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# Who Owns the City? Pension Fund Capitalism and the Parkdale Rent Strike

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Canadian public pension funds play an increasingly significant role as institutional investors, including in the domestic residential property market. Some scholars have suggested that pension fund investments of this kind result in a form of public ownership, sometimes characterized as "pension fund socialism." However, the actual character of pension fund investment in Canada is much more akin to a financialized pension fund capitalism, with public pension funds adopting investment strategies consistent with private financial market actors. In the summer of 2017, tenants and housing activists in Toronto's Parkdale neighbourhood organized a successful rent strike against their corporate landlord as well as the Alberta pension fund that co-owned the buildings. The strategies developed during the rent strike, including calling on and working with the unions and union members whose pensions are invested with that fund, serve as examples for other activists grappling with pension fund capitalism.

IN THE SPRING AND SUMMER OF 2017, hundreds of tenants in the working-class Toronto neighbourhood of Parkdale organized what was likely the most successful rent strike in recent Canadian history. Their primary goal was to challenge major rent increases proposed by their landlord, which for years was reported to have neglected longer-term tenants' needs for basic repairs. The buildings where tenants withheld rent were jointly owned by a rental property management company and the Alberta Investment Management Corporation (AIMCo), which invests pension funds linked to the government of Alberta. Seeking to force the landlord to negotiate a settlement, Rent Strike organizers developed a strategy that specifically targeted AIMCo. Organizers demonstrated outside of AIMCo's Bay Street office, worked with allies to draw attention to the issue at a Canadian Labour Congress Convention, and reached out to workers and activists in Alberta. With pressure mounting, the landlord agreed to negotiate a conclusion to the Rent Strike, ultimately making considerable concessions to tenants.

The role of AIMCo in the 2017 Parkdale Rent Strike raises some interesting questions as to the role of public pension funds in the private rental market, in relation to tenants' rights activism, and in the economy more generally. In the past few decades, pension funds in Canada have grown significantly and now control trillions of dollars' worth of assets around the world. As part of this expansion, pension funds have made significant investments in the rental property market, effectively becoming landlords for many thousands of tenants. The political character of public pension funds has been a topic of considerable debate, with some scholars emphasizing the potential,l for a kind of "pension fund socialism" where pension capital is mobilized by workers according to democratic principles and in response to social need. Others have highlighted the

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contradiction between the progressive face of labour unions and public sector employers and the reality of the value-maximizing investment practices of public pension funds.

In the context of the rental housing market, the capitalist investment strategies broadly adopted by Canadian public pension funds are likely to contribute to displacement and gentrification in neighbourhoods like Parkdale. This is exemplified by the experience of the tenants involved in the Parkdale Rent Strike, who, living under a pension fund landlord, recognized the relationship between major rent increases and their landlord's preference for new, higher-income tenants. However, Rent Strike organizers also identified certain characteristics that distinguished their landlord from others. For these organizers, the key difference between public pension funds and other financialized[1] investors in the rental housing market was that the former are unusually sensitive to public pressure, since many funds have institutional links to progressive, democratic, and membership-based unions. These characteristics make public pension funds particularly susceptible to the strategies developed by tenants and organizers during the Rent Strike. Given the success of these strategies, I argue that housing rights activists confronting pension fund landlords, and perhaps other organizers seeking to challenge pension fund investment practices, have much to learn from the experience of the Parkdale Rent Strike.

I begin this article with an overview of public pension funds in Canada, including their transformation into financialized global investors in the last few decades and their even more recent shift toward investments in rental properties. Second, I review the debates over "pension fund socialism" and explain the divergent positions on the prospects of democratizing the economy through strategic pension fund investments. In the third section, I argue that despite any prospects for alternative models, pension funds today have adopted many of the investment strategies developed by other more straight-forwardly-capitalist actors in the financial industry. Next, I explore how landlords have attempted to manage costs and earn profits in capitalist rental housing markets, and further explain how financialized landlords, such as pension funds, are likely to accelerate the processes of neighbourhood gentrification and displacement. Finally, I provide an account of the Parkdale Rent Strike drawn from interviews with key organizers and contemporary media reports, with specific attention paid to the successful strategy for targeting AIMCo.

# I. CAPITALIST CRISIS AND THE RISE OF PUBLIC PENSION FUNDS IN CANADA

The reach of Canada's public pension funds extends far beyond the high-rise apartments in Parkdale where the Rent Strike took place. In 2017, these investors owned one-third of one of Australia's largest rail freight services,[2] a chain of shopping malls in Brazil,[3] 10,000 acres of

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[1] Financialization refers to the process of "structural changes in the operation of capitalism in which finance has come to play an increasingly dominant role in the economy and everyday life": Martine August & Alan Walks, "Gentrification, Suburban Decline, and the Financialization of Multi-Family Rental Housing: The Case of Toronto" (2018) 89 Geoforum 124 at 124. August and Walks define "financialized landlords" as including "real estate investment trusts [REITs], private equity funds, financial asset management firms, and other investment vehicles": *ibid* at 121.

[2] Canada Pension Plan Investment Board, *Investing for our Contributions & Beneficiaries: 2017 Annual Report* (Canada, 2017) at 15, online: <cppib.com/documents/1591/2017_Annual_Report.pdf> [perma.cc/TW8X-2W6G].

[3] Ontario Teachers' Pension Plan, *A Plan for All Seasons: 2016 Annual Report* (Ontario, 2016) at 81, online: <otpp.com/documents/10179/771876/-/aaaf4912-f652-4ba4-8c6c-ce28b9894fd9/Annual+Report.pdf> [perma.cc/8TU7-N6TQ].

almond orchards in California,[4] and a major stake in the largest privatized water utility in the United Kingdom.[5] Together, these funds control as much as fifteen per cent of all assets in the Canadian financial system.[6] However, the current scale of public pension plans, and their global reach, can obscure the fact that they were not always professionalized investment entities, and it was never inevitable that they would take their current form. Rather, it was capitalist crisis, as well as the related rise of neoliberal politics, which drove the transformation and financialization of public pension plans in Canada.

The term "public pension plan" refers to any of the workplace pension plans for public sector employees, some of which are established by statute, as well as the Canada Pension Plan (CPP), the broader federal program that pays out retirement income based on contributions made by all income-earners outside Québec.[7] Today, all of these public pension plans have established institutional forms permitting them to manage and invest plan member contributions in order to earn returns and fund retirement income. The Canada Pension Plan Investment Board (CPPIB), which invests those CPP funds not needed to pay current pension obligations, is the largest of these entities. Aside from the CPPIB, the Bank of Canada identifies seven other large funds which manage the pensions of public employees: the Caisse de dépôt et placement du Québec (CDPQ), the Ontario Teachers' Pension Plan (OTTP), the British Columbia Investment Management Corporation (BCI), the Public Sector Pension Investment Board (PSPIB), the Ontario Municipal Employees Retirement System (OMERS), the Healthcare of Ontario Pension Plan (HOOPP), and AIMCo.[8]

The initial creation of public pension plans in Canada was itself a political development. For example, the CPP was established in 1965 amidst a surge in labour militancy and efforts by the state to placate workers.[9] At the outset, the manner in which pension plans funded retirement income reflected this origin in social democratic politics. From the inception of the CPP, and for much of the history of other public sector pension plans, the prevailing funding model was known as "pay-as-you-go" (PAYGO), in which retirement income was funded by current contributions from workers and/or government sponsors.[10] For most of these pension plans, the investment of any surpluses not needed to pay out current benefits was limited to the purchase of government bonds.[11] While government bonds provided a valuable source of credit for funding state investments, they were far less profitable than private market investments. Unable to earn additional returns through private investment, the capacity of pension plans to maintain benefit levels was primarily dependent on robust, stable economic growth, which would ensure a steadily-

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[4] Public Sector Pension Investment Board, *Investing: Annual Report 2017* (Canada, 2017) at 45, online: <investpsp.com/pdf/PSP-AR-2017-complete.pdf> [perma.cc/JF4Z-6GXC].

[5] "Infrastructure Portfolio – Thames Water," online: *Ontario Municipal Employees Retirement System* <omersinfrastructure.com/Investments/Portfolio/Thames-Water> [perma.cc/FYZ9-2F84].

[6] Guillaume Bédard-Pagé et al, "Large Canadian Public Pension Funds: A Financial System Perspective" in Bank of Canada, *Financial System Review* (June 2016) 33 at 33.

[7] World Bank Group, *The Evolution of the Canadian Pension Model: Practical Lessons for Building World-class Pension Organizations* (Washington, DC: International Bank for Reconstruction and Development / The World Bank, 2017) at 4. Québec has an independent pension plan which invests funds in assets through the Caisse de dépôt et placement du Québec: Michael Mendelson, *Financing the Canada and Quebec Pension Plans* (Washington, DC: AARP Public Policy Institute, 2005) at iii.

[8] Bédard-Pagé et al, *supra* note 6 at 33.

[9] John Myles, *Old Age in the Welfare State: The Political Economy of Public Pensions*, revised ed (Lawrence: University Press of Kansas, 1989) at 134.

[10] *Ibid* at 164.

[11] World Bank Group, *supra* note 7 at 7.

increasing stream of contributions in proportion to the obligations owed to a growing pool of retirees.[12]

During the decades of sustained economic growth following the Second World War, the PAYGO model appeared to be functioning well. However, with the decline of growth in advanced capitalist countries in the 1970s and 1980s, the economic viability of this and other social democratic arrangements could not be so easily ensured. Faced with declining profits, investors and corporate managers organized to assert their class interests during this time by lobbying for lower taxation and less costly forms of regulation, as well as by suppressing working-class movements, including trade unions, which posed any opposition.[13] Federal and provincial governments across Canada pursued neoliberal policies characterized by a retrenchment in public spending, particularly on welfare programs, and an overall ideological shift away from postwar social democratic arrangements in favour of capitalist market-provisioning of basic goods.[14] These reforms tended to vastly increase public deficits, ultimately empowering the financial market actors that held government debt. Financial markets imposed fiscal discipline by demanding further cutbacks in public spending and market-friendly reforms of social democratic programs.[15]

The financialization of public pensions was key to this restructuring. In the late 1980s, Ontario embarked upon a program of public pension reform that was later emulated by other jurisdictions.[16] Amidst concerns over the fiscal burden imposed by the PAYGO model, Ontario commissioned a number of expert reports which recommended that its major public sector pension funds be reorganized as professionalized, arms-length entities empowered to invest in the market.[17] These recommendations were quickly implemented: Ontario's *Public Service Pension Act, 1989* came into force at the end of 1989 and created the Public Service Pension Board, now the Ontario Pension Board (OPB), while the *Teachers' Pension Act* was enacted in 1990 restructure the OTPP.[18] Reform of the OPSEU Pension Trust soon followed, with its investment arm commencing operations in 1995.[19] These reforms granted the OPB, OTPP, and OPSEU Pension Trust statutory authority to invest surplus funds in private market securities. While expanding pension plans' ability to earn returns through financial investments, the Ontario reforms also established the "jointly-sponsored pension plan" model, which makes employers and unions both responsible for funding shortfalls, thereby exposing workers to financial risk that was previously borne exclusively by the state.[20] A similar story unfolded in British Columbia, where the *Public Sector Pension Plans Act* inaugurated the BCI in 1999.[21] AIMCo, though founded somewhat later in 2008, replicates many of the institutional innovations that came out of the Ontario reforms.[22]

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[12] Robin Blackburn, *Banking on Death, or Investing in Life: The History and Future of Pensions* (London: Verso Books, 2002) at 69.

[13] Leo Panitch & Sam Gindin, *The Making of Global Capitalism: The Political Economy of American Empire* (New York: Verso Books, 2012) at 163–72; Stephen McBride, *Paradigm Shift: Globalization and the Canadian State*, 2nd ed (Halifax: Fernwood Publishing, 2005) at 53–58.

[14] McBride, *supra* note 13 at 98–99.

[15] Wolfgang Streeck, "The Crises of Democratic Capitalism" (2011) 71 New Left Rev 5 at 14–16.

[16] World Bank Group, *supra* note 7 at 7.

[17] *Ibid* at 8.

[18] *Public Service Pension Act, 1989*, SO 1989, c 73; *Teachers' Pension Act*, RSO 1990, c T1.

[19] World Bank Group, *supra* note 7 at 7.

[20] Elizabeth Shilton, *Empty Promises: Why Workplace Pension Law Doesn't Deliver Pensions* (Montreal: McGill-Queen's University Press, 2016) at 164–68.

[21] SBC 1999, c 44.

[22] World Bank Group, *supra* note 7 at 16.

In the same period, the federal government was slashing spending on a wide range of social programs, and as in the provinces, public pension reform was high on the agenda. In 1998, in response to concerns about the long-term viability of the CPP's PAYGO model, the federal Liberals reduced benefits, drastically increased the rates at which workers were required to contribute to the CPP, and passed the *Canada Pension Plan Investment Board Act*.[23] This statute established the CPPIB and gave it a mandate to, according to the text of the *Act*, "invest its assets with a view to achieving a maximum rate of return, without undue risk of loss …"[24]

The institutional capacity and legal authority of pension funds to seek returns in private markets was enhanced through deregulation and other reforms over the course of the 1990s and 2000s. Deregulation in the pension sector included the elimination of investment rules in federal tax legislation that had been intended to concentrate investments in domestic markets and reduce exposure to financial risk. For instance, the foreign property rule, which until 1990 had limited institutional investors' ownership of foreign assets to just ten per cent of their total portfolio value,[25] was progressively softened and then finally abolished in 2005.[26] Additionally, in Ontario, public pension funds were for years subject to the "30 per cent rule," which prevented ownership of more than thirty per cent of the voting shares of a company.[27] While pension funds have generally been successful in circumventing this rule,[28] its planned elimination by the Ontario government will likely give funds greater flexibility.[29] Owing to such reforms, financialized public pension funds have been able to freely invest in securities markets, with the total market value of the assets under their control ballooning from $161 billion in 1993 to well over $1.4 trillion in the first quarter of 2020.[30]

Shifts in the broader landscape of the capitalist economy have further driven changes in the composition of pension fund investments, with the investment practices of public pension funds shifting in response to crises and opportunities. The entry of pension funds into the residential rental market, for instance, is in large part a response to the financial crisis of 2008–09 and the economic instability that followed. The balance sheets of many public pension funds suffered greatly during that crisis, with the portfolio of the CDPQ alone losing nearly $40 billion, or 14.5 per cent of the total value of its managed assets, in 2008.[31] Since the crisis, interest rates in Canada and most other advanced capitalist countries have remained low, and pension fund investors have turned to so-called "alternative investments" in asset categories like real estate and infrastructure in order to earn sufficient returns.[32] These assets are particularly attractive to pension

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[23] SC 1997, c 40 [*Canada Pension Plan Investment Board Act*].
[24] *Ibid* at s 5(c); Murray Cooke, "The Canada Pension Plan Goes to Market" (2003) 51 Can Rev Soc Policy 126.
[25] David Burgess & Joel Fried, "Canadian Retirement Savings Plans and the Foreign Property Rule" (1999) 25:3 Can Pub Pol'y 395 at 397.
[26] Bédard-Pagé et al, *supra* note 6 at 36.
[27] Ontario, Report of the Expert Commission on Pensions, *A Fine Balance: Safe Pensions, Affordable Plans, Fair Rules* (Toronto: Queen's Printer for Ontario, 2008) at 85.
[28] *Ibid*.
[29] Department of Finance Canada, "Pension Plan Investment in Canada: The 30 Per Cent Rule," online: *Government of Canada* <fin.gc.ca/activty/consult/ppic-prpc-eng.asp> [perma.cc/24LU-45TY].
[30] Statistics Canada, "Trusteed pension funds, market and book value of assets, by private and public sector category, quarterly (dollars)," Table 11-10-0076-01, DOI: <doi.org/10.25318/1110007601-eng>.
[31] Caisse de dépôt et placement du Québec, *Annual Report, 2008* (Québec, 2008) at 3, online: <cdpq.com/sites/default/files/medias/pdf/en/ra/ra2008_rapport_annuel_en.pdf> [perma.cc/TKB5-E9E4].
[32] Lawrence Schembri, "Double Coincidence of Needs: Pension Funds and Financial Stability" (Remarks delivered at the Pension Investment Association of Canada Spring Conference, Quebec City, 15 May 2014) at 5, Bank of Canada, online: <bankofcanada.ca/wp-content/uploads/2014/05/remarks-150514.pdf> [perma.cc/YB3U-NETT].

funds because they are thought to provide stable, long-term revenue streams that correspond with the long-term obligations of funds to pension beneficiaries.[33] As such, they also permit fund managers to hedge against the risk of shorter-term investments failing.[34] Canadian public sector pension funds may be particularly inclined toward this approach, with at least one study finding that pension funds associated with defined-benefit pensions, such as the Canadian public plans, are more likely to seek out long-term investments such as real estate.[35] With ongoing instability in financial markets, it seems that public pension fund investments in alternative investments, including residential rental properties, is likely to continue.

This abbreviated history of the growth and financialization of public pension funds in Canada illustrates the relationship between shifts in the capitalist economy and the changing institutional forms of these funds. In addition to the initial establishment of pension plan investment boards as a response to the crises of the 1970s and 1980s, the move into private rental housing—and the consequent emergence of the pension fund landlord—was one response to the crisis of 2008–09. The current form of Canadian public pension funds, then, is historically contingent, rather than necessary or inevitable. Recognizing this, it becomes easier to imagine alternative forms of organizing the retirement income system and its relationship to broader society.

## II. PENSION FUND SOCIALISM?

The growth and transformation of public pension funds over the last few decades have prompted debates as to their political character. According to one line of argument, when pension funds invest workers' contributions, those workers gain some kind of interest in the assets and enterprises owned by the pension fund. Some have argued that we are already living under a system of "pension fund socialism" in which workers, through the investment decisions made by pension fund managers, can direct massive amounts of capital toward pro-worker, environmentally-sustainable, and socially-responsible investments. Have the workers seized the means of production without anyone really noticing?

The first version of this thesis was advanced by Peter Drucker, a US business theorist who posited that pension fund socialism had arrived in his 1976 book, *The Unseen Revolution: How Pension Fund Socialism Came to America*.[36] At that time, though pension funds in the US were significantly smaller than they are today, Drucker made the provocative claim that:

> Indeed, aside from farming, a larger sector of the American economy is owned today by the American worker through his investment agent, the pension fund, than Allende in Chile had brought under government ownership to make Chile a "Socialist country," than Castro's Cuba has actually nationalized, or than had been nationalized in Hungary or Poland at the height of Stalinism.[37]

[33] Bédard-Pagé et al, *supra* note 6 at 35.

[34] Fund managers for defined-contribution pension plans, on the other hand, may be more likely to make riskier investments given that fund beneficiaries, rather than sponsors, bear much of the financial risk: See William H Simon, "The Prospects of Pension Fund Socialism" (1993) 14:2 BJELL 251 at 255.

[35] Gordon Clark, "Pension Fund Capitalism: A Causal Analysis" (1998) 80:3 Geografiska Annaler 139 at 150–51 [Clark, "Pension Fund Capitalism"].

[36] Peter F Drucker, *The Unseen Revolution: How Pension Fund Socialism Came to America* (New York: Harper & Row, 1976).

[37] *Ibid* at 2.

Beyond serving as vehicles for worker ownership of enterprises, pension funds enabled deeper "socialization" of the capitalist economy, with the profits of those enterprises returned directly to workers as retirement income. "There is no 'surplus value'," remarked Drucker, as "business revenue goes into the 'wage fund'."[38]

While conventional accounts of socialist transformation centre the working class, Drucker's version of socialism was at first an initiative of corporate managers:

> Socialism came to America neither through the ballot box nor through the class struggle let alone a revolutionary uprising … it was brought about by the most unlikely revolutionary of them all – the chief executive officer of America's largest manufacturing company, General Motors.[39]

In Drucker's narrative, the President of GM laid the groundwork for pension fund socialism in 1950 by creating the first employer-sponsored pension fund to invest in the private market. Similar plans then proliferated among US corporations, and the deferred wages of workers were increasingly used to buy up stakes in capitalist enterprises.

Clearly, Drucker's version of socialism bears little resemblance to common understandings of the term. Rather than the socialist tradition, Drucker's work draws on theories of managerialism that were popular at the time to describe a society of organized capitalism administered by rational corporate managers. "In a society in which the performance of all major social tasks is entrusted to large institutions," wrote Drucker, "management becomes, of necessity, the central organ and the central social function."[40] Drucker's work follows other accounts of organized society by contemporary researchers like John Kenneth Galbraith. In *The New Industrial State*, Galbraith envisioned a world in which the corporation "disenfranchises its stockholders,"[41] and would be operated by enlightened managers committed to rational planning[42] and limited competition between monopolistic enterprises so as to secure stable, if not extravagant, profits.[43] While Drucker had a similar vision of organized society, free of class conflict, his corporations would not so much disenfranchise profit-driven investors as they would realign their objectives with worker-owners' goals of ensuring steady returns to fund retirement income. This seems a far cry from ideas of socialism that envision production for the fulfillment of human need, rather than for profit, among other goals.

While it is clear that Drucker overstated the extent of pension fund ownership of the US economy in 1976, the notion of pension fund socialism as propositional politics has found favour among some other writers. Such an argument is made by Robin Blackburn in *Banking on Death*, which begins with an observation of a new contradiction between the enormous global scale of pension funds, as well as the enrichment of fund managers, and the imperilment of the relatively generous pensions won by workers in the decades after the Second World War.[44]

Blackburn locates the cause of this contradiction in the absence of any democratic accountability of pension fund managers to individual pension beneficiaries. While pension funds

[38] *Ibid* at 3.
[39] *Ibid* at 5.
[40] *Ibid* at 114.
[41] John Kenneth Galbraith, *The New Industrial State* (Boston: Houghton Mifflin, 1967) at 73.
[42] *Ibid* at 74.
[43] *Ibid* at 82.
[44] Blackburn, *supra* note 12 at 7.

as institutions have become tremendously wealthy and powerful, "[t]he policyholders in a pension fund, whatever the type, have no direct purchase or control over the assets which are held to finance their pension."[45] For Blackburn, this is one result of the legal structure of the pension system in Anglo-American economies, according to which pension funds are organized into trusts whose beneficiaries are, by design, alienated from the decision-making of the trustee.[46] Trustees are legally bound, as fiduciaries, to make investment decisions according to variations on the "prudent expert" rule, rather than democratic input from beneficiaries.[47] Typically, the role of the fiduciary in this context is to maximize returns on investment for the benefit of those who are entitled to pension income in retirement.[48] A statutory version of this rule is applied to the CPPIB, whose governing legislation requires it to "to invest its assets with a view to achieving a maximum rate of return, without undue risk of loss."[49] While pension fund trustees may in some circumstances pursue ethical investment strategies, the imperative to maintain retirement income for beneficiaries means that the need to ensure profitability remains likely to prevail in any conflict with other objectives. As a result, pension fund managers have been known to make investment decisions that run counter to the interests of pension beneficiaries, for instance by downgrading defined benefit plans to defined contribution plans, or even by investing in enterprises that compete with the employers of the beneficiaries.[50]

For Blackburn, this state of affairs need not continue indefinitely. By restructuring the legal foundation of pension funds to give workers greater control over investment decisions, pension funds could become the basis for democratizing the economy.[51] If the laws underpinning pension funds required that investments be made on bases other than maximization of returns, workers could commit pension capital to a "socially responsible industrial policy" in order to transform the economy and reinforce worker control. Rather than leaving investment decisions to private, profit-driven interests, pension funds could invest in social infrastructure, such as the "educational system, communications, research facilities, and cultural endowment"[52]—public goods that, in Blackburn's view, it "would be inappropriate to subordinate to profit criteria."[53] The ongoing viability of these institutions would be left up to the democratic input of pension beneficiaries, rather than the impersonal logic of the market. Blackburn's vision would amount to a radical transformation of society and, as he writes, "such a profound, if also curious, alteration in property

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[45] *Ibid* at 123.
[46] *Ibid* at 125.
[47] *Ibid*.
[48] See *Cowan v Scargill*, [1985] Ch 270 at 287 [HC], for Megarry VC's classic statement as to the duties of pension trustees:

> When the purpose of the trust is to provide financial benefits for the beneficiaries, as is usually the case, the best interests of the beneficiaries are normally their best financial interests. In the case of a power of investment, as in the present case, the power must be exercised so as to yield the best return for the beneficiaries, judged in relation to the risks of the investments in question; and the prospects of the yield of income and capital appreciation both have to be considered in judging the return from the investment.

Scholarly debate over the content of the fiduciary duty has continued, with some critics strongly dissenting from the classical position expressed by Megarry VC. For an argument that the fiduciary duty might require trustees to consider factors other than profit maximization, see Cynthia A Williams & John M Conley, "Is There an Emerging Fiduciary Duty to Consider Human Rights?" (2007) 5:4 Intl J Civ Soc L 130.
[49] *Canada Pension Plan Investment Board Act*, *supra* note 23, s 5(c).
[50] Blackburn, *supra* note 12 at 127–29.
[51] *Ibid* at 476.
[52] *Ibid* at 481.
[53] *Ibid* at 491.

relations almost certainly could not be sustained without provoking a fundamental rupture with capitalist social relations."[54]

While Blackburn is at times optimistic about the prospects of pension fund socialism, William Simon emphasizes the barriers that stand in the way of democratizing pension funds and directing their investments toward socially-useful objectives. First, if workers were to take control over pension funds, they would be more exposed to the risk of loss from failing investments.[55] By contrast, in today's pension plans, the risk of loss is generally borne by the plan sponsor—in most cases, the employer. Second, that risk of loss, and the management techniques employed to reduce it, would likely open up conflicts between different groups of workers. For instance, retirees interested in protecting their retirement income might demand that their funds deliver high returns on invested funds. A demand for profit and value maximization is likely to conflict with the interests of currently-employed workers, who for themselves demand higher wages and better working conditions in the present.[56] For current workers, it may be that it does not much matter whether the shareholders pressuring management to cut costs are pension funds controlled by workers or hedge funds controlled by capitalist investors. Due to these contradictions, Simon concludes that "it is unlikely that pension reform will obviate the need for other means of worker ownership and protection."[57]

# III. PENSION FUND CAPITALISM

Whatever the future promise of pension fund socialism, the contemporary forms of Canadian public pension funds bear far more resemblance to the sophisticated capitalist investment firms that populate Bay Street and Wall Street than they do to vehicles for socialist transformation. As we have seen, the growth and financialization of public pension funds in the 1980s and 1990s was itself a product of neoliberal reforms intended to reduce fiscal burdens on the state in an era of retrenchment in public spending. As Blackburn observed, pension funds today are managed by actors who are bound by legal duties to maximize returns. In order to achieve the objectives intended by neoliberal reformers, public pension fund managers have adopted many of the forms and practices developed in the broader financial industry.[58]

One telling example of this is public pension funds' reliance on benchmarks and growth targets. Public pension funds, like other actors in the finance industry generally, tend to measure their performance in terms of growth in asset values—specifically, their asset-value growth rate measured against a benchmark rate derived from a "composite index."[59] According to this metric, it is not enough for an asset to be producing income—its value must appreciate year-over-year, at a higher rate than the benchmark, for it to be considered a worthwhile investment. Pension fund managers therefore have strong incentive to exercise stakeholder influence over the internal operations of their investments in order to encourage growth and maximize their own returns.

[54] *Ibid* at 526.
[55] Simon, *supra* note 34 at 254–59.
[56] *Ibid* at 259–264.
[57] *Ibid* at 274.
[58] Clark, "Pension Fund Capitalism," *supra* note 35 at 150.
[59] Gordon Clark, *Pension Fund Capitalism* (Oxford: Oxford University Press, 2000) at 107. See *e.g.* "Benchmarks" (last visited 23 March 2020), online: *Ontario Teacher's Pension Plan* <otpp.com/investments/performance/benchmarks> [perma.cc/D8JZ-NSE2]; "Investment Performance" (2017), online: *Alberta Investment Management Corporation* <aimco.alberta.ca/AIMCo_AR_2017/investment-performance.html> [perma.cc/55CU-MZVD].

Indeed, in a paper written in the early 1990s extolling the benefits of Canadian institutional investors such as pension funds, Jeffrey G MacIntosh writes that "institutional investors have lower coordination costs … more resources at their command and, as a result of their relatively large shareholdings, much better incentives to monitor management".[60]

In his book *Wall Street,* Doug Henwood shows how pension funds in the US participated in the "shareholder value" movement during the 1990s, in which investors moved aggressively to overturn the management-centred corporate order championed by Galbraith and Drucker.[61] Not content with the goal of securing stable, if unspectacular, profits, shareholders exerted their power through techniques including "publicly pressuring management to increase payouts and adopt 'value-enhancing' policies, pushing for seats on the board [of directors], sponsoring resolutions, and threatening to sell their shares en masse," as well as, most dramatically, threatened or actual hostile takeovers of corporations.[62] Managers were therefore pressured into restructuring firms to pursue the more straightforward objectives of maximizing share values, and consequently, the values of investors' stock portfolios. In pursuit of this maximization, pension fund managers, alongside their private investor counterparts, directed corporations to lay off workers, take hard lines in bargaining with unions, reduce capital expenditures and other forms of investment, and pursue opportunities for corporate consolidation through mergers and acquisitions.[63]

Canada's public pension plans have embraced these strategies for maximizing asset value and investment income. For example, the BCI states in its 2017–18 Annual Report that its managers are focused on "identifying inefficiencies and value creation opportunities within the public and private markets."[64] According to the OTPP, its managers are "known for rolling up [their] sleeves, and working with leadership at the companies we partner with" to "build their businesses and create value."[65] Similarly, in 2001, the CPPIB adopted an "active management" investment policy including initiatives to support corporate restructuring.[66] While active management policies do not always involve direct intervention in corporate operations, such policies do encourage close, continuous monitoring of asset performance. This can mean that the large investor's latent power over the business—to cease or withdraw investment in response to poor performance—itself disciplines corporate managers into acting in accordance with investors' objectives. The deregulation of investment rules, including the planned elimination of the "30 per cent rule" in Ontario, may enable public pension funds to exert even greater pressure on management. Interventionist and active management practices may to an extent be distinguished from the general practice of public pension funds participating in less socially-desirable lines of business, such as the CPPIB's investments in arms manufacturers such as Raytheon, Lockheed

[60] Jeffrey G MacIntosh, "The Role of Institutional and Retail Investors in Canadian Capital Markets" (1993) 31:2 Osgoode Hall LJ 371 at 377.

[61] Doug Henwood, *Wall Street: How it Works and for Whom* (New York: Verso Books, 1998) at 290.

[62] JW Mason, *Disgorge the Cash: The Disconnect Between Corporate Borrowing and Investment* (Roosevelt Institute, 2015) at 12, online: <rooseveltinstitute.org/wp-content/uploads/2015/09/Disgorge-the-Cash.pdf> [perma.cc/SR6Z-JJK9].

[63] Henwood, *supra* note 61 at 290.

[64] British Columbia Investment Management Corporation, *Corporate Annual Report: 2017–2018* (British Columbia, 2018) at 4, online: <bci.ca/wp-content/uploads/2018/07/17-18-corporate-annual-report-2018.pdf> [perma.cc/ZH46-8JYB].

[65] "Active Management" (last visited 23 March 2020), online: *Ontario Teachers' Pension Plan* <otpp.com/investments/performance/investment-strategy/active-management> [perma.cc/2944-SZZP].

[66] Cooke, *supra* note 24 at 127–28.

Martin, and BAE Systems.[67] However, both approaches reflect a prioritization of value maximization above other possible goals.

On a sociological level, Canada's large public pension funds are now staffed by many of the same kinds of people who administer other large investment firms. When pension funds first entered private securities markets, they tended to lack specialized staff, and were forced to rely heavily on external financial service providers in areas such as investment and asset management.[68] Now, however, public pension funds boast of the investment acumen wielded by their own staff.[69] In order to bring financial market expertise in-house, public pension funds have made salaries competitive with their private sector peers. As a result, where investment board executives are public servants subject to salary disclosure rules, they often comprise some of the highest-paid employees on the government's payroll.[70] Canadian public pension funds have also followed their private sector peers abroad. Many public pension funds now have operations spanning the globe, reflecting the international reach of their investments.[71] For example, alongside its headquarters in the heart of Toronto's Financial District, the CPPIB has outposts in Midtown Manhattan, London, Luxembourg, Mumbai, Hong Kong, Sydney, and São Paulo.[72] This list looks modest in comparison to CDPQ, which has offices in Montreal, Quebec City, New Delhi, London, Mexico City, New York, Paris, Shanghai, Singapore, Sydney, and Washington DC.[73] Canada's public pension fund staff work with, live with, and participate in the social world of the global financial elite.

Evidently, since the beginning of the financialization of public pensions in the 1990s, pension institutions have become deeply integrated into the broader architecture of global financial capitalism. This poses a serious challenge to those who wish to democratize pension funds, as well as to the poor and working people whose interests conflict with pension funds' profit and value maximization strategies.

## IV. HOUSING UNDER CAPITALISM AND THE PENSION FUND LANDLORD

If pension fund capitalism is the prevailing model, then it seems unlikely that the pension fund landlord will improve on the practices of any other large capitalist landlord. For tenants, especially poor and working-class tenants, this is not good news. While headlines about a new housing crisis have proliferated in recent years, David Madden and Peter Marcuse remind us that "[f]or the

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67 "Foreign Publicly-Traded Equity Holdings," online: *Canada Public Pension Plan Investment Board* <cdn4.cppinvestments.com/wp-content/uploads/2020/06/Foreign-Publicly-Traded-Equity-Holdings-ibfs-06-2020-en-v2.htm> [perma.cc/5L6Z-DRY9].

68 Clark, "Pension Fund Capitalism," *supra* note 35 at 150.

69 Kevin Skerrett, "Canada's Public Pension Funds: The New Masters of the (Neoliberal) Universe" in Kevin Skerrett et al, eds, *The Contradictions of Pension Fund Capitalism* (Champaign, IL: Labor and Employment Relations Association, 2017) 121 at 130; see *e.g.* British Columbia Investment Management Corporation, *supra* note 65 at 4.

70 In Ontario's 2016 "Sunshine List", there were more employees of the Ontario Pension Board among the top twenty most highly paid public employees than any other public entity: "Public sector salary disclosure 2016: all sectors and seconded employees" (31 March 2017), online: *Government of Ontario* <ontario.ca/page/public-sector-salary-disclosure-2016-all-sectors-and-seconded-employees> [perma.cc/FX4Q-FCJG?type=image].

71 Bédard-Pagé et al, *supra* note 6 at 35.

72 "Contact Us" (2020), online: *Canada Pension Plan Investment Board* <cppinvestments.com/contact-us> [perma.cc/WA7J-USHR].

73 "Contact Us" (2020), online: *Caisse de dépôt et placement du Québec* <cdpq.com/en/about-us/governance/contact-us> [perma.cc/HG57-CNZY].

oppressed, housing is always in crisis."[74] Capitalism has never supplied housing in adequate amounts, in decent conditions, at costs affordable to poor and working-class people.[75] Friedrich Engels, describing in 1872 the terrible conditions in which the proletariat of Manchester were housed, excoriated "[t]he breeding places of disease, the infamous holes and cellars in which the capitalist mode of production confines our workers night after night."[76] The basic features of rental housing have not changed significantly since Engels' time. There continue to be economic incentives for landlords to terminate unprofitable tenancies and minimize expenditures on maintenance and upkeep. Further, the strategies according to which landlords have sought to maximize profits are integral to broader processes of gentrification and the displacement of working-class communities from their historic neighbourhoods.

The provision of rental housing has always been a low-margin enterprise, at least when it comes to housing the average tenant. The initial construction of rental properties requires large capital investment, the return on which may not be realized for decades.[77] Once in operation, rental housing is subject to a relatively high degree of regulation compared to other forms of private property, including rent control and security of tenure, which limits the extent to which landlords can control their revenue streams.[78] Further, landlords are obligated by statute to maintain rental properties for the indefinite future, and so must expend considerable resources on repairs and upkeep.[79] For these reasons, private investment in rental housing was historically the domain of small capitalists who exploited local knowledge and maintained close personal control over their properties so as to manage costs and ensure profitability.[80] One archetypical example is the slumlord, the lone individual who charges relatively low rent but provides deeply substandard facilities in return.

It is only more recently that the rental market has become a site of corporate consolidation, where large landlords with many properties use managerial techniques to reduce costs and increase revenues. In my experience as a housing caseworker in downtown Toronto, these techniques included cost-cutting measures such as replacing in-building superintendents with centralized maintenance call centres (calls to which would only on rare occasions result in action), and revenue-increasing measures such as regularized rent increases and systematic efforts to "buy out" long-term tenants (for example, by exchanging lump sum cash payments for agreements to terminate unprofitable tenancies). The extent of corporate consolidation in the rental market is evidenced by developments such as the $20 billion merger between Invitation Homes, a subsidiary of the hedge fund Blackstone, and Starwood Waypoint, a real estate investment trust,[81] as well as the high-profile purchase of thousands of rental units in Montreal and Toronto by Swedish multinational Akelius over the past decade.[82] In an instance of consolidation with local significance for Parkdale, in 2018 the Wynn Group sold eighteen rental buildings, including the

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[74] David Madden & Peter Marcuse, *In Defense of Housing: The Politics of Crisis* (New York: Verso Books, 2016) at 10.
[75] Michael Harloe, "The Recommodification of Housing" in Michael Harloe & Elizabeth Lebas, eds, *City, Class and Capital: New Developments in the Political Economy of Cities and Regions* (London: Edward Arnold, 1981) 17 at 26.
[76] Friedrich Engels, *The Housing Question* (Moscow: Progress Publishers, 1970) at 71.
[77] Harloe, *supra* note 75 at 29.
[78] *Ibid.*
[79] *Ibid*. In Ontario, this obligation is codified in s 20(1) of the *Residential Tenancies Act, 2006*, SO 2006, c 17 [*RTA*].
[80] *Ibid* at 26.
[81] Javier Espinoza, "US home rental giant created in $20bn deal," *Financial Times* (10 August 2017), online: <ft.com/content/968d075c-7dc6-11e7-9108-edda0bcbc928>.
[82] Steve McLean, "Akelius stocking up on Toronto and Montreal apartments," *Real Estate News Exchange* (20 August 2015), online: <renx.ca/akelius-stocking-toronto-montreal-apartments/> [perma.cc/J6FW-R7MD].

infamous West Lodge Towers, to Timbercreek Asset Management and Starlight Investments, adding thousands of rental units to those portfolios.[83] For corporate landlords, this greatly-expanded scale, planning, and coordination offers a partial answer to the profitability dilemma of the residential landlord.

Another feature of rental housing in capitalist economies is the absence of economic incentives for landlords to maintain their properties. Other owners of housing, including owner-occupiers and condominium owners, are both investors and possessors who have an economic interest in ensuring that a later sale price exceeds a past purchase price.[84] Except perhaps in the most overheated of property markets, this gives owners incentives to ensure that their properties are in good states of repair. The main economic interest of landlords, however, is in extracting rent from tenants. There are few economic incentives bearing on landlords to make repairs so long as they can still collect rent. This is particularly the case in declining markets where rental income is low, or where maintenance costs escalate in legacy buildings.[85] Neglect and under-maintenance is a common issue in Parkdale, where much of the rental housing stock consists of mature buildings constructed in the 1950s through to the 1970s, and where average rents long remained relatively low due to rent control and security of tenure. As a result, there have been extreme examples of under-maintenance in the neighbourhood. For example, in 1994–1995, the West Lodge Towers were abandoned by their then-owner in an attempt to escape tax, utility, and maintenance bills well into the millions of dollars.[86]

Landlords looking to avoid the profitability dilemma have also sought to increase tenant turnover to attract wealthier tenants who are willing and able to pay more rent. Legislative reforms since the 1990s have facilitated this strategy. In Ontario, the Progressive Conservative government under Premier Mike Harris introduced a policy of "vacancy decontrol" in 1998, ending rent control on vacant units.[87] Thus, while tenants in long-term tenancies are protected by rent control legislation, which restricts landlords to increasing rents by an annual guideline rate based on inflation,[88] once a tenancy ends the landlord may increase that unit's rent to whatever level the market will sustain. Vacancy decontrol therefore generates economic incentives to push tenants out of longer-term, unprofitable tenancies by withholding repairs, initiating bad faith "no fault" evictions,[89] or otherwise pressuring tenants to leave.[90] According to housing activist Robert Levitt, the Harris reforms meant that:

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83 Avison Young, "Multi-Residential Investment Review, Third Quarter 2018," online: <avisonyoung.ca/documents/95732/4519304/Greater+Toronto+Area+Multi+Residential+Investment+Review+%28Q3+2018%29/> [perma.cc/7SQX-EB5K].

84 Neil Smith, *The New Urban Frontier: Gentrification and the Revanchist City* (New York: Routledge, 1996) at 62.

85 *Ibid*.

86 Mary Truemner & Bart Poesiat, "The West Lodge Files: Joining Clinic and Community to Overcome Tenants' Subordination" (1997) 35:3/4 Osgoode Hall LJ 697 at 702–705.

87 Robert Levitt, "The Tenant 'Protection' Act: An Attack on Tenants," *Ontario Tenants* (3 April 1998), online: <ontariotenants.ca/research/tenant-protection-act.phtml> [perma.cc/CG7E-MX9D].

88 *RTA*, *supra* note 79, s 120. These provisions were recently amended to exempt new buildings from rent control as long as the building was not occupied prior to November 15, 2018: s 6.1(2).

89 The term "no-fault eviction" refers to an eviction which may be obtained by a landlord without having to demonstrate misconduct, such as non-payment of rent or damage to the unit, on the part of the tenant. In Ontario, these include evictions sought where a landlord seeks possession of a unit for their personal use or the use of a relative, or where the landlord intends to demolish a unit, renovate it, or convert it to non-residential use: *RTA*, *supra* note 79, ss 48-50.

90 See *e.g.* Lawrence B Smith, "Intertenancy Rent Control in Ontario" (2003) 29:2 Can Pub Pol'y 213 at 216.

> Unscrupulous landlords will have a financial incentive to force tenants out of their units so that they can increase the rents under Vacancy Decontrol. As seniors have a tendency to remain in units the longest, they will be very vulnerable to coercion to get them out. Those who are unaware of the new laws, especially those with a poorer command of the English language will also be particularly vulnerable.[91]

During my time as a housing caseworker, it was common to deal with examples of landlords attempting to use coercive and bad faith tactics to force vulnerable tenants out of long-term tenancies, especially where the property had recently been sold or otherwise passed to new management.

The Harris reforms also loosened the requirements for obtaining approval of an "above guideline increase" from what is now the Landlord and Tenant Board. This process enables landlords to seek the Board's approval to increase lawful rent by a rate above the annual guideline set by the Minister of Housing so as to pass on the costs of renovations or improvements to tenants.[92] While the older legislation strictly limited the kinds of capital expenditures and extraordinary increases in operating costs which could justify an AGI, the post-reform law permits landlords to charge tenants for purely aesthetic or luxury expenditures such as swimming pools, lobby televisions, and landscaping.[93] In effect, through the current AGI process, landlords can charge low-income tenants for the kinds of upgrades intended to attract the higher-income tenants whom landlords hope will replace existing renters.

Can we expect pension fund landlords to find some way of avoiding, or at least mitigating, the capitalist market pressures that drive gentrification and displacement? In a study of multi-family rental housing in Toronto, Martine August and Alan Walks explored the techniques used by financialized landlords—such as private equity firms, real estate investment trusts, and asset managers—to increase the profitability of residential rental buildings. Landlords of this type first appeared in Toronto during the mid- to late-1990s and began investing in rental housing to take advantage of opportunities for high returns brought about by the Harris reforms.[94] August and Walks found that financialized landlords have in large part replicated techniques used by other types of landlords to make rental housing provisioning profitable. Specifically, they found that financialized landlords have sought to "squeeze" tenants by increasing rents, imposing new fees, and reducing services.[95] Additionally, financialized landlords have also aimed to "gentrify-by-upgrading" via efforts "to reposition buildings through landscaping and upgrading, and to hasten the removal of sitting tenants to allow for the renovation of their vacant suites" so as "to attract a more affluent newcomer."[96] While these strategies are familiar to landlords and tenants in residential housing markets, the financial nature of these landlords introduces new problems.

The primary difference between individual or non-financial corporate landlords and these financialized landlords is the latter's deeper integration with financial markets. From the perspective of financial markets, asset value—abstracted from any concrete or local concerns—is the most important characteristic of any particular investment.[97] In sophisticated financial

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[91] Levitt, *supra* note 87.
[92] *RTA*, *supra* note 79, s 126.
[93] See *Rent Control Act, 1992*, SO 1992, c 11, ss 14-15 & O Reg 375/92, ss 14-21 for the historical scheme, compared with the current provisions in O Reg 516/06, Sched.
[94] August & Walks, *supra* note 1 at 127.
[95] *Ibid* at 131–32.
[96] *Ibid* at 128.
[97] *Ibid* at 127–128; Madden & Marcuse, *supra* note 74 at 32–33.

investment firms, asset values are closely monitored using, for example, active management techniques. When an asset is underperforming, it should be divested in favour of more profitable investments, or where possible restructured in order to meet the goals of the investor. This constant monitoring has a disciplinary effect, through which local or immediate managers come under greater pressure to ensure returns for financial investors. As August and Walks argue, while non-financial landlords have always managed their properties in order to earn profits, the additional value-maximization imperatives imposed by investment markets are likely to intensify and accelerate the "squeezing" and "gentrifying-by-upgrading" processes.[98] Given that public pension funds have adopted investment strategies common across the financial industry, it should not be surprising to see pension fund landlords engaged in these same practices, as was the case in the eyes of many Parkdale tenants leading up to the Rent Strike.

The rise of financialized landlords, including the pension fund landlord, poses new challenges for tenants and housing activists. One element of this challenge is that it remains unclear exactly how much of the rental housing stock in Toronto and elsewhere is owned by pension funds. As Kevin Skerrett notes, "[l]ike hedge funds and private equity funds, Canadian pension funds are effectively private sector 'for-profit' actors whose internal investment operations are subject to minimal disclosure requirements."[99] A recent report by the Canada Mortgage and Housing Corporation states that only a tiny fraction of the country's total rental housing stock is owned by pension funds, with individual investors and private corporations dominating the overall market.[100] However, the murkiness of corporate ownership makes it likely that the true proportion is much greater. The buildings involved in the Parkdale Rent Strike, for instance, were legally owned by private corporations that were in turn jointly owned by AIMCo and MetCap executives.[101] Moreover, several Canadian public pension funds are whole owners of specialized real estate investment corporations. OMERS, for instance, owns Oxford Properties, which controls a multi-billion dollar portfolio including thousands of rental units across Canada,[102] while CDPQ's subsidiary Ivanhoé Cambridge owns nearly 40,000 units worldwide.[103] Thanks to the well-documented move of public pension funds into alternative investments, it is likely that these investors will continue to expand their rental property holdings in the coming years.

It seems clear that the "squeezing" and "gentrifying-by-upgrading" processes employed by all landlords, and in a more aggressive manner by financialized landlords like pension funds, are contributing to the displacement of working-class tenants from downtown Toronto neighbourhoods. Toronto's cost-of-living has skyrocketed in recent decades, with the average rent

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[98] August & Walks, *supra* note 1 at 134.

[99] Skerrett, *supra* note 69 at 146, n 1.

[100] Canada Mortgage and Housing Corporation, *Housing Market Insight: Rental Ownership Structure in Canada* (Ottawa: Canada Mortgage and Housing Corporation, July 2017) at 2, online: <assets.cmhc-schl.gc.ca/sf/project/cmhc/pubsandreports/esub/_all_esub_pdfs/68469_2017_m07.pdf?rev=0eb4ec8b-75f9-42e3-bb97-3b24513d58b8> [perma.cc/T7FK-S7GG].

[101] This was reported in a CityNews article stating that an "Acquisitions Consultant" with MetCap owned four buildings that were involved in the Parkdale Rent Strike: Shauna Hunt, "Parkdale rent strikes take protest to property owner's front door," *CityNews* (3 June 2017), online: <toronto.citynews.ca/2017/06/03/1590387/> [perma.cc/8PAH-BQE4].

[102] Ontario Municipal Employees Retirement System, *2019 Annual Report* (Canada, 2019) at 55, online: <assets.ctfassets.net/iifcbkds7nke/1DhAXVp76rE7mOwIF9NuWH/a87a98767e9119e574d6ef74c7d39dd4/OMERS-2019-annual-report.pdf> [perma.cc/MH42-PB2V].

[103] Janet McFarland, "Rental rush: pension funds flock to apartment buildings," *The Globe and Mail* (10 October 2017), online: <theglobeandmail.com/real-estate/apartment-supply-shortfall-feeds-pension-funds-hunger-for-residential-holdings/article36526740/>.

for all types of apartments increasing from $907 in 2000[104] to $1472 in 2019.[105] At the same time, social assistance rates have declined relative to the poverty line[106] and working income has failed to keep pace with growth in average rents.[107] For tenants displaced from Parkdale, there are few other options. The march of gentrification has led to the transformation of the downtown core into a predominantly white, wealthy enclave.[108] In Toronto's inner suburbs, where affordable housing stock remains,[109] there is a lower concentration of social services, limited access to public transit, and a lack of other neighbourhood amenities that make Parkdale unique in Toronto. For these reasons, as one of the last islands of affordability in Toronto's downtown, Parkdale has become a flashpoint between the forces of gentrification and neighbourhood organizers fighting to preserve a space for workers, migrants, and the poor.[110]

# V. THE PARKDALE RENT STRIKE

The tensions between the asset-value prerogatives of the pension fund landlord and the needs of poor and working-class tenants came to a head during the 2017 Parkdale Rent Strike. The twelve buildings where rent was withheld are characteristic of the neighbourhood: all are high-rises concentrated along Jameson and Tyndall Avenues, and all are legacy buildings that house many long-term, poor, working class, and migrant tenants. Tenants in these twelve buildings had long

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104 Rob Genier & Ted Tsiakopoulos, *Rental Market Report*, *Toronto CMA* (Toronto: Canada Mortgage and Housing Corporation, 2001) at 13, online: <publications.gc.ca/collections/Collection-R/CMHC/RM/NH12-87E/NH12-87-2001E.pdf> [perma.cc/GV84-GW4Q].

105 Canada Mortgage and Housing Corporation, "Rental Market Report Data Tables" (2019), online <cmhc-schl.gc.ca/en/data-and-research/data-tables/rental-market-report-data-tables> [perma.cc/83WL-22W3]. See data table for "Greater Toronto Area," Table 1.1.2, total for "City of Toronto (Zones 1-17)" for October 2019.

106 Kaylie Tiessen, *Ontario's Social Assistance Poverty Gap* (Toronto: Canadian Centre for Policy Alternatives, 2016) at 6, online: <policyalternatives.ca/sites/default/files/uploads/publications/Ontario%20Office/2016/05/CCPA%20ON%20Ontario%27s%20social%20assistance%20poverty%20gap.pdf> [perma.cc/Z653-B768] (measuring relative poverty according to the "Low-Income Measure" or "LIM").

107 For income data, see *e.g.* Statistics Canada, "Selected income characteristics of census families by family type," Table 11-10-0009-01, DOI: <doi.org/10.25318/1110000901-eng>. See also David Macdonald, *Unaccommodating: Rental Housing Wage in Canada* (Toronto: Canadian Centre for Policy Alternatives, 2019), online: <www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2019/07/Unaccommodating%20-%20Rental%20Wage%20in%20Canada.pdf> [perma.cc/G9TG-BJGJ].

108 David Hulchanski, *The Three Cities within Toronto: Income Polarization Among Toronto's Neighbourhoods, 1970-2005* (Toronto: Cities Centre Press, 2010) at 1, 11.

109 August & Walks, *supra* note 1 at 133–134.

110 See *e.g.* the two recent first-contract labour strikes at companies working out of the Ontario Food Terminal, both of which mainly involved Tibetan Parkdale residents: Alexandra Jones, "Striking workers at Ontario Food Terminal set to return to talks Monday," *Toronto Star* (7 November 2017), online: <thestar.com/news/gta/2017/11/07/strike-at-ontario-food-terminal-causing-traffic-delays.html> [perma.cc/W9XS-DSGW?type=image]; Gelek Badheytsang, "Tibetan immigrants fight for fair wages and dignity at the Ontario Food Terminal," *Now Toronto* (2 May 2016), online: <nowtoronto.com/news/tibetan-immigrants-fight-for-fair-wages-and-dignity-at-the-ontario-food-terminal/> [perma.cc/UY2A-TCJW]. In addition to the Rent Strike, Parkdale tenants have also organized against corporate landlords, such as Akelius, as well as individual and smaller landlords: see Ben Spurr, "Tenants work together, receive compensation after superintendents removed," *Toronto Star* (27 July 2015), online: <thestar.com/news/gta/2015/07/27/tenants-work-together-receive-compensation-after-superintendents-removed.html> [perma.cc/HKZ9-K7AY?type=image]; Rahul Gupta, "Parkdale tenants face eviction for rallying against rent increase," *Toronto.com* (22 April 2019), online: <toronto.com/news-story/9281913-parkdale-tenants-face-eviction-for-rallying-against-rent-increase/?fbclid=iwar2lils5gdhcpvidny4nnlsy7il5hxtg6ph4qk3_24cnjszt4byrzpvzq30> [perma.cc/75QA-HVB2].

complained of repair issues and neglect by management.[111] Despite these concerns, the landlord applied for and was granted AGIs on an annual basis, claiming that the increases were necessary to cover the costs of major capital repairs.[112] According to tenants, the year-over-year accumulation of these increases was making the buildings progressively less affordable, especially for those with fixed and low incomes.[113]

Faced with an intolerable situation but buoyed by recent victories against corporate landlords in the neighbourhood,[114] in early 2017, tenants and organizers began planning to withhold rent payments until their landlord cancelled the AGIs—a rent strike. Planning and organizing for the Rent Strike was first headed by members of Parkdale Organize, a political organization composed of working-class Parkdale residents. Steadily, more and more tenants joined these early efforts as momentum built toward the planned commencement of the Rent Strike on 1 May 2017.[115] The strategies that were developed during the early stages of Rent Strike organizing and then successfully implemented proved highly effective in challenging their pension fund landlord.

When planning for the Rent Strike, organizers were confronted with a question that tenants had been pondering for years before: who, exactly, is the landlord? While MetCap Living was known to be the property manager for the buildings, documents issued by the landlord stated that rent was to be paid to entities with vague or generic names, some consisting only of the building address or a numbered corporation.[116] Rent Strike organizers, intent on targeting the actors who were most capable of resolving tenants' issues, ran title and corporation searches on each company. It turned out that the buildings had varying ownership structures, with each of them owned by an individual MetCap executive along with a major co-investor.[117] After some digging, organizers discovered that the business addresses for many of these numbered and generically-named corporations happened to be the same as AIMCo's Edmonton headquarters.[118]

According to key Rent Strike organizers, tenants had varying reactions to learning that their ultimate landlord was really a massive public pension fund. Some were concerned with the fact that they were up against not just MetCap, whose executives they knew and whose employees they interacted with on a regular basis, but also an impersonal, far-away financial corporation.[119] However, the contradiction was clear between the progressive image of AIMCo's contributors,

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[111] Hilary Caton, "Nine MetCap buildings in Parkdale organize rent strike for May 1," *Toronto.com* (17 April 2017), online: <toronto.com/news-story/7246959-nine-metcap-buildings-in-parkdale-organize-rent-strike-for-may-1/> [perma.cc/JB4E-8TY3]; Emily Mathieu, "Parkdale tenants kick off 'rent strike' to demand repairs, end to rent hikes," *Toronto Star* (30 April 2017), online: <thestar.com/news/gta/2017/04/30/parkdale-tenants-kick-off-rent-strike-to-demand-repairs-end-to-rent-hikes.html> [perma.cc/8RPQ-JFHG?type=image].

[112] Mathieu, *ibid.*

[113] Emily Mathieu, "Parkdale tenants take to the street to fight rent hike," *Toronto Star* (8 February 2017), online: <www.thestar.com/news/gta/2017/02/08/parkdale-tenants-take-to-the-street-to-fight-rent-hike.html> [perma.cc/B3P5-KWEZ?type=image].

[114] Spurr, *supra* note 1100.

[115] For an excellent documentary film narrative of the organizing behind the Rent Strike, including the role of Parkdale Organize, see subMedia, "This Is Parkdale" (3 November 2017), online: *Vimeo* <vimeo.com/241240026> [perma.cc/6QY8-EHJE].

[116] Interview of Cole Webber, Community Legal Worker at Parkdale Community Legal Services, by Jamie Shilton (8 November 2017) [Webber].

[117] See *e.g.* Hunt, *supra* note 101; Webber, *ibid*.

[118] Webber, *supra* note 116.

[119] Interview of Vic Natola, Community Legal Worker at Parkdale Community Legal Services, by Jamie Shilton (8 November 2017) [Natola].

such as the Alberta Union of Provincial Employees (AUPE),[120] and the profit-maximization strategies of the landlord leading up to the strike.[121] Additionally, there was some hope that the public sector workers linked to AIMCo would be more receptive to the Rent Strikers' message than MetCap executives.[122] Thus, in the weeks leading up to 1 May 2017, the organizers developed a plan to target AIMCo directly in the hopes of exposing this contradiction to their advantage.

Rent Strike organizers adopted a multi-pronged strategy of simultaneously creating negative publicity for AIMCo while building solidarity with public sector workers in Alberta. Organizers felt that AIMCo would be more susceptible to a public pressure campaign than MetCap.[123] A few days into the strike, tenants rallied outside of AIMCo's office in Toronto's financial district, demanding that the pension fund put pressure on MetCap to negotiate with the tenants and meet their demands.[124] At first, the landlord refused to budge. A few weeks into the strike, AIMCo's media team insisted that the corporation still had "full confidence" in MetCap's management of the buildings.[125] MetCap soon issued eviction notices to hundreds of rent strike participants.[126]

In response, the Rent Strikers escalated their efforts by launching a website, provocatively named *www.aimcoevictstenants.ca*, which enabled supporters to write to AIMCo executives demanding that they force MetCap to cease eviction proceedings and negotiate with the tenants. Allies in Alberta organized a solidarity action outside of AIMCo's headquarters in Edmonton, where they handed out leaflets to employees and guests entering and exiting the building.[127] As the "AIMCo Evicts Tenants" campaign gained steam, AIMCo leadership became increasingly concerned with the negative publicity, both for the fund and for contributors such as the AUPE.[128]

While the campaign against AIMCo was successful in bringing to light that organization's relationship with MetCap, the strategy of winning over support from Alberta's unionized public

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[120] The AUPE has openly opposed conservative politics in Alberta, for example by running campaigns against policies enacted by Jason Kenney's United Conservative Party. Further, its members in hospitals and correctional facilities engaged in unlawful wildcat strikes in 2012 and 2013: Alberta Union of Public Employees, "The Trickle-Down Pickle Part 2: Exactly How Sour Is This Deal?" (28 June 2019), online: <aupe.org/news/news-and-updates/trickle-down-pickle-part-2-exactly-how-sour-deal> [perma.cc/LD4X-W45Y]; Josh Wingrove, "Deal ends wildcat strike at Alberta hospitals," *The Globe and Mail* (16 February 2012), online: <theglobeandmail.com/news/national/deal-ends-wildcat-strike-at-alberta-hospitals/article546688/> [perma.cc/BC22-FS93]; Bryan Weismiller & Clara Ho, "AUPE and province reach deal to end wildcat strike" *Calgary Herald* (1 May 2013), online: <calgaryherald.com/business/AUPE+province+reach+deal+wildcat+strike/8316462/story.html> [perma.cc/9ABQ-NF5L].

[121] Webber, *supra* note 116.

[122] Natola, *supra* note 119.

[123] *Ibid*.

[124] Webber, *supra* note 116.

[125] Kayla Goodfield, "Parkdale tenants facing eviction after protesting rent hikes," *CTV News* (24 May 2017), online: <toronto.ctvnews.ca/parkdale-tenants-facing-eviction-after-protesting-rent-hikes-1.3426835> [perma.cc/AY3X-A8WF].

[126] Jessica Patton, "Parkdale tenants who launched rent strike say they've been given eviction notices," *Global News* (24 May 2017), online: <globalnews.ca/news/3473811/parkdale-tenants-who-launched-rent-strike-say-theyve-been-given-eviction-notices/> [perma.cc/FQ2G-YXPP?type=image].

[127] Natola, *supra* note 119; Alberta PIRG, "Outside of AIMCO's offices downtown Edmonton…" (7 June 2017), posted on *Alberta PIRG*, online: *Facebook* <facebook.com/alberta.pirg/photos/a.900620746654166.1073741826.900620676654173/1386731514709751/?type=3&theater> [perma.cc/F5H4-CDMZ?type=image]. Public Interest Research Groups (PIRG) are independent, often campus-based political organizations that exist across Canada and the United States. They are generally focused on grassroots organizing and other direct advocacy efforts.

[128] Natola, *supra* note 119.

employees may have ultimately been more consequential.[129] The Rent Strike happened to coincide with the triannual convention of the Canadian Labour Congress, held in Toronto in May 2017. This brought together union members from across Canada, including members of the AUPE. Organizers sought support from union activists—in particular those affiliated with the Canadian Union of Public Employees, Local 3902, which represents academic workers at the University of Toronto[130]—to bring the issues facing Rent Strikers to the attention of convention attendees. Activists supporting the Rent Strike ran an information picket outside of the convention in the hopes of reaching out to representatives of the AUPE, while others scrambled, ultimately unsuccessfully, to arrange a meeting with the convention's keynote speaker, Alberta Premier Rachel Notley.[131]

Efforts to forge solidarity between Parkdale tenants and unionized public employees in Alberta paid off. Across social media channels, AUPE leadership expressed sympathy with the tenants' struggle against what they described as "unfair and potentially illegal rent hikes."[132] Further, AUPE President Guy Smith promised to express the union's concerns to AIMCo, and to continue to monitor the issue as events in the Rent Strike progressed.[133]As a result of the campaign by Rent Strike organizers, not long after AIMCo had expressed "full confidence" in MetCap, the combined pressures of withheld rent, negative media coverage, and AUPE efforts forced both MetCap and AIMCo to negotiate with the tenants.[134]

In the final stages of the Rent Strike, the impact of the organizers' strategy was clear. At a series of meetings in the summer of 2017, tenant representatives, supported by legal workers from Parkdale Community Legal Services, sat across the bargaining table not just from MetCap executives, but representatives of AIMCo as well.[135] Tenants advanced the demands they had pursued since the early planning for the Rent Strike: the AGIs needed to be dropped, and maintenance needed to be completed. The result of these negotiations was a series of confidential agreements, one for each building, in which the landlord agreed to significant reductions in the planned rent increases and made commitments to carry out much-needed repairs.[136] Additionally, AIMCo and MetCap proposed a "rent relief program" that promised to protect tenants facing

[129] *Ibid*.
[130] *Ibid*.
[131] *Ibid*. Organizers had good reason to believe that Rachel Notley might be responsive to their concerns, as she had worked at Parkdale Community Legal Services while completing her degree at Osgoode Hall Law School in the 1980s: Sydney Sharpe & Don Baird, *Notley Nation: How Alberta's Political Upheaval Swept the Country* (Toronto: Dundurn Press, 2016) at 95.
[132] Alberta Union of Public Employees, "AUPE is troubled to hear low income tenants in Toronto's Parkdale area…." (24 May 2017), posted on *AUPE – Alberta Union of Public Employees*, online: *Facebook* <facebook.com/yourAUPE/posts/10155347852360970> [perma.cc/R3Q9-G5JD?type=image].
[133] *Ibid*.
[134] Webber, *supra* note 116.
[135] Emily Fearon, "Parkdale rent strike over repairs, above-guideline increases ends with tenants declaring victory," *Toronto Star* (12 August 2017), online: <www.thestar.com/news/gta/2017/08/12/parkdale-rent-strike-over-repairs-above-guideline-increases-ends-with-tenants-declaring-victory.html> [perma.cc/FDS5-Y78D?type=image].
[136] The specific terms of the agreements have not been publicly shared: Webber, *supra* note 116.

financial hardship from future AGIs.[137] After the first such agreement was signed in early August 2017, the Rent Strike concluded and the Tenants declared victory.[138]

Tenants and organizers consider the Rent Strike to be a significant achievement. Not only were tenants able to push back against decades of increasing costs and diminishing services, but they also demonstrated that collectively, they were capable of confronting big corporations and their economic interests. Moreover, the strategies for challenging pension fund landlords developed by strike organizers offer a model for future tenant struggles as pension funds continue to move into the rental housing market.

# VI. CONCLUSION

The success of the Parkdale Rent Strike demonstrates that pension fund landlords, despite their billions of dollars in assets and commitments to maximizing returns, are not immovable objects. Specifically, in comparison to other institutional investors, public pension funds appear unusually susceptible to public pressure campaigns. Public pension funds retain their origins in public sector unions, or in the case of the CPPIB, a social democratic program of the federal government. Additionally, most have institutional links with unions, though these relationships are more significant in some funds than others.[139] Public pension funds therefore have an interest in cultivating a positive public image that is distinct from the perceived rapaciousness of hedge funds and private equity firms. Public pressure campaigns may force trustees and fund managers to consider institutional histories when making investment decisions. In the Rent Strike, for instance, AIMCo became concerned that its MetCap investment would undermine its relatively progressive image as the trustee of deferred union wages. This led the fund to intervene and force MetCap to negotiate a settlement with the Parkdale tenants. It seems less likely that a hedge fund or real estate investment trust would arrive at a similar conclusion.

Of course, tenants' successes in shifting the costs of maintenance and long-term tenancies back onto their landlords will likely cut into the asset values and investment income sought by pension fund managers and other investors. Given the constraints of profitability in the private rental market, can this strategy lead to anything other than disinvestment in the long term? Engels was pessimistic about the prospect of reforming the system that housed people in those "infamous holes and cellars," writing that "[a]s long as the capitalist mode of production continues to exist it is folly to hope for an isolated settlement of the housing question … [t]he solution lies in the abolition of the capitalist mode of production … ."[140] Whatever it may take to achieve a complete "settlement" of the housing crisis, the Rent Strike and innumerable other examples of successful social movements demonstrate that even in our current circumstances, there is considerable room for maneuver, to push capitalist institutions to assume costs otherwise borne by poor and working people, and to build power for future struggles.

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[137] Natola, *supra* note 119; Rent Strikers' Negotiating Committee, "Parkdale Rent Strike Ends in Victory!" (3 August 2017), online (blog): *Parkdale Organize* <parkdaleorganize.ca/2017/08/03/parkdale-rent-strike-ends-in-victory/> [perma.cc/M388-W3S2].

[138] Hilary Beaumont, "Months-long Toronto rent strike ends in win for tenants," *Vice Canada* (12 August 2017), online: <www.vice.com/en_ca/article/zmy8w5/months-long-toronto-rent-strike-ends-in-win-for-tenants> [perma.cc/39S6-2ZSP]

[139] Isla Carmichael & Jack Quarter, "Introduction" in Isla Carmichael and Jack Quarter, eds, *Money on the Line: Workers' Capital in Canada* (Ottawa: Canadian Centre for Policy Alternatives, 2003) 15 at 22.

[140] Engels, *supra* note 76 at 71.