

Chapter 5: Making Colonia Land Markets Work More Efficiently: The “Problem” is the Solution

Towards One Texas

In recent years there has been a quickening of interest in public policy towards colonias in Texas. Since 1989, most bi-annual legislative sessions have sought to develop policy and regulation that will both curtail colonia development on the one hand, but will also improve living conditions in existing areas, on the other. This two-prong approach has had some success. It has reduced the proliferation of colonias in the border region especially, but it also appears to have displaced colonia settlement outside of the border counties where the regulations apply. At the very least, even if it has not actively displaced colonia development elsewhere, we have become much more aware that colonias type phenomena exist elsewhere, and are not just a border issue. Legislation, too, has generally been helpful—creating model sub-division rules in 1989; generating resources for water and wastewater extension into colonias in 1991; requiring servicing compliance in order for colonias to be ‘approved’ (HB 1001, 1995); reforming Contract for Deed practices to provide for greater protection to purchasers and the conversion to a mortgage type of arrangement, also in 1995; and in the 1999 session to a raft of modest but important initiatives folded into a Colonias Omnibus Bill that, *inter alia*, offered some planning functions to border counties, created a number of local Ombudspersons for colonia matters, empowered counties in conjunction with affected residents to short-cut red-tape bottlenecks that threaten to lock people out of receiving improvements, and through the Secretary of State’s office, has sought to ensure a higher degree of coordination between public and private agencies with an interest in colonias.

There has also been an important shift in the way in which we are beginning to think about colonias. No longer are these areas solely perceived as aberrations: mis-development, comprising indigent Mexican-born populations living in squalor and in conditions that pose major environmental and health hazards, both to themselves and to nearby urban populations through groundwater contamination, anti-social pathological behavior, and the like. Increasingly colonias are seen to be what they are: the working poor, primarily Hispanic population, struggling to make a homestead within a regional context of a low-waged economy in which there are no affordable alternatives for housing (particularly for home ownership), but with a latent capacity for self-help and for mobilizing internal social capital that will lead to overall upgrading of these settlements. The challenge has been to develop policy that will work enhance this social capital in order to achieve outcomes that benefit both residents and nearby populations. Developers, long seen as the villains of the piece (and probably rightly so), continue to be the target for attack by state agencies, but less for reasons of retaliation for having created

the problem in the first place, and more to regulate their activities and to ensure that lot sales in unapproved colonias (i.e. without services) be no longer tolerated with impunity.

Another important policy shift observed in 1999 was the recognition that colonia-type subdivisions exist outside of the border region and are home to more ethnically diverse populations—African-Americans, Anglos, as well as Mexicans and Mexican-Americans. Indeed, legislators began to consider alternative names for the phenomenon, recognizing that the term “colonias” had little relevance for non-Hispanics, and was considered as a highly derogatory term by many people who lived in poorly serviced homestead communities. There were also some attempts to regulate low-income sub-division development that is occurring elsewhere in Texas, for fear that these might become the “colonias” of the future. As we have shown in this study, this might be yet another example of closing doors after the horse has bolted, but it is a positive sign that Texas is beginning to wake up to the possibility that these sub-divisions are a rational self-help response to poverty on the one hand, and to the natural aspirations of home ownership on the other.

However, while there is growing awareness about the nature of colonias and their widespread nature throughout Texas, there is also resistance to extending policies outside of the border. A number of distinguished advocates have argued long and hard on behalf of special treatment and resources targeted at border colonias, and they are frequently uneasy about the possibility that these new-found resources might be spread to cover to non-border areas. It is perceived, not altogether incorrectly, that this is a zero sum game. The irony, therefore, is that at a time when we are at last beginning to appreciate the wider ramifications of colonia-type developments, policy and lawmakers may be turning inwards, seeking to protect and to privilege the border. An example of this was the important decision in 1999 to create a Senate Committee for the Border. This gave greater political weight to border affairs and interests, but it is also acts to separate and segment border matters within the wider Texas context. Of course, such affirmative action is not new, and the advocacy response on behalf of border exclusivity is understandable given the relative poverty levels, past neglect, and the cultural integrity of the region. But the possible downside implications of hiving off colonia solely to border areas needs to be addressed. Policy development should seek to break the zero-sum dilemma, by opening up new resources and, more immediately, by extending the application of best-practices and legislation outside of the narrowly defined border counties. Doing the latter, at least, usually has no new resource implications. In short, in developing policy for colonias, we should do so in terms of One Texas.

Vacant Lots: A Problem, but also a Solution?

In an earlier research project that led to the current study five policy “imperatives” were identified as arenas for discussion and policy making during the 1991 and 2001 Legislative cycles.⁵² Those five imperatives included: 1) A new paradigm of thinking about colonias; 2) Better inter-governmental and inter-institutional coordination in colonia initiatives; 3) The promotion of colonia densification, targeting especially the large number of vacant lots; 4) More flexible and realistic standards, norms and ordinances that are sensitive to colonia populations and low-technology approaches; and 5) The enhancement of social capital an organizational capacity in colonias.

As mentioned above, there has been some progress on several of these fronts, particularly the first two, both of which are easier to achieve politically since they cost little to nothing, and are primarily organizational. There is still a long way to go on all five fronts, but the purpose of the current study has been twofold. First, to conduct the research about one of those imperatives: namely low densities and the relatively high number of vacant lots in existing colonias. And second, to inform the policy making process by identifying a number of specific actions or areas of action that will improve the operation of colonia land markets, leading to more efficient land use, and to higher lot occupancy rates.

We have seen that just among the 1381 colonias listed in the TWDB database modest to high rates of vacant lots are the norm (ranging upon average from 30 to 50 percent unoccupied according to TWDB data—see Table 1.3). Our own data drawn from specific settlement surveys suggest that lot non-occupancy rates are somewhere between 20 and 40 percent for most colonias (see also Table 1.4)

Given an estimated total of almost 150,000 individual lots across those 1381 settlements, we calculated the number of lots that are unoccupied (excluding smaller settlements which are usually built-through), and estimate that there are just over 26,000 unoccupied lots assuming a twenty percent vacant occupancy rate. This amounts to almost 7,300 acres or 11.3 square miles of unoccupied lots, that, were they occupied at the average household size of 4.3, would accommodate a further 100,000 people into existing colonia settlements.

Densities are already very low. Partly a result of Texas law that severely constrains multiple lots occupancy, are almost always single household-occupancy (the average

⁵² Peter M. Ward, *Colonias and Public Policy in Texas and Mexico*, 1999, University of Texas Press, Chapter 6, “Conclusion: Texas Colonias and the Next Policy Wave, pp. 242-61.

sharing ratio was 1.17 households per occupied lot according to our survey data). Working with our survey data estimates of an average household size of 4.3 members, occupying one third-acre lot sizes (15,500 square feet or thereabouts), this gives 10 persons per occupied acre—without counting absentee lots. These are low densities indeed, and especially low when one factors in fact that a substantial proportion of lots are not occupied at all. Just bringing those vacant lots up to average lot densities of 10 per acre would increase the population by almost 75,000.⁵³

When we embarked upon this research we posited that such low densities in Texas are problematic for a number of reasons. First, the unit cost of servicing dispersed settlement is much higher than settlements which are built or occupied-through. Second, it might be considered inequitable that absentee lot holders should be allowed to “free ride” the sweat-equity and mutual-aid programs of actual residents, as well as deny other would-be colonia residents the opportunity to homestead on those vacant properties. Third, low population density undermines the social density in colonias, reducing the effective social capital of the residents themselves and their propensity for successful self-help, and empowerment. Fourth, low densities dramatically reduce the critical mass of population that is required to sustain local businesses thereby generating local employment and income earning opportunities, not to mention to sustain public and private services such as transportation, garbage collection, etc. Fifth, this is hardly “smart” growth, and such low-density occupancy rates reflect an inefficient and poorly functioning residential land market.

Moreover, notwithstanding the controls imposed by earlier legislation to prevent the proliferation of new colonias, it seems inevitable that the population will continue to grow substantially over the next two decades — probably growing half as much again in the border area alone during that period.⁵⁴ This will occur as absentee households take-up occupancy of their lots or sell out; as larger lots are subdivided formally (if legislation permits) or informally for rental or for single-family residence, and as young adult couples raise larger than average families, etc. In the absence of draconian measures to inhibit densification on the one hand, and a much more proactive stance taken by state and private sectors to develop affordable housing on the other—neither of which is

⁵³ The difference between the two estimates is due to the larger lot size (15,500 square feet) included in the persons per acre calculation.

⁵⁴ The TWDB database gives almost 400,000 people living in colonias. Assuming a program to achieve full lot occupancy, a further 100,000 people would be accommodated in existing colonias. However, sensitive policies to achieve greater in-colonia densification (lot sharing, rental dwelling development, etc) could effectively double that increase.

likely—it seems certain that large-scale population growth in colonias will happen anyway. The choice facing Texas is whether it is planned for or not.

An advantage for Texas is precisely the problem itself. That so much land—over 7,000 acres, or 11.4 square miles—and so many lots (over 26,000), are potentially accessible and amenable to strategic intervention, presents a huge opportunity that should not be lost. The challenge is to plan for, and to articulate that intervention effectively.

“Fixing” the Land Market

Planning for greater lot occupancy and for future densification will require a combination of measures that will both stimulate the private residential land market to densify (incentives or “carrots”), as well as to regulate growth through planning controls and restrictions (“sticks”). The existence of low densities is not accidental, but rather it is symptomatic that the land market is not operating efficiently. As we have observed, the majority of colonias are close to being sold-through, which suggests that the market mechanism entrained by developers has worked quite well, even though they it has invariably been undertaken in bad faith and with broken promises. But we have also observed that there are a large number of low-income householders who have not occupied their lots, and who for the most part now hold their lots as security for the future and as an investment, with rarely a thought of ultimately constructing their own home on the lot. For them, the policy challenge is to encourage them either to sell up, or to move in.

Moreover, there are those whom we were able to trace through the tax records. We have observed that there appear to be many absentee purchasers who subsequently “walk away” from their lots, no longer paying the property taxes and having no forwarding address at which they can be contacted. Unless the local county tax office repossesses those lots to cover the nonpayment of taxes, or some other mechanism is promoted, then these lots are effectively locked out of the marketplace. Thus one of the principal challenges today is how to encourage the uptake of lots in a way that enhances social equity and does not simply provide additional “profits” to developers. Also, how best to provide incentives that will prime the market and lead to a greater turnover (sale) of vacant lots?

A second major policy challenge is to improve the overall functioning of the colonias land market, and in particular, to allow colonia residents to reap some of the benefits of homesteading, and to profit the land valorization process that their self-help efforts and sweat equity have generated. Somewhat to our surprise, we found considerably more activity in land market transactions than had been anticipated, such that almost half of the contemporary colonia residents have bought into the colonia relatively recently (since

1991). This was unexpected because legislation in 1995 had sought to curtail lot sales until colonias were fully provided with services and had been state-approved. Also, our absentee lot owners' database had revealed that almost three quarters of the sample had bought their lots earlier, before 1991. We suspect that developers may still be selling lots behind-the-scenes, and the upsurge in service provision in many colonias from 1995 appears to have encouraged people to buy and move into colonias. In fact, no less than 39 percent of all lot purchases across our two surveys (residents and absentee owners) had bought their colonia properties during the eight year period since 1991 (see Table 4.9).

So, if the market already shows considerable turnover and is less sluggish than we had supposed, why should it be primed to work more smoothly? There are two principal reasons. First, in order to free-up some of the available vacant land to would-be homesteaders, and to minimize the amount of land that is "locked out" of the market due to people walking away or sitting on lots until these have increased their value. Second, it is desirable to raise land values to a level where there will be: a) greater incentives for absentee owners to sell; b) significant returns upon the investment that low-income groups have made in improving their dwellings and community; and c) greater opportunities to raise the tax base that will make for greater sustainability of colonias by the county authorities.

Our data reveal that despite the greater than anticipated market activity in terms of demand, this is not reflected in substantially rising prices in real terms. Only those who bought cheaply some twenty or more years ago are likely to enjoy a reasonable return on their investment (in effect more than doubling in value, or a 5.5 percent per annum gain). Lots bought by later purchasers have barely held their value in real terms, or have increased marginally (see Table 4.13). The reasons for such modest or minimal increases during a period in which property values in other sectors of the market have appreciated considerably are complex, and we do not pretend to understand them fully. *Prima facie* we offer the following possible explanations. One important factor is that this is unequivocally a low-income land market, with limited price elasticity of lot values in real terms. Unless real incomes increase significantly in the border region, one cannot expect property values (read land values) to increase. To do so would place them outside the reach of the majority of those who are the likely demand. Nor is there any appreciable demand from other better-off working class groups that might prompt "raiding" downwards. Although this does occur, the potential demand from such individuals at present remains somewhat limited.

Another important factor in depressing land values in real terms are the restrictions that are placed upon land uses in colonias. The requirement that lots be used solely for residential purposes by homesteaders, and not be rented out, inhibits rents being earned from one's lot. The same applies for non-residential uses of land—commerce,

workshops, storage, parking etc. Were a modest amount of alternative land uses to be permitted, then there would be greater incentives to develop vacant lots. This would raise land values at least to the extent that new land-use developments did not create negative externalities for residents (planning could prevent this). Many functions—corner stores, micro-enterprises etc.—would almost certainly have a positive effect upon lot values. Moreover, our interviews with residents suggests that vacant lots already act as a negative externality, at least they do so if they are used as dumping grounds or are badly overgrown and harbor pests and other hazards.

In the same vein, legislative attempts to restrict sales especially since 1995, although ineffectual, in combination with the stated goals of preventing ongoing sales and “freezing” colonia development, appear to have had an important effect of depressing lot values. Nor has the ongoing negative stereotyping of colonias as slum communities improved their image as a legitimate land market and housing option. Strangely, the introduction of services into specific colonias, which is usually expected to accelerate land valorization, appears to have little impact upon overall land values—a finding that we have also come across elsewhere.⁵⁵ There seems little doubt that in the long term service provision will enhance property values, but it does not appear to occur in the short term, nor in ways that are predictable. In short, N\$ investment does not compute to N\$ value added. This makes it difficult, if not impossible, to apply valorization charges or taxes.

Here is not the moment to develop densification policies in detail, since these will need to be thought through in conjunction with state and county officials, as well as with community residents and their representatives. However, below we offer a number of broad-brush options that could usefully be explored in the light of the findings of this Report.

Incentives for Greater Lot Occupancy and Colonia Densification: Carrots

Most of the following incentives are designed to make the market operate more smoothly and to promote access to purchase and a greater flow of lot sales. An important consideration throughout will be to balance the need to promote market fluidity on the one hand, and to ensure that developers not overly benefit, on the other. Developers need to be encouraged to withdraw and to hand over their portfolios to not-for-profit entities. Alternatively, they need to move their operations firmly into compliance with servicing, platting, and other county and municipal norms. Similarly, individual lot owners from whom lot occupancy is not a near-future goal and priority, need encouragement to release

⁵⁵ Jones et al. 1994, op cit.

their lots into the market place and to begin to realize their investment—and to do so sooner rather than later.

Market Incentives

- 1) Provide services and create equitable cost recovery mechanisms.
- 2) Allow for rental and rent-seeking activities that take advantage of “urban productivity”.
- 3) Negotiate with developers in order that remaining unsold lots be transferred to the transfer of their lots to a Public Holding Company either at discount, or at fair market prices for un-serviced lots.
- 4) Create a Government Public Holding Company to participate in colonia planning, utility development and, where appropriate, to promote lot sales with cross-over subsidies to the colonia.
- 5) Offer to buy vacant lots from non-developer absentee lot owners at fair (or enhanced) market prices, either for unserviced or serviced lots, and transfer to (4) above.
- 6) Provide greater public information on colonia land market opportunities.
- 7) Sponsor further research into colonia land market operations.

Regulatory Incentives

- 8) Allow for multiple lot occupancy.
- 9) Offer property tax allowances/reductions for residential occupancy [on approved ‘social’ uses and/or on micro-enterprises that enhance urban productivity (low cost rental housing, etc.)].
- 10) Allow for lot subdivision down to a certain minimum threshold.
- 11) Rescind legislation that inhibits individual service hook-ups until the colonia is approved.

- 12) Provide for temporary low-code status in newly designated Special Social Interest Zones which will allow people to upgrade homes without prejudice.⁵⁶
- 13) Promote research into low-technology and innovative sewage and wastewater disposal systems.

Incentives for Densification: Sticks

These measures are designed either to encourage (voluntary) compliance or to make it obligatory. Texas, with its strong libertarian tradition, is unlikely to move towards policies that are punitive. But some of the following measures might be feasible, possibly in conjunction with the positive incentives outlined above.

- 1) Sequestrate developers' holdings where these are found to be in flagrant breach of the law (i.e. a form of punitive damages).
- 2) Require absentee lot owners to occupy or develop their lots for approved uses (including rental) inside a given time frame (3 years?).
- 3) Develop fiscal policies that would penalize vacant land holding by applying differential (higher) rate of property tax.
- 4) Charge owners/developers the full cost of service provision in order to guarantee recovery of investment costs, with an option to sequestrate if they do not comply.
- 5) Provide for the sequestration of lots of absentee owners where these cannot be traced, with compensation at the full market rate in cases of subsequent proven claims.

Densification Policy: Ideas for Action in the 77th Legislative Session.

Property Taxation, Land Occupancy and Urban Sustainability

Local property taxes are a primary source of revenue for urban and service development, particularly residential services such as sanitation, schools, roads, social infrastructure and facilities, etc. Indeed, ISDs are funded from assessments based upon property taxes both from the actual county in which the ISD is located, as well as from other better off (property tax endowed) counties, through so-called "Robin Hood" transfers from rich to poor districts. Other (non ISD) taxes are assessed by counties on behalf of a number of

⁵⁶ See Ward, 1999. op cit.

entities that have responsibilities for providing services: these include the county itself, drainage districts, roads, etc. Large states such as Texas have huge variations of tax bases, given the large urban centers on the one hand, and a tapestry of rural communities, the other.

Large rural-located subdivisions such as colonias, particularly those along the Texas-Mexico border, further aggravate such discrepancies, having a low fiscal yield in terms of revenues, and high (potential) fiscal demand in terms of 'lumpy' (high cost) servicing requirements. It is for this reason that cities invariably refuse to annex colonias that are within their ETJ's, and will even gerrymander the city limits around colonias to avoid including them within the city boundary. This occurred in Brownsville in the case of Cameron Park. Only in Larga Vista did a city (Laredo) annex a colonia that we had studied, and in this case it was relatively easy to annex being small, already quite well developed, and close into the city in an area already designated for commercial and other growth.

Potentially property taxes and local government fiscal policies represent an important policy instrument for shaping land use. Moreover, many local authorities are increasingly looking to such instruments as a mechanism to make urban development sustainable, and as a means to recover some of the value increments that public sector intervention generates.⁵⁷

Working Through Tax Appraisers

As part of the study we conducted a number of interviews with both tax appraisers (those who appraise and update land and property values), as well as the actual tax assessors who levy taxes on behalf of the county. Indeed, from the outset the property tax records were at the center of our methodology for tracking absentee lot owners, and they generally had been very cooperative.

Typically tax appraisers take great professional pride in generating accurate and well maintained tax appraisals. Here is not the moment to evaluate those procedures, but three important points are made that are germane to our policy analysis. First, the peculiarities of colonia land market transactions make accurate appraisals problematic, since there are likely to be a less complete sales record. Nevertheless, wherever possible, taxpayers entering the appraisal process for the first time are solicited for information regarding

⁵⁷ See for example, Dick Netzer, 1998, *Land Value Taxation: can it and will it work today?* Lincoln Institute of Land Policy, Cambridge Massachusetts. See also "Value capture for urban development: an Inter-American comparison. Martim Smolka and David Amborski, mimeo, May 2000.

purchase price information, etc., although such information is given voluntarily. Most appraisers in counties with a large colonia populations will have a systematic schedule that may be used in order to appraise property improvements where these include shacks, trailers, manufactured homes, self-built homes or a mixture of the same. This schedule will reflect the deterioration, age, etc. However, we suspect that it is a less nuanced and less accurate instrument than that used for the “regular” property market. This is almost certainly the case in non-border counties, where the phenomenon of colonia housing is less well recognized and less understood.

A second feature of note is that appraisers, generally, do not like to generate “special” assessments which they see as an artificial distortion of appraised land and property. Appraisers make residential valuations based upon the fair market value of the property were it to be sold; and to appraise commercial properties on the rents that uses can appropriate from the land site. They do not like to assign special assessment values that might be applied to a piece of property tied to its use or non-use, or to one-time or temporary additional payments to cover valorization charges (which they argue are difficult to measure and predict). Preferable in these circumstances are one-off specific charges to developers for providing a service, and post-improvement adjustments in the taxes levied through the normal process of re-appraisal of the fair market value.

Thirdly, appraisers will rarely acknowledge that there is a systematic difference between the appraised values and actual market values, or that there is a rule of thumb for the (lower) ratio of appraised to market value. Nor would appraisers admit that colonia property markets were treated any differently than the rest of the market. This is understandable since the mandate of appraisers is to accurately assess and update the appraised property values in current market values.

That being the case, our research has identified several major flaws in the process which are germane to the land market operation. Specifically, there is a major mismatch between appraised values and what would appear to be the current market value or the current real purchase cost (Table 3.2), the latter being almost double. This was particularly marked in the case of certain counties. In short, tax appraisers unwittingly appear to significantly underestimate the land values of colonias, and almost certainly do the same for property improvements in colonias as well. While arguably socially progressive in so far as it lowers the tax liability of low-income residents, this practice: a) reduces legitimate property tax income to the county which might otherwise make programs on behalf of colonias more replicable; b) it condones low taxes for absentee owners who put little into the community and lessens their incentive to sell out; and c), it depresses the activation of real land value increases, by undervaluing land and property in colonia land markets.

There is also inadequate information about the number of “bad” tax addresses, which are especially high in the case of colonia populations. Estimates for the number of bad addresses range from a known 8-10 percent in our database (of returned surveys “addressee” unknown) to probably double that number in reality. One well- informed tax appraiser estimated a 40-50 percent bad addresses for colonia populations.

Firm policy recommendations here are:

- 1) To commission new research at the county levels to systematically identify: a) the “bad” addresses in the tax property record; b) the delinquency rates in tax payments; and c) lost tax revenues.
- 2) To promote more accurate appraisals of colonia type subdivisions through the sharing of information and best practices to other border and non-border counties.
- 3) To require a closer correspondence of appraised to market values for colonia land and properties.

Tax Assessors

The responsibility of the tax assessment department is to levy taxes using a rate that is given them by elected officials. These rates are applied against the appraised value of the property. There is little room for maneuver so far as the tax office is concerned; and their efficiency comes in the degree to which they are able to collect taxes in a timely fashion; minimize delinquency; and pursue default through repossessions. Tax assessors are unable to press for special rates or assessments in the case of certain land uses—to penalize vacant lot owners, for example. Nor does it seem likely that elected officials would readily embrace special assessments.

Our research found that counties generally follow very similar practices in the collection of taxes and in their efforts to reduce delinquency. However, there are differences on the degree to which counties pursue default through repossession, as well as in the manner in which back-taxes are recovered. Officials are usually reluctant to actively pursue repossessions of homesteads, especially in the case of colonia populations, who are viewed as vulnerable and exploited, and for whom repossession would probably be unacceptable politically. Also, the sums involved are not worth the effort (in part because appraisals are lower than market, mentioned above), and can best be recovered if and when properties are sold. Where repossession or sequestration occurs, it will usually involve the ISD, since the amounts owed are likely to be considerably larger.

It also appears that counties differ in their procedures regarding the recovery of back taxes. Harris County, for example, requires that properties sold at public auction should

secure near to or actual market value, and reimburses itself from the proceeds with the balance going to the dispossessed owner. In Webb, however, properties are often sold way below their actual market value, since the alleged primary concern is to recover the taxes owed. The sub-market value auction has little to commend it, and is open to abuse and insider dealing.

Firm policy recommendations here are:

- 1) Make greater efforts to publicize and to make transparent tax delinquency rates on colonias.
- 2) Active pursuit through repossessions of lots belonging to absentee lot owners who are delinquent in their property tax payments. Repossessed lots can either be sold to active homesteaders and/or passed onto a Public Holding Company specifically charged to develop and manage a portfolio of lots for planning and housing purposes in Texas colonias. Once taxes are taken out and administrative costs recovered, the lot owner would receive the balance.
- 3) Active pursuit through repossessions of lots for “bad addresses” absentee owners who will almost always also be delinquent in their property tax payments. Repossessed lots would be dealt with as for 2 above. If owners reappear later, they would be compensated as for 2 above.
- 4) Requirement that in the case of repossessions for back taxes, counties be required to get fair market values (or within n percent [perhaps 75?] of the same), and not just the value of the debt, plus agreed administrative costs and collectors’ commissions.

It is probably not appropriate to aggressively pursue repossession for actual colonia residents. Better is the continuation of current policy, that requires recovery of the debt at sale or death. However, it should be noted that these sums will increase if there is a greater congruence between appraised values—as advocated earlier.

Land Market Market Stimulation

This study has demonstrated that colonia land markets are not functioning smoothly as measured by the high number of vacant lots despite ongoing demand, and by the sluggish and low increase in real land values. In part this is due to legislation that prevents the sale of lots by land developers and by absentee residents.⁵⁸ This prohibition also creates the

⁵⁸ Although a blind-eye is often turned for owners who have resided on the plot even for only a single day!

impression that regular property sales by genuine residents are also not allowed, thereby reducing the bid value. It is also a product of land-use legislation that inhibits uses other than single-family residence. Similarly, restrictions upon formal lot sub-divisions and sharing further reduce the effective land use and rent seeking options for poor people. High code requirements of house construction and on lot sanitary (particularly sewage) conditions may also inhibit the options and opportunities for self-help and for using land as a source of income—often termed urban productivity.⁵⁹ That these restrictions exist at all is for a reason: namely to prevent the exploitation of low-income households by unscrupulous landlords, as well as to ensure that adequate standards are achieved, and that environmental and health conditions do not deteriorate. However, laudable though these goals may be, such interventions may also have adverse effects in the market place, depressing the value of people's homestead efforts, and undermining their ability to use land productively, thereby raising incomes and enhancing colonia investment and development. There are a number of policy making initiatives that would improve market performance, enhance and valorization, and open up access to for future colonia residents, thereby raising population densities and land use efficiency. These are discussed briefly below.

Liberalization of Colonia Land Markets Through Zoning

Traditionally counties in Texas have no zoning and planning functions, and the restrictions upon land use are very limited. Under 1999 legislation, counties in the border region were empowered, if they wished, to create planning commissions, and several did so. Within the framework of planning commissions, there should be a liberalization of colonia land uses that would allow for: mixed land uses; lot sub-divisions; lot renting; the production of rental housing, etc. This liberalization should especially privilege micro-enterprises that will provide employment and income earning opportunities to local residents. Limits might be placed upon certain types of activities, as well as upon the maximum levels of mixed land use that would be permitted. Similarly, minimum norms would be placed upon sanitary services, permitted drainage field size, etc. In all cases, the actual zoning would be negotiated between the county planning commission and the colonia residents, constituted as an improvement association. Where no planning commission exists, new legislation might facilitate county commissioners to authorize such mixed zoning practices where this is formally solicited by the colonia residents' association. Outright repeal of current land use and right of sale restrictions would also have the same effect, although the vesting of effective control in the residents themselves would be lost in such cases.

⁵⁹ Doebele, 1994. op cit.

Specific Policy Recommendations here include:

- 1) Allow the free and unrestricted sale of lots for those who wish to do so but only where these are proven lot owners and/or occupants. This would be unrestricted by colonia status (approve/non-approved), but would not apply to developers.
- 2) Allow for modest non-residential land use of vacant lots: commerce; renting; workshops etc.
- 3) Allow for non-ownership residential: single residence or multi- residence where adequate sewage services exist, or tied to a maximum number of households per lot where these are septic field drainage systems.
- 4) Allow for formal sub-division of lots between close kinsmen and for individual titles and lot registration, and reduce the minimum size required for individual lots taking account of 3 above.
- 5) Require that colonias seeking state support must constitute themselves as a community improvement association—elected locally by residents (1 household 1 vote, irrespective of migration status).

Liberalization Through Public Intervention for Land Readjustment

It seems desirable that a single Texas-wide agency be created or empowered in order to enhance the process of land management in colonias with specific functions to: acquire vacant lots through fair market purchase; to receive lots acquired through compulsory purchase and through repossession, or through sequestration from developers who are in default of fulfilling service obligations. In short, this agency would be a public land holding company.

Significantly, as well as having an acquisitions role, it would also be expected to have a land management role. Working with sister agencies such as TWDB, TDH&CA, TNRCC, the AG and Secretary of State's Offices, as well as with planning commissions where these are constituted, the Public Land Holding Company or Land Trust would undertake some parcel reorganization in colonias in order to create larger blocks of land suitable for a variety of purposes: utility provision; sports fields and recreational areas, shared septic fields, etc. Various tools exist to create these larger parcels out of existing vacant lots. These include negotiated lot swaps, land readjustment, certificates of potential rights to build, etc. Moreover, the survey colonia lot maps we constructed indicate that vacant lots are often adjacent to each other. Starting with these already larger blocks, large parcels can be created. The goal is to turn the "problem" of vacant lots to good effect, and to make them serve a role in community development. The costs

of this “land readjustment” as it is called would be need to be recovered from the eventual commercialization of the newly parceled land—whether it was a utility or a community recreation area. But in conjunction with the zoning incentives outlined above, it is expected that land values would increase as a result of the systematic and strategic use of the resource that vacant lots offer public intervention.

In addition, individual lots not used in lot swaps, could be sold within a program of lot sales to homesteaders where these commit to occupy and/or develop their lots immediately or within a defined period. Thus, the Holding Company or Trust would take an active role in the planning, coordination and actual settlement priming process.

Specific policy recommendations here include:

- 1) Establish a Public Holding Company or Land Trust to oversee land readjustment, management and commercialization of land in colonias.
- 2) Assign the necessary start-up funding required to enable the Land Trust to begin to develop its portfolio
- 3) Compulsory purchase of lots that are “in limbo”—i.e. owners cannot be traced and owe back taxes. Once done and back tax debts are cleared, then lots pass to 1 above.
- 4) Develop measures and incentives that will enhance the operationalization of land readjustment tools.

Liberalization Through Permitting Private Development of Serviced Colonias

In order to continue selling lots to would be homesteaders, some developers have gone legit. Under recent legislation they can either “build it or bond it”, i.e. install suitable drainage facilities or post a bond that will allow the lot to have the facility installed once sold. Only in so doing will the colonia be “approved” under HB 1001. This legislation in effect sought to “freeze” the sale of lots unless developers provided an effective guarantee to provide services. Some developers have continued to sell lots as before, and if caught run the risk of heavy fines, imprisonment, and sequestration. Others, however, especially those with large tracts of platted land still unsold, are developing sites with services in colonias. Photos 5.1 and 5.2 are good examples from West Texas and from Vinton Hills in New Mexico respectively, but examples are increasing throughout the border (see also Appendix 2:2, Photo 2:17).

Photo 5.1 El Paso. Legal colonia development



Some would argue that such fully serviced developments no longer constitute “colonias”. While no longer typical in this respect, these sub-divisions remain low-income and rely upon upgrading through self-help and self-management of the dwelling environment. To the extent that they offer homesteaders access to home ownership within the \$30-40,000 price range (with dwelling unit), they are clearly below the formal housing market provided by housing associations and institutions such as Fanny Mae. Their inspiration and rationale is as colonia housing, and we continue to view them as such.

Photo 5.2 Small legal subdivision with all services, New Mexico/Texas border



in order to cover up-front development costs lots are generally smaller than those sold in the past without services, sometimes down to as small as 5000 square feet.⁶⁰ For a cost of \$10,000—\$12,000 in Hidalgo and Cameron Counties it is possible to develop a fully serviced lot (paved streets, conventional drainage, water and sewer to each lot etc.), and still make a modest profit. One problem however is that many cities and counties do not currently allow lots that small. Another problem is that even those these prices appear to below, they still remain beyond the reach of many low-income families. Monthly payments on a fully serviced \$12,000 lot would be \$279 and households making \$22,320 a year would be able to afford it (paying 15 percent of their monthly income). But one also has to factor in the costs of the dwelling unit (trailer or manufactured home). Carew's study suggests that "lifeline subsidies" or grant supports of around \$2000 to these families, in effect reducing the purchase price, would significantly access by making the cost affordable to an additional 21-32 percent of households for whom the lots were originally affordable. His point is that relatively modest cost reductions (however contrived) may have a dramatic effect by extending affordability to a large group.

⁶⁰ Most cities in the Lower Valley require lots to be more than 5000 square feet, although McAllen does not. According to one study, providing a fully serviced lot of 2500 square feet would cut the sale price (assuming a 15% profit to the developer) from \$10,000 to \$7,500. See pp. 152 of Jeremiah Carew, *The viability of low-cost infrastructure technology for affordable housing sub-divisions in the Texas border region*, MSc thesis in Community and Regional Planning, UT-Austin, may, 2000.

Here is not the moment to look at these scenarios. Suffice to say that there are a growing number of developers who are legitimately targeting low-income homesteaders buying into fully serviced sub-divisions for self-help and self managed housing. These efforts should probably be monitored, and may ultimately be worth supporting through public/private partnerships, perhaps in conjunction with the Land Trust proposed earlier.

Conclusion

This study has demonstrated that there is a substantial problem of vacant lots in contemporary Texas colonias. It has also shown that the problem is not going to resolve itself, since absentee lot owners have little incentive or interest to commercialize their lots by putting them up for sale, and even fewer are interested in occupying their lots as homesteads. For the same reason, the problem will not be tackled successfully by the provision of services, thereby making the colonia more attractive to residential occupancy. Services are necessary for the resident and future populations, but installation and improvement will not have the effect of winking out absentee lot owners. Importantly, too, is the fact that a significant number of these vacant lots—as yet unknown—are in effect locked out of the market entirely, since their owners are untraceable, having apparently walked away from their lot purchases. For colonia residents although they are rarely vehement about it, these vacant lots are also a problem since they are often unsightly and even dangerous where they harbor pests and snakes. At the very least, these lots are seen to depress overall property prices. Moreover, the problem is not just one of vacant lots, but is also symptomatic of a poorly functioning land market, in which lot values are depressed in part by existing legislation and attempts at colonia regulation.

So, if the colonia land market is broke, how should we fix it? We have argued in this chapter that in part at least the problem is also the solution. That so much vacant land exists offers Texas an opportunity to develop imaginative policy approaches that will make use of that same resource: vacant land. The challenge is how to open these lots to the market, and how to use them strategically in order to broaden the supply of homesteading opportunities in existing colonias. Also, how might we facilitate a more dynamic land market that will offer low-income colonia homesteaders an opportunity to enjoy some of the benefits of land betterment.

We have suggested that these goals can best be achieved by blending incentives (carrots) and penalties (sticks). Experience suggests that the former are invariably more acceptable and work best. Thus, in our policy conclusions we identified as a priority the need for further research to improve knowledge regarding the numbers of untraceable lot owners, and the proportion of colonia property owners (especially absentees) who are in default on their property tax payments. Tax delinquency levels and low collection rates further

weaken counties' fiscal ability to provide for sustainable urban development and to improve colonias. We regard such research as an important first step in the process of opening up potential access to these "locked-out" lots—either through repossession or through compulsory purchase.

We also propose that public policy should take advantage of existing taxation procedures as a primary means to liberate these land resources, bringing them into the planning process and the market place, and at the same time improving the fiscal resources of counties. Our data suggest that land appraisals often undervalue colonia properties, and that this both depletes fiscal revenues, and adds to the circle of depressing land values.

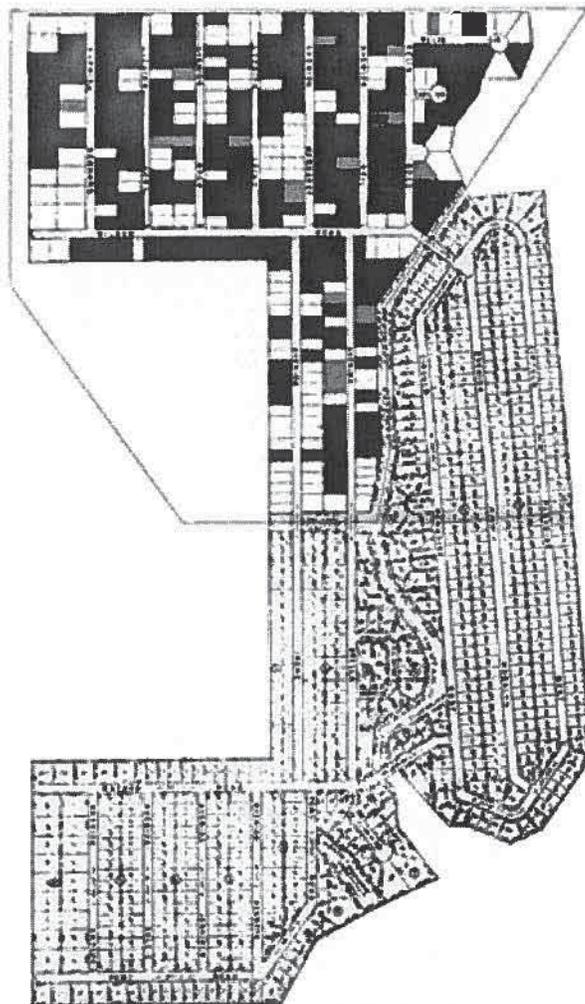
Other important elements in the future policy array are actions that will enhance what is called the "urban productivity" of colonia land markets, thereby generating jobs and rents for residents. This would entail some deregulation (or re-regulation) in order to remove existing constraints to the land market: allowing mixed land-uses, the sub-division of lots and sharing, non-ownership residential development, etc. Removing these prohibitions will allow the market to operate more smoothly and will lift the lid, somewhat, on the existing cap to land values. But these measures need to be taken in conjunction with residents themselves, and it is probably ripe time for Texas to require those colonias wishing to benefit from public programs to constitute themselves formally as a residents association. Once empowered, these associations should be the channel through which planning decisions are arrived at, and through which the latent social capital, self-help initiatives and mutual aid programs are channeled.

Finally we have identified the need for leadership—in this case embodied in a Public Holding Company or Land Readjustment Trust. This may be an existing body or a new one. The important thing is that it is sufficiently well capitalized to make its acquisition portfolio a reality early on. Thereafter, it should be able to fund itself, and more. The role of this Trust would be twofold. First to manage the large-scale but highly fragmented land resources that vacant lots constitute; and second, to coordinate and work with other agencies and to use those land resources and policy instruments to plan and improve settlement land development. If it can do so in ways that will reward low income homesteaders allowing them to participate directly in the some of the benefits of urban growth, then so much the better.

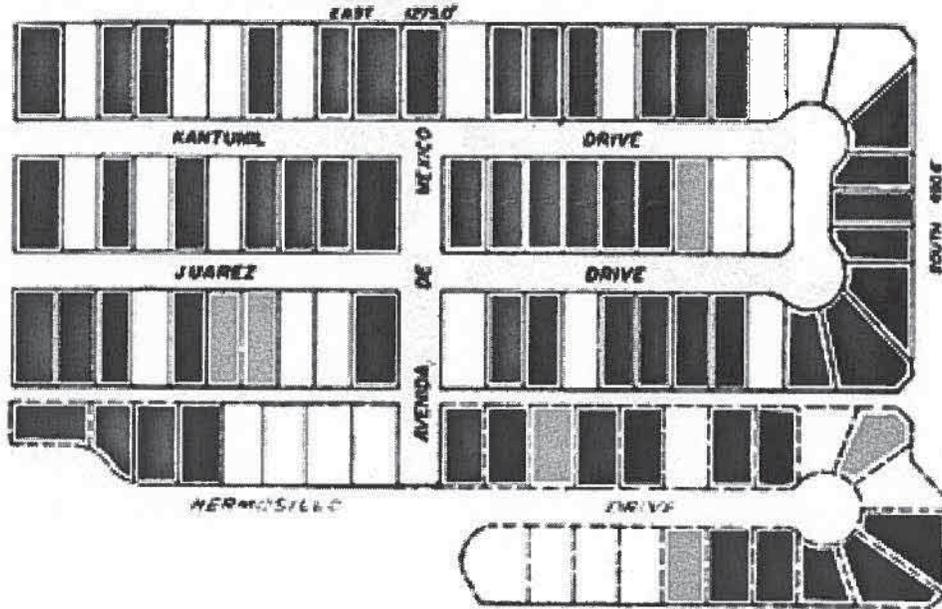
Appendix 2.1: Plat Map of Select Case Study Colonias

Map 2.1—Arroyo Colorado Estates

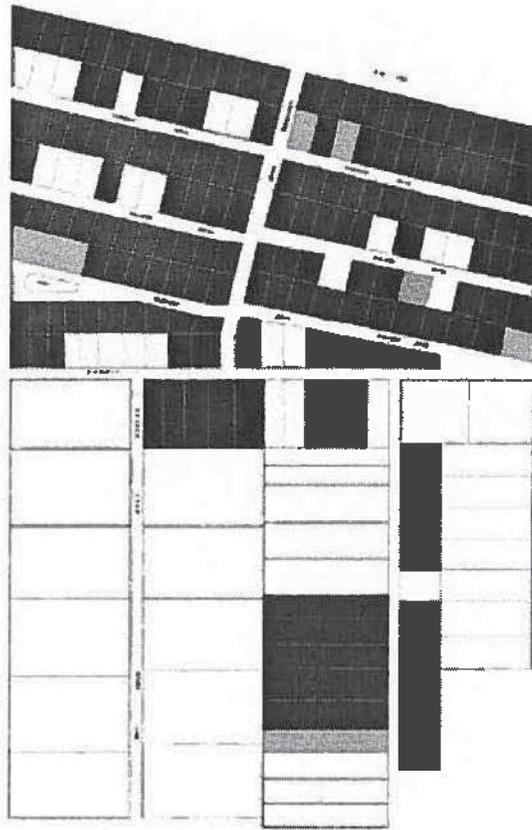
(unmarked platted areas have never been developed)



Map 2.2—Palm Lake Estates #4



Map 2.3—Northridge Acres



Appendix 2.2: Photos of Select Case Study Colonias

Photo 2.1—Stony Point

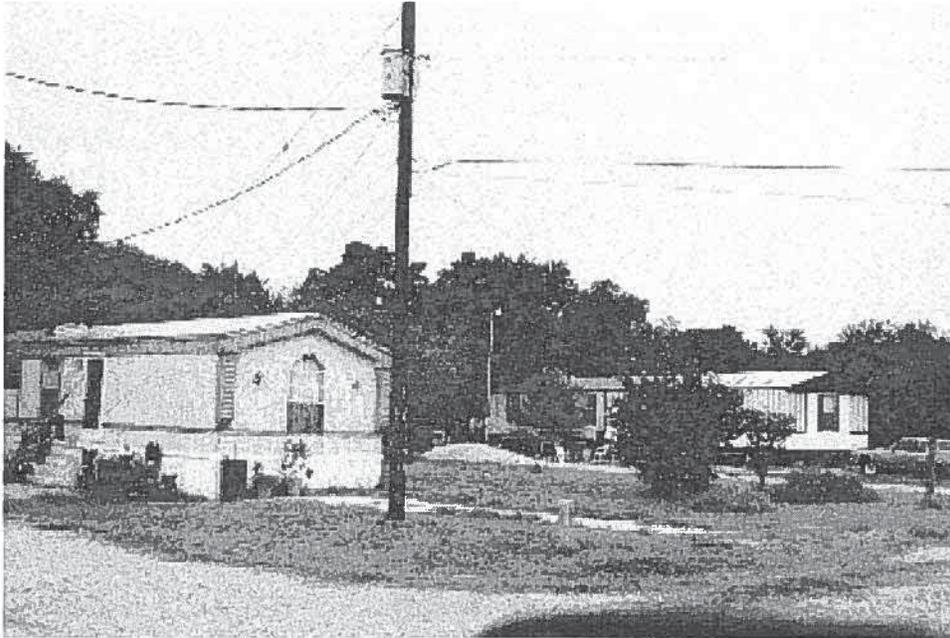


Photo 2.2—Cameron Park



Photo 2.3—Cameron Park



Photo 2.4—Valle Escondido



Photo 2.5—Willow Springs Sections 1 & 2

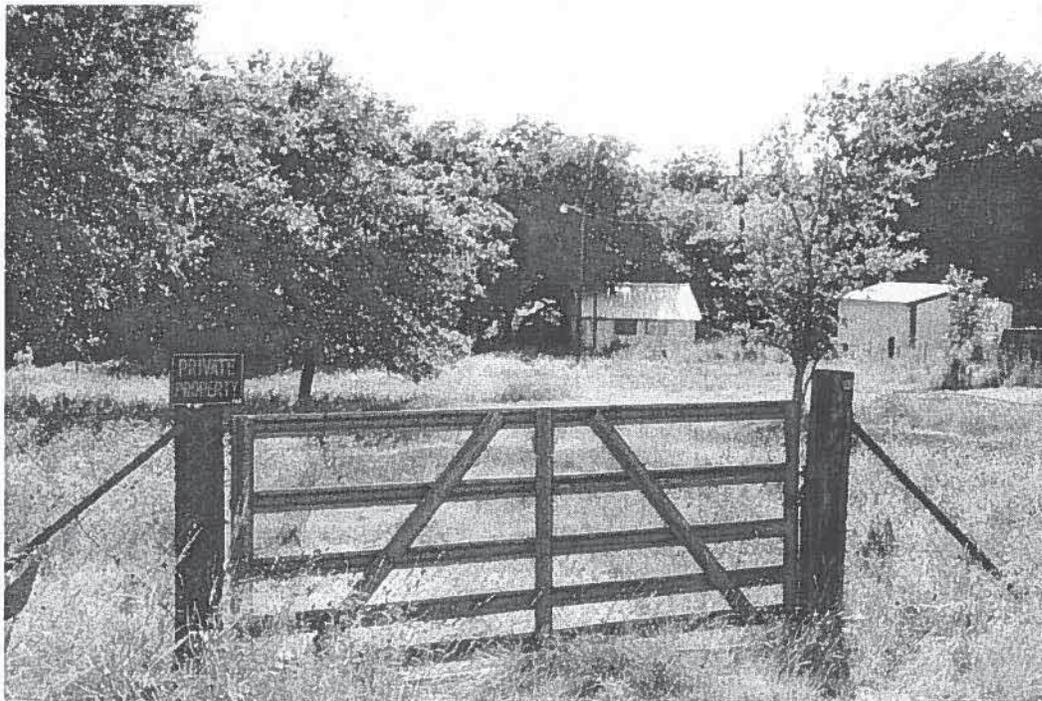


Photo 2.6—Eastside Montana

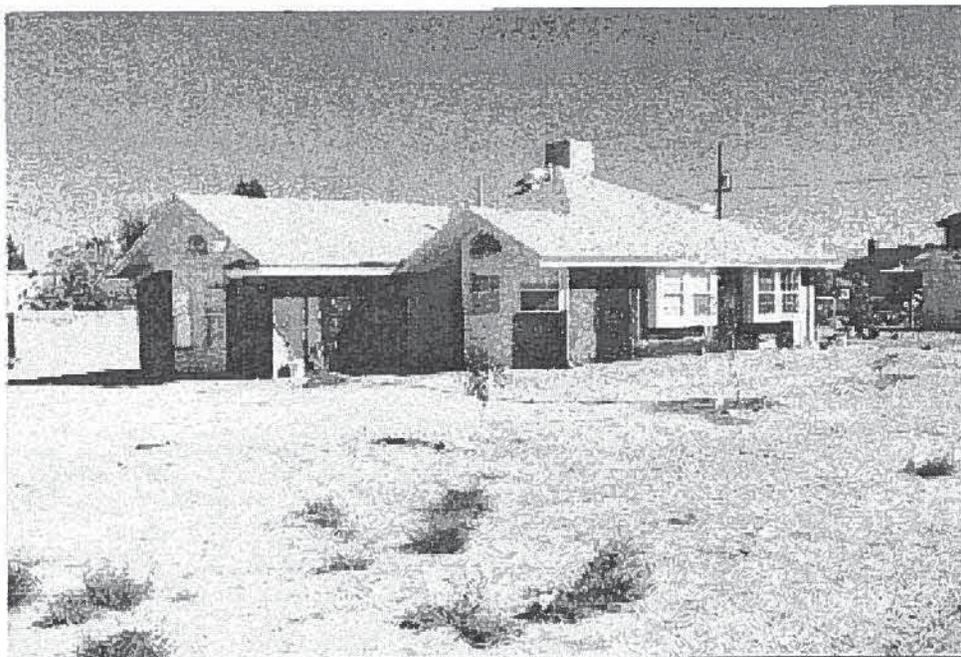


Photo 2.7—Sparks



Photo 2.8—Sparks



Photo 2.9—Vista del Este



Photo 2.10—Hillside Terrace

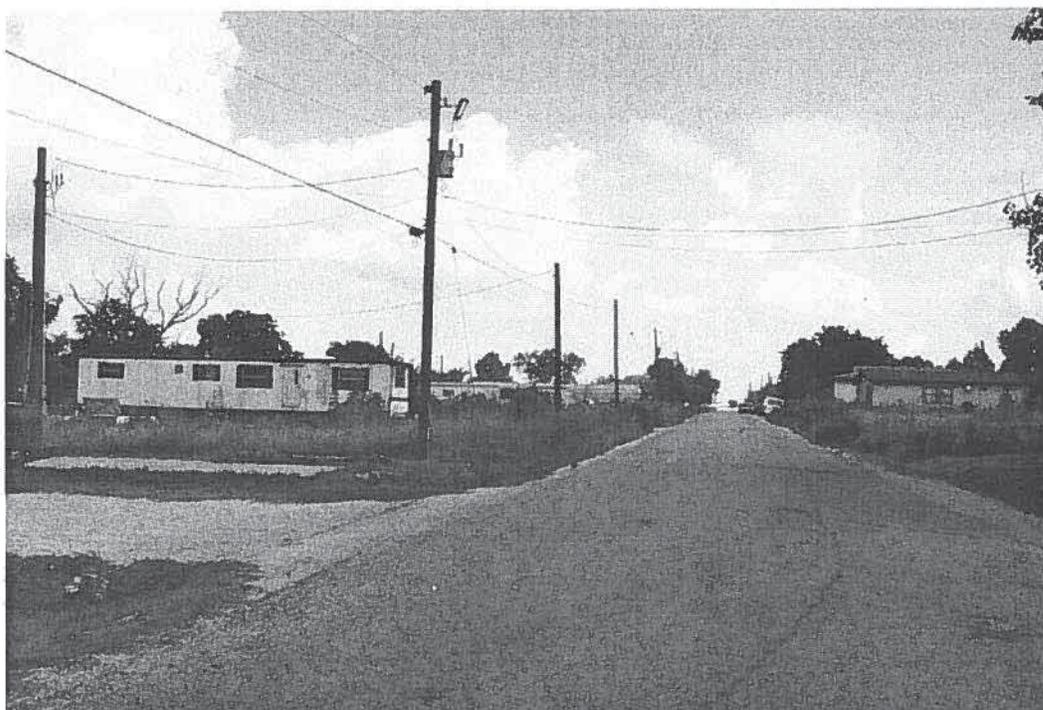


Photo 2.11—Cienegas Terrace

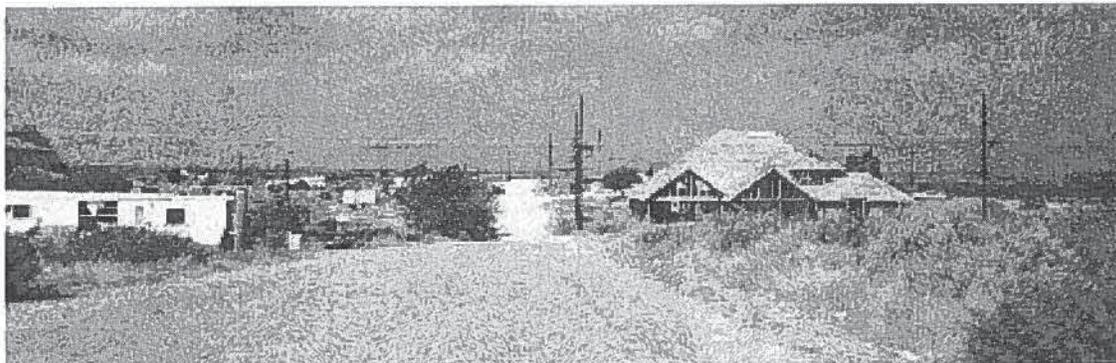


Photo 2.12—Val Verde Park Estates

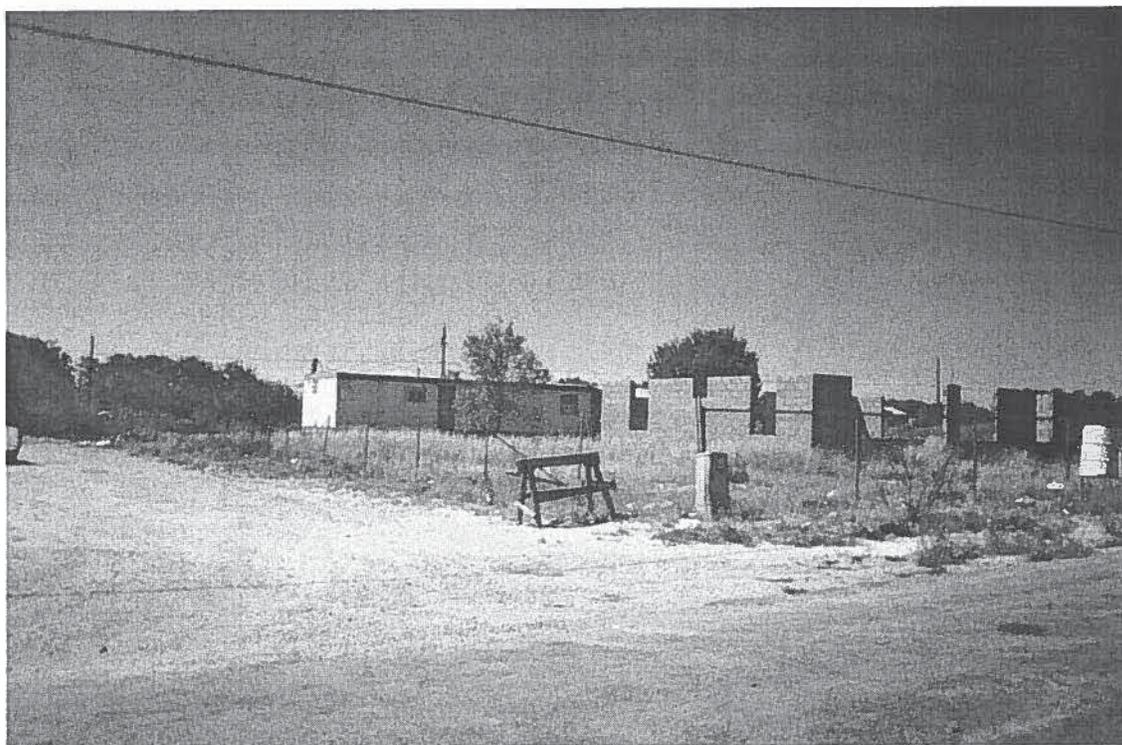


Photo 2.13—Larga Vista



Photo 2.14—Pueblo Nuevo

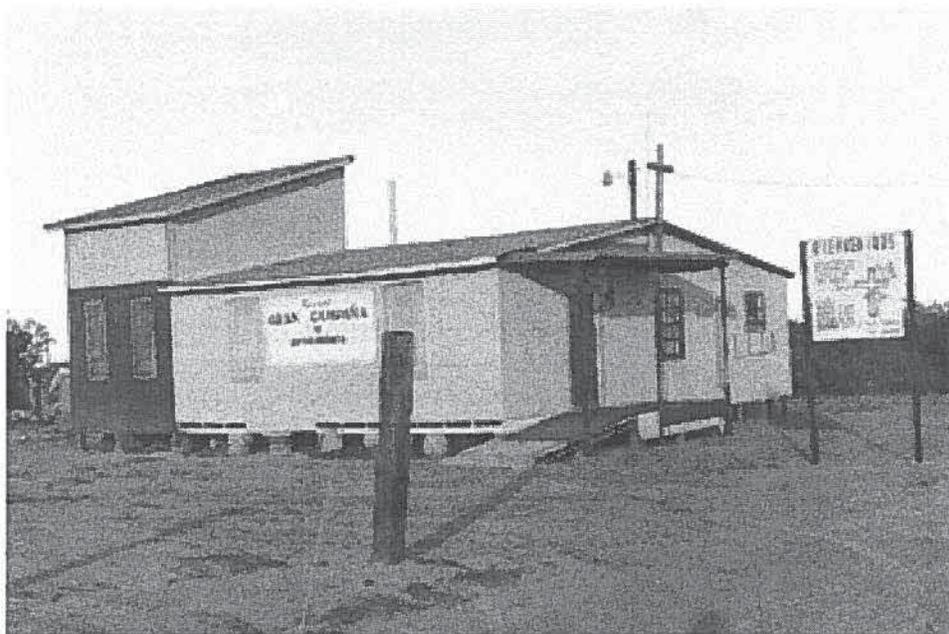


Photo 2.15—Los Altos

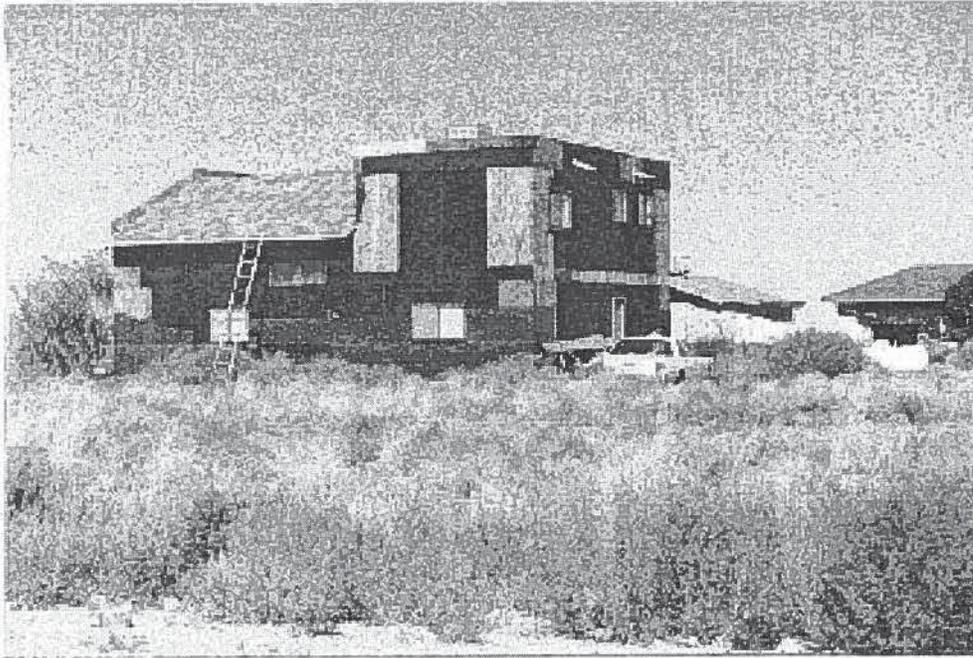


Photo 2.16—Rio Bravo

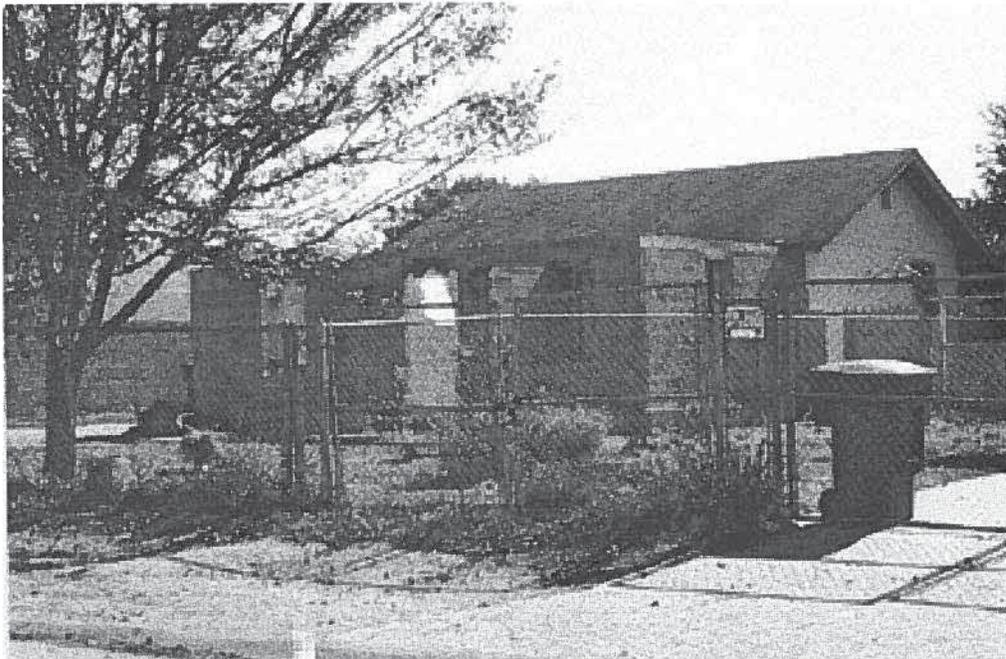
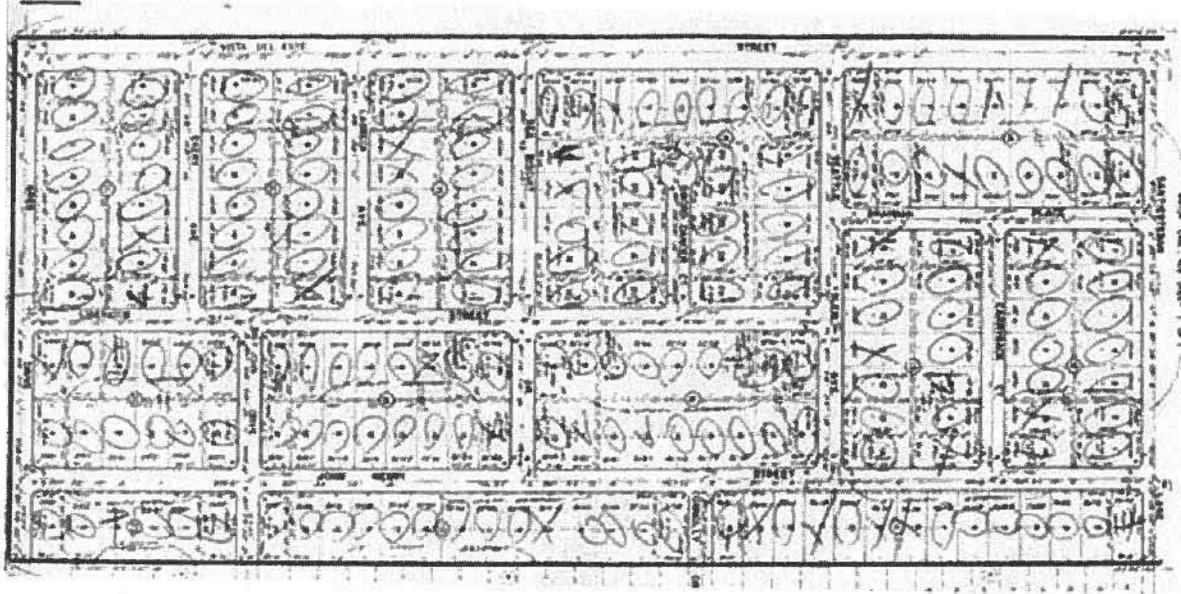


Photo 2.17—Vinton Hills, New Mexico, legitimate subdivision with all services—note “Attention Buyers.”



Appendix 2.3: Example of Plat Map after Completed Windshield Survey

Map 2.1—Vista del Este



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Subject:
Author: r crane
Keywords:
Comments:
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