

THE WORLD JURIST ASSOCIATION'S  
24<sup>TH</sup> BIENNIAL CONGRESS  
IN PRAGUE  
CZECH REPUBLIC  
OCTOBER 27, 2011

PRIVATE RESIDENTIAL COMMUNITIES:  
A CROSS CULTURAL COMPARISON

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In the last half-century throughout the world there has been a near geometric increase in the number of private residential communities, many of them gated and secured from their larger communities. England, New Zealand, France, Portugal, Spain, Mexico, China, South Africa, Russia, Argentina and numerous other Latin American countries, Lebanon, and the United States of America have all experienced this growth in varying ways and with some similar impacts and some different ones.

This article reviews the experiences across several nations for a cross-cultural comparison to identify points of commonality and differences and how we might learn from each other in terms of managing private residential communities now and in the future.

UNITED STATES OF AMERICA

In 1964 there were fewer than 500 so-called “common interest developments.” The terminology here reaches a number of different types of development and organizational scenarios. Common interest developments include single-family residential developments where there are covenants and cross-easements and other legal restrictions imposed on individual property owners. The term might also include condominiums which are not so much a form of development as they are a form of ownership in which individual residential units are owned individually. In condominiums, in addition to the privately-owned units there are “limited common elements” which might include a porch or patio and a small backyard, and “common elements” shared equally and openly by all owners, including access drives, parking, parks, recreational amenities.

We also have cooperative ownership arrangements under which an entire building or group of buildings is owned by a single corporation and individual tenants live under perpetual tenancy-in-common arrangements.

These developments might include townhouses and other types of attached residential structures. There has also been an increase in the number of cluster developments where overall densities for the parcels are maintained, but the actual development is limited to some portion of the total parcel area and the balance is set aside as permanent open space or dedicated recreation land. These cluster developments can be single-family detached or they can be a mix of housing types including attached and detached as well as townhouse, mid-rise and high-rise structures. They

can also include mixed use, such as commercial office and retail uses, and even industrial and other production and employment centers.

As part of this general broad range of developments in the United States, we have planned residential developments which are a type of common interest development. They include a mix of housing types from single-family detached up through high-rise residential. There may also be planned unit developments which connotes a mixed use with industrial, commercial, retail, and residential uses.

The earliest figures we have are for 1964 in the United States when there were fewer than 500 common interest developments. By 1970 there were 10,000 developments, 1980 – 36,000 developments, 1990 – 130,000, 2000 – 222,500 developments and by 2009 there were 305,400 developments with a total of 24.4 million housing units with 60.1 million residents – a total of 19.7% of the country's population in this type of development.

In the United States, common interest developments are governed by volunteers through a board of directors. The larger ones, of course, have full-time managers and employees. The smaller ones do not.

In the United States, many of the constitutional protections that are afforded residents particularly as to civil rights, including free speech and other forms of expression, can be and are eliminated by contract in these common interest developments.

For example, while people in the United States can post any sign on their property with any non-commercial message, so long as it does not include hate speech or incite violence, a resident of a common interest development may be prohibited from freely posting signs, even those of pure political or religious speech. They are routinely prohibited from flying various types of flags, other than the national flag, and even that sometimes has been a source of controversy and litigation.

The rules of these common interest developments may prohibit the outside drying of clothes and even pets of any and all types and sizes.

I, for example, live in a residential subdivision of single-family detached homes on lots of about one acre, a cluster development with open space. There are covenants and restrictions on those lots which include such requirements as having only paved or brick driveways, natural wood siding painted in earth tone or "colonial" colors, approval of all landscaping design, a minimum of a three-car garage with all cars required to be parked inside the garage at all times, no outside storage of boats or recreational vehicles, buildings of "traditional" or "colonial" design, no outside drying of clothes and so forth. Many of these restrictions would not survive legal challenge if they were imposed by the government, but common interest developments have been determined to be largely characterized as those of private contract and as such the restrictions are generally enforceable except where they are contrary to public policy, such as covenants prohibiting persons of certain race, nationality or alienage. Those types of restrictions have been ruled unconstitutional and unenforceable by American courts.

The proliferation of these types of developments has been driven by several factors. First, local governments in the United States are highly dependent on the real property tax as a source of

local funding. In my home state of Connecticut, we have the second-highest percentage of local revenues from the real property tax of any state in the country, after New Jersey. Fully eighty-four (84)% of local government revenues come from the real property tax. Those real property taxes are used almost entirely for support of public education, infrastructure, and public safety.

Local governments want to have these common interest developments because they typically provide for themselves by maintaining the roadway and utility systems thereby relieving the municipality of some of its fiscal burden. In addition, they tend to be higher-density developments with smaller units and fewer children which reduces in a very significant way the amount of money that local governments must spend on schooling.

This brings us to the second driving force behind these developments – the increased focus on life style and so-called “adult” communities. Such communities are generally restricted to people age 55 and older. Local governments have strongly encouraged developers to do these types of projects because the age 55 and older communities tend to have few if any children. Some of these communities prohibit children 18 and under from living there, although grandchildren can visit once a year for two weeks or similar short periods.

Third, as land for development has become relatively more scarce in the United States, developers have sought to increase the yield on the land that they have through higher densities. Higher densities are also more efficient for developers, increasing their profits by reducing the per unit cost for roads, water, sewer and other infrastructure improvements. Developers have promoted their projects to local governments as common-interest developments with positive fiscal impacts for the local governments.

Numerous problems have arisen as a result of this large number of essentially unregulated common interest developments.

First, they are run by volunteers and those volunteers often lack the expertise to manage the communities properly. The governance documents for these communities give the board of directors unusual powers. They can even foreclose and take possession of someone’s home for unpaid monthly assessments, sometimes less than \$100. The individual residents have very little bargaining power and are unlikely to litigate over issues because of the cost of lawyers.

Second, capital reserves for the maintenance of the improvements on the property are typically insufficient and over time, as major systems fail, property owners are required to pay large capital contributions for replacement of major structures, such as roadway systems, roofs, piping and the like.

Third, common interest developments are physically, socially and politically isolated from the larger community. Many of them are gated communities with full-time security guards and walls all the way around. They tend to turn inward in terms of their decision-making and orientation and they leave the larger public community without some of the leadership, common resources and support that the community would otherwise have.

Fourth, these communities tend to be exclusive and exclusionary. They are homogeneous generally in their social and economic status and they tend to exclude those of lower economic and social classes resulting in a somewhat socially sterile environment within.

Fifth, the design of these communities tends to be physically and functionally inefficient. At Hilton Head Island, South Carolina, there is a long string of gated communities connecting to one main access road and you physically cannot get from one neighborhood to the other without going some distance all the way down through a gated entrance to the access road, down the access road, and back up a parallel road system. All this is required in order to reach your neighbor who you could probably see over your fence but can't visit without a 15 or 20 minute drive on private and public streets which are often highly congested because of these unnecessary flows of traffic among physically-isolated gated communities.

## ENGLAND

Sarah Blandy, Jennifer Dixon and Dupuis and David Parsons report on a local gated community called "Nether Edge" in Sheffield, England in a chapter entitled "The rise of private residential neighborhoods in England and New Zealand" in Private Cities: Global and local perspectives, edited by Georg Glasze, et al. (2006). England, unlike some countries, has a highly detailed and definitive land use planning and regulation system largely arising from the Town and Country Planning Act of 1947. Policy at the regional level is implemented through four government offices for the regions (GORs). Each of the GORs has a regional spatial strategy (RSS) "to provide a broad, long term strategy for the economy, housing, transport and the environment of the region."

Sheffield, in the Yorkshire and Humber region, has housing policies setting a target of 770 houses per year to be built with about two-thirds of those on brownfield sites. There seems to be little guidance, however, on mandating any type of inclusionary practices to create a mix of housing types, sizes and prices. Nether Edge is on a 4.22 hectare (10.43 acre) site with an initial phase of 180 residential dwelling units.

Interestingly, because under English law positive covenants cannot be enforced on freeholder (fee simple) owners after the first purchaser, Nether Edge was established for tenancy under leasehold. There is no statutory basis for this arrangement and no widely-accepted documentation.

Buyers of units at Nether Edge are subjected to documentation which is largely a contract of adhesion which includes a 7-schedule, 24-page lease and numerous other documents setting out 23 restrictive covenants. Among those requirements are that they paint their premises every 7 years and clean their windows every 4 weeks and, like the covenants on my own house, you cannot hang your laundry outside.

Nether Edge has professional managers on-site to maintain the estate and common areas on behalf of the management company. It is expected that, once the project is fully developed and leased, the developer will offer the freehold of the entire property to the management company at a nominal sum at which point the leaseholders will be asked to take over management and if they don't, the management company will continue on.

What is remarkable in this example is the degree of developer control without much statutory oversight and guidance, and the degree to which the leaseholders fail to fully appreciate the extent of their obligations and liabilities and the true limitations on the amount of control that

they have. The Commonhold and Leasehold Reform Act 2002 does not provide for the regulation or licensing of managing agents and allows them to be appointed as directors of new commonhold associations.

## NEW ZEALAND

Blandy, et al. also report on Ambrico Place, a medium-density housing development in Auckland, New Zealand. Ambrico Place is not a single development but 8 separate terraced developments built by different developers at different times and at different levels of quality. It is a large project for Auckland with about 300 units total. There were issues in the planning of the project with new residents moving in on site without knowing that there were other developments underway in connection with the same project.

The authors in their research found several issues regarding the corporate governance of the site. About three-quarters of the residents were dissatisfied with management, expressing concerns about poor communications. Governance is under the terms of the Unit Titles Act, similar to the condominium laws in the United States where there are individual units and common areas. The body corporate is created at the time the unit plan is legally formed and it becomes responsible for the common property.

The residents have numerous complaints about the body corporate rules established by the developers. The developer is the first registered proprietor for all units and as such, becomes the body corporate at the outset. As units are sold, the individual unit owners become part of the body corporate and once all of the units are sold, the developer is out. This is similar to the process in the United States where there is a transition usually at some majority percentage stage of unit ownership.

The structure of the body corporate management process creates numerous conflict of interest situations. The property management companies get long-term contracts from the developer and then charge back the expense to the unit owners. Sometimes the property management company and the developer are legally and financially connected such as when they share a director. Sometimes the property management company owns a unit in the project for the on-site manager and thus becomes a member of the body corporate with full voting rights.

The same problems as identified in Suffield, England at Nether Edge seem to be evidenced in the Auckland, New Zealand development with unit owners not adequately understanding their rights and responsibilities and a corporate structure and management that has divided loyalties.

## FRANCE

Gated communities are found in France, as might be expected. The Montretout gated neighborhood in Saint-Cloud was developed in 1832.

## PORTUGAL

In the Lisbon Metropolitan Area of about 2.5 million people, from 1985 to 1999, 97 new gated housing developments were identified in just 10 of the 19 municipalities in the 3,122 square

kilometer area. Since 2000, there has been additional expansion of this type of private residential enclave.

As Rainer Werhahn and Rita Reposa report in “The rise of gated residential neighborhoods in Portugal and Spain: Lisbon and Madrid” in Glasze, et al. eds., Private Cities: Global and local perspectives, only the larger and wealthier developments are able to support expensive amenities such as golf courses, tennis courts and schools. Greater security is provided in the larger developments. The authors conclude that the emergence of Lisbon’s gated communities can be attributed to the transformation in Portuguese social structure with rapid upward social mobility and growing poverty at the other extreme. These developments also reflect a desire for better living environments and lifestyle with what they describe as “package landscapes” to overcome spatial fragmentation. An additional impetus has been the supply side pressure brought to the market by key executives of Brazilian firms who want to live in gated communities when they relocate to Portugal.

## SPAIN

Gated communities in Spain largely arose in the 1950s as weekend and holiday resort get-away locations, according to Rainer Werhahn and Rita Reposa in “The rise of gated residential neighborhoods in Portugal and Spain: Lisbon and Madrid” in Glasze, et al. eds., Private Cities: Global and local perspectives.

In the 1980s, however, the continued development of such communities was driven by the conversion of weekend homes into permanent homes, the development of single-family neighborhoods with private security and the emergence of a newer form of the condominium type in row houses and apartment complexes.

As in Lisbon, Madrid’s gated communities have been driven in part on the supply side by developers seeking opportunities. Here, too, there is the obvious influence of globalization and international models of housing. In Madrid, the housing styles tend towards Anglo-Saxon row and semi-detached houses, most of them without gates.

In Spain, it does not appear that a desire for private governance is an important motivation for people choosing a gated, private community. Private governance tends to be minimal with regulations directed toward maintaining essential services.

## MEXICO

Setha M. Low in an article entitled “Unlocking the Gated Community: Moral Minimalism and Social (DIS) Order in Gated Communities in the United States and Mexico” describes the gated community in Mexico City for upper middle- to middle-income people. Mexico City’s residential neighborhoods are generally occupied along class lines. The upper classes live along a corridor north and south of the city. The edges of the city have historically been neighborhoods of illegal squatter settlements and the poor built on public lands. The fringe areas have been expropriated and the public land privatized with infrastructure installed and then sold to individuals in these areas. Gated communities have expanded.

One of these gated communities is Vista Mar at the base of Ajusco Mountain. Vista Mar has four access gates with armed guards and is surrounded by a forest and stone walls. There are no cross streets. All of the streets end in a T to prevent vehicles from driving by. There are 900 lots, 400 square meters each, and typical builders sometimes combine up to 3 lots for a single home. A single lot costs about 2 million pesos or \$120,000 U.S. dollars and selling prices for houses on single lots have been between 3.5 million and 4 million pesos (\$420,000 to \$500,000 US). There is some mixed use with a few businesses, such as a bank and a hotel. There is limited apartment development.

In her analysis of Vista Mar, Setha Low found that providing security and supportive services for infrastructure became so important that the residents of Vista Mar were drawn to create their own overlay of private governance even though there was no formal statutory or contractual support for it.

Under Mexican law, closing access to public roads as was done in Vista Mar with its four gates is unconstitutional. Still, the residents have maintained those gates both physically and financially because the state does not provide adequate maintenance for the streets and a sufficient level of security to protect the residents. Payment for these private services is voluntary, so only about 45% pay their fees. Those who do pay fees have access through a reserved gate.

There has been some disregard of the restrictions imposed by the government on the original development that were intended to protect certain environmental resources in the semi-ecological zone. Houses have been built larger than the size permitted and some have been constructed without required green areas. In part, the problem is because restrictions were not properly codified in state or municipal law.

## CHINA

As might be imagined given the amount of growth and social and economic mobility in China, gated communities have emerged. Guillaume Giroir reports on a field study conducted June to July, 2000, in a gated community near Beijing, in his article “The Purple Jade Villas (Beijing): A golden ghetto in red China.”

Purple Jade Villas has 400 luxury villas on an area of 66.6 hectares north of the capitol and 12 kilometers from the center between the fourth and fifth ring roads.

Gated communities were new to China in the 1990s and had not previously been reported on. Giroir concludes that these gated communities are similar in some respects to others elsewhere with some variations particular to China. The villas are extreme in their luxury and constitute economic segregation in stark terms.

The condominium as a form of ownership is “deeply imbedded in contemporary Chinese society” according to Chris Webster, Fulong Wu and Yanjing Zhao as reported in their article “China’s modern gated cities” in Glasze, et al. eds., Private Cities: Global and local perspectives.

Many variants of the condominium form of ownership have survived the socialist era and are playing a role in China’s mixed-market economy. There is an increased tendency toward

enclosure of premium locations with high-end gated communities, the perpetuation of the enclosed former work unit residential neighborhoods and the emergence of privately-managed, middle-income neighborhoods. Chuzcin in Wuhan has a planned target population of 300,000 and is probably China's largest gated town. Gates are traditional in China, and walled neighborhoods as well as co-ownership in condominiums is consistent with a long, cultural tradition. One characteristic sets them apart from other gated communities within cities elsewhere. In China, all economic classes, though segregated geographically, have opportunities to live in gated and secured areas of co-housing from the poor living in courtyard housing to the rich in Beijing and Shanghai in California-style communities. The broad range of middle-income people live in condominium developments in between.

## SOUTH AFRICA

The 1990s was a decade of great change in South Africa as a consequence of the end of apartheid. The expansion of spatial and social mobility, coupled with the globalization of economy has influenced the search for new lifestyles believed to be possible in gated communities. Ulrich Jürgens and Karina Landman report on these new developments in "Gated communities in South Africa" in Georg Glasze, et al. eds. Private Cities: Global and local perspectives (2006)

Large social and economic differences among population groups still remained after the abolition of apartheid. Of the poor, approximately 68% were black, 14% Asian-Indian, 35% coloureds and 8.4% white. At the same time there was evidence of increased opportunities for advancement in professional life for blacks which ultimately would lead to some leveling of economic class.

One study looked at two gated communities of note in South Africa called Forestdale and Santa Cruz, which were developed exclusively as security communities with no element of lifestyle or prestige of essential significance.

South African gated communities are of three types: security estates and townhouse complexes, townhouse complexes, large security estates and enclosed neighborhoods (Heritage Park in the city of Cape Town and Dainfern in the City of Johannesburg). Jürgens and Landman conclude that gated communities in South Africa are largely driven by fear of crime and result in a new type of segregation, one based on economic class, rather than race. These communities tend to be socially homogeneous, culturally homogeneous or income homogeneous.

## RUSSIA

It wasn't until the mid-1990s that gated communities first began to be developed in Russia and they are there today in growing numbers. Sebastian Lentz, in his article "More gates, less community?: Guarded housing in Russia" in Glasze, et al. eds., Private Cities: Global and local perspectives, interprets this trend in two ways. First, the rise of gated communities may be a new phenomenon related to global economics and Russia's economic, legal and social transformation, and supported by concerns about security. His other interpretation is that such communities are actually not new at all but have some history in Soviet society which characteristically was "deeply fragmented and spatially subdivided."

Examples of Russian gated communities include Pokrovsky Hills built by an investor from Texas. There are walls and security guards protecting the approximately 2,600 residential units with monthly rents of between \$8,000 and \$10,000 US. The housing was originally intended for foreigners but now about 7% are Russian. There is an Anglo-American school in the community and shuttle service to the nearest public transportation.

Another community is Donskoy Posad. "Posad" translated is "suburb." It is an 18-story building near the Donskoy Monastery with 84 apartments of 80 to 200 square meters each and 2,500 square meters of commercial uses. It has some amenities including a gymnasium, a car wash and a laundry. Donskoy Posad is typical of the closed, high-rise residential developments in central Moscow and other Russian cities.

Another example is Vorobyovy Gory ("Sparrow Hills") in a high-value location near Moscow State University. This is a large project with 7 high-rise residential blocks of up to 35 stories. It has landscaped grounds, flower beds, fountains and numerous activities including ice hockey, tennis, a mini-football field, playgrounds, a fitness center, computer center, water park and beauty facilities. There is even an indoor sky slope for children. There are also commercial uses on-site including restaurants and a supermarket is planned. Entrance to the site is only through gates with barriers. The area is entirely monitored by video and there are guards and concierges.

Another development of interest is Kvartal 75 and Kvartal 84/85. These are in Urban District No. 75 and Urban Districts No. 84 and No. 85. Kvartal 75 is a redevelopment area with 500,000 square meters of new development, 390,000 square meters of which will be residential in buildings of 5 to 32 stories.

The second project in the planning stages is Kvartal 84/85 (expected to be completed in 2007 as of this report). The units will be sold to private owners.

## ARGENTINA

Latin America's largest gated community is Nordelta, a so-called town-village (Ciudad Pueblo), a virtual island of exceptional economic class compared with the greater Buenos Aires area of 14 million people.

As reported by Michael Janoschka and Axel Borsdorf in their article "Condominos Fechados and Barrios Privados: The rise of private residential neighborhoods in Latin America," the Nordelta marketing materials boast of:

An avenue surrounded by palms. Great green areas and parks. Lime trees, spruces, willow-trees and magnolias. An enormous and silent water surface. And everything that design and comfort can nowadays introduce to achieve a better life. A place like this does exist. And it is not at the end of the world. It is exactly in the geographical centre of Nordelta. Its name is the Island.

(Nordelta 2002).

The 1,600-hectare development is home to 80,000 people and is essentially self-contained with private schools, private university, a technical school and a sports complex. It has its own shopping center and entertainment center as well as a civic center. There are approximately 30 planned neighborhoods within Nordelta.

Development of such gated neighborhoods in Latin America is driven by a combination of a desire for a North American lifestyle, globalization of real estate development, economics, and labor force; all coupled with an increasing gap between economic classes and fear of crime.

These gated communities contrast with the historic Spanish colonial cities of Latin America which were not physically enclosed as these new gated communities are, but had individual closures with the classic internal patios and atriums and gates and doors to the property.

According to Janoschka and Borsdorf, private residential communities in Latin America are of three types: urban gated communities for middle and lower-middle class families; suburban gated communities for middle and upper-middle classes with detached houses with substantial common facilities; and mega-projects with integrated cultural and educational facilities.

Between 1990 and 2001, Mexico City had 750 new gated residential projects with 50,000 housing units coming on-line. In Buenos Aires there are 450 suburban gated communities, 80% of which were developed between 1995 and 2001. There are 12 communities of more than 5,000 residents. An unknown number of garden towers should be added to these types of private residential developments. In 2002, more than 130 of these garden towers were listed in local newspapers as having apartments for sale. Overall, perhaps 20% to 25% of the housing market in Buenos Aires is in gated communities. There are other “informal” gated communities where neighborhoods have restricted access in one way or another.

In Nordelta, the survey evidence suggests the driving force behind residents wanting to live in that private development are: political and economic insecurity in the larger urban area, the enhanced urban and suburban environment in a gated city with the higher levels of private investment, desire for a personal lifestyle and more socially homogeneous environment, and “the wish to achieve a new lifestyle ... motivated by face-to-face propaganda, personal knowledge and group behavior.”

## LEBANON

The number of private residential neighborhoods in Lebanon has increased enormously since the 1980's largely around the capitol city, Beirut, and in north Lebanon at the suburban edges of Tripoli. Georg Glasze in “The spread of private garden neighborhoods in Lebanon and the significance of a historically and geographically specific governmentality” in Glasze, et al. eds., Private Cities: Global and local perspectives identifies two types: condominiums with apartments and gated communities of mostly single-family homes or terrace homes.

There are private, individual residential units and common spaces with maintenance provided and 24 hour security services with recreational amenities. About 2% of the Lebanese housing supply is in these types of estates and about 7% of the housing stock during the 1980s and 1990s was developed in these types of private residential settings.

It appears that the impetus for development of these communities in Lebanon is not tied to global conditions but local issues, principally the Lebanese war. One Lebanese political scientist attributes these new communities as the result of a retreat “to the mountains” and a rejection of city areas.

The development of these private residential communities occurred in two phases. During the civil war (1975-1990), resorts and condominiums emerged. In the second phase (the 1990s), condominiums predominated but there were a few resorts and gated communities as well around Beirut, Tripoli and Saida.

One of the types of amenities in these communities is passive-scenic views and access to the beaches. Gated communities have tended to be developed in areas of environmental concern and sensitivity and only recently has the government begun to respond to the concerns of the Lebanese environmental groups against such beach resorts as in Jbeil. Development, however, remains largely unregulated.

## CONCLUSIONS

What can we learn from this cross-cultural comparison of the emergence and rapid expansion of private residential communities?

First, as to why they have become increasingly popular, it appears that in most countries these driving forces are at work: 1) a perception of the need for more physical security; 2) a desire for an exclusive neighborhood or community with public recognition of its unique and special qualities; 3) a quest for homogeneity or a wish to exclude others of different race, alienage, ethnicity, people of certain ages, social class or economic class; 4) the objective of preserving and enhancing wealth through mutual covenants and restrictions that would prevent adverse negative externalities and preserve the positive externalities that come from appropriately-maintained property; 5) a desire for a higher level of service beyond what public governments can provide by creating a quasi-governmental organization with adequate funding; 6) an interest in certain lifestyle and recreational amenities that might not otherwise be conveniently available, including golf, tennis, aquatic activities, social clubs, dining opportunities and access to natural features including open space, hiking trails, and waterfronts.

There are many common problems and unresolved issues that appear with surprising consistency among and across all of the countries reviewed. They include: 1) a lack of governmental statutory and regulatory guidance and oversight; 2) inadequate private governance structures with mostly voluntary management that is transient, ineffective, and sometimes abusive; 3) numerous problems with conflicts of interest and even corruption when developers, managers and governmental officials become too entangled with the governance of these private residential communities; 4) fragmentation of the social and political structure of the larger community by isolating a significant segment, often the group that is most educated and has the greatest resources, from participation in public governance; 5) inadequate environmental protections undetected because of the physical isolation of the communities which makes it difficult for others to routinely observe activities within those communities.

Corrective actions appear necessary for virtually all of the countries reviewed including: 1) development of detailed statutory provisions for the approval, operation, maintenance, funding and oversight of private residential communities; 2) consideration of the civil rights of individuals within these communities such that those rights are more consistent with what is available to all in open, public residential settings; and 3) strategic social, political and economic reintegration of the private residential developments into the public sphere.

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