.

quite insightfully is that part of what is most interesting and important about capsule hotels is not the “capsules” at all, but the “dynamic social space” constituted by “the bathhouse, lounge, TV room, massage chairs, and so on.”⁴⁵ As he puts it, “the main spaces in capsule hotels are not the coffins in which one sleeps” but these other “elements.”⁴⁶ In his view, “clients seek comfort from this space where the boundary between the private and public space is most unclear.”⁴⁷ And *that* is precisely what the Japanese capsule hotel shares with PodShare, a challenge to the boundaries we establish in our living spaces between private and public, and a focus on the places we live rather than the rooms in which we sleep.

PodShare is not only selling space in that top (or bottom) bunk. It is the community of like-minded pedestrians, along with the amenities and location, that makes PodShare a place one might choose to live, not just to spend the night. In this way, of course, PodShare aims to be deliberately different from the capsule hotel. The salaryman has another home to go to; that is one reason why the very restricted quarters are adequate. PodShare equivocates on this point. Although it provides no more than a locker, PodShare’s own estimate is that 50% of its residents are “Travelers” (whose belongings are therefore mostly elsewhere), 15% are “Temporary,” and 35% are “Transitioners” (moving to Los Angeles, job-hunting).⁴⁸ Very few of these individuals, it seems, would have all their possessions with them at the PodShare.

B. Hostels

Physically and in terms of its clientele, the PodShare facility most closely resembles a youth hostel, the first choice of American backpackers through Europe in the 1970s and 1980s. Moving into a PodShare facility is something like living in a hostel forever. PodShare has also adopted some other aspects of hostel practice, such as quiet times and bans on sex.⁴⁹ PodShare’s membership model, which permits a resident to move between

⁴⁵ *Id.* at 96.

⁴⁶ *Id.* at 96.

⁴⁷ *Id.* at 96.

⁴⁸ PODSHARE, <https://www.podshare.com/about/pedestrians> (last visited Sept. 17, 2020).

⁴⁹ *PodShare is not a cult, but it is weird*, DAILY DOT (Feb. 29, 2020, 8:30 AM), <https://www.dailydot.com/irl/podshare-los-angeles-coworking-cosleeping/>

different PodShare facilities in Los Angeles, is reminiscent of the hostel's pro-travel ethos.⁵⁰

The primary difference between PodShare and a youth hostel is that hostels limit the length of stay. At hostels belonging to the Youth Hostel Association (England and Wales), for example, there is a 14-day limit, and a requirement of a 7-day break between 14-day stays.⁵¹ Despite the word "youth" in their name and their historical purpose of providing low-cost accommodations to young people traveling the world, today's hostels have no age limits and are used by older travelers as well.⁵² Still, the podestrian (and co-living) demographic largely overlaps with the typical hostel visitor, a traveler between 18 and 30.⁵³

C. Communes/intentional communities

Another conceptual ancestor of co-living is the commune or, more broadly, the intentional community. Strictly speaking, "communes" are a subcategory of intentional community committed to "100% income sharing."⁵⁴ As Wikipedia defines it:

An intentional community is a planned residential community designed from the start to have a high degree of social cohesion and teamwork. The members of an intentional community typically hold a common social, political, religious, or spiritual vision and often follow an alternative lifestyle. They typically share responsibilities and resources. Intentional communities include collective households, cohousing communities, coliving, ecovillages, monasteries, communes, survivalist retreats, kibbutzim, ashrams, and housing cooperatives. New

⁵⁰ See *About YHA*, YHA, <https://www.yha.org.uk/about> (last visited Sept. 17, 2020).

⁵¹ *FAQs*, YHA, <https://www.yha.org.uk/faqs> (last visited Sept. 17, 2020).

⁵² Janice Waugh, *Hostels: They Aren't Just for the Young*, SOLO TRAVELER (May 9, 2018), <https://solotravelerworld.com/hostels-not-just-for-young-2/>; See also *New to Hostels?*, HI USA, <https://www.hiusa.org/new-to-hostels> (last visited Sept. 17, 2020); HOSTELWORLD GRP., THE EVOLUTION OF THE HOSTEL TRAVELLER, <http://www.hostelworldgroup.com/~media/Files/H/Hostelworld-v2/reports-and-presentations/the-evolution-of-the-hostel-traveller.pdf>.

⁵³ See Waugh, *supra* note 52.

⁵⁴ *Community Types*, FOUND. FOR INTENTIONAL CMTY., <https://www.ic.org/directory/community-types/> (last visited Sept. 17, 2020).

members of an intentional community are generally selected by the community's existing membership, rather than by real-estate agents or land owners (if the land is not owned collectively by the community).⁵⁵

Although intentional religious communities date back almost to the founding of the United States,⁵⁶ starting in the 1960s, numerous secular or secular-spiritual “hippie” intentional communities sprang up around the United States, from “Drop City” in Colorado,⁵⁷ to Needmore, in Southern Indiana,⁵⁸ and many, many others.⁵⁹ While many fell apart, hundreds still exist today, with one or more in every state.⁶⁰

The primary common feature of the commune/intentional community and co-living situations like PodShare, beyond their intended permanence, is shared communal life and specific ideas and values around community. As with PodShare, individuals (or families) choose to “join” a commune or intentional community, not simply to move to an address.

D. SRO hotels

At perhaps the opposite end of the utopian spectrum are the notorious “single room occupancy” (or “occupant”) (“SRO”) dwellings, “housing of last resort”⁶¹ regarded in many cities as a feature of urban blight. They are often old hotels, converted into single rooms rented on a short-term or permanent basis, containing a bed, desk, and chair, with their residents

⁵⁵ *Intentional Community*, WIKIPEDIA, https://en.wikipedia.org/wiki/Intentional_community (last visited Sept. 17, 2020).

⁵⁶ See, e.g., SPENCER KLAU, *WITHOUT SIN: THE LIFE AND DEATH OF THE ONEIDA COMMUNITY* (Penguin Books, 1994).

⁵⁷ MARK MATTHEWS, *DROPPERS: AMERICA’S FIRST HIPPIE COMMUNE, DROP CITY* (University of Oklahoma Press, 2011).

⁵⁸ John Mikulenska, *Intentional Communities Must ‘Bend with the Times*, LIMESTONE POST (July 3, 2018), <https://www.limestonepostmagazine.com/intentional-communities-must-bend-times/>.

⁵⁹ See, *Communities by Country*, FOUND. FOR INT’L COMTY., <https://www.ic.org/directory/intentional-communities-by-country> (last visited Sept. 17, 2020).

⁶⁰ *Id.*

⁶¹ Brian Sullivan & Jonathan Burke, *Single-Room Occupancy Housing in New York City: The Origins and Dimensions of a Crisis*, 113 CUNY L. R. 113, 117 (2013).

frequently stigmatized as “[t]he poor and the elderly mix[ed] with the crippled and the alcoholic, the drug-addicted and the mentally ill.”⁶²

Fifty years ago, a Note in the *Yale Law Journal* described them this way:

Single-room occupants (SRO’s) are one of the most disadvantaged groups in urban America. In the low-income hotels of large cities, each person occupies a solitary room without kitchen or bathroom facilities. Since SRO’s do not have written or oral leases for more than a night, they may be evicted at the will of a public official or private landlord. SRO’s generally cannot afford standard housing units; the average income of SRO’s is about \$1500 per year, far below the poverty line. Since SRO’s are usually elderly, physically ill, or poorly educated, they lack the ability to increase their livelihood; many depend on transfer payments or transitory labor markets for their insufficient income.⁶³

At an earlier time in the history of American cities, a single room was an affordable and respectable option for a single man or woman. In fact, “[f]or a significant period of [New York City’s] history, a majority of the housing stock consisted of shared-living units that would today be considered SROs. Until the twentieth century, SROs housed a broad, socioeconomically diverse population.”⁶⁴ From the 1930s to the 1960s, the Barbizon, in New York City, was famously occupied by single women hoping to “make it” in Manhattan.⁶⁵ Both Joan Crawford and Joan Didion lived there.⁶⁶

But by 2009, the *New York Times* described one SRO, the White House in the Bowery, as “a living museum of sad stories,” whose residents

⁶² *Id.* at 117 (citing Suzanne Daley, *Court Ruling Brings Fear to S.R.O. Hotel Rooms*, N.Y. TIMES (July 10, 1989), <https://www.nytimes.com/1989/07/10/nyregion/court-ruling-brings-fear-to-sro-hotel-rooms.html>).

⁶³ *No Room for Singles: A Gap in the Housing Law*, 80 YALE L. J. 395, 395 (1970) (internal footnotes omitted).

⁶⁴ Sullivan & Burke, *supra* note 61, at 119-20 (internal footnotes omitted).

⁶⁵ Nathan Smith, *On the Barbizon Hotel, and the Women Writers Who Lived There*, LITERARY HUB (Aug. 23, 2016), <https://lithub.com/on-the-barbizon-hotel-and-the-women-writers-who-lived-there/>.

⁶⁶ *Id.*

inhabit six by four foot rooms and pay rents ranging from \$7.16 to \$9.61 a night, although most residents are between two months and two years in arrears.⁶⁷ New York City's SRO's are nearly gone, and their absence is one aspect of the housing crisis in New York, as in other cities. As documented by housing lawyers Brian Sullivan and Jonathan Burke several years ago,

Single-room occupancy (SRO) housing once dominated the New York City housing market. As recently as the mid-twentieth century, there were hundreds of thousands of SROs spread throughout the City. Today, following a half-century of concerted attacks by City government, SROs constitute a fraction of a single percent of New York's rental housing stock. The City's decimation of SRO housing has amplified the ongoing housing crisis, constricting the low-income housing market and contributing to the ballooning homelessness problem. The overall effect on poor and working-class residents has been tragic.⁶⁸

Much as New York City upscale co-living entities like Ollie, Common, Node Living, The Collective, and The Backyard may seek to distance themselves from SROs and their sordid history, there are some unavoidable similarities, from the attempt to create more affordable housing for singles in the city to shared bathrooms and the lack of private kitchens.⁶⁹

III. CO-LIVING ALTERNATIVES: VAN LIFE AND THE TINY HOMES MOVEMENT

Recent years have seen the growth of more than one response to the problem of affordable housing. Two current trends, van life and tiny homes, present the most interesting alternatives or challenges to co-living, not least because they seem likely to appeal to a similar demographic: childless twenty- and thirty-somethings. Custom vans and tiny homes can both be purchased for a fraction of the cost of a standard home, especially if one is a do-it-yourselfer; both can be maintained for less, often far less, than renting

⁶⁷ Gregory Beyer, *A Living Museum of Sad Stories*, N.Y. TIMES (May 10, 2009), <https://www.nytimes.com/2009/05/10/nyregion/thecity/10sro.html>.

⁶⁸ Sullivan & Burke, *supra* note 61, at 113-14 (internal footnotes omitted).

⁶⁹ France Svistovski, *Burning Down the Housing Market: Communal Living in New York*, 47 FORDHAM URB. L. J. 463, 505 (2020).

an apartment. Both are cramped – though not compared to a coffin-life pod. Where PodShare and similar co-housing arrangements elevate location, amenities, and capacious but shared space (at the cost of privacy), custom vans and tiny homes do the opposite: they provide privacy and space for intimacy, but give up any fixed location or shared like-minded community (but see the discussion of tiny homes villages below). All tend to make a virtue of their minimalism and its incompatibility with the acquisition of many possessions. But where co-living touts desirable ZIP codes and networking opportunities, van life and the tiny homes movement exploit the American love of the private automobile and the desire to make one's space one's own. Van life presents the *absence* of a permanent location and the constantly changing scenery enjoyed by the contemporary nomad as a benefit. The tiny house movement accommodates this with the “tiny house on wheels,” but also includes a permanent, albeit small, home of one's own, whether singly or in a tiny homes village.

A. Van Life

James Twitchell's 2014 book about the history of the RV, *Winnebago Nation: The RV in American Culture*, begins with this passage:

You are your own master, the road is ahead; you eat as you please, cooking your own meals over an open fire; sleeping when you will under the stars, waking with the dawn; swim in a mountain lake when you will and always the road ahead. Thoreau at 29 cents a gallon. Time and space are at your beck and call, your freedom is complete.⁷⁰

But for that “29 cents,” you might never guess the excerpt comes from *Motor Car* magazine in June of 1912. It might almost have been written by Foster Huntington, the social media “influencer” who coined the hashtag #vanlife in 2011 to describe his full-time nomadic life in a van.⁷¹ Since then, a subculture has grown up around highly-customized vans occupied by the

⁷⁰ JAMES TWITCHELL, *WINNEBAGO NATION: THE RV AMERICAN CULTURE* frontispiece (Columbia University Press, 2014) (quoting *Motor Car* June 1912 issue).

⁷¹ Pat O'Malley, *Foster Huntington Stopped Working for the Man and Started Living in a Van*, VICE (Oct. 11, 2013, 7:15 AM), https://www.vice.com/en_us/article/gq8gvb/talking-surfing-and-vans-with-Foster-huntington.

would-be Insta-famous. Huntington himself published a book in 2017, *Van Life: Your Home on the Road*,⁷² but by then he was far from alone in proselytizing for this way of life. The internet is now crowded with blogs and websites for the would-be vanlifer, from Project Van Life, “a nomadic community that encourages an alternative lifestyle derived from your passion to explore,”⁷³ to vanclan.co,⁷⁴ van-life.net,⁷⁵ and gnomadhome.com.⁷⁶ The Vanual, which describes itself as “the complete guide to complete freedom,” includes information on “the DIY process of building a sweet converted campervan.”⁷⁷ For those who don’t wish to do it themselves, service businesses have grown up to support the trend, including Van Life Customs of Denver, who will build a custom van for you.⁷⁸ Vans advertised on their site range in price from a 2015 Ford Transit for \$35,000 to a 144-inch Mercedes Sprinter for \$185,000.⁷⁹ It is a big change from the 1980s and 1990s, when “living in a van down by the river” so epitomized failing at life that it was the punchline of Chris Farley’s “Matt Foley” sketches on *Saturday Night Live* in 1993 and after.⁸⁰ What Twitchell called “midcult opprobrium”⁸¹ for RVs piloted by “Geritol gypsies”⁸² has been transformed into hipster acclaim.

B. Tiny House Movement

“In 1999, Jay Shafer built one of the first tiny houses on a trailer and jump started the modern tiny house movement.”⁸³ Fifteen years later, in 2014,

⁷² *Van Life: Your Home on the Road*, AMAZON, <https://www.amazon.com/Van-Life-Your-Home-Road/dp/0316556440> (last visited Sept. 17, 2020).

⁷³ *About*, PROJECT VAN LIFE, <https://projectvanlife.com/about/> (last visited Sept. 17, 2020).

⁷⁴ *About*, VAN CLAN, <https://vanclan.co/about/> (last visited Sept. 17, 2020).

⁷⁵ VAN LIFE, <https://van-life.net/> (last visited Sept. 17, 2020).

⁷⁶ *About Us*, GNOMAD HOME, <https://gnomadhome.com/about-us/> (last visited Sept. 17, 2020).

⁷⁷ THE VANUAL, <https://thevanual.com/> (last visited Sept. 17, 2020).

⁷⁸ *About Us*, VANLIFE CUSTOMS, <https://vanlifecustoms.com/about-us> (last visited Sept. 17, 2020).

⁷⁹ *Vans For Sale*, VANLIFE CUSTOMS, <https://vanlifecustoms.com/vans-for-sale> (last visited Sept. 18, 2020).

⁸⁰ *Matt Foley*, WIKIPEDIA.COM, https://en.wikipedia.org/wiki/Matt_Foley (last visited Sept. 18, 2020); *Saturday Night Live, Matt Foley: Van Down By The River-SNL*, YouTube (Sept. 25, 2013), https://www.youtube.com/watch?v=Xv2VIEY9-A8&list=PL-JnXNs4PLDmAq_llpwtVoCnfwpLnwSWC&index=10&t=0s.

⁸¹ Twitchell, *supra* note 70, at 2.

⁸² *Id.* at 4.

⁸³ *Tiny House Movement*, *supra* note 12.

Tiny House Nation first aired on basic cable reality network FYI,⁸⁴ and the term “tiny house” became mainstream.⁸⁵ In that year, the average standard new home built in the United States was 2,600 square feet, an all-time high.⁸⁶

All homes on *Tiny House Nation* are less than 500 square feet in size,⁸⁷ although the 2018 International Residential Code defines a tiny house as a dwelling under 400 square feet.⁸⁸ A tiny house may be built on a foundation or on a trailer.⁸⁹ A tiny house on a trailer is also known as a “tiny house on wheels” (THOW).⁹⁰ Building a tiny house on a trailer avoids zoning requirements that may set minimums for a house on a foundation; a THOW is regulated as a vehicle (like a recreational vehicle), rather than a dwelling.⁹¹ However, a THOW may be more limited in size and dimensions, require a towing vehicle, and be subject to other regulations.⁹² Tiny houses on foundations may stand alone or be organized into “villages,” which are permanent communities of such structures.⁹³

A tiny house is dramatically cheaper than even a similar-sized ordinary home. In Austin, Texas, where standard homes under 600 square feet sell for about \$600 per square foot,⁹⁴ Community First! Village built studio tiny homes for about \$10,000, and one-bedrooms for \$22,500.⁹⁵ In Los

⁸⁴ *Tiny House Nation*, WIKIPEDIA.COM, https://en.wikipedia.org/wiki/Tiny_House_Nation (last visited Sept. 18, 2020); *Tiny House Nation*, NETFLIX, <https://www.netflix.com/title/81016914> (2019).

⁸⁵ *Tiny House Movement*, *supra* note 12.

⁸⁶ Les Christie, *America's homes are bigger than ever*, CNN MONEY (Jun. 5, 2014, 1:20 PM), https://money.cnn.com/2014/06/04/real_estate/american-home-size/.

⁸⁷ *Tiny House Nation*, *supra* note 84.

⁸⁸ INTERNATIONAL CODE COUNCIL, 2018 INTERNATIONAL RESIDENTIAL CODE, APPENDIX Q TINY HOUSES (2017).

⁸⁹ *Tiny House Movement*, *supra* note 12.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² Kristen Hanes, *How to Live in a Tiny House Without Breaking the Law*, RELATOR.COM (Nov. 10, 2019), <https://www.realtor.com/advice/buy/tiny-house-building-zoning-legalities/>.

⁹³ For a thorough discussion of tiny home villages see Lisa T. Alexander, *Community in Property: Lessons from Tiny Homes Villages*, 104 MINN. L. REV. 385 (2019).

⁹⁴ ZILLOW, Austin TX Single Family Homes, <https://www.zillow.com/austin-tx/houses/> (last visited Sept. 18, 2020).

⁹⁵ Alexander, *supra* note 93, at 433; see also Ann Rubin, *San Jose's first tiny home community for the homeless opens*, KTVU FOX 2 (Feb. 27, 2020), <https://www.ktvu.com/news/san-joses-first-tiny-home-community-for-the-homeless-opens>.

Angeles, homes between 500 and 750 square feet often sell for more than \$1000 per square foot.⁹⁶ A 600 square foot house in Venice, California, is listed \$1.15 million,⁹⁷ and another, on the Sherman Canal, is listed at \$2.69 million.⁹⁸ A tiny house can be built for just \$45,000 or less (depending on how much work someone does themselves),⁹⁹ or purchased outright for about \$75,000 on average.¹⁰⁰

C. A Private Place for You (and Your Stuff)

Professor Lisa Alexander's analysis of tiny homes villages emphasizes over and over the value and importance of privacy and the right to exclude, something "people living on the streets or in shelters may lack."¹⁰¹ The tiny homes villages she analyzes "afford residents both privacy and community."¹⁰² Privacy appears again and again on lists of the practical benefits and intangible values of tiny homes and villages: "human dignity, privacy, equity, access and community;"¹⁰³ "privacy, shelter, and community;"¹⁰⁴ "privacy, shelter, and access to shared amenities such as electricity, bathrooms, cooking facilities;"¹⁰⁵ "self-actualization, privacy, human flourishing, and community participation."¹⁰⁶ Although Professor Alexander analyzes these villages as a collective way to "mitigate housing insecurity,"¹⁰⁷ especially for "unhoused, low income, and vulnerable people,"¹⁰⁸ privacy is valuable even to those who may not have had the

⁹⁶ ZILLOW, <http://zillow.com> (last visited July 21, 2020).

⁹⁷ 2369 Beach Ave, Venice, CA 90291, ZILLOW, https://www.zillow.com/homedetails/2369-Beach-Ave-Venice-CA-90291/20444515_zpid/ (last visited July 21, 2020).

⁹⁸ 205 Sherman Canal, Venice, CA 90291, ZILLOW, https://www.zillow.com/homedetails/205-Sherman-Canal-Venice-CA-90291/20444089_zpid/ (last visited July 21, 2020).

⁹⁹ Tom Bastek, *How Much Does a Tiny House Cost to Build?*, TINY HOME BUILDERS, <https://www.tinyhomebuilders.com/blog/tiny-house-cost/> (last visited Sept. 18, 2020).

¹⁰⁰ Maria Fredgaard, *Tiny House Statistics: 8 Really Encouraging Numbers & Facts*, GO DOWNSIZE, <https://www.godownsize.com/tiny-house-statistics/> (last visited Sept. 18, 2020).

¹⁰¹ Alexander, *supra* note 93, at 389.

¹⁰² *Id.* at 395.

¹⁰³ *Id.* at 399.

¹⁰⁴ *Id.* at 403.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.* at 404.

¹⁰⁷ *Id.* at 463.

¹⁰⁸ *Id.* at 463.

experience of being without it. Choosing voluntarily to live in a quasi-public space (whether a college dorm or a PodShare) is of course different than being forcibly deprived of privacy, as homeless or institutionalized persons may be. However, that loss should not be underestimated.¹⁰⁹

A related but distinct desire is the urge to put one's own "stamp" on a space – to (as we say) "personalize" it with one's own possessions and taste. This practice may not be universal across time and culture, but in our culture, at this time, the acquisition of a certain amount of personal property is part of the project of individuation. As Professor Margaret Radin famously posited in her 1982 article, *Property and Personhood*, "to achieve proper self-development, to be a person, an individual needs some control over resources in the external environment."¹¹⁰ Or, as George Carlin equally famously put it, "That's the whole meaning of life, isn't it? Trying to find a place for your stuff. That's all your house is. Your house is just a place for your stuff!"¹¹¹ Carlin's routine on this subject is so effective because of the insight he has into our relationship to "our stuff" – a relationship that is both economic and psychological. Among the examples Radin offers of the sorts of property that may be "part of the way we constitute ourselves as continuing personal entities in the world," the items whose loss we would suffer acutely, are "a wedding ring, a portrait, an heirloom, or a house."¹¹² On her "continuum" between constitutive possessions, and fungible property readily traded for another of the same general kind, "a house that is owned by someone who resides there is generally understood to be toward the personal end of the continuum."¹¹³ At the opposite extreme are fungible, if essential items, like those Carlin hilariously reels off at the end of his routine, "the things you *know* you're gonna need" (for that overnight trip to Maui in the middle of a longer Hawaiian vacation): "money, keys, comb, wallet, lighter, hankie, pens, cigarettes, contraceptives, Vaseline, whips, chains, whistles, dildos – and a book."¹¹⁴

¹⁰⁹ See, e.g., Sidney Jourard, *Some Psychological Aspects of Privacy*, 31 L. & CONTEMP. PROBLEMS 307, 313-14 (1966).

¹¹⁰ Margaret Jane Radin, *Property and Personhood*, 34 STAN. L. REV. 957 (1982).

¹¹¹ Cappy NJ, *George Carlin Talks About "Stuff"*, YOUTUBE (May 1, 2017), <https://www.youtube.com/watch?v=MvgN5gCuLac>; GEORGE CARLIN, *A PLACE FOR MY STUFF* (Atlantic Records 1981).

¹¹² Radin, *supra* note 110, at 959.

¹¹³ Radin, *supra* note 110, at 987.

¹¹⁴ Cappy NJ, *supra* note 111.

To those who need or wish to live in less space, for affordability or other reasons, but who want both privacy and “a place for [their] stuff” bigger than the window ledge or dresser top Carlin jokes about, co-living on the PodShare model is unlikely to be a more appealing long-term choice than a customized van or a tiny house (whether on wheels or otherwise). When we add in COVID-19, the choice becomes even clearer.

IV. ASSESSING CO-LIVING AMIDST COVID-19

Notably, the core market for tiny homes, Van Life, and PodShare, as for hostels and communes, are the same: childless singles and couples, mostly in their twenties and early thirties, supplemented by retirees or “empty-nesters” looking to travel or to downsize. None of these living arrangements are well-suited to babies (making them or caring for them), the care of toddlers or school-age children, or the elderly; or to anyone who needs, or lives with others who need, any significant level of care or attention. Children enrolled in school and people dependent on reliable access to doctors or pharmacies may not want to be “nomads” without fixed addresses; nor do many parents or teens with a choice want to do without a private bedroom. Not everyone can climb the stairs to that PodShare top bunk. Put another way, these are options for the able-bodied and independent, a category that may include most people for much of their lives, but which is preceded and followed by periods of greater dependence for nearly all of us.

And then there is the vulnerability no one would have thought had much to do with housing arrangements, prior to 2020: an infectious pandemic respiratory disease, raging out of control. In the absence of an effective treatment or a vaccine, we are thrown back upon the “staple public health control measure for outbreaks of emerging, directly transmitted infections...the isolation of symptomatic cases as well as the tracing, testing, and quarantine of their contacts.”¹¹⁵ Because COVID-19 is also transmitted by persons not (yet) showing symptoms, “measures have included general physical distancing, school closures, remote working, community testing, and cancellation of events and mass gatherings.”¹¹⁶ As Dr. Chandini MacIntyre reiterates, “all available control measures should be used together:” “cases need to be identified and isolated (in hospital or at home),

¹¹⁵ Adam Kucharski, et al., *Effectiveness of isolation, testing, contact tracing, and physical distancing on reducing transmission of SARS-CoV-2 in different settings: a mathematical modelling study*, LANCET (Jun. 16, 2020), [https://www.thelancet.com/pdfs/journals/laninf/PIIS1473-3099\(20\)30457-6.pdf](https://www.thelancet.com/pdfs/journals/laninf/PIIS1473-3099(20)30457-6.pdf).

¹¹⁶ *Id.*

with a high rate of contact tracing and quarantine along with physical distancing.”¹¹⁷ The individual and societal costs and benefits of co-living, relative both to traditional housing options and to newer alternatives, must be assessed in light of these practices.¹¹⁸ Just as New York City’s density and status as a hub of international travel made it uniquely vulnerable to COVID-19 initially, the touted virtues of co-living may prove to be its downfall.

It is no overstatement to say that isolation and physical distancing are antithetical to the PodShare model. PodShare’s boast about “[m]aximum collisions”¹¹⁹ could equally be described as “maximum transmission.” In its own words,

Collision [sic] is defined as “the rate at which you meet someone new.” A private home has the least number of collisions, an apartment with a few shared roommates is in the middle, and PodShare’s co-living model would have the highest rate. Collisions are a great cure for loneliness, offer networking opportunities, and mold one’s well-roundedness since new information is disseminated at a higher rate.¹²⁰

Unfortunately, the other thing “disseminated at a higher rate” in a dense and transient residential setting is coronavirus. Even a pedestrian’s best efforts to isolate themselves would not go very far – without doors between pods, with a shared bathroom and kitchen, no one has a six-foot bubble around themselves.

To be clear, it is not a criticism of co-living as such, or of PodShare specifically, that it is not well-equipped to ride out the largest public health crisis in a century, or the economic shock it is inflicting. It is not a critique of openness, transience, sharing, or the ideal of “access not ownership,” that in the event of stay-at-home orders coupled with social distancing and

¹¹⁷ Chandini Raina MacIntyre, *Case isolation, contact tracing, and physical distancing are pillars of COVID-19 pandemic control, not optional choices*, LANCET (Jun. 16, 2020), [https://www.thelancet.com/journals/laninf/article/PIIS1473-3099\(20\)30512-0/fulltext](https://www.thelancet.com/journals/laninf/article/PIIS1473-3099(20)30512-0/fulltext).

¹¹⁸ For a helpful pre-COVID article on some of the specific legal dimensions of co-living in New York City see France Svistovski, *Burning Down the Housing Market: Communal Living in New York*, 47 FORDHAM URB. L. J. 463 (2020).

¹¹⁹ *Access Not Ownership*, *supra* note 20.

¹²⁰ PODSHARE, <https://www.podshare.com/community> (last visited Sept. 18, 2020).

isolation mandates, a PodShare living arrangement is hazardous to one's health. What PodShare did not anticipate – and who among us did? – was a public policy failure on this catastrophic scale.

Within a few weeks of the beginning of the COVID-19 crisis in California, a landlord did something possibly unprecedented: set up a GoFundMe site *for her own tenants*.¹²¹ But this wasn't just any landlord: it was Elvina Beck, the founder of PodShare and # 1 podestrian, the self-styled guru of co-living. (Also, its owner: despite the motto "access not ownership," Beck and her father own all the stock in PodShare Inc.).¹²² Just a month before, the downtown L.A. PodShare location was up and running, inspiring articles with titles like, "PodShare is not a cult, but it is weird."¹²³ But then COVID hit. What Beck's fundraising post made clear was that at least one of PodShare's L.A. locations is itself a rental. As she put it, "there are individuals living at PodShare that are asking if there is any relief for them. As a small business, we are indebted to our landlords and bills so we are not in the position to offer free housing."¹²⁴ Four months later, she had raised less than \$4,000 of her \$6,000 goal.¹²⁵ The fragility of the entire PodShare model came sharply into view, as did the division between different types of podestrians: those who had a parent's house in the suburbs to go to ride out the quarantine, and those who did not. The former could grab their backpack and laptop and head out to the same place they were already keeping the rest of their stuff; the latter were one public health crisis away from homelessness – and worse yet, residing in a dangerous setting with a high risk of transmission.

The COVID-19 crisis also reveals the vulnerability of apparently individual housing choices to large-scale phenomena beyond any individual's control. It is a damning indictment of the government mishandling of the COVID-19 crisis that the safest place to be is in a well-stocked private home, with more rooms than people, a setting only available, among city-dwellers, to the most affluent. We have already seen that those whose economic and health status is the most insecure – the un- and under-employed, the un- and under-insured, those with preexisting health conditions that occur disproportionately in communities of color due to

¹²¹ *Housing Relief (COVID-19)*, GoFUNDME, <https://www.gofundme.com/f/housing-relief-covid19> (last visited Mar. 24, 2020).

¹²² STATE OF DELAWARE, *supra* note 5.

¹²³ *PodShare is not a cult, but it is weird*, *supra* note 49.

¹²⁴ GoFUNDME, *supra* note 121.

¹²⁵ *Id.*

structural racism – are being hit hardest by COVID-19. The same goes for housing. Those best-cushioned against extended periods of shutdown are those who live in well-stocked private homes, participants in the knowledge economy for whom distance work is at worst an inconvenient transition. For them, confinement at home reduces the chance of catching or transmitting the virus, and even if one member of the household contracts it, isolation is at least possible. For any who become actively ill, medical treatment, including health insurance, is in place. Others are not as fortunate.

CONCLUSION

COVID-19 has not only changed how we live, and how many of us work. It has also changed - or has the potential to change - how we *think about* how we live and work: what we want, what we need, what we can do without. Before the coronavirus crisis, PodShare and its ilk confidently asserted not just the practical value but the moral virtue of their model of living, its superiority to acquisitive, permanent, and privacy-focused models centered on ownership and control of space. There were legitimate counterarguments to be made even then, but COVID-19 has conclusively demonstrated that smug certainties about the “best” way to live can run headlong into new realities. There is no easy escape from housing inequity. Pedestrians with a relative or friend’s suburban home to go for quarantine - disproportionately White, affluent, able-bodied, and well-educated - can avail themselves of options others cannot, and discard the PodShare experiment like last year’s Coachella outfit. Cute names cannot disguise the fact that persons forced by necessity to live in close quarters, with little privacy, doing “essential” work that cannot be done on a laptop from home or anywhere else, are acutely endangered by the ongoing pandemic, and living with a revolving group of similarly-situated strangers only heightens that danger. Whatever their high-minded intentions, Podshare Inc. and similar co-living arrangements may prove to be yet another casualty of the current crisis.