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Article

Fiduciary Activism From Below: Green Gentrification, Pension Finance, and the Possibility of Just Urban Futures

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Abstract

This article investigates the evolving concept of fiduciary duty and its role in Canadian public sector pension funds' environmental, social, and governance (ESG) investing practices. It contributes to the literature in the distinct but related fields of environmental gentrification and urban climate finance by bringing fiduciary debates into sharper focus. Engagement with issues surrounding investors' legal and ethical duties to invest responsibly can contribute to an enhanced understanding of the global and local mechanisms of production and reproduction of environmental and spatial inequalities, as well as strategies for creating more than just urban futures. ESG, a calculative and modelling technique used to manage investment risks, overwhelmingly focuses on physical and financial climate risks (e.g., infrastructure assets and risks associated with regulatory change). This privileges the instrumental, Cartesian view of the environment as severed from its social, historical, and relational character, a perspective that has been thoroughly critiqued in the environmental/ecological gentrification literature. However, ESG investing has also introduced a potentially productive uncertainty in the realm of financial expertise; it forces questions about what it means to invest deferred compensation in the "best interests" of workers and retirees. This article has three interrelated aims. First, it reviews recent trends in environmental gentrification and urban climate finance literature to highlight an emerging but underdeveloped engagement with ESG and fiduciary duty. Second, it shows how the rise of ESG has revealed a vulnerability in the hegemonic profit maximization interpretation of fiduciary duty and invited further, open-ended, critical-theoretical engagements with the concept of the fiduciary and their responsibilities. Finally, it offers the concept of "fiduciary activism from below" to explore how grassroots agency increasingly stages a direct confrontation with corporations, institutional investors, and shareholders in the struggles over urban space and resistance to environmental and infrastructural violence.

Keywords

climate risk; environmental gentrification; environmental, social, and governance investing; fiduciary duty; housing and infrastructure financialization; organized labour; public sector pension funds; Toronto

Issue

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1. Introduction

The investment decisions of institutional capital are playing an increasingly important and well-recognized role in shaping the political economy of the built environment, with significant implications for both social and environmental justice in an era of the climate crisis. However, critical literature on these phenomena generally pays little attention to the theoretical and practical significance of "fiduciary duty." Fiduciary duties inhere across a broad range of spheres (e.g., familial, medical, and corporate) and are central to institutional investor decision-making and risk management. In the investment context, fiduciary duty is widely associated with a fiduciary's charge to seek maximum risk-adjusted financial returns for their beneficiaries (Archer, 2017). However, the rise of environmental, social, and governance (ESG) investing has revealed a vulnerability in the profit maximization consensus in ways that could lead to more progressive forms of fiduciary thought and activism.

The concept of fiduciary duty dates back to medieval times. Feudal intergenerational management of (landed)

wealth spawned the legal innovation of the trust, which separated "legal" and "beneficial" ownership (Harrington, 2016). Contemporary fiduciary responsibilities consist of the duties of prudence, care, and loyalty in managing property or financial assets in the "best interests" of others. In the pension context, the best interests of beneficiaries are often thought to be equivalent with or reducible to an atomistic financial interest in maximum risk-adjusted returns. However, the spectre of climate catastrophe has propelled ESG investing into the mainstream, inviting renewed reflection on matters of fiduciary duty and best interest. Environmental factors such as physical damage to infrastructure are more readily assimilated into fiduciary logic than social factors. Understanding humans and their environments as fundamentally and inexorably in relation (Mussell, 2022) with one another poses a more profound challenge for ESG's atomized, calculable, and knowable understanding of the environment.

The first two decades of the 21st century have seen significant legal and policy debates and "regulatory clarifications" over the theory and practice of fiduciary duty (Sullivan et al., 2019). In particular, the so-called "Freshfields Report" (Freshfields Bruckhaus Deringer, 2005) commissioned by the UN Environment Program Finance Initiative (UNEP-FI), precipitated new debates about investor responsibilities and the meaning of investment fund beneficiaries' "best interests." Ostensibly, the report made room for workers' wider social and environmental interests beyond narrowly construed financial interests (Archer, 2017; Sullivan et al., 2015). However, most discourse on ESG is dominated by climate. This is evident in both the volume of ESG analysis and regulation dedicated exclusively to climate factors (e.g., Bauslaugh, 2021; Gold & Scotchmer, 2015) and the proportional weight given to these factors in more general reports (e.g., Sullivan et al., 2019). In the context of significant diversity and conflict across ESG ratings, there is both implicit and explicit pressure, as evidenced in a recent *The Economist* editorial, to abandon social and governance factors altogether, while further narrowing the "E" to denote emissions alone ("ESG should be boiled," 2022). However, the explosion of interest in what climate change and climate science mean for fiduciary duty (Sullivan et al., 2019, p. 13) exposes a moment of flux within fiduciary thinking that can potentially be harnessed for more socially conscious interpretations of "green" transitions.

Public sector pension fund investment practices offer an excellent example of how capital "hits the ground" (Mezzadra & Neilson, 2019). Like many of their international counterparts, Canadian public sector pension funds are some of the largest and most sophisticated investors in the world. Canada's eight largest pension funds manage over one trillion dollars, and their investment practices play an increasingly significant role in shaping the political economies and ecologies of the built environment, both at home and abroad (Skerrett, 2017). Moreover, the fragmented and non-universal nature of pensions coverage means that financialized pension investing threatens to pit the present and future social reproduction of different groups of workers against one another.

For a brief period in mid-20th-century Canada, the fragmented and employer-centric world of pensions looked like it might evolve into a public system of broad and equitable redistribution that could guarantee a minimum level of material security beyond paid employment (Shilton, 2016; Skerrett & Gindin, 2017). Instead, neoliberal and financialized pension funds have become central actors in what geographer Deborah Cowen calls the "racial and colonial violence of infrastructure" (Cowen, 2017). Pension capital is increasingly entangled in processes that divide, hierarchize, and oppress—e.g., the poor maintenance and inadequate housing security in rental complexes (Rockwell, 2022), substandard eldercare and exploitative working conditions in long-term care facilities (August, 2021), and carceral institutions that thrive on policing and surveillance (Lindeman, 2019).

Canadian pension funds—including Canada's public retirement program, the Canada Pension Plan, and the country's largest government-union jointly-sponsored public sector plans—are "effectively private for-profit actors…subject to minimal disclosure requirements" (Skerrett, 2017, p. 146). Despite collectively benefitting a sizable majority of the Canadian working population, public scrutiny and accountability of these funds face significant challenges. Yet, these funds' activities are attracting increased scrutiny, as diverse constituencies have successfully pressured pensions to divest from polluters, and human and labour rights abusers (Harman & Ruiz, 2021; Mojtehedzadeh & McKeen, 2018; Woodside, 2021). Indeed, as "stewards" for the retirement savings of diverse workers, public pensions are uniquely positioned for responsible investment, both in terms of economic heft and legal/ethical duties. They are sensitive to reputational risk, direct pressure from unions and workers, and broader social and environmental justice movements (Shilton, 2021).

This article proceeds as follows. The next section reviews current literatures to show how urban climate finance builds on the core insights of environmental gentrification while bringing new processes and actors, such as pension funds, catastrophe insurers, and global governance institutions like the World Bank to the fore. Section 3 builds on these recent contributions by focusing on the UNEP's efforts to clarify the meaning of fiduciary duty in the context of ESG and responsible investment decisions. It shows how global governance institutions reproduce epistemological separations underpinning environmental gentrification processes. In Section 4, I draw on the case of Parkdale, Toronto, where abstract debates over the meaning of responsible investment crossed into a specific material struggle over urban space and environmental justice.

The fifth and final section offers the provisional concept of "fiduciary activism from below" to understand a form of grassroots agency which is increasingly staging direct confrontation with corporations, institutional investors, and their shareholders in the struggles over urban space and resistance to environmental and infrastructural violence. Those impacted by investments perhaps have more agency than the profit maximization interpretation of fiduciary duty implies.

2. Environmental Gentrification, Urban Climate Finance, and ESG

2.1. Environmental Gentrification: Contesting the Erasure of the Social in Sustainability Initiatives

Environmental gentrification research understands that capitalist urbanization involves substantial amounts of socioecological violence (Silver, 2018), including environmental degradation, forced removal, and unequal spatial distributions of environmental burdens and benefits (Dooling, 2018). Environmental gentrification "builds on the material and discursive successes of the environmental justice movement and appropriates them to serve high-end development" (Checker, 2011, p. 212). This definition underscores the fact that any benefits realized from the often unpaid or low-paid labour of resisting environmental harm frequently accrue to others. Thus, environmental gentrification is part of, not separate from, broader capitalist processes that appropriate others' land and resources to create private wealth. Research in this tradition must attend to the broader social effects of urban sustainability initiatives and efforts to "clean" and "green" urban space.

Urban greening initiatives are often presented as politically neutral (Elgert, 2018), especially given the increasingly high stakes of the climate emergency (Rosol et al., 2017). However, such initiatives frequently lead to intended and unintended forms of displacement, erasure, violence, and exclusion, though they can also develop forms of solidarity and resistance (Curran & Hamilton, 2018). In a classic essay on ecological gentrification, Dooling (2009) documented how mutually exclusive land use epistemologies that separate "home" and "urban public green space" normalize the displacement and marginalization of people experiencing houselessness as an inevitable consequence of improving urban habitat for non-human species. Similarly, Checker (2011) explored how longstanding community demands for enhanced public space in Harlem, New York, were ignored until new high-rise condominiums and their whiter, more affluent residents brought a suddenly urgent need for more greenspace. Kern (2015) calls attention to the gendered and embodied aspects of environmental gentrification by examining how the "slow violence" (Kern, 2016) of green consumerism and performatively "healthy lifestyles" consolidate the environmentally sustainable neighbourhood as a socially exclusionary place for those who do not embody hegemonic norms of gender and sexuality (Kern, 2015; see also Anguelovski, 2015; Parish, 2019a, 2020). Wealthy, majority-white, and heteronormative neighbourhoods, communities, and cities are more likely to benefit from ecosystem services like street trees, urban forests, and parklands. Meanwhile, working class and racialized communities are exposed to the everyday violence of environmental neglect and the effects of extreme weather brought by a changing climate.

Yet, environmental gentrification research does not simply conclude that urban environmentalism is inevitably unjust. It also highlights community strategies that advocate for more just and sustainable futures (Goodling, 2021; Safransky, 2017). For example, in a study on the regeneration of Portland harbour, Goodling (2021) demonstrates how complex solidarities forged over time and across difference contest configurations of racial patriarchal capitalist power. Such solidarities, forged between people within and across communities, acknowledge their relationality with one another and their shared environments. Likewise, Safransky (2017, p. 1085) argues that land and property are key "sites through which a range of grievances related to racialized dispossession and contemporary urban crisis are articulated" and thus generate "potent imaginaries of how things could be otherwise."

2.2. Urban Climate Finance: Searching for the Cracks in Green Capital

The relationship between local greening initiatives and the broader ascendence of green and climate finance remains under-explored in the environmental gentrification literature (Anguelovski et al., 2019). Meanwhile, a growing body of critical urban geography seeks to "provincialize" the world of climate finance (Urban Climate Finance Network, n.d.) through detailed, place-sensitive, comparative, and relational approaches to understand where and how finance hits the ground and the implications for urban social and environmental justice (e.g. Bigger & Webber, 2021; Hilbrandt & Grubbauer, 2020; Knuth, 2016; Long & Rice, 2019; Ponder, 2021; Robin, 2021; Taylor, 2020; Taylor & Aalbers, 2022; Webber et al., 2022).

Urban climate finance extends the scalar and regional scope of urban greening. It demonstrates how these processes reproduce social and spatial injustice within cities, between cities in the Global North (e.g., Ponder, 2021), and across North–South contexts (Bigger & Webber, 2021; Hilbrandt & Grubbauer, 2020). The legacies and ongoing processes of capitalism and colonialism ensure that cities, neighbourhoods, and regions most exposed to the effects of climate change are also often those with the least financial and infrastructural capacity to pursue large-scale adaptation or mitigation projects, rendering inhabitants particularly exposed to the extractive institutions of global financial capital (Bigger &

Webber, 2021; Ponder, 2021). Bigger and Webber (2021) argue that the World Bank's investments in Global South cities' adaptation and mitigation needs amount to a kind of "green structural adjustment." The World Bank opens up new "green" markets to help Northern investors find new places to invest over-accumulated capital while fulfilling growing social and regulatory pressures to integrate ESG factors into portfolios. Long and Rice (2019) argue that climate urbanism is characterized by a focus on the protection of digital and physical infrastructures. It excludes or marginalizes human and social infrastructures and may reproduce the social justice issues discussed above (see also Long, 2021).

Urban climate finance studies consider new financial and governmental actors and processes (e.g., the re/insurance industry, institutional investors, green bonds, catastrophe bonds, rating agencies, and international standard-setting organizations). They document the broad and deep neo-liberalization and financialization of urban space as an emergent form of climate-related collateral damage between and across specific places and environments (coastal cities; see Bigger & Millington, 2020; Taylor, 2020), actors (real estate agents, municipal bureaucrats; see Elgert, 2018; Taylor & Aalbers, 2022), financial industries (re/insurance; see Collier & Cox, 2021; Johnson, 2015; Taylor & Weinkle, 2020), and instruments and techniques (green bonds, ratings, standards; see Hilbrandt & Grubbauer, 2020; Ponder, 2021). This occurs through the geographical expansion of financial markets and instruments to new cities and regions (Bigger & Webber, 2021). Through these processes, local governments have come to depend increasingly on the capital and the technical expertise supplied by insurance companies, bond markets and investors to imagine and implement climate resilience strategies (Collier & Cox, 2021; Cox, 2022; Hilbrandt & Grubbauer, 2020; Taylor & Weinkle, 2020).

Importantly, scholars researching urban climate finance interventions also emphasize the political importance of "imagin[ing] and creat[ing] alternatives by widening and exploiting cracks in climate finance" (Webber et al., 2022, p. 20). For instance, Robin (2021) argues that a limited focus on large-scale infrastructure and financial instruments obscures the possibilities and achievements of local actors and initiatives "on the ground" (see also Robin & Broto, 2021). Likewise, research across diverse contexts has also highlighted the "emerging," "unstable" (Bracking, 2019), "conflictive," "provisional" (Hilbrandt & Grubbauer, 2020), and "fragile" (Taylor, 2020) nature of finance-led processes to suggest that they may present new "avenues for critique and praxis" (Taylor, 2020, p. 1144).

2.3. Urban Climate Finance, Fiduciary Duty, and ESG: An Emergent Research Agenda?

The role of pension funds, fiduciary duty, and responsible or ESG investing (Elgert, 2018; Taylor, 2020; Taylor & Aalbers, 2022; Webber et al., 2022) remains to be systematically explored in the urban climate finance literature. Where these issues do arise, the literature is suggestive of the potential for further critical engagement with fiduciary duty and ESG. For instance, Taylor's (2020) research on catastrophe modelling and re/insurance in Florida shows how calculative and financialized modelling and securitization techniques allowed the industry to create a new asset class tailored to institutional investors (including Florida public sector pension funds) risk tolerances (Taylor, 2020). This process contributes to environmental and climate injustice by shifting risk onto individual homeowners, exacerbating racialized housing affordability and abandonment issues, and rendering catastrophe insurance a "crucial vector in housing precarity" (Taylor, 2020, p. 1144). However, the presence of local pension capital highlights "the sociality of climate finance and risk" and raises questions about how capital "might be steered toward adaptation investment measures which transform the underlying geographical basis of risk" (Taylor, 2020, p. 1145).

Webber et al. (2022, p. 19) offer the notion of "capital switching into reparative infrastructures" to analyze how five different small-scale projects decommodify and democratize climate initiatives across three continents. Capital switching builds on David Harvey's insight that capital "temporarily resolve[s] internal contradictions" by "switching" surplus capital "between and within different spaces and sectors of the economy" (Webber et al., 2022, p. 5). The spatial "fix" has a dual meaning—locating in space and solving a problem. Webber et al. (2022) challenge us to imagine problems and solutions as not (wholly) defined by capital. They argue that politics, governance, and the state have crucial roles to play in defining problems (crises) and their solutions (fixes). The concept of reparative infrastructure "links repair to reparations and reparative justice" while emphasizing durable, scalable and life-sustaining solutions (Webber et al., 2022, p. 4). Webber et al. (2022) position pension funds as "the most likely lenders" for such capital-switching initiatives but observe that "this would require a fundamental redefinition of fiduciary duty as, at least initially, yields would need to be kept extremely low" (Webber et al., 2022, pp. 14–15). The next section builds on these suggestive observations to highlight key fissures within ESG discourse. The concept of fiduciary duty is already in flux; it is therefore timely for critical scholars and activists to pose fundamental questions about it.

3. Fiduciary Deliberations From Above: What are Workers' "Best Interests" and Who Decides?

In its simplest form, fiduciary duty means that "trustees exercising fiduciary investment powers must exercise those powers for the purpose for which they were granted" (Freshfields Bruckhaus Deringer, 2005, p. 10). In the Canadian pension context, fiduciary powers are granted to "provide periodic payments to individuals

after retirement and until death in respect of their service as employees" (Gold & Scotchmer, 2015, p. 23).

As previously mentioned, the concept of fiduciary duty dates to medieval times, where it evolved in the feudal context of intergenerational management of (landed) wealth via the legal innovation of the trust (Harrington, 2016). Separating "legal" and "beneficial" ownership solved a crucial problem for landowning classes, in that it allowed land assets to remain in the family in the absence of a male heir (women were legally barred from property ownership and inheritance). Contemporary fiduciary responsibilities consist of the duties of prudence, care, and loyalty in the management of the property or assets of others, and each is supposed to be given due weight (Mussell, 2022). The duty of care implies "skill and diligence," meaning that fiduciaries must consider a wide range of potentially relevant factors affecting the value of investments when managing a portfolio. Loyalty requires that investors make decisions that conform to the purpose of the trust and avoid conflicts of interest. Finally, impartiality means that the interests of particular people (e.g., trustees) or groups of beneficiaries (e.g., retirees, young workers) should not be privileged. These duties are enshrined in law, so trustees can be held personally liable; however, they also have deeply moral historical and ontological foundations (Harrington, 2016; Mussell, 2022).

Fiduciary duty is a paternalistic concept that tends to assign beneficiaries a passive role in deliberations over what constitutes their best interest (revealing the concept's gendered and classed origins). This passivity has not always been accepted by workplace pension beneficiaries, usually unionized workers in the Global North. However, union trustees face real and persistent challenges when seeking to exercise agency in investment decisions on behalf of beneficiaries due to real or perceived conflict of interest issues (Weststar & Verma, 2017). The risk-adjusted profit maximization interpretation of fiduciary duty is often traced to a UK legal decision (*Cowan v. Scargill*; see Freshfields Bruckhaus Deringer, 2005) issued in the mid-1980s. The case asked whether social or moral objectives could be pursued through a pension investment. The decision held that social objectives were incompatible with the pension's purpose to provide an income to present and future retirees, and that best interests were self-evidently of a financial nature. This underpinned two decades of consensus around a narrow common law interpretation of workers' "best financial interests" (Archer, 2017).

At the beginning of the 21st century, the UNEP-FI commissioned an influential report, *A Legal Framework for the Integration of Environmental, Social and Governance Issues Into Institutional Investment* (hereafter Freshfields Report; Freshfields Bruckhaus Deringer, 2005). It found that the most notable thing about *Cowan v. Scargill* was its consistent misinterpretation and misapplication (Freshfields Bruckhaus Deringer, 2005, p. 9). The Freshfields Report was foundational to UNEP-FI's subsequent work to clarify fiduciary duties and incorporate ESG analysis. It compiled international legal expertise on whether:

> The integration of environmental, social and governance issues into investment policy (including asset allocation, portfolio construction and stock-picking or bond-picking) [is] voluntarily permitted, legally required or hampered by law and regulation; primarily as regards public and private pension funds, secondarily as regards insurance company reserves and mutual funds? (Freshfields Bruckhaus Deringer, 2005, p. 6)

The report affirmed that fiduciary duty is not a barrier to ESG integration. Rather, given ESG factors' broad financial materiality, decision makers "are required to have regard (at some level) to ESG considerations in every decision taken" (Freshfields Bruckhaus Deringer, 2005, p. 10).

The Freshfields Report affirms that fiduciaries must prioritize considerations of "best financial interests." However, it broadly interpreted such interests to include the relationship between financial and non-financial (i.e., social, ethical, environmental) considerations. It concluded that both "value-driven" and "values-driven" investments are permissible, depending on the specific context. ESG considerations can impact investment decisions either because of the financial value ascribed to an investment or because the ESG criteria are "relevant to the objectives that investment decision-makers pursue" (Freshfields Bruckhaus Deringer, 2005, p. 10). In the latter case, fiduciaries are not permitted to make decisions based on their own personal views or preference, or on those of a segment of beneficiaries (i.e., young workers, retirees):

> However, a decision-maker may integrate ESG considerations into an investment decision to give effect to the views of the beneficiaries in relation to matters beyond financial return. Courts in the UK have recognised that trusts such as charities are entitled to exclude investments that conflict with their values and that the concept of beneficiaries' 'best interests' under a general pension trust may extend beyond their financial interests to include their 'views on moral and social matters'. In a similar way, US law permits investments to be excluded where the beneficiaries so consent. (Freshfields Bruckhaus Deringer, 2005, p. 12)

This points towards the significance of plan documents, such as statements of investment policies and procedures (SIPP) as well as the mechanisms of communication between beneficiaries and fiduciaries. Ontario regulations now require all pension plans to have SIPP that include "information about whether and how ESG factors are integrated into the plan's investment policies and procedures" (Parish, 2019b, p. 40). Investors can also

utilize research on the relationship between finance and sustainability to draft "evidence-based" statements of investment beliefs to "help trustees and others in governing roles to clarify and articulate their understanding of the relationship between investment practices and forms of financial, ecological, or social sustainability" (Parish, 2019b, p. 40). When an ESG issue enjoys clear consensus among beneficiaries, it must be considered alongside other factors (Shareholder Association for Research and Education [SHARE], 2008). Even when plans do not provide guidance for fiduciaries to pursue or avoid specific kinds of investments for non-financial reasons, fiduciaries may consider social, ethical, or environmental factors as "tiebreakers" when questions of economic value are held to be essentially equal (Bauslaugh, 2021; Freshfields Bruckhaus Deringer, 2005; SHARE, 2008).

The principles initially articulated in Freshfields have been subsequently reaffirmed by a series of reports investigating "fiduciary duty in the 21st century" by the UNEP-FI and Principles of Responsible Investment (e.g., Sullivan et al., 2015, 2019; Tomlinson et al., 2017). A final report (Sullivan et al., 2019, p. 12) summarized the findings of this multi-year global project: "Fiduciary duty itself is not a static concept. It evolves and adjusts in response to changes in knowledge, market practices and conventions, regulations and policies, and social norms." Furthermore:

> Fiduciary duties require ESG incorporation, however capital markets remain unsustainable. As currently defined, the legal and regulatory frameworks within which investors operate require consideration of how ESG issues affect the investment decision, but not how the investment decision affects ESG issues. *Changing this will be our next phase of work*. (Sullivan et al., 2019, p. 9, emphasis added)

In the past decade, climate change has become the single most important element for ESG consideration in fiduciary requirements (obscuring the breadth of factors under the ESG umbrella). Climate change and climate science were not a central focus of the Freshfields Report. Rather, it was used to support the pivotal claim that investment decision-makers must consider ESG "because there is a body of credible evidence demonstrating that such considerations often have a role to play in the proper analysis of investment value" (Freshfields Bruckhaus Deringer, 2005, p. 11). A footnote uses climate change to illustrate this broader principle since it is "an obvious example of an environmental consideration that is recognized as affecting value" (Freshfields Bruckhaus Deringer, 2005, p. 11, note 11).

However, by the early 2010s, climate change's position in expert debates about ESG and fiduciary duty had been amplified. Entire reports, legal briefs, opinions, and investment conference panels unpacked the fiduciary duty to consider climate change when making investment decisions (Bauslaugh, 2021; Bauslaugh & Gartz, 2019; Gold & Scotchmer, 2015; Lancaster House, 2018). Climate change often takes center stage in documents on the general question of ESG (while core social and governance issues such as labour rights, modern slavery, executive compensation, and corporate diversity receive comparatively less space). The fact that investors may be increasingly compelled to consider, not only how climate issues affect investment decisions, but also how investment decisions affect climate issues is undoubtedly a form of progress. However, in line with the climate urbanism thesis, the climate is overwhelmingly framed as "environmental" in the Cartesian sense, that is, primarily impacting the physical world. Climate science is transmuted into models depicting risks to physical infrastructures and the built environment (e.g., Mercer, 2015). The social impacts of climate change and, especially, the potential social impacts of capital and finance-driven adaptation and mitigation are largely externalized.

ESG and climate considerations are thus closely linked to the ongoing reconsideration of fiduciary duty. However, it is not entirely clear what this portends for the "S" in ESG, or indeed for the social nature of environmental justice more broadly. Tremendous amounts of public and private resources have been leveraged to pass knowledge about our changing climate through the grid of risk management and financial intelligibility. The same is not true of social factors such as the "existential threat" of inequality (Lydenberg et al., 2018), and, arguably, nor should it be. As Archer (2017) notes, the rise of ESG as a form of expert-driven fiduciary innovation displaced another way of thinking about the fiduciary duty to invest responsibly. The workers' capital movement, which began in the 1980s, considered social factors to be the starting point of investing. Adherents realized that it was not in workers' class interests to have pensions for workers in one sector or geography profiting from job losses and deteriorating labour conditions of workers elsewhere (Archer, 2017; Skerrett, 2018).

The purpose of a pension fund, beyond the legal technicalities of "payment streams," is ultimately a duty to provide workers with the means of supporting life after retirement. Such a purpose presumes a life worth living, which, at minimum, requires a habitable world. But the question of what constitutes habitability is not self-evidently reducible to the reduction of emissions or protection of infrastructure. Answering it requires input from the very people who are marginalized in debates between legal and financial experts.

4. When ESG Hits the Ground: Resisting Environmental Gentrification in Parkdale

Public sector pension funds have recently taken center stage in the longstanding struggle against gentrification (e.g., Slater, 2004) in West Toronto's Parkdale neighbourhood. Some parts of this neighbourhood enjoy increasingly saturated "healthy" and "green'' luxury

consumption (Parish, 2019a, 2020), while in others, residents struggle to keep landlords accountable for basic environmental health obligations like building maintenance and pest control (Shilton, 2021). Indeed, corporate landlords investing in the affordable, post-War rental housing blocks characteristic of the neighbourhood sometimes use environmental degradation—including neglect and construction-related noise and air pollution—to push lower-income tenants out and attract higher rents for newly renovated units (see August & Walks, 2018; Zigman & August, 2021).

In response, tenants across 12 different buildings in Parkdale staged a three-month rent strike against the property manager MetCap Living in the spring and summer of 2017. MetCap is one of a growing number of financialized landlords acquiring and maintaining rental housing across Canada (August, 2020). One of the company's major investors is the Alberta Investment Management Corporation (AIMCo), which invests on behalf of public sector pension funds and other government funds in Alberta (AIMCo, n.d.). The rent strike protested "above guideline rent increases" and argued that the significant hikes were meant to drive shareholder profits by pushing lower-income residents out. This was especially egregious given their units' chronic state of neglect and disrepair, and the broader city and nationwide housing crisis (Shilton, 2021; see also Zigman & August, 2021).

During the strike, AIMCo issued eviction notices and threatened heavy-handed legal action (Jangård & Gertten, 2019; Shilton, 2021). Their hypocrisy was not lost on the strikers and their supporters, as tenant lawyer and activist Cole Webber explained: "AIMCo claims socially responsible investment practices. We fail to see what is socially responsible about evicting low-income people from their homes in the middle of a housing crisis" (as quoted in Harman & Ruiz, 2021, p. 19). Strikers reached out to the Alberta Union of Provincial Employees, the union that represents employees with savings managed by AIMCo, to seek solidarity. The strikers ultimately claimed victory—MetCap agreed to reduced rent increases, better maintenance, and rent relief measures for those in need (Harman & Ruiz, 2021; Shilton, 2021).

Beyond the immediate successes of keeping racialized and working-class tenants in their homes and developing a social infrastructure of care and solidarity in the face of financialization and gentrification, the strike was also notable because of how it subsequently circulated. The strike was featured in the high-profile international documentary *PUSH* (Jangård & Gertten, 2019) on housing financialization and its impact on human rights. It also featured as part of a panel discussion on ESG and infrastructure investing at a Canadian national pensions conference (Lancaster House, 2019) and was highlighted as a case study in research and advocacy materials prepared by the SHARE (Farha et al., 2021; Harman & Ruiz, 2021).

SHARE is a not-for-profit research and advocacy organization based in Canada that "helps investors steward their assets in ways that contribute to positive social and environmental outcomes" (SHARE, 2022). In late 2021, the organization held an online forum entitled "Investors for Affordable Cities: An online forum on responsible investment and the financialization of housing" (Farha et al., 2021) to launch a report on the same topic (Harman & Ruiz, 2021). It sought to answer the question: "Why is housing affordability an issue of concern for investors?" (Harman & Ruiz, 2021, p. 6). The panel featured former special rapporteur on the Right to Adequate Housing, Leilani Farha, in conversation with SHARE staff, an anti-poverty activist, and an academic. The panel and report are notable as they demonstrate how a relatively small group of striking renters (probably unintentionally) shaped the contours of a hitherto undefined "risk" for institutional capital and brought an investors violation of the human right to safe and affordable housing into visibility as an effect of an ostensibly "responsible" investment policy.

The Investors for Affordable Cities (IFAC) document framed its response to the question of housing affordability in terms of internationally recognized human rights instruments as well as investor responsibilities to respect human rights "in their operations and value chains" (Harman & Ruiz, 2021, p. 6). IFAC builds on an existing concern within the institutional investing world that income inequality is a "systemic risk" or existential threat to capitalism itself:

> Institutional investors are increasingly realizing that income inequality…has become one of the most noteworthy socioeconomic issues of our time. It has the potential to negatively impact institutional investors' portfolios as a whole; increase financial and social system level instability, damage output and reduce economic growth, and contribute to the rise of populism, extremism, isolationism and protectionism. (Lydenberg et al., 2018, p. 8, as cited in Harman & Ruiz, 2021, p. 7)

To make the case that housing unaffordability is a problem, the IFAC report draws on critical urban research connecting financialization to the dispossession of low-income and racialized renters. It specifically cites the Parkdale rent strike as emblematic of an emerging reputational risk for institutional investors who pursue aggressive gentrification tactics associated with rental housing financialization in Canada and elsewhere. Indeed, the strikers' effective organizing tactics are explicitly said to have created a reputational risk for AIMCo: "In addition to the systemic risks associated with inequality, investors face reputational risks for housing investments associated with inequality and unaffordability" (Harman & Ruiz, 2021, p. 7). The report details how tenant tactics "specifically targeted" AIMCo:

> The Parkdale Rent strike drew residents from across the city to rallies and solidarity pickets. Some targeted

> AIMCo's Toronto office as part of a broader strategy to expose a contradiction between the pension manager's responsible investment policies and its treatment of low-income tenants living in its properties….The organizers launched a website named www.aimcoevictstenants.ca, which allowed supporters to click on a link and write to AIMCo executives to demand a halt to the evictions and negotiations with tenants. They engaged trade union activists in Alberta and brought the issue to the 2017 Canadian Labour Congress Convention, leading the Alberta Union of Provincial Employees (AUPE)—whose members' pension assets are managed by AIMCo—to issue a statement in support of the tenants. (Harman & Ruiz, 2021, pp. 19–20)

This concretely illustrates how the "social norms" around the meaning of responsible investment can shift. It demonstrates that there is perhaps more space for agency than is implied by the profit maximization interpretation of fiduciary duty.

5. Fiduciary Activism From Below?

J. P. Hawley coined the term "fiduciary activism" in 1995 to illustrate how American corporate institutions—and pension funds in particular—had displaced individuals as the largest holders of corporate equity and debt. In Hawley's formulation, public pension fund fiduciaries were "activists" because of their increasingly important "political voice" in influencing corporate policy and enacting "external monitoring of corporate behaviour" (Hawley, 1995, p. 417). I use the term differently—and provisionally—to describe how pension beneficiaries and other stakeholders negatively impacted by pension investments form activist solidarities that can be directed at the pension fiduciary. Fiduciary activism from below describes instances when decision-makers are called to reconcile the impacts of their investments with stated commitments to invest responsibly.

The Parkdale case was a struggle for environmental justice because it advanced the economic and environmental habitability of residential rental accommodation for working-class and racialized residents in the face of pension fund housing financialization. That a rent strike is a less-than-obvious example of environmental justice illustrates a broader point about the narrowing of "environmental" categories. Indeed, the home is a quintessential example of an environment; it cannot be severed from the social reproduction of human life and community. Corporate landlords permit the environmental degradation of housing as part of broader strategies to push renters out. "Improvements" that uphold the interests of investors and shareholders (and not the communities) are a form of environmental racism (e.g., Kern, 2022). Had the strike been unsuccessful, the preexisting green gentrification pressures in Parkdale would likely have intensified. As with other areas experiencing these kinds of pressures, the result is a profound tension between infrastructures of care (Power & Mee, 2020) and infrastructures of violence (Cowen, 2017).

Another recent example of this form of activism occurred in 2018, when unionized teachers in Ontario forced a property management company owned by their pension plan to rehire hundreds of cleaners across the country (mostly racialized women) who had been forced out of their jobs through legal but unethical means (Mojtehedzadeh & McKeen, 2018). Additionally, in 2017, Canadian unions with major investments in the British company Thames Water supported their UK counterparts in a fight to protect their defined benefit pension plan by invoking the premise of labour solidarity (Skerrett, 2016, 2018). These examples help us make some preliminary observations about the logic of fiduciary activism from below. Namely, it is premised on an assumption of collective interests that unsettles the fiduciary presumption of an atomized worker possessed by individual interests. Collective and trans-local interests hold sway in certain moments. Furthermore, both the planetary scale of the climate emergency and these complex solidarities—spanning union and non-unionized workers as well as diverse geographies—question the assumption that beneficiaries' best interests are necessarily characterized as narrow, short-term, and highly individualized. Within the context of fragmented and non-universal pension coverage, these actions could potentially deflect the anti-pension race to the bottom arguments and resist the tendency of financialized pension investing that pits the present and future social reproduction of different groups of workers against one another. These examples also shed light on the actors, processes, and temporalities that blur the distinction between financial and non-financial criteria and contribute to "changes in knowledge…and social norms" (Sullivan et al., 2019, p. 12).

Fiduciary activism from below could also gesture toward "a politics that is not centered on the state"—it may be "capable of confronting neoliberalism and the extractive operations of capital at the level of their encroachment in the material fabrics of daily life" (Mezzadra & Neilson, 2019, p. 11). Unlike voluntary "comply or explain" ESG regulation, it demands investor accountability for the effects of investment decisions and not merely the process of making those decisions. However, as the above examples implicitly illustrate, when state protections for workers and renters are eroded, pension funds, like other investors, exploit the proliferating and widening cracks in social democracy wrought by neoliberalism. Local struggles for environmental justice must, therefore, be cognizant of the wider financial context, which includes a legal and ethical duty to keep pension promises, the theory of the diversified portfolio, and a persistent culture of risk-adjusted profit maximization. Even when a pension fund is successfully persuaded to divest from a particular asset for ethical or financial reasons, numerous questions remain: who

buys dirty or abusive assets and where will the fund reallocate the capital to achieve comparable returns? Thus, any transgressive potential of ESG and fiduciary duty in the 21st century requires broad trans-local and cross-sectoral solidarities to pressure financial entities, governments, and regulators—certainly no small task.

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