

Corpus Comunis: precedent, privacy, and the United States Supreme Court, in seven architectural case studies

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The potency of American democracy in cold war rhetoric was not its cultivation of a vibrant and free public discourse but its vigilant protection of private autonomy. The stakes of this conviction were typically apocalyptic: either we preserved the integrity of private spaces and thus the free world, or we tolerated their penetration and took the first step toward totalitarian oppression. The very starkness of this choice manufactured the cold war's governing paradox: in the interests of preserving the space of privacy, privacy would have to be penetrated.

—Deborah Nelson, *Pursuing Privacy in Cold War America*, xiii.

INTRODUCING PRIVACY

Following World War II, as America grappled with the cultural revolution of the 1950s and 60s and defining its identity domestically and on the world stage, a core tenet of American life bubbled to the surface of political, social, and aesthetic discourse: privacy. Once the revelry of the Allies' win in the World War cooled into the precarity of the Cold War, American democracy and the culture it afforded its citizens were positioned and advertised, first and foremost, in opposition to the totalitarian government and culture of the Soviet Union. In her book *Pursuing Privacy in Cold War America* (2002), American literature scholar Deborah Nelson attributes the eulogizing of privacy that emerged in Cold War America to heightened national security discourse and the accompanying fear of the Eastern Bloc.¹ The trajectory of American life would be forever shaped by this discourse, and nowhere is its lasting influence more evident than in two layers of American infrastructure: law and the built environment. Conceptually, privacy presents a straightforward notion, so much so that it's often defined and understood in a binary condition: that which is not public. However, the public versus private dichotomy quickly dissolves when presented in legal and architectural contexts. Perhaps surprisingly, the word privacy does not appear in the United States Constitution and, thus, has not always been a guaranteed, fundamental right. Privacy was first acknowledged

as a right bestowed in America's founding documents in the U.S. Supreme Court (SCOTUS) case of *Griswold v. Connecticut* (1965). This case granted married couples the right to use contraception on the grounds that this was within the confines of their private lives and not to be meddled with by the government. Justice William Douglas wrote for the Court's majority: "Specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance. Various guarantees create zones of privacy."² Exceedingly spatial in this description, these shadowy zones of implied privacy rights can be located in the First, Third, Fourth, Ninth, or Fourteenth Amendments, or some combination therein, depending on constitutional interpretation. In the discipline of architecture, where we construct and delineate private and public spaces, it's worth mapping the evolution of legal privacy with the evolution of private space. Where do these zones of privacy exist spatially, and how are they occupied? How can we begin to characterize the role of architecture, past and present, as good or bad, antagonistic or protective, and as an active player in this discourse? Using digital modeling and imaging tools, *Corpus Comunis* assembles and excavates material from a lineage of seven Supreme Court cases from 1965 to 2022 to establish a cohesive visual language through which we can speculate on how law and architecture together have, and may continue to, define the extents of our private, interior lives.

THE CONSTITUTIONAL EVOLUTION OF PRIVACY

While there is widespread recognition of *Griswold v. Connecticut* as a critical origin point for the expansion of individual rights to bodily autonomy, the subject at the core of the Court's debate - privacy - tends to be overlooked. Justice Arthur Goldberg maintained that Connecticut's Comstock law barring the use of contraception violated citizens' liberties granted in the Fourteenth Amendment as it "unconstitutionally intrudes upon the right of marital privacy."³ The locating of implied privacy rights in the Constitution established in *Griswold*, has gone on to serve as foundational precedent in many high-profile cases, including *Eisenstadt v. Baird* (1972), which granted the right to birth control for unmarried couples; *Roe v. Wade* (1973), which granted the right to abortion for any woman; *Carey v. Population Services International* (1977), which



Figure 1. The Roe Adoption Office. Image credit: Lindsey Krug.



Figure 2. The Lawrence Apartment. Image credit: Lindsey Krug.

granted the right to contraception for anyone at least 16 years of age; *Lawrence v. Texas* (2003), which granted the right to homosexual relations; and *Obergefell v. Hodges* (2015), which granted the right to same-sex marriage. As of the recent ruling in *Dobbs v. Jackson Women's Health Organization* (2022) and the Court's decision to strike down the 49-year-old precedent established in *Roe*, this lineage of rights rooted in privacy has been destabilized. As the blanket of federal protections around privacy is in flux, a more granular tapestry of local and state definitions is emerging, suggesting an urgency to interrogate and understand what privacy means and how it is constructed. For architects, if our role is to design and erect spaces that articulate zones of occupiable space, there is a responsibility to understand the larger socio-political constructions that are projected onto built form.

SPACES OF PRIVACY: SEVEN CASES

Corpus Comunis presents the seven aforementioned Supreme Court cases by constructing the seven architectural spaces where each was sited. These legal-turned-architectural case studies utilize the published briefs of SCOTUS proceedings, historical press coverage, contemporary written and photographic evidence, and open access information from

GoogleEarth to build digital mock-ups of each case's real setting. For most cases, the exact building or structure where contested events took place is known; in others, a typological placeholder has been created. While there are vast differences in typology, scale, and material, these architectures are filtered through a unifying aesthetic and punctured to deny the reading of a single architectural object and reveal their spatial and material layers:

Griswold v. Connecticut, 381 U.S. 479 (1965) is sited at 409 Orange Street, New Haven, CT 06511 [see Fig. 3 & 4]. This wood-framed, traditional New England two-story residence-turned-fertility clinic is where Estelle Griswold and Charles Buxton ran a reproductive health clinic, the Planned Parenthood League of Connecticut (PPLC).⁴ From here, they engaged in advocacy surrounding fertility counseling and awareness. Griswold was the PPLC Executive Director, and Buxton was the PPLC Medical Director, as well as the Department Chair of Obstetrics & Gynecology at Yale University. In addition to organizing border runs to New York and Rhode Island to help married couples obtain contraceptives that were illegal in Connecticut under the Comstock Law, Buxton and Griswold



Figure 3. Estelle Griswold in 1963. Photo credit: Lee Lockwood/Getty.

began distributing contraceptives directly from their clinic and were arrested nine days later in 1961.⁵

Eisenstadt v. Baird, 405 U.S. 438 (1972) is sited at Hayden Hall, 685 Commonwealth Avenue, Boston, MA 02215 [see Fig. 9]. Described as an “architectural monument to higher education,”⁶ in the style of modern Gothic, this masonry structure on the campus of Boston University is one of its oldest auditorium spaces and where activist William Baird was invited to speak to students about reproductive health and justice. Following his 1967 speech, he gave an unwed, 19-year-old student a condom and contraceptive foam and was immediately handcuffed for violating Massachusetts’ Crimes Against Chastity, Morality, Decency and Good Order laws.⁷

Roe v. Wade, 410 U.S. 113 (1973) is sited at a typological placeholder: an adoption agency in Dallas, Texas [see Fig. 1]. This generic office space is where Henry McCluskey would have practiced as the attorney who helped Norma McCorvey (the previously anonymous plaintiff Jane Roe) organize the adoption of her second and third children from unplanned pregnancies.⁸ Though the face of abortion rights, McCorvey never had an abortion herself but sought one out during her third unplanned pregnancy in 1969.

Carey v. Population Services International, 431 U.S. 678 (1977) is sited at a typological placeholder: a post office in North Carolina [see Fig. 10]. This generic shipping, sorting, and receiving facility is where mail-order contraceptives would have passed



Figure 4. The Griswold Clinic. Image credit: Lindsey Krug.

through in the 1970s once sent from the North Carolina-based corporation Population Planning Association to recipients in New York state, violating New York’s Education Law.⁹

Lawrence v. Texas, 539 U.S. 558 (2003) is sited at the Colorado Club Apartments, 794 Normandy Street, Houston, TX 77015 [see Fig. 2]. This triplex-style apartment complex in East Houston is where John Lawrence lived and spent time with his friend Robert Eubanks and Eubanks’ boyfriend Tyron Garner.¹⁰ Following a drunken disagreement in 1998, Eubanks called the police with false accusations against the other two men, resulting in four deputies showing up, entering Lawrence’s residence, and allegedly discovering Lawrence and Garner engaging in a sexual act violating Texas’ “Homosexual Conduct” law. Lawrence and Garner were arrested.¹¹

Obergefell v. Hodges, 576 U.S. 644 (2015) is sited in a Learjet 45 airplane [see Fig. 5 & 6]. This small, business and medical jet model is a likely candidate for the type of plane flown by Ohio residents John Arthur and Jim Obergefell to be legally married on the tarmac of Baltimore/Washington International Thurgood Marshall Airport airport in Maryland. The State of Ohio did not allow same-sex marriage at the time, so as Arthur was terminally ill with amyotrophic lateral sclerosis (ALS) disease, the two men flew to be married in Maryland in 2013. This allowed them to petition for recognition of Obergefell as Arthur’s surviving spouse on his death certificate.¹²



Figure 5. Jim Obergefell, John Arthur, and officiant Paulette Roberts conducting the wedding ceremony on the tarmac at BWI airport on July 11, 2013. Photo credit: Glenn Hartong/Associated Press.



Figure 6. The Obergefell Airplane. Image credit: Lindsey Krug.



Figure 7. Lone protestor sits outside the gate of the Jackson Women's Health Organization October 27, 2021. Photo credit: Rory Doyle/Reuters/Alamy.



Figure 8. The Dobbs Clinic. Image credit: Lindsey Krug.



Figure 9. The Baird Auditorium. Image credit: Lindsey Krug.



Figure 10. The Carey Post Office. Image credit: Lindsey Krug.

Dobbs v. Jackson Women’s Health Organization, 597 U.S. ____ (2022) is cited at the Jackson Women’s Health Organization (JWHO), 2903 N State Street, Jackson, MS 39216 [see Fig. 7 & 8]. This pink stucco building, known as the Pink House, is surrounded by a tall wrought-iron fence covered in a black-out fabric screen. This was the last women’s health clinic offering legal abortion procedures in the state of Mississippi.¹³

CONCLUSION

The progression from *Griswold* to *Dobbs* – a 49-year bracketing of time and space – begins and ends in a health clinic. The domestic kitsch of the post-residential PPLC in New Haven contrasts starkly with the clean, institutionalized form of the JWHO in Jackson. Domestic and even feminine motifs are layered onto the Mississippi structure as a hipped roof adorns the pink-washed walls; but the sober filter of the digital reconstruction evokes a different reading. The five spaces in between cover architectural ground from the residential to the commercial to the institutional to the technological. Presented in the digital renderings of these re-constructed spaces is an architectural boring sample. As a five-foot-wide cylindrical sample is excavated from each architectural set, the layering of enclosure, furnishings, signage, and other architectural detailing is revealed in sequence. The unifying cut joins these seven spaces not by typological or aesthetic architectural qualities, but instead by the spatial privacy precedent they establish together. They are not remarkable, but they are familiar, and they reveal the utterly ordinary architectural arrangements that have become historically-significant via legal proceedings in the nation’s highest Court. From the front steps of a wood-framed residence-turned-fertility clinic in New Haven, to the nameless adoption office that Norma McCorvey visited, to the interior of the plane where John Arthur and Jim Obergefell were married, *Corpus Communis* looks back through this synthesized architectural-legal document in order to prepare to move forward in the uncertain and piecemeal landscape of privacy rights in America.

ENDNOTES

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