Chapter 5. General Survey Results and the Reproduction of Informality in Texas Colonias and Subdivisions

INTRODUCTION:

In addition to our primary focus on developing estimates of recorded and unrecorded CFDs, we proposed to TDHCA an assessment of how and why property titles were changing over time, and the extent to which new forms of informality have become part of land transaction practices in colonias today. Recognizing that new forms of informal homestead subdivisions are now widespread in counties outside of the border, we also proposed to broaden our analysis to include informal homestead subdivisions in Central Texas counties, as well as newer informal homestead subdivisions that were emerging alongside colonias in the border counties. The survey was designed as the starting point for our analysis of these broader topics. While we needed to ensure random selection of settlements and households that would allow us to extrapolate to the countywide level for colonias in the six-county[1] analysis of recorded and unrecorded CFDs presented in Chapters 3 and 4, in this chapter we are more concerned with insights into the full range of land and housing transaction practices in both colonias and informal homestead subdivisions. Thus, in the following analysis, we seek to generalize about colonia and informal homestead subdivisions in all eight counties where we surveyed.

The data presented here come from two main sources: First, the survey itself. In the first part of this chapter we offer an overview of the principal survey findings for the many questions from the survey (see Appendix C for copies of the survey in English and Spanish), as well an analysis of those findings broken down by county, type of colonia or subdivision, and by type of transaction. Secondly, these data are also informed by additional telephone interviews of residents we had surveyed who were selected from a pool of “interesting cases” that been flagged as such by our surveyors and survey coders. Many residents had agreed to give us their phone numbers for possible call backs at a later date, and as we began to identify themes that we felt were important to understand in more depth, we conducted several of these additional interviews. “Interesting” cases for several themes emerged, including: succession and inheritance of lots and homes from first to second generations of homeowners, consumer-to-consumer to sales, the changing nature of developer sales and practices, lot renting by owners, and lot abandonment.

Not all of the interesting cases and themes we identified lent themselves to follow-up telephone interviews. For example, renting by owners, the status of vacant lots, and reasons for abandonment require more extensive downstream surveys of owners who are not available on the site of the lot. While we have started some of these surveys, they need further development and so will not form part of the substantial findings of this report. We also undertook a partial follow-up sample in the county appraisal district records for several new model rule subdivisions in order to gauge the extent to which lots were recently being sold by developers and then rapidly being repossessed by the developer, presumably for non-payment—a process we describe as “flipping.”

In short, the aim in this chapter is to begin to look to the future and predict the direction of lot acquisition, the extent to which informality continues to prevail in these communities, and the extent to which new forms of informality are becoming more predominant. Even though we

[1] As discussed in earlier section of the Report, the six counties to which the extrapolative data applies are Cameron, El Paso, Hidalgo, Maverick, Starr, and Webb.

cannot generalize across counties with exactitude about the scope of these evolving practices and trends, we believe that identifying them and suggesting directions for further research and policymaking will prove helpful. Indeed, this broader focus was the primary motive for us in undertaking this research project in the first place. We will return to future directions and policy implications in Chapter 6.

SURVEY FINDINGS: AN OVERVIEW

A total of 1,133 surveys were conducted in border colonias and IFHSs throughout Hidalgo (246), Webb (194), El Paso (193), Cameron (187), Maverick (182), and Starr (131). We conducted an additional 154 surveys in the Central Texas counties of Guadalupe (77) and Hays (77), for a total count of 1,287 surveys. See Appendix A.v. for the full listing of survey returns. As noted in Chapter 3, we started with a randomly-selected sample of colonias and properties to survey, and these formed our extrapolative cases from which to generalize results. As the survey moved forward, we included non-extrapolative cases in: 1) newly-developed informal homestead subdivisions in Cameron and Hidalgo; and 2) informal homestead subdivisions in Central Texas. We also made an effort at mail-back surveys in three Model Rule Subdivisions: Drake subdivision (El Paso County) and Pueblo de las Palmas and Salida del Sol subdivisions (Hidalgo County) See Appendix A.v. Extrapolative surveys constituted 77.5% of the total sample, central subdivisions 12%, new border subdivisions 9%, and mail-back returns 1.5%. The following is a summary of general findings with cross-analysis comparative details. For purposes of this chapter, we use the terms “colonias” and “informal homestead subdivisions” interdependently except where noted. For a further discussion of the meaning of these terms, see Chapter 1.

Important Note: The data in Chapter 5 are mostly drawn from the whole database and county-wide analyses and should not be seen as representative of all colonias and subdivisions in that county since not all were randomly selected. Only the data for the randomly-selected colonias in the six border counties (see Chapter 2 and Matrix 1 in Appendix D) may be considered representative (within the margins of error established in our statistical analysis, Appendix A.i). However, because extrapolative cases constitute the majority of our sample, the whole database profiles mirror our general results in many instances. Nonetheless, where appropriate, and where we wish to generalize, random sample findings are highlighted. Occasionally the actual numbers and percentages presented here do not tally exactly with the survey data numbers. Such differences are minor, however, and are due to different databases that were constructed throughout the research project: the lot logs database, for example, versus the final survey database.[2] For the most part, the survey data numbers are the ones that we use since these are based upon the actual numbers. However, even here there is occasional ambiguity, for example, with the term “inheritance,” where some owners had inherited property from their deceased spouse but did not consider themselves to have inherited the property.

The following general findings will not include data and analysis that relate directly to later sections: namely consumer-to-consumer versus developer sales; inheritance and succession; renting and the vacant and abandoned lot analysis. Instead, the survey findings will be discussed within those sections.

[2] This explains occasional discrepancies in the baseline data of vacant lots in the section on lot abandonment, for example.

Owners and Renters: Background SES Data and Comparisons

The heads of household we surveyed included: 972 owners, 190 renters, 29 respondents who live rent free from an owner who does not reside on the property, and 20 who live rent-free from an owner who resides on the property.[3] The fact that 16% of those surveyed were renters was a surprise to us, and these data are discussed further in the section on renters below. The analysis of owners identified that: 523 had purchased from a developer (or holding or land company), 326 had purchased from another consumer, and 24 had inherited their homestead from a deceased former owner. An additional 33 had received their property via a gift from living family members. Only 7% of the owners we surveyed indicated that they were related to the seller; this appears not to influence whether the sale was land only or the land and house together.

Of all persons interviewed, 96% were Hispanic, and 62% were female. A comparison between owners and renters we surveyed shows significant differences in age and employment categories, and, while not statistically significant (measured in terms of Chi Square), renters showed lower-income levels (Table 5.1). Key findings include:

- Owner heads of household are much older while renters are much younger.
- The modal number of paid workers in the household for owners and renters is one.
- Fifty seven percent of owners vs. 63% of renters have monthly household incomes under $1,600.

Table 5.1. Head of Household Age, Paid Workers in House, and Monthly Household Income

Head of Household Age	Owners *		Renters *		Paid Workers in House	Owners **		Renters **		Monthly House Income	Owners		Renters	
	All	Ex	All	Ex		All	Ex	All	Ex		All	Ex	All	Ex
18 - 30	8%	6%	31%	33%	**0**	24%	27%	15%	18%	**$599 or less**	9%	8%	8%	10%
31 - 40	22%	20%	37%	34%	**1**	44%	43%	57%	60%	**$600 - $999**	23%	26%	32%	34%
41 - 50	25%	26%	16%	16%	**2**	24%	23%	23%	19%	**$1,000 - $1,599**	25%	25%	23%	26%
51 - 60	19%	19%	8%	9%	**3**	6%	5%	3%	1%	**$1,600 - $2,399**	20%	17%	19%	15%
61 or over	26%	30%	8%	8%	**4 or more**	2%	2%	1%	1%	**$2,400 or more**	24%	24%	18%	15%

Ex = Extrapolative ; chi sq. significance: * $p < 0.01$; ** $p < 0.05$

Settlement Age and Home Tenure

All respondents were asked the year they moved into their neighborhoods, which also allowed us to develop a "colonia age" proxy variable by estimating when the first quartile of respondents moved into a respective colonia or informal homestead subdivision. This tells us when the settlement hit a "tipping point" of development and is the basis for the "colonia age" variable. Actual move-in years were obtained primarily from the random survey conducted in each subdivision.

[3] There were an additional 76 interviewees who did not identify in their survey whether they were owners or renters.

Owners were also asked the year they purchased their homestead, while renters told us the year they started renting. Combining these two responses allowed us to estimate how long the current residents have been in their homes. Key findings for all cases (extrapolative in parenthesis) are shown in Table 5.2 below:

- ❖ Roughly half of owners and renters live in colonias and informal homestead subdivisions that were developed prior to 1989 (*66% and 60% respectively in extrapolated colonias in the 6 border counties*).

- ❖ Owners and renters differ very significantly with regards to their length of residence in their current home: 68% (*76%*[4]) of owners have lived in their homes 10 or more years, while 74% (*73%*) of renters have lived in their homes for 4 or less years.

Table 5.2. Colonia Age and Home Tenure

Colonia Age Where They Live	Owners **		Renters %		Home Tenure	Owners *		Renters *	
	All	Ex	All	Ex		All	Ex	All	Ex
					24 + years	24%	30%	1%	1%
pre-1989	51%	66%	48%	60%	16 - 23 years	22%	25%	3%	3%
1989 - 1996	30%	29%	38%	37%	10 - 15 years	22%	21%	5%	5%
post-1996	19%	5%	13%	3%	5 - 9 years	19%	14%	18%	18%
					1 - 4 years	13%	10%	74%	73%

Ex = Extrapolative ; chi sq. significance: * $p < 0.01$; ** $p < 0.05$

Household Owner Information

All owners were asked to provide household information, including those who purchased, inherited, or were gifted their properties (N=972 all owners, N=745 extrapolative sample). Prior census data and studies have found that larger family units are typical in colonias, partly as an economic means of pooling their resources and partly as a result of higher birth rates and extended families living under the same roof. The data from our survey supported this:

- ❖ In the United States and Texas, the average number of persons in the household, respectively, is 2.59 and 2.78 (for the period 2006-2012, U.S. Census QuickFacts). By comparison, in our extrapolative sample, the average household size[5] is 3.84, and is 4.16 in our non-extrapolative sample. We found larger household sizes in newer subdivisions, which may be explained by the fact that in older colonias the children have grown and are moving out of the home, whereas more recently formed communities contain more Hispanic families earlier in their life course.

- ❖ We also found that there are often additional people living on the lot outside the primary homestead. The mean number of persons living on the entire lot was 4.03 (extrapolative) and 4.32 (non-extrapolative). Prior studies have found that this practice of accommodating additional extended family or close friends on the lot is quite common in

[4] Parenthesis and italics indicate extrapolative data for the 6 border counties where we conducted surveys in randomly-selected pre-1995 colonias.

[5] Reported mean values utilized throughout this document are 5% trimmed means to remove any outlier influence (top and bottom 5% of values) from the data.

informal communities where relatively large lot sizes allow for additional structures to be added onto the lot.

The survey explored a number of questions related to the owners' marital status and children from past and current relationships, which as discussed in the inheritance section, is important for understanding future inheritance issues. Overall, 75% of our owner sample reported that they were formally married or in a common law union, 9% were widow/widower, 7% divorced, 6% single, and 2% separated. Not surprisingly, more persons in our extrapolative sample of older colonias have been married longer and show higher rates of divorce when compared to the residents in the more recently developed subdivisions, with their higher prevalence of younger owners.

Purchase Types

The following discussion pertains to owners who *purchased* their properties (N=885 all surveys, N=663 extrapolative surveys). Overall, 70% of owners stated that their initial purchase was for the land only, while 30% purchased both the land and house. However, when we analyze by the type of seller we find that land-only sales were tied more with developers' sales than with consumer-to-consumer transactions (Figure 5.1). Further decomposition of the method of payment categories in Figure 5.2 indicates that:

- ❖ Seller financing has been the dominant source of financing.
- ❖ Formal financing through mortgages and bank loans appear only in a minority of cases, as do cash or outright payments in full.
- ❖ Eight percent of developer sales versus 21% of consumer sales were paid in full at the time of sale (differences statistically significant at the 1% level [p<0.01]).

These findings highlight the important differences in the nature of property sales by type of seller. Consumer-to-consumer sales are more likely to involve payment in full up front. While seller financing is the norm in all cases, consumer-to-consumer sales prefer to avoid seller financing where possible. This is not surprising given that low-income consumers selling their homesteads will often need the sales proceeds to finance their own new dwelling purchase, compared with developers who are in the business of financing multiple lots and can afford to receive payments extended over longer periods of time.

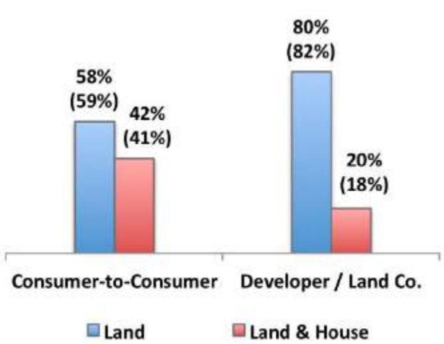

Figure 5.1. Sales Type: Land or Land & House
chi=square p < 0.01
extrapolative % in parenthesis

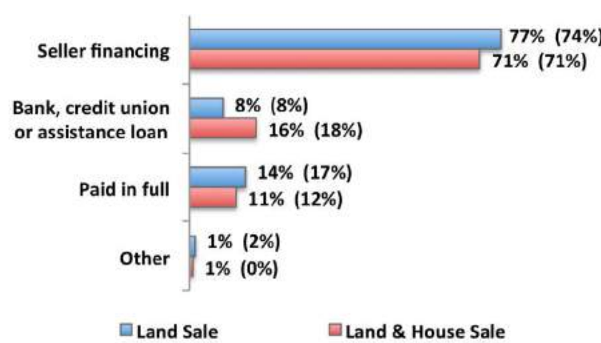

Figure 5.2. Method of Payment
chi=square p < 0.01
extrapolative % in parenthesis

Assessing sales patterns in our extrapolative colonias in the six border counties, 71% of sales involve the land only, compared with 60% in the two Central Texas county subdivisions (statistically significant at the 1% level). At the county level, Webb (extrapolative county) has more (80%) land-only purchases than other counties (statistically significant difference), while Hays (a non-extrapolative Central Texas county) has more (45%) land & house purchases. The remaining counties show smaller differences, ranging from 64% to 77% in land-only sales, and 23% to 36% in land/house sales.

Cross-tabulation results show a high correlation between time periods when the purchase was made and the type of purchase (land versus land & house). The percentage of land-only transactions was greatest in older sales (pre-1997). In recent sales (2008-2012), land & house transactions have become the majority of sales (58%) in our extrapolative sample of colonias, compared with the non-extrapolative cases where land transactions still constitute about two-thirds (64%) of all sales. Intuitively this is not surprising as the extrapolative data set included a representative sample of older colonias where land purchases from 16 or more years ago are now turning over into land & house sales. This also corresponds to the finding that in older colonias (established pre-1989) land/house sales have increased over time. By comparison, many of the non-extrapolative neighborhoods are made up of newer subdivisions where land transactions are dominated by developers. The results for land-only transactions by purchase price over time (by purchase year) are illustrated in Figure 5.3:

- The price of land in land-only purchases has risen over time. Measured in terms of **2012 equivalent dollars**, 66% of land-only purchases made prior to 1989 were $15,000 or less, and only 8% were $25,000 or more. In contrast, for purchases after 1996, 75% were for more than $15,000, and 30% were over $25,000. These differences in purchase patterns are highly significant and also apply in the extrapolative cases for the six border counties.

Figure 5.3. Land prices by purchase year ($2012)
chi=square p < 0.01

Purchase Payments

Affordability and limited access to financial markets are key reasons why people choose to live in informal settlements, albeit at considerable social costs of relatively poorer living conditions. For them, the American Dream of being a homeowner begins with this small investment. We were interested in exploring how land and housing acquisition costs for these homeowners have changed over time so we standardized nominal values to 2012 dollars (using the housing price index) by corresponding payments with the purchase year. Hence, ***reported values in this***

section are in 2012 dollars. Table 5.3 provides a summary of our primary findings from the survey on purchase payments:

- For all owner purchasers, the average price paid for land only was $17,339 (median $16,405), while the average price for land/house was $47,365 (median $40,730).[6]

- For owners from the extrapolative sample, the average land price was $15,175 (median $14,117), while the land/house average price was $30,345 (median $30,432).[7]

- The down payments on land purchases averaged $1,355 for all owner purchasers (*$1,424* extrapolative), and initial monthly payments averaged $281 (*$270*). Not surprisingly, land-and-house down payments were larger (mean $3,868 [*$4,386]*), as were the initial monthly payments (mean $482 [$*462]*).

Table 5.3. Purchase Payments: Extrapolative vs. Non-Extrapolative

	All Sales (N=885)		Extrapolative Sales (N=663)		NonExtrapolative Sales (N=222)	
	Mean	Median	Mean	Median	Mean	Median
Land	$17,339	$16,405	$15,175	$14,117	$23,955	$22,185
Down Payment	$1,355	$706	$1,424	$771	$1,216	$614
Initial Monthly Payment	$281	$265	$270	$238	$307	$303
Land & House	$47,365	$40,730	$30,345	$30,432	$60,005	$48,963
Down Payment	$3,868	$2,830	$4,386	$3,570	$2,723	$1,753
Initial Monthly Payment	$482	$448	$462	$437	$533	$472

Note: The 5% "trimmed mean" is reported for mean values to remove outliers (the top and bottom 5% of values) from the data.

The surveys did not collect information about the lot size or the property values, so these data, together with information about title transactions, were subsequently gathered from the respective county appraisal district office (CAD), as described in Chapter 3. Although a painstaking task, it allows us to offer some assessment of land and house value differences among our study areas.

- Across the settlements we surveyed, the lot square footage averages were 14,629, with a median of 11,820 (Table 5.4). For extrapolative cases, the largest share (29%) of lot sizes are between 5,000 and 7,500 square feet and have a trimmed mean of 12,261 square feet (median 10,010).

- At the county level, the trimmed mean (median in parenthesis) square footage of the lots we surveyed was, in ascending order: Starr 5,716 (5,550); Hidalgo 9,244 (5,992); Cameron 15,267 (11,715); Maverick 15,590 (15,000); Webb 16,870 (10,500); El Paso

[6] Converting into 2012 dollars makes a big difference especially when it involves purchases in the relatively distant past. For example, in nominal dollars, 66% of all land prices reported are $15,000 or less, but when converted to current dollars only 44% are $15,000 or less. Similarly, 68% of all land/house prices are $40,000 or less in nominal terms, versus only 46% in today's prices.

[7] Only 40 surveys for a land and house purchase were from extrapolative surveys (vs. 95 land/house purchases from all the surveys), so the mean/median values are based on a small sample.

18,034 (19,535); Guadalupe 26,639 (21,780); and Hays where the lots were much large (one acre) -- 43,438 (43,560).

- The 2011 appraisal value per lot square foot size averages $3.16 for the full survey sample, and $3.52 for the extrapolative surveys.

- At the county level, the 2011 trimmed mean (median in parenthesis) appraised value per square foot was, in ascending order: Hays $0.94 ($0.74); Guadalupe $1.30 ($0.99); El Paso $2.31 ($1.59); Webb $2.81 ($2.68); Cameron $2.98 ($2.81); Maverick $3.29 ($2.68); Starr $4.20 ($3.83); and Hidalgo $4.69 ($4.73). (But note that average lot sizes run in reverse order so these values are more a reflection of average lot sizes than the appraised value of land.)

Table 5.4. Land Size and 2011 Appraised Value: Extrapolative vs. Non-Extrapolative

	All Properties (N=1,287)		Extrapolative Properties (N=998)		NonExtrapolative Properties (N=289)	
	Mean	Median	Mean	Median	Mean	Median
Land SqFt	14,629	11,820	12,261	10,010	25,384	22,290
Appraised Value / SqFt	$3.16	$2.84	$3.52	$3.26	$1.50	$1.09

Current Titles

As described in greater detail in Chapter 4, we obtained property records from the county appraisal districts (CADs), and in certain cases county clerk's offices and title companies. We then cross-referenced these records with information obtained from our surveys. Using these data, we created three distinct (conservative, moderate, and liberal) estimates to provide differing calculations of the prevalence of unrecorded contracts for deed (UCFDs). In this section we analyze the type of title in comparison with other variables such as income or age. In order to do so, each of the following analyses uses the moderate estimate, which excludes all cases in which some sort of data ambiguities preclude the assigning of a definitive current title type.[8]

Across all counties, the majority (85.3%) of the properties surveyed have deeds (Table 5.5). The lowest share (2%) of current unrecorded contract for deeds was found in Guadalupe County, whereas the largest share (21.6%) in Webb County. Within the extrapolative sample which constitutes 72% of the total 728, the results mirror the total—83% deeds and 14% UCFDs. By comparison, in the non-extrapolative sample, the share of current deeds and UCFDs is 91% and 8%, respectively, so we find 6% more UCFDs in our representative colonia sample. When we look at current UCFDs within the age of the settlements, 14% are found in pre-1989 colonias, 13% in settlements developed between 1989 and 1996, and 9% in post-1996 colonias.

[8] For example, cases in which the absence of the owner's name in the property records prevented us from determining the title true owner of a lot have been excluded. See Chapter 4 for greater detail on the types of data ambiguities that we encountered as well as the exact methodology used in creating each of the three estimates.

Table 5.5. Current Titles by County

County	Deed	CFD	UCFD	Total N
Cameron	90.8%	0.0%	9.2%	109
El Paso	76.4%	6.5%	17.1%	123
Guadalupe	98.0%	0.0%	2.0%	49
Hays	86.8%	1.9%	11.3%	53
Hidalgo	88.3%	0.0%	11.7%	137
Maverick	81.5%	6.7%	11.8%	119
Starr	90.6%	0.0%	9.4%	64
Webb	78.4%	0.0%	21.6%	74
Total	85.3%	2.3%	12.4%	728

Cross-analysis of current titles with key household background information shows the following:

- Statistically, there is a difference between age and the type of current title, mainly, respondents 41 through 50 years old are more likely to have a CfD or UCFD, while deeds predominate in the 61 or above age group.

- Household income and the number of paid workers within the household do not statistically influence the type of current title.

- Purchases over the last three or four years have the highest shares of current UCFDs (Figure 5.4). This tells us that these owners have had less time to convert.

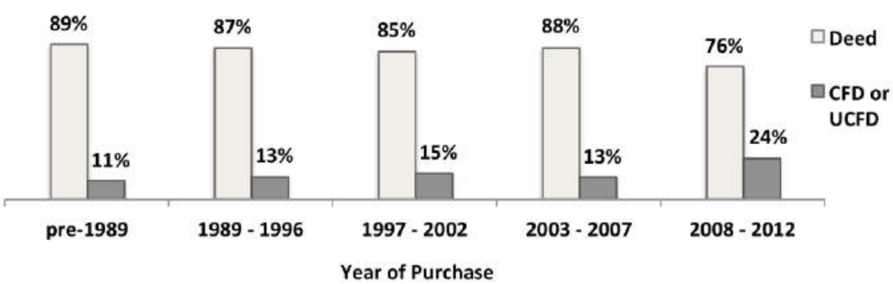

Figure 5.4. Current Title by Purchase Year
(Note: There are very few cases of recorded CFD so they are combined with unrecorded CFDs)

Titles Received at Purchase

We also set out to determine the type of title received at purchase, and to evaluate whether significant differences existed between those who purchased with deed or CFD and UCFD. First we created two distinct estimates for the title received at purchase. In order to do so, we evaluated the time between the purported purchase from the survey and the recording of a title document in the property records. In the high estimate, which used a one-year cutoff point, any cases in which greater than a one-year gap existed between the purported year of purchase from the survey and the recording of a title transaction were deemed to have purchased using a UCFD. In the low estimate, a three-year cutoff was used.[9]

In Chapter 4 we explained how we went about estimating whether or not there was an UCFD with one or three years of an appearance in the formal record. Without repeating the methodology here looking at all owner-occupied lots (i.e., excluding those who inherited or received the lot as a gift), between 37% (lower estimate) and 48% (higher estimate) of respondents appeared to have purchased the lot through UCFD (Table 5.6). The highest rates of UCFD purchase are seen in El Paso, Maverick, Starr, and Webb Counties, where low estimates approach or exceed 50%. In Cameron, Guadalupe, Hays, and Hidalgo counties the low estimate reveals that closer to 25% of owners purchased with UCFD.

Table 5.6. Titles at Purchase by County

	High Estimate (One-Year Cutoff)				Low Estimate (Three-Year Cutoff)			
County	**Deed**	**CFD**	**UCFD**	**Total N**	**Deed**	**CFD**	**UCFD**	**Total N**
Cameron	59.2%	0.0%	40.8%	103	74.8%	0.0%	25.2%	103
El Paso	29.6%	10.2%	60.2%	108	34.3%	13.0%	52.8%	108
Guadalupe	67.4%	2.2%	30.4%	46	76.1%	2.2%	21.7%	46
Hays	58.5%	1.9%	39.6%	53	69.8%	1.9%	28.3%	53
Hidalgo	64.6%	0.0%	35.4%	130	74.6%	0.0%	25.4%	130
Maverick	37.5%	3.1%	59.4%	96	46.3%	6.3%	47.4%	95
Starr	38.9%	0.0%	61.1%	54	51.9%	0.0%	48.1%	54
Webb	41.0%	0.0%	59.0%	61	51.7%	0.0%	48.3%	60
Total	49.3%	2.5%	48.2%	651	59.5%	3.4%	37.1%	649

Analyzing the title at purchasing in comparison with other variables, we find:

- No statistically significant difference exists in the household income, nor in the number of workers per household for those who purchased with formal titles (Deed and CFD) or a UCFD.

- Statistically, those who purchased using UCFD were no more likely to have purchased from a relative.

- When looking only at cases in which the owner made multiple payments over time (i.e. did not pay for the lot or home outright), the average (trimmed mean) downpayment at time of purchase was $3,150 vs. $2,548 for Deeds and CFDs (both recorded and unrecorded), suggesting that larger down payments are more common in property transactions in which the owner received the deed at the outset (See Table 5.7). The average (trimmed mean) down payment at the time of purchase was $2,432 for formal transactions (deeds and recorded CFDs) but only $2,018 for UCFDs.[10]

[9] See Chapter 4 for a detailed discussion of this methodology.

[10] These figures to not differentiate between purchases involving the land only and those involving the land and a home.

Table 5.7. Down Payments by County and Title at Purchase

	Deed		CFD or UCFD	
	Mean	Median	Mean	Median
Cameron	$2,368	$628	$2,858	$1,744
El Paso	$1,678	$1,134	$1,458	$1,134
Guadalupe	$1,575	$626	$2,669	$1,972
Hays	$4,102	$4,061	$1,815	$1,255
Hidalgo	$1,231	$566	$2,828	$805
Maverick	$6,038	$5,954	$1,792	$846
Starr	$4,555	$5,941	$1,587	$1,449
Webb	$5,361	$4,607	$2,282	$1,396
Total	$3,150	$1,057	$2,548	$1,225

DEVELOPER STRATEGIES AND "FLIPPING" OF LOTS

Later in this chapter we will examine the rising trend of consumer-to-consumer sales, but before turning to that analysis we report on the changing patterns of developer land sales in colonias and subdivisions, and introduce additional analysis that we conducted in two recent subdivisions that are, we believe, emblematic of a new wave of developer-led sales and practices.

Colonia promotion and formation has traditionally been associated with developers who would acquire agricultural or scrub land beyond the city limits, file a plat, and then sell off lots under seller financing, usually through Contract for Deed (recorded or unrecorded). As we saw in Chapter 3, after legislation in 1995, developers on the border were required to record CFDs, and a similar requirement was made for non-border subdivisions after legislation in 2001. Prior to 1995, most developer promotions came with minimal services or a complete absence of services. Sometimes developers promised services downstream, but as complaints from buyers began to increase, and as the Texas Legislature and agencies began to pursue developers under consumer protection laws, developers began to be more explicit in what they were promising. Most made clear that sewage and wastewater were not contemplated but that the buyer was responsible for installing septic systems and contracting for water (Ward 1999).

While some developers became notorious at the time—for example, Ciso McDonald and Martha Cadena in Webb County, and Blas Chapa and Elias López in Starr County—and were frequently hounded into bankruptcy by sequestration through state agencies, it is important to note that they were not universally vilified by colonia populations. They often maintained good relations with buyers, cut them slack when they missed payments, and were rarely aggressive in repossessing lots (Ward et al 2005). However, their failure to provide services, their sometimes dubious practices of selling lots in arroyos and inadequately delimiting lots, and their perceived exploitation of low-income households, increasingly led to efforts to require them to improve or else shut down their operations. The Model Subdivision Rules legislation in 1995 required that developers build the services up front or post a bond for services before selling property. Additional legislation restricted the use of CFD, requiring a range of consumer protections. Meanwhile, outside of the border, subdivisions akin to colonias—the IFHSs discussed in this Report—continued to be developed unabated.

Thus, most of the pre-1989 colonias—which formed the basis of our survey's random sampling in the six border counties—were developed by the old-style developers, selling lots without services through use of use of contract for deed, both recorded and unrecorded. We went into this project thinking that more recent lot sales consisted mostly of infilling and re-sales in the pre-1989 colonias. However, as we began to review Google Earth images for our colonia selection, we realized that in some counties (Cameron, El Paso, and especially Hidalgo), several new settlements were actively being developed under the Model Subdivision Rules and thus with services. Some of these newer settlements are very large (such as Drake in El Paso and Pueblo de las Palmas in Hidalgo County). Local officials and NGO leaders also alerted us to the proliferation of these new subdivisions, and to the "new style" and new cadre of developers in these subdivisions. For these reasons, we resolved to break out of the strict random selection of colonias and purposively chose several new subdivision settlements for interviews or "papering" with mail-back surveys as described in Chapter 2.

For Phase Three of our project and for the current chapter, in addition to analyzing the survey database about lot and house purchases in new subdivisions we also resolved to dig deeper and try to interview some of these new developers to better understand the changing nature of how they manage their portfolios. We ended up not having sufficient time or resources to pursue many of these interviews, and, the developers we did contact were skittish about talking with us. However, we were able to get a sense from the county appraisal district records (via the transaction histories) of how they are managing their operations, who the key players are, and the type of titles that are using to sell lots. As we observe below, developers, and the land transaction practices that they appear to use today, differ greatly from yesteryear.

The Practice of Property Flips in Drake and Pueblo de las Palmas

<u>Method</u>

Drake in El Paso County and Pueblo de las Palmas in Hidalgo County are relatively newly developed subdivisions. Initially they were not included in our sample survey for face-to-face interviewing, but were subsequently added as a purposive analysis of present-day developers. The lots in these two communities were chosen for mail-back surveys, although only a few were returned, mainly due to the fact that the survey instrument was long and was largely tailored to administration by an interviewer.

For the property flip analysis, we researched lots in the two communities through the respective county's central appraisal district records. The online CAD deed history provides, at most, the three most recent deed transactions for each lot, so we were limited with how far back in time we could go in understand the developer's history with a specific lot. We define a flip as a transaction where the property is foreclosed upon or defaulted back to the seller. Given our limitation of three CAD transactions, we were only ever going to be able to capture one full flip for each lot (since a flip requires two transactions, from seller to buyer then back to seller), as well as ascertain whether whether the developer resold the property after the flip.

Using Google earth aerial maps, we randomly selected a street and looked it up in CAD. The first street property ID was our starting point. In Drake we sampled every 8^{th} property, excluding CAD records for just mobile homes (i.e., records that did not include a lot). In Pueblo de las Palmas we sampled every 10^{th} property. In Drake we covered the entire community for a final sample of 75 lots. In Pueblo de Palmas we sampled until 100 properties were covered since we felt we had a sufficient sample to generalize results (actually, by the time we reached 100 lots, all streets within the community were fully covered with the exception of one).

Drake Findings

Drake Subdivision is located in the southeastern part of El Paso County, in the northern edge of the Tornillo CDP (between Alameda Ave. and I-35), with roughly 350 lots. The developers of this area are Dale and Tonya B. Drake and Drake Enterprises. Review of the plat records obtained through the El Paso Planning Department shows that Drake Subdivision encompassed seven units of development, the first one starting in 1992 and the seventh one starting in 1998. The trimmed mean lot size in Drake is 30,521 square feet (median 23,724), while the average lot price per square foot is $1.22 (median $1.14), as illustrated in Table 5.8.

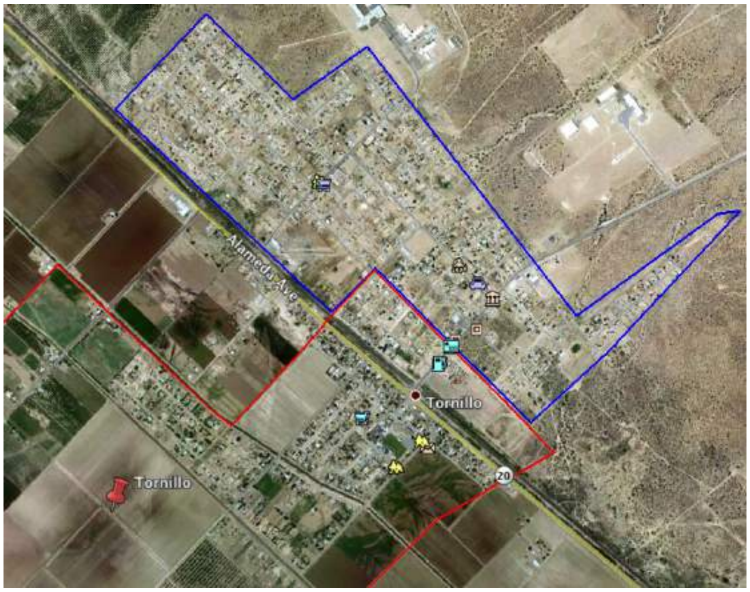

Figure 5.5 Drake in northern Tornillo CDP, southeastern El Paso County

Out of the 75 properties randomly sampled, 8 (10.7%) of these lots had at least one flip, and all but one of these involved the developer. Six flips involved transactions from CFD to warranty deed, that is to say the developer as seller provided a recorded CFD to the buyer, and then at the point of flip, the property was transferred under a warranty deed from the buyer back to the developer. The other two transactions involved a CFD from the developer to the buyer and then a CFD back to the developer. (None of these flips involved a deed-in-lieu of foreclosure.)

For 5 of the 8 properties that flipped to the developer, there was a subsequent resale by the developer to another party. The flip time periods ranged from under a year to five years, but all but one of the flips occurred within two years or less of the purchase of the property (based on the recording date in the CAD records).[11] Further to our analysis in Chapters 3 and 4, we also found that 72% (54) of the 75 properties sampled had been sold with a recorded CFD, and 52% (28) of these did not appear to have been converted into deeds as of the end of 2011. As mentioned above when describing the timeframe of Drake's development, we see a concentration of recorded CFDs occurring in 2004. Additionally, 7 warranty deeds with vendor's

[11] Average flip rates are difficult to estimate because listed CAD dates do not necessarily reflect the exact date of when the transaction was closed, they may instead reflect when the paperwork was recorded. For example, if one compares the same property ID in CAD and the county clerk's public records, dates for the same transactions do not necessarily a match and can differ by several months.

liens appeared within the CAD records for the 75 properties, with at least 4 of these involving the developer.

Overall, the 11% flip rate found in Drake does not signify aggressive developer practices, although it does show that recorded CFDs are prevalent in this particular development. Reviewing our survey findings from the owners who returned the mail survey, although a small return (N = 10), we also see this clearly: three-fourths of the reported purchases involved a developer sale, and all of the developer sales were land-only sales that were seller-financed by Drake. Eighty-three percent of the survey respondents also reported receiving a Contract for Deed at the time of purchase. Lastly, discussions with community organizers indicated that the developer in the past had been reluctant to work with the TDHCA in its CFD conversion program. The extent to which the Drakes have been unwilling to provide buyers with deeds is unknown, but CFDs are widely prevalent in Drake, which supports the need for a CFD conversion program in this community.

Table 5.8. Land Size and Appraised Value: Drake and Pueblo de Las Palmas

	Drake		Pueblo de Las Palmas	
	Mean	Median	Mean	Median
Land SqFt	30,521	23,724	22,101	22,007
Appraised Value / SqFt	$1.22	$1.14	$2.26	$1.64

<u>Pueblo de las Palmas Findings</u>

Figure 5.6 Pueblo de las Palmas off FM 2221, western Hidalgo County
(The block bounded in yellow is adjacent Salida del Sol, while the subdivision north 2221 around the School is Taurus Park Estates)

Pueblo de las Palmas is a huge multi-sectional development in western Hidalgo County and comprises over 1,000 lots. Salida del Sol subdivision lies on its eastern edge side, and Taurus Park Estates is to the north (See Figure 5.6). Arnoldo Pena and Manuel Chapa (aka Chapa Pena Development) and John Frisby appear to be the primary developers, although we found many transfers between Chapa Pena and Leonel and Maria N. Bazan.[12] There are a number of holding companies or related companies in Mission, Texas, set up by the same individuals that also appear in the transaction histories, such as G & D Financial Services LP, JGF Land Company, and JGF Enterprises LP, of which John Frisby is a principal. Other principal players who appear in the deed records, which may or may not be related to the Pena/Chapa/Frisby players are: All Star Land Co., Diversified Investment Holding Corp., and Anzaldua Enterprises (Jaime Anzaldua). Additional players include Juan Jose Jr. and Jesus R. Carlos Pena both of whom purchased and received many properties in this development from Leonel Bazan.

Figure 5.8. Developer's Sales Office, Pueblo de las Palmas
(advertising lots with services and "trailers" allowed)

For Pueblo de las Palmas, our sampling frame was 21 streets and every 10th CAD record. In this community, almost all of the lots (97%) were sold under special warranty deeds with vendor's lien. The CAD records we sampled did not show the use of any recorded contracts for deed.

Out of 100 lots sampled, flips via a foreclosure by the seller were found in 45 cases; 39 showed no flips (within the last three recorded title changes), while 16 involved unknown transactions. Of the properties foreclosed, only 3 were consumer sales that flipped back to the consumer-seller. The remaining 42 flips were foreclosures by the developer or a land company, most of which are related to the developers (for example, 23 of the 42 foreclosures were by G&D

[12] One of the returned surveys indicated Leonel Bazan as the seller with some insightful notes. The respondent indicated that there was verbal agreement of a $20 fee for late CFD payments; the receipt had the interviewee's name and Mr. Bazan's name on it; and the interviewee was told that if he or she wanted to pay down the principal the interviewee could not be late in payments.

Financial Services and JGF Enterprises, for which John Frisby, the developer, is a principal owner).

For Pueblo de las Palmas we were able to do a more systematic analysis of the average time it took for a property to flip back to the seller. The time between flips time has been very short: 20 of the 45 lots (44%) flipped in less than a year of the sale; 8 (18%) in 1 to 2 years, and 4 (9%) flipped between 2 and 4 years. Thus we are talking about very short periods between sale and mortgage default. Almost all (43/45) of the flipped properties were resold, most within 3 months. Thus, we saw very short resale periods after short mortgage default periods

For the 16 "unknown" lots (16% of the sample), we were unable to tell what is behind the transaction history in CAD. For all 16 of these lots, an "unknown" grantor transferred the title of the lot to a land or finance company (all but one were to G & D Financial and JGF Enterprises). Ten of these lots were then transferred to a consumer, 5 were transferred to another land or financial company, and 1 was then a transferred to the county. Results of the returned mail surveys from Pueblo de Palmas mirror those of our CAD sampling: with few exceptions sales are by developers and land companies with seller financing.

In summary, out of 100 lots sold in Pueblo de las Palmas, at least 45% of the lots were foreclosed upon by the developer/finance company/land company, at least 20% were foreclosed upon within a year, and at least 32% were foreclosed upon within 4 years of sale. Given the limitations of the online CAD records, there could possibly have been even more flips. With such a high rate of flipping, it is probably fair to suggest that in this subdivision developers and investors are very aggressive in pursuing foreclosure against the buyers. Our research project did not delve into why foreclosure is happening so aggressively in this community. This is an area certainly ripe for further research, including the extent to which these aggressive foreclosure practices are common in other model rule subdivisions in Hidalgo and other counties. Such rapid flipping has major implications, of course, for the quality of housing that is erected and the living conditions in which people live. For many buyers, the purchase becomes a form of de facto renting, a point which we return to in the section on renting below.

SALES BY RESIDENT HOMEOWNERS: CONSUMER-TO-CONSUMER AND DEVELOPER TRANSACTIONS

Having described some of the developer practices, this section focuses upon some of the main findings with regard to consumer-to-consumer transactions (that is, sales from a prior resident homeowner to a new resident), and compares these with developer sales. In addition to the core survey questions we asked that were related to the purchase of the owner's current homestead, we also asked the 9.4% of owners who had previously sold another lot questions about how the prior sales transaction had been handled.

We also conducted a series of more intensive telephone interviews with eight purposively-selected residents who had bought their homestead from another consumer or had previously sold a lot. These questions were aimed at getting a better sense of what information the residents had about the process of buying and selling land, what resources they used for assistance with the process, and what barriers they faced when trying their buy or sell their lots.

Growing Prevalence of Consumer-to-Consumer Transactions

One of our key findings in this Report is that there is a growing predominance of consumer-to-consumer transactions in older colonias and informal homestead subdivisions (Figure 5.9).[13] As these communities age and residents obtain title to their properties, residents are gradually replacing developers as the dominant actors in land sales. Thus, in colonias and IFHSs developed prior to 1989, we found that consumer-to-consumer transactions have become by far the most predominant form of land sales. As shown in Table 5.9 below, of those we surveyed who recently purchased their lot in a pre-1989 colonia or IFHS, 83% of purchasers bought from another consumer. In contrast, of those who recently purchased in a newer post-2005 colonia or informal homestead subdivision, 79% bought from a developer.

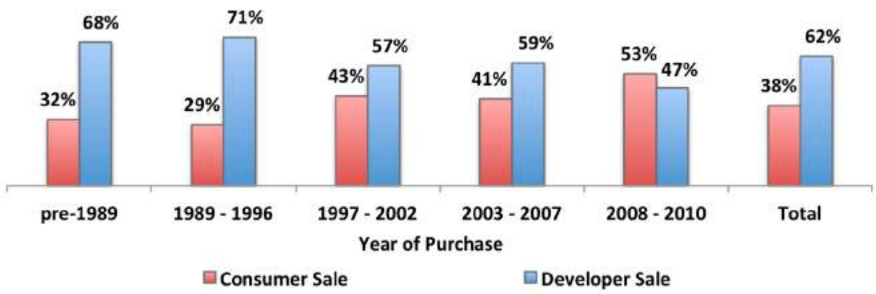

Figure 5.9. Consumer vs. Developer Sales by Purchase Year

Table 5.9. Consumer vs. Developer Sales by Purchase Year and by Colonia/IFHS Age[14]

	pre-1989 Colonias		1989-1996 Colonias		post-1996 Colonias	
Purchase Year	**Consumer Sale**	**Developer Sale**	**Consumer Sale**	**Developer Sale**	**Consumer Sale**	**Developer Sale**
pre-1989	35%	65%	15%	85%	0%	100%
1989 - 1996	47%	53%	18%	82%	0%	100%
1997 - 2002	60%	40%	48%	52%	7%	93%
2003 - 2007	72%	28%	65%	35%	9%	91%
2008 - 2011	83%	17%	64%	36%	21%	79%
All Years	51%	49%	37%	63%	11%	89%

[13] See also Durst, et al 2012. However, as discussed in the section in this chapter on developer sales, in some communities developers rely on more nefarious or aggressive sales practices, leading to rapid repossession and resale to new buyers, and thereby entrenched involvement in the community's land transactions.

[14] Note: Newer subdivisions often have a few sales before they hit a "tipping point" of development. Hence for the colonias developed in 1989-1996, there are some sales that took place prior to 1989. See "Settlement Age and Home Tenure" subsection of this chapter for a discussion of our methodology in assigning a "colonia age" for the colonias and IFHSs in our survey sample.

Limited Bank Financing, Leading to Heavy Reliance on Cash Sales and Seller Financing

As with developer sales, bank financing plays a very limited role in consumer-to-consumer sales in colonias and IFHSs. As shown below in Table 5.10, only 14% of the resident homeowners we surveyed in consumer-to-consumer sales utilized bank financing, although this was more than buyers used in developer sales (9%). With the lack of bank financing, consumer transactions rely largely on all-cash (21%) and seller financing (63%).

All-cash sales play a much larger role in consumer sales than they do in developer sales, especially in sales involving only the land. In contrast to the 21% of buyers we surveyed in consumer transactions who reported paying all-cash, only 8% of buyers in developer transactions involved all cash.[15] And for consumer sales involving land only, the percent of all-cash sales rose to 25%, compared to only 8% of developer sales. When we examine sales involving the land and house together, we see similar patterns: 17% of consumer sales versus 4% of developer sales were paid in full.

Table 5.10. Payment Method for Consumer vs. Developer Sales

	Total Sales				Land Sales				Land & House Sales			
	Consumer Sale		Developer Sale		Consumer Sale		Developer Sale		Consumer Sale		Developer Sale	
	All	Ex	All	Ex	All	Ex	All	Ex	All	Ex	All	Ex
Seller financed	63%	63%	83%	81%	62%	61%	84%	81%	65%	64%	79%	80%
Paid in full	21%	22%	8%	10%	25%	27%	8%	11%	17%	16%	4%	5%
Bank loan	14%	14%	9%	8%	11%	10%	7%	6%	17%	20%	16%	15%
Other	2%	2%	1%	1%	2%	3%	1%	1%	1%	0%	0%	0%

Notes: All = full sample ; Ex = extrapolative sample; bank loans include 4 credit union loans.

We suspect that consumers rely more on all-cash sales because a consumer selling his or her home is typically looking to purchase another replacement home and often cannot afford or take the risk of relying on monthly payments towards the purchase price over an extended period of time. However, even with the large number of all-cash sales, seller-financing is still the primary source of financing in consumer-to-consumer sales. This means that most consumers who sell are unable to receive cash up front for the equity they have built up in their property.

Example of Consumer-to-Consumer 100% Cash Sale
May 2012 Interview in Maverick County

Janie Martinez[16] and her husband bought a lot in Chula Vista roughly 10 years ago from a resident in the community. They found out about the lot from a friend of Janie's husband. They did not use a real estate agent, and the person who sold the lot to them did not advertise the lot. Janie and her husband knew they wanted a lot but looked at only one before making their purchase. They wanted to move from the northern part of the state to an area closer to the border, and they wanted to "finally settle down in a place of their own."

[15] Differences statistically significant at the 1% level [p<0.01].

[16] The names of the residents in all of the examples presented here have been changed to respect their confidentiality.

Negotiations were simple: the owner set the sales price at $10,000 and declined the couple's request for a discount. There was no inspection, appraisal, or lot survey conducted, and no assistance with the transaction from an attorney, title company, or outside party. They purchased from a resident instead of a developer because "that was the offer." They did not know about other lots or ask around for other opportunities. The documents were prepared by the seller. The couple paid for the lot in full at the time of purchase with their savings and got a deed. The lot had electricity, but for one year they fetched water from a neighbor before requesting their own water service. Janie and her husband were quite happy with their purchase and the fact that it was completed "in just one day."

High Levels of Informality

Consumer-financed transactions, in contrast to developer-financed transactions, have much higher levels of informality and an array of related issues, with pervasive levels of unrecorded CFDs, even in recent transactions. With the rise of consumer-to-consumer transactions in older colonias and IFHSs, we have also therefore seen a heightened use of unrecorded CFD in these older communities. Although the sample size is reduced to only 34 cases, between 29% and 38% of those owners who purchased from another consumer from 2008 to 2010 did so with an unrecorded CFD, in contrast to between 9% and 12% who purchased from a developer. A similar percent (29%) of owners who bought from consumers in this time period have a current UCFD.

The reasons for the high levels of informality in consumer sales are due in large part to the fact that most of the consumers in these transactions do not utilize outside legal or title company assistance. Of those we interviewed who had sold a lot before, for example, slightly over half sold the lot without outside assistance from an attorney or title agent. This means that consumers selling their homes commonly prepare the sales documents on their own (if there are any documents), and the buyers rely on the good faith of the seller that all the documents and logistics of the transaction are in order. In contrast, traditional home sales with bank financing in Texas are almost always handled with a title company overseeing the transaction and lawyers preparing the titling and financing documents.

As they venture out on their own to handle land sales, many consumers lack awareness about how to adequately protect their interests and on how to comply with the law. Many of them are outright unaware of the importance of deeds, the importance of checking the status of the title before purchasing a property, and of how to record their documents. Many of the residents surveyed, for example, were unaware what type of title they had received, if any, and if it had been recorded. We heard repeatedly in our follow-up interviews with selected owners that they could have benefited greatly from having more information about the land sales process and access to affordable assistance in preparing or reviewing their sales documents.

Another possible reason for the higher levels of informality in consumer sales is the fact that almost one out of five (18.5%) involve a purchase from a family member. In inter-family transactions, one would expect to see less formality.

The transactions that consumers enter into together can end up quite improvised and informal, ranging from handwritten scraps of paper to typed documents that are cobbled together and even oral agreements. These documents often lack basic information about the transaction terms, along with the statutory-mandated consumer disclosures, notices, and other provisions required by the Texas Property Code. Examples of some of these documents are included in Chapter Two. Consumers also lack information on the importance of recording their documents in the county clerk records or do not understand the process for recording their documents.

Example of a Consumer-to-Consumer Sale with Oral Contract for Deed
May 2012 Interview in Webb County

Mary Zavala was not looking for a lot—she and her husband were renting—but the opportunity to purchase came up during a chat with her close friends. For $15,000, the Zavalas could own half the lot along with a trailer with gas, telephone, AC, water, and electricity. They agreed orally to pay $100 a month with no interest. Mary and her husband asked for a written agreement, but were told they would get the papers later on. They have been paying for 10 years, and still lack a written contract. The only proof they have of the purchase are the cancelled checks stating they are towards the purchase of the property. When the sellers were going through a divorce several years after making the agreement, one spouse argued to the court that Mary and her husband were renters.

Today, the situation remains unresolved, and Mary has stopped making payments for fear of losing more money, even though the Zavalas have already paid $11,000 towards the purchase price. They also learned it may cost more than $8,000 to legally subdivide the property. Meanwhile, the seller has removed from the trailer the AC, the battery for electricity, and the gas tank. The Zavalas have, in turn, almost completed constructing a new home on their half of the lot but stopped construction pending resolution of the title. They can't set up utility services because the property is not in their name.

Example of a Consumer-to-Consumer Sale with Seller-Financing
May 2012 Interview in Webb County

Juan Garza and his wife sold their home in 2007 under a written contract for deed to their neighbors. Juan decided to sell after he got a job in the trucking industry and needed to live somewhere more central to his trucking routes. He and the buyers worked out the agreement and drafted the sales papers on their own, without the assistance of an attorney or real estate agent. The buyers agreed to make payments over seven years. In navigating the sales process, Juan said he relied on "common sense" about what the parties expected. The terms of sale provided that if the buyer missed three consecutive payments then Juan would take back the house, and that the house could be remodeled but not rebuilt. The title would be handed over after payments were completed. Reflecting back on the process, Juan said it would have been useful to have information drafting a sales contract and access to a low-cost legal service to assist with the sale.

Higher Prices, Down Payments, Monthly Payments

We found that properties sold by consumers have higher combined land and house prices, down payments, and initial monthly payments, than properties sold by developers. Comparing terms in consumer-to-consumer versus developer-to-consumer sales was made difficult by the fact that 42% of the consumer sales involved the sale of the land and house in the same deal, versus 20% of developer sales. However, as seen below in Table 5.11, when we looked at transactions in our survey involving the sale of only the land, we learned that the median down payment for those purchasing land from developers was $584,[17] and from consumers was

[17] All dollar figures here are reported in 2012 dollars.

$2,308. The median land purchase price was $16,945 for developer sales, versus $15,666 for consumer sales, while the median price for sales involving the land and house was $37,825 for developer sales and $47,520 for consumer sales. For owners who are still paying off their properties (Table 5.11), current monthly payments were smaller among those owners who bought from developers (median $275), when compared with monthly payments paid by owners who bought from consumers (median $435). Consumer sales lots tend to be somewhat smaller than those of developers (Table 5.12). In summary, consumer-to-consumer sales generally require larger down payments and monthly payments, which is logical given the common needs of consumer-sellers to quickly liquidate their asset in order to move and buy elsewhere.

Table 5.11. Purchase Payments: Consumer vs. Developer Sales

	All Sales (N=885)		Consumer Sales (N=326)		Developer Sales (N=523)	
	Mean	Median	Mean	Median	Mean	Median
Land	$17,339	$16,405	$16,222	$15,666	$17,639	$16,945
Down Payment	$1,355	$706	$3,086	$2,308	$889	$584
Initial Monthly Payment	$281	$265	$328	$291	$264	$258
Land & House	$47,365	$40,730	$53,763	$47,520	$43,837	$37,825
Down Payment	$3,868	$2,830	$6,886	$5,750	$1,755	$1,080
Initial Monthly Payment	$482	$448	$537	$536	$417	$313
If Still Making Payments	(N=289)		(N=74)		(N=197)	
Monthly Payment	$353	$300	$444	$435	$302	$275
Years of Payment Left	10.3	10.0	9.1	7.0	10.1	10.0

Note: All values are reported in 2012 dollars; the 5% “trimmed mean” is reported for mean values.

Table 5.12. Land Size and Appraised Value: Consumer vs. Developer Sales

	All Properties		Consumer Sales Properties		Developer Sales Properties	
	Mean	Median	Mean	Median	Mean	Median
Land SqFt	14,629	11,820	12,892	9,611	17,268	15,226
Appraised Value / SqFt	$3.16	$2.84	$3.64	$3.55	$2.62	$2.09

Income Levels

Since consumer sales involve higher down payments and higher monthly payments, it came as no surprise to us that lower-income buyers are more likely to be priced out of this particular market compared to developer sales. The homebuyers we surveyed who purchased a homestead in a consumer-to-consumer transaction had a higher household income than those who bought from developers. Buyers in the lowest-income brackets who recently bought a homestead (2008-2012), were more likely to buy from a developer versus another consumer. In particular, of the total developer sales in our survey, 61% had a household income of $1,600 or less, while only 47% of consumer sales had household incomes of $1,600 or less. Similarly, for those purchasing the land and house, 26% in consumer transactions made $2,400 or more versus 15% in developer transactions.

Owners who Had Previously Sold a Lot

As discussed above, 9.4% of owners we surveyed had previously sold another lot. Some of our findings regarding these transactions and set of owners:

- ❖ In general, as expected, the owners who told us they had sold a lot previously were slightly older than those who had not sold a lot before. As well as being somewhat older, owners who had sold a lot before have slightly higher household incomes compared to all owners in our survey sample (33% of those who sold a lot have household incomes of $2,400 or more compared with 23% of who have not sold a lot and have similar household incomes).

- ❖ From these prior sales, 51% of the owners obtained assistance from an attorney or real estate agent. Neither age nor income at the time of the survey statistically influenced whether the owners sought legal assistance in the sales transaction.

- ❖ The prevalence of sales to family or friends was striking: 55% of those who sold a lot in our survey did so to a friend (31%) or relative (24%) versus another third party (45%). Although a larger share of those with higher household incomes at the time of the interview sold to an unknown third party, neither income nor age statistically influenced whether they sold to a relative, friend, or third party.

- ❖ Almost two-thirds (63%) of the prior sellers reported that they provided a deed up front in the sale (including sales involving payment in full as well as seller-financing), 20% provided a CFD, and 5% made an oral arrangement to transfer the property (another 12% did not recall or said “other”). In cross-analyzing with the current household income and age of the prior sellers, we find that age does not statistically influence the title arrangement made, but income does: higher income sellers were more likely to provide deeds while lower income sellers (under $1,000 monthly) were more likely to use a CFD or oral agreement. The sample size is too small to allow further disaggregation by county.

INHERITANCE: AGING HOMEOWNERS AND “CLOUDED” TITLES

Upcoming Trend: Increase in Clouded Titles From Inheritance without Wills in Older Colonias

In examining colonia land transactions, while our primary focus was on land sales, we also wanted to make at least a preliminary examination of what happens to titles when colonia homestead owners die—when their homesteads pass onto the next generation of owners. Absent formal measures to pass a homestead title onto the next generation of owners (e.g., via a probated will or deeding the property over before death), the clean title (without impediments) can easily become “clouded”, creating a host of problems.

Clouded title problems created by informal inheritance practices have long been a problem in older lower-income neighborhoods with high rates of homeownership by multi-generations of African-American families. Government officials confronted this issue in Louisiana, Mississippi, and Texas following the last decade of hurricanes when state and local governments were stymied in their efforts to deliver hurricane rebuilding due to widespread clouded title issues created by the passing of title via intestacy. In Texas, for example, approximately one out of five low-income households applying for hurricane recovery assistance had at least one title issue, impeding the family's ability to access assistance (Way 2010).

In our survey, we asked a series of questions about inheritance practices and wills in colonias and IFHSs. The information we compiled from the survey confirmed for us that the same clouded title issues that have been found so pervasively in older African-American communities as a result of informal inheritance practices will likely become more predominant in older colonias and IFHSs in the coming two decades:

- Of the owners we surveyed who have inherited their homestead,[18] 87.5% are living in colonias that started their development prior to 1989.

- **Very few homeowners in colonias and IFHSs have wills.** Of the owner households we surveyed, 89% **do not have a will**. Older owners are more likely to have a will than younger owners (Figure 5.10 below), but still, 79% of the older owners we surveyed (61 and over) and their spouses do not have a will. In other words, one or both spouses have a will in only 21% of the households we surveyed. Without a will or the deeding over of the property prior to death, the title to these owners' properties will pass via the laws of intestacy.

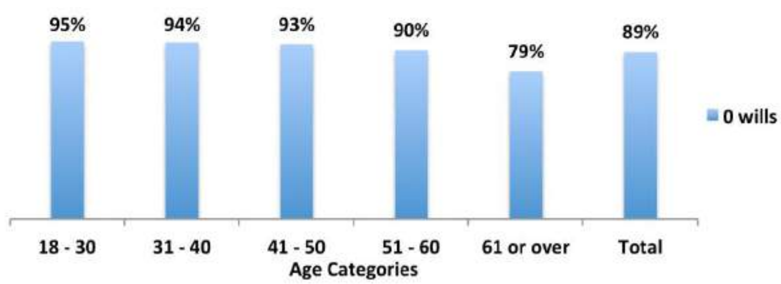

Figure 5.10. Owner-Households with No Wills (Interviewee and Spouse).

- Working from a small sample size, of the owners who told us they had inherited their homes and provided us with will information (14), only 21% reported that the deceased family member had a will.

- **As colonias age, so do the homeowners.** Sixty-eight percent of the owners we surveyed in colonias and IFHSs developed before 1989 are 61 and over, in contrast to 32% of the owners in colonias and IFHSs developed 1989 and afterwards (Table 5.13). Thus, we should expect to see growing numbers of homeowners in these older communities dying and passing on their property to the next generation.

[18] Given the relative small numbers of owners we surveyed who inherited their homes (24), we were limited in the extent to which we were able to disaggregate the analysis by county or by relative or type of colonia and subdivision.

Table 5.13. Age of Interviewee by Time Period of the Colonia or Subdivision Development (calculated as of when 25% of owners arrived)

Time Period Colonia Developed	Age of the interviewee					Total
	18 - 30	31 - 40	41 - 50	51 - 60	61 or above	
pre-1989	26.9%	43.3%	47.7%	49.2%	**67.9%**	50.6%
1989-1996	19.2%	28.4%	34.7%	37.7%	25.4%	30.2%
post-1996	**53.8%**	28.4%	17.6%	13.1%	6.7%	19.2%

These findings combined lead us to conclude that many more property transfers in older colonias and IFHSs will likely be occurring intestate in the coming two decades as the owners die. Based on trends observed in other communities with high rates of low-income owners passing title via intestacy across generations, we should also thus expect to see a large increase in clouded property titles in colonias and IFHSs in the coming years.

Example of Intestacy Problems
Interview of Cameron County Resident, May 2012

Albert and Gloria García[19] died 10-14 years ago without a will, passing their homestead via intestacy to their seven adult children. The seven siblings agreed that the second to youngest sibling, Mary, would be able to stay in the home since she had been the caretaker for their mother and was the only single sibling. Later, three of the siblings changed their mind and decided they wanted to sell the property to receive their share of the proceeds from the sale. They filed a lawsuit and litigated the matter until they ran out of money and eventually titled the property over to Mary.

Under Texas intestacy laws, when a homeowner dies and there is no surviving spouse, all of the children of the deceased (including those from previous unions), and their descendants, inherit the homestead, becoming "tenants in common"—joint owners of the property. Tenancy in common is generally a substandard and unstable form of ownership, often leading to property management challenges and disputes over ownership. Tenancy in common ownership can also lead to deplorable living conditions with little incentives to make home improvements and investment. We also suspect that it may be one of the reasons for property abandonment, due to the difficulties of selling the property and obtaining loans or government assistance for home improvements (Way 2010).

Types of Clouded Title Issues

Through our survey, we identified a number of additional areas that will be likely drivers of clouded titles in colonias after the current generation of owners die:

[19] The names of the residents in all of the examples presented here have been changed to respect their confidentiality.

Children from Prior Relationships

Three-quarters of respondents in our survey were married or lived in a common law union. At death, their property will be assigned under intestate succession laws unless they have a will. Intestate inheritance presents special challenges when the deceased homeowner has children from multiple relationships. Of the owners we surveyed, 23% (146) of the homeowners who are currently married (formally via a marriage certificate or through a common law union) have children from prior relationships, and 42% of these owners have three or more children from the prior relationships. The children from the prior relationships all stand to inherit an interest in the property. If the homestead is part of the community estate (which is generally the case when a married couple purchases the homestead together), the children from the prior relationships will inherit a one-half interest in the property when their parent passes away while the surviving spouse receives the other half interest. If the children are also deceased, then their descendants inherit an interest, and so on. As anyone can imagine, this situation—where children from a prior relationship share an ownership interest with their stepparent—is ripe for conflict.

Divorce

We found that almost one in ten of our surveyed homestead owners had gotten divorced since becoming property owners, yet of these, 13% did not obtain a divorce decree from a court. For this small subset of cases, the failure to obtain a divorce decree means that both ex-spouses are still considered to be legally married and remain on the title to the homestead if they originally purchased the property together, even if they intend for only one of the ex-spouses to remain the owner and to occupy the property. Thus, for example, if the ex-wife is living on the property with her children and dies and there was no divorce decree, the ex-husband automatically inherits at least a half interest in the property via intestate succession (assuming the homestead was community property), and will inherit all of the property if the deceased wife has no children from another relationship.

Probate Costs are a Barrier

Because so few families in colonias and IFHSs have wills, we conducted follow-up telephone case interviews with a very small number of households who were confronted with probating of a will. Of those who had a deceased parent or spouse with a will, we found several instances where the household did not probate the will because of the costs associated with the process, as well as cases where family members simply misunderstood the process and its impact on the estate.

For low-income residents in Texas, a major set-back of having a will is the cost associated with probating the will, which can range from $1,500 on up, depending on the complexity of the probate process. Unlike middle- and upper-income beneficiaries who usually have the resources to cover these costs or can liquidate the inherited property to cover the costs, the children who inherit their parents' home in colonia or informal subdivision are often poor themselves and are living on the lot and expect to continue to be able to do so. Among our follow-up case interviews of several current homestead owners with wills, most were unaware of these downstream costs.

Example of Failure to Probate a Will
Interview of Maverick County Resident, June 2012

Julia Zapata's mother obtained a will with legal assistance from Texas Rio Grande Legal Aid. After Julia's mother died, she did not probate the will because she could not afford the costs. Julia would like her daughter to inherit the homestead after Julia's dies, but she lacks the money to obtain a will or change the name on the title from her mother's name.

Informal and Alternative Arrangements

Almost half (44%) of the owners we surveyed without a will have made informal or alternative plans regarding the inheritance of their homestead. These plans cover a spectrum of practices, from oral "understandings" about which child will occupy the home after the parents' deaths, to the gifting of property to an adult child during the parent's lifetime.

Example of Gift Deed as an Alternative to A Will
Interview of Hidalgo County Resident, June 2012

Just before Johnny Mendoza's father passed away, his parents (who did not have a will) deeded the property over to him. It had been the understanding in his family that Johnny would receive the property because he was the youngest child, had never gotten married, and was the primary caretaker for his elderly parents. His mother is still living, and he still considers the home to be his mother's although it is now titled in his name. Johnny plans to deed the property over to his nephew, who is living with them, in about ten years. His family has an informal agreement that the property will remain within the family. As he told us, "God blessed us with the love and understanding we have for each other."

In this example, the informal arrangement of deeding to another is being respected, but we suspect that this is often not the case and that legitimate beneficiaries (siblings) may change their minds when the final parent dies (as in the García case mentioned earlier). Evidence elsewhere strongly supports this (Ward et al 2011).

Another important issue we discovered is that families' understanding of inheritance laws and their intentions regarding inheritance often conflict with the actual laws. For example (illustrated in Figure 5.11, of the owners who told us that their children would inherit their property, 17% said only one of their children would inherit (55% of these owners said the youngest child would inherit). Unless the owners take more formal steps to transfer title prior to their death, or take out a will naming the beneficiary, the intestate succession laws will trump their informal plans if contested by other children or beneficiaries.

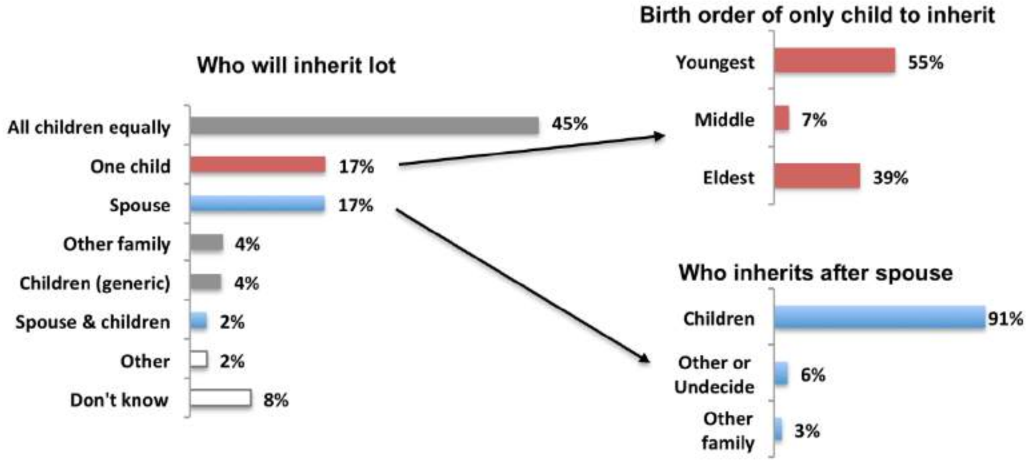

Figure 5.11. Owners Expectations Regarding Lot Inheritance

Additional Findings on Wills and Inheritance

- In Hays County (Central Texas), where a lower proportion of residents were Anglo, 43% of households had at least one will. Across all counties, a larger proportion of those who had been divorced (23%) or who were widowed (27%) were also more likely to have a will, as were those who had received their property via gift (16%).

- **Of all owners we surveyed who reported that they inherited,** the year of inheritance was spread across different time periods, but 44% of these cases occurred post-2002.

INFORMALITY AND RENTING IN COLONIAS: A RISING TREND?

Traditionally, colonias have been associated almost exclusively with ownership (Ward 1999)—most rental housing supply is usually found within the central city or inner suburb areas, closer to the workplace, amenities, and access to public transportation. Renters have generally been younger than owners, and have been more likely to be singletons. Often they are more recent arrivals to the city or even to the country in the case of international migrants. Thus, the academic literature widely emphasizes renting as a city— often central city—phenomenon tied to the life course of younger adults. Given the location of colonias, buried as they often are in rural hinterlands, several miles from the city, we have historically seen minimal instances of rental housing in these communities.

An alternative to renting, especially for recent arrivals to an area, is to live *arrimados* (sharing) with relatives. With Mexican family traditions and customs this type of arrangement is quite common. However, the identification of *arrimados* is rarely picked up in surveys, and is typically not associated as a form of rental housing.

In light of these trends, we expected to find a very small proportion of renters in our survey. However, that turned out to not be the case. In the eight counties we surveyed, 18.4% (219) of those we surveyed were living in homes not owned by the occupants, a significant number relative to prior research findings. Of these, 87% (190) were renters, the remainder (29) being those who were living rent free from an owner (usually a relative) who was living elsewhere (i.e., not on the property).[20] As Table 5.14 shows, renting is important in all Texas counties, usually running somewhere between 14% and 19% of those homes we surveyed, with slightly higher rates in Hays County (21.3%) and lower rates in the Maverick County (10%). Renting is found mostly in the older colonias: almost one half of renters we surveyed lived in pre-1989 settlements, with only 13% living in post-1996 settlements.

Table 5.14. Renters and Concessions (Rent-Free Living Arrangements) by County

County	% Owners	% Renters	% Rent Free	Total N
Cameron	81.6%	13.8%	4.6%	174
El Paso	81.5%	18.5%	0.0%	173
Guadalupe	77.8%	16.7%	5.6%	72
Hays	77.3%	21.3%	1.3%	75
Hidalgo	83.3%	15.9%	0.9%	227
Maverick	87.4%	10.2%	2.4%	167
Starr	78.2%	18.5%	3.2%	124
Webb	79.9%	16.8%	3.4%	179
Total	81.6%	16.0%	2.4%	1191

At the outset, our survey asked questions about the head of the household and whether or not the head of household owned the lot. If the respondent was not the owner but declared that they rented or lived on the lot rent free as a concession from a non-resident owner, then we noted the fact and skipped to a final section of the questionnaire that contained a few specific questions about the tenants which form the basis for much of the following discussion below. Had we anticipated finding quite so many renters or non-owners, we probably would have designed a more extensive and separate survey instrument for these cases.

Renter[21] and Non-Owner Profiles

Apartment buildings and multi-family housing structures for rental are rare in colonias (although in other recent studies [Durst et al 2012] we have begun to observe a small number of lots turned over to multi-family dwellings—a point to which we return below). Almost four-fifths (78%) of the renter households reported there was only a single rental unit on the lot, a further 15% reported two rental units, and only a small handful reported (N=14, 8%) three or more rental units. Renting, therefore, usually consists of single occupancy homes that have been vacated and left by the owner, rather than being developed for the purpose of renting.

Few renters paying rent—only 30%—have a rental contract with the landlord. Most rent informally and may or may not receive receipts for their rent payments. The tenants we surveyed usually pay rent to the owner directly (90%). The average rent (5% trimmed mean) paid was $375 per month, with smaller units costing less, as one would expect. The average rents broken down by bedroom count were: $281 for a one bedroom; $339 for 2-bedroom; and

[20] Of these 190 cases, 150 come from the extrapolative colonias, Of the 29 living rent free from an owner who does not reside on the property, 21 are extrapolative and 8 non-extrapolative. Overall one-fourth (24%) of the respondents in these cases noted that there is more than one rental unit on the lot (other than their own).

[21] These renter figures include only those survey respondents who reported paying rent versus those staying rent free.

$422 for 3-bedroom accommodations.[22] In renter households, it is rare for there to be a household head with no income (only 15%).

The lack of income is a feature more common with owners (24%), more of whom are elderly, as well as those living rent free (32%) as a concession. Twenty-seven percent of renters have two or more workers, compared with 32% of owners and 14% of those living rent free. Total household income categories for renters are somewhat lower than for owners (40% of renters versus 31% of owners earn less than $1,000 per month), although these are not statistically significant differences.

Two further differences between renters and owners are age and housing tenure. The renters we surveyed are much younger than the owners: 31% are 18-30, and 37% are 31-40 (compared to 8% and 22%, respectively, for owners). At the other extreme, only 8% of renters were over 61, compared to 26% of owners we surveyed (highly significant [.000 significance level]). Only 16% of renters were older than 50, while almost half of owners were. Not surprisingly, these profiles reflect that most owners are further along in their life course and have lived in the neighborhood for a longer time. What was somewhat of a surprise was our finding of a number of elderly renters (although still a relatively small number (8%)). As we describe in the section on inheritance and informality, the aging of owner populations in informal settlements is an emerging policy issue. The impact of having an aging population, including elderly renters, in these areas merits further research.

Most renters have lived in their settlement for a relatively short time: three to four years on average. The median year of arrival for renters was 2010, compared to a 1997 median for owners). These findings are consistent with other research findings that portray renters as being younger households at the earlier part of their life course. For many of these younger renters, renting provides a transition to ownership or flexibility to move between different housing units. Ownership in colonias tends to be for the long term, if not "forever," while renting is much more short term—or at least that has been the traditional pattern.

Why is Renting in Colonias and IFHSs on the Rise?

As discussed above, our finding that colonias and subdivisions house a significant minority of renters was a surprise given that prior research had suggested that renters were largely absent from colonias, and our assumption that the distant rural location of these communities would deter renters. A parallel study (Durst et al, 2012) conducted in colonias outside of Rio Grande City, which specifically compares housing improvements and socio-economic profile changes over a ten-year period (2001-11), also found a rise in renting associated with generalized neighborhood upgrades, as well the construction of a small number of apartment buildings with 5-15 rental units. While further work is required to understand the dynamics of this new rental housing supply, anecdotal evidence from the Rio Grande City study suggested that the rental units may be local investments by entrepreneurial families who live elsewhere in the community. However, as we observed earlier, the norm for rental housing is a single dwelling unit.

Tentatively, we hypothesize that the rise in renting we observed is a product in part of stagnation in the colonias housing market. Elsewhere (Ward et al 2005; Durst et al 2012), we have described how, even in low-income colonias, homes have considerable exchange value. However, the absence of external financing mechanisms and thus the on-going need for home sales to be through seller-financing (which means the seller cannot receive the sales price up

[22] 5% trimmed mean is reported for averages in the renter section to forego outlier influence.

front for the homestead), depresses the effective demand. This is especially the case on the heels of financial crisis that led to a tightening of loan requirements, affecting both low- and lower-middle-income families the most. Moreover, as other sections of Chapter 5 suggest, the opportunity to sell a property may be stymied by inheritance and succession conflicts and the reemergence of "clouded" property titles. Similarly, we report below that there is evidence that some homes are being abandoned or are being left unoccupied. These features suggest that owners are frequently unable to sell their property such that they face four choices: (1) find a buyer who can pay cash up front, but take a huge loss by selling way below the actual value; (2) stay put and suffer the opportunity costs of not being able to move physically; (3) walk away from their investment, which may be less of a hardship in the case of vacant or unused lots but could be a drastic decision when there is a dwelling unit on the lot, no matter how modest); and (4) move out but find an alternative use for the house or the land.

We believe this latter option is leading to a rise in the presence of non-owner households, the majority of whom (87%) are renters. Renting provides a steady stream of income for those who are obliged to leave the neighborhood (for reasons such as work relocation, household break up, etc.), while still allowing them to hang onto their investment.[23] We also hypothesize that families faced with intestacy problems as a result of relatives who cannot come to an agreement about the disposition of the property will turn to rental in order to gain some benefit from the property (Ward et al 2011).[24] The point is that, faced with the inability to dispose of the property, renting even in these distant locations becomes an option.

Moreover, as settlements "age" and as children reach adulthood, marry, and move out of the parental home, the adult children have a number of choices: move to an apartment in the city, share the lot with their parents but move to another part of the lot and erect a separate dwelling, or move to another dwelling opportunity in the same settlement in which they grew up. We believe that this latter option will also become increasingly common as colonias "mature."

Monthly Rental Costs

When we compared the monthly costs of renting versus purchasing for those home owners that continue to make monthly payments in our survey sample, we found that the costs are similar (Table 5.15). The monthly cost of renting falls squarely between consumer-to-consumer and developer sales. Although, this is an imperfect comparison because, in many cases, the object of payment is different (a dwelling for rent versus just a lot). Many of those buying from a developer especially will be buying just the land and will have additional housing and utility expenses. Comparing the number of years that owners vs. renters have lived in the current property, it is clear that renters are relative newcomers to their areas (3.1 years compared with 14-16 years living in the home for those who buy).

[23] We observed several dwellings in Pueblo de las Palmas (Hidalgo) that were "for rent" which almost certainly households who, for one reason or another could no longer occupy the home, but needed the income to continue to meet their land repayments. Earlier in this chapter we saw how aggressive "flipping" of lots back to the developer appears to be widespread in that colonia. For those who only occupy their lots for a short while and who live in temporary homes (trailers and campers) that can be moved off site in the event of repossession or "flipping", this route to home ownership is de facto renting.

[24] Albeit in a Mexican context where similar inheritance conflicts have been observed.

Table 5.15. The Relative Current (2012) Monthly Costs of Renting versus Buying

	Consumer Sale			Developer Sale			Renting		
	Mean	Median	75th percentile	Mean	Median	75th percentile	Mean	Median	75th percentile
Home Tenure Years	14.1	12.0	21.0	16.8	16.0	24.0	3.1	2.0	5.0
Monthly Pay	$444	$435	$574	$302	$275	$350	$375	$350	$475

Note: The sample size for consumer-to-consumer and developer purchases includes only those owners who continue to make monthly payments on their homes and lots.

Renting to Own or Owning to Rent?

Those cases where people set out to own but find that they cannot afford to make the payments and face rapid repossession without compensation or recovery of their investments are tantamount to informal renters. Earlier in this chapter we described the extensive "flipping" of lots back to the developer in the case of Pueblo de las Palmas (Hidalgo), one of our special case studies. We observed frequent flipping in Maverick County as well. In that subdivision, as well as in several new subdivisions, we occasionally observed properties that were "for rent," and which may be developer repossessions or are dwelling units of householders who, for one reason or another, can no longer occupy the home, but are hoping to rent in order to continue to meet their land payments.

However, we also observed a large number of lots with extremely poor housing conditions where households are purchasing a lot through warranty deeds with vendors' liens and are living in homes (trailers and campers) that can be moved off site in the event of repossession or "flipping." The costs of these residents' purchase, even if it is for a year or two, is on par with the cost of renting. While the residents' aspirations may be to eventually own their lot, the reality of informality may lead to their having to walk away from the lot or being forcible removed via foreclosure. Yet, in contrast to renters, these residents do not receive the legal protections that tenants receive under state law, such as the warranty of habitability and protections against substandard living conditions.

Figure 5.12. Shoddy Housing: The Shape of Informality to Come – Owning to Rent? Photo of Lot in Puebla de las Palmas

(Note the camper home that can be removed, as can be the washer and fridge. The successful self-help house in the background is not the rule in this community.)

The points described here and which relate to communities like Puebla de las Palmas and which do not break out of the survey analysis, remain largely speculative at this stage. Some are hypotheses born of our observations in self-help low-income settlements elsewhere (www.lahn.utexas.org), and need to be more fully researched before any firm conclusions can be arrived at.

Follow-up Mail Survey of Owners Who Rent or Lend their Properties

As part of our attempt to understand more about renting trends in colonias and IFHSs, we sought to reach out to a number of property owners where our survey had identified renter households to be present. Our selection of these interesting cases was purposive, and designed to gain further insight about why an individual owner had chosen to rent or let (rent free) his home to a relative. Unlike some of the follow-up "interesting" cases described in other thematic arenas discussed in this chapter (in which we already had owners' phone numbers from the full survey), we were constrained in our ability to locate and interview these landlords. Given that these were "absentee" owners, we had only been able to gather modest data about the tenants. We deliberately chose not to ask the tenants for surrogate information about the owners, since renters are very uneasy about giving information about their landlords for fear of repercussions later. Having the lot address, most times we were able to pull up the owner's address from the CAD, but obtaining a telephone number and contacting the owners was inevitably going to be intensely problematic.

Of the 190 owners who rent in our survey sample we created a database with their addresses from the CAD. This immediately gave us a data about where these absentee owners live. Not surprisingly. perhaps, the large majority live in the same county as the rental property (86%). In Guadalupe and Hays, 13% and 19% respectively live in an adjacent county, but this probably reflects the geography of those counties and the fact that a number of the owners live in San Marcos or Austin (both different counties).

With the intention of surveying these absentee owners, we developed a short mail-back survey, which we sent to 219 addresses (190 were owners renting their property, 29 were letting their property rent free). The survey to owners who rent (see Appendix C.vii.a&b) comprised 20 short questions and sought to confirm ownership of the lot in question, reasons for renting or letting rent free; to whom (personal relation or not); whether the owner had ever occupied the lot, and if so, when had they vacated the property; and most importantly, the rationale for renting and whether or not they had tried to sell the lot/home. We also invited them to phone in and give us a number and time if they preferred for us to complete the survey over the phone.

The survey went out in late July with a two-week window for return and, while we hoped for a modest response,[25] we saw this as a pilot to gauge whether we should dig deeper using mail back surveys for both this issue (owners who rent) as well as for the issue of abandonment and vacant lot owners (see below). Several responses came in outside of the window, but in the end we received 12 positive responses (two through phone interviews), and 16 surveys were returned marked "addressee not known at the address and no forwarding address available." A few others called to the phone number they were given, and two agreed to be interviewed. Allowing for the known bad addresses of the returned envelopes, this is just over a 5% response rate—better than the mail backs in the original survey, but still disappointing given the survey's brevity.

[25] Five to seven percent is considered normal for mail back surveys without a second follow up.

Nevertheless, the survey gave us a number of responses akin to the telephone interview materials that we have discussed in previous sections of the chapter. Again, we emphasize that these are preliminary insights only and cannot be assumed to be representative of the universe of owners who rent out or let their homes as concessions.

"Interesting Case Studies" of Owners who Rent Out their Homes

Three respondents had transferred their lots and so were no longer the owners. Of these transfers, one was a gift to a relative who needed a home, and the other two cases were both 1994 sales, had a lapse of several months before finding a buyer, and were undertaken through unrecorded contract for deed. Of the remaining nine cases, seven were renting, (with two owners unexpectedly stating they lived on the lot sharing with kin or renting part of the property). Most owners were absentee owners; of these around half had previously lived on the site, and almost all continue to visit the site fairly regularly. Several had tried to sell but couldn't, while those that hadn't were not interested because they had close kin living there and saw it as an inheritance for them. One women who has a will, plans on leaving it to one of her sons.

On paper, the respondents were quite articulate about why they wished to rent: most were concerned about the house sitting vacant and thereby being vandalized or trashed. By the same token, their major concerns over renting were those of having bad tenants who do not care for the property or who don't pay and abscond. Most of the renting was relatively recent (the last 2-3 years), with one long-term rental since 1994. Almost all of the owners exclusively paid the property taxes, while the utilities were paid by those who occupied the house, or were shared with the owner in the cases where the owner also lived on the lot.

Most had never tried to sell the lot, although almost half said that would like to do so in the future. The two who had tried to sell before could not find a buyer to pay what they felt the lot/home was worth. One respondent is not absentee, but lives on the lot and both rents out the home and shares it with her granddaughter, who looks after her in her old age. In her words, "They (the other occupants) take care of me. Without them, I would be in a nursing home."

Few of the respondents had heard of Texas Rural Legal Aid before which was rather a surprise to us since TRLA is the major legal services provider to the poor in these areas.[26] Four out of nine respondents had a will—considerably higher than the survey average.

What are the take-home points from these few vignettes? First, a few of the owners are managing to sell on their lots, although these respondents are a biased sample since they are still listed as the owners in the CAD records and may have been motivated to clarify that, whatever the record stated, as far as they were concerned they had sold. (In one case the respondent stated that he had sold the property in 1994 under an unrecorded CFD which had only been recorded as a conversion in 2010 when the debt had been paid.). Others might like to sell if a buyer were found to pay the going price. Second, others, even those that might like to sell, have entered into arrangements with relatives and even in these cases there is some suggestion that the owner sometimes also resides on the lot as well although it was not clear whether this was her sole home or whether she had another home elsewhere. Such "mixed" or "sometime residence" may also be tied to plans to leave the lot to their close relatives when they die, and just under one-half stated that they had a will. Third, those that are straight-up-and-down landlords do so not only as a source of income, but also to "protect" the lot and property from abandonment and vandalism, although they also complain about bad tenants. In short, as

[26] In retrospect this would have been a good question to have included in the original survey.

we anticipated, renting is one partial, and often a mixed-response option for absentee owners. It would be interesting to see how these options might play out if the market was more conducive to sales.

VACANT LOTS AND LOT AND HOME ABANDONMENT

In preparing the household survey, we had anticipated that a proportion of the lots in each colonia and subdivision would be unoccupied (i.e., vacant lots). The detailed lot log template we developed in order to guide our random household selection thus recorded the number of vacant lots that fell into our random sample as well as the total number of homes visited, no responses, replies, and refusals. This methodology is described in greater detail in Chapter 2 and in Appendix A.i.

Entering into this research project, we knew from earlier surveys that vacant lots were a common feature of colonias (Ward 2001), and that there were a variety of reasons to explain non-occupancy and absentee lot ownership (Ward and Carew 2001). A recent follow-up ten-year monitoring study of those same colonias, along with several additional subdivisions, has allowed us to assess changes in lot vacancy over the past ten years (Rojas et al 2012). The ten-year study showed that overall occupancy in these colonias increased cumulatively by around 13% from 2000-2010, and vacancy levels were reduced to less than 30% in all but one of the 22 settlements analyzed. That study also showed that occupancy was not a linear process, and that some lots that were occupied were later abandoned.

Returning to the current study, the lot logs from the surveys (Appendix A.v.b) show that 21% of the lots we visited (6,088) across the 10 counties were vacant (i.e. unoccupied) lots. A number of these lots showed evidence of having once been occupied and since abandoned. Unfortunately, while we had anticipated the widespread existence of vacant lots, we did not anticipate that abandonment might also be an important feature in lot vacancies and did not gather additional information on lot abandonment during our first round of surveying in January in five of the border counties. In the later surveys we conducted in Maverick, Hays, and Guadalupe counties, we therefore amended our lot log protocol to gather more specific information about lot vacancy and abandonment.

Classification of Lots in the Later Surveys (Maverick, Hays and Guadalupe)

The lot log protocol we created asked the surveyors to assign one of the following codes to each lot that appeared to be unoccupied:

- **'VT'** was used to describe a property that appeared to be a vacant lot without a structure on it.
- **'US'** was used to identify an unfinished structure—a structure that had been started but never finished (e.g., missing windows/doors, no roof, etc.).
- **'AS'** was used to characterize an abandoned structure—a situation in which a completed structure was present but was clearly abandoned (i.e., there were no signs that anyone was living on the lot and no signs of residents planning to return). Some of the combined features we observed with lots that received an 'AS' demarcation included broken windows , graffiti, roof caved in, lack of furniture inside the structure, etc.
- **'UH'** was used to signify a completed home that appeared to be unoccupied but not abandoned (e.g., grass overgrown, sand/dirt piled around the door, windows covered with fabric, but home still furnished). These lots differed from abandoned lots in that there were signs that the owners planned to return. This code was created with migrant

workers in mind who are out of town for months at a time but usually plan to return to their homes.).

Summary Findings for Lot Vacancy and Abandonment in Guadalupe, Hays and Maverick Counties

Figures 5.13* Recently Abandoned Homes, Guadalupe County

Of the 1,823 lots we visited in Guadalupe, Hays, and Maverick counties, we estimated that 27% (486) of the lots were unoccupied (including vacant lots, unfinished structures, abandoned structures, and unoccupied homes). See Table 5.16. Maverick County had an especially high proportion of unoccupied lots: 32% (349) lots. In Hays, nearly one quarter (24%; 90 lots) were unoccupied, dropping to 12% of lots (47 lots) in Guadalupe County. In all three of these counties, we came across several instances of what appeared to be abandoned properties: 4% of all the lots we visited in Maverick and Hays counties. These abandoned properties had structures on them but no evidence of anyone living in them. Although the proportion of vacant lots was considerably lower in Guadalupe County than in either Maverick or Hays, the actual proportion of abandoned or unoccupied homes relative to unoccupied lots was much higher (53% of all vacant lots).

Table 5.16. Vacant and Abandoned Lots Analysis: Maverick, Hays and Guadalupe Counties

County	Names of Colonias Visited	Number of Lots Visited	Total % of Unoccupied Lots for surveyed colonias and sub-divisions (# of Unoccupied Lots)*	Lot Type as % of Total Unoccupied Lots per County (# of Lot Types)			
				Unfinished Structures (US)	Abandoned Structures (AS)	Unoccupied Homes (UH)	Vacant Lots (VT)
Guadalupe	Country Acres, Park at Creekside, Birmensdorf, Brookhollow Estates	384	12% (47)	2% (1)	32% (9)	32% (15)	47% (22)
Hays	Santa Fe Run, Green Pastures	369	24% (90)	7% (6)	18% (16)	11% (10)	64% (58)
Maverick	Deer Run 2, Deer Run 4, Deer Run 5, Las Quintas Fronterizas, Chula Vista School Block, Chula Vista 1-5, Loma Linda 1	1,078	32% (349)	9% (30)	13% (45)	10% (34)	69% (240)

* The numbers of unoccupied lots from Guadalupe, Hays, and Maverick counties represent the reconfiguration of unoccupied structure surveys conducted in March of 2012.

We were unable to explore why these lots appear to be abandoned, but find this issue of what drives households to abandon their lot very interesting, especially given the value of these lots and the fact that the lot may be a household's most valuable asset. At the junction, we can only speculate as to what the triggers are for lot abandonment. Some of the possible reasons could include clouded title issues that prevent resale and a decision to move somewhere else for a job and hold onto the lot for a future move back to the community. Several additional typical examples of lot abandonment are displayed at Appendix D.vi.

Additional Analysis

In our Phase Three analysis of the survey data, we resolved to undertake additional photogrammetry and archival research to dig deeper into lot abandonment and vacancy in these three counties. The discussion of this additional analysis follows. Part of the reason for this deeper analysis was that we recognized that our assignment of the codes discussed above was quite subjective. We therefore wanted to find other factors to help us delineate whether a lot had actually been abandoned or was otherwise unoccupied. By mapping the exact locations of these vacant and abandoned lots we began to build a database that would gather additional information related to current ownership, property tax status (delinquent or up to date), past utility usage, and, we hoped, address that might provide the basis for future surveys of former occupants. Ultimately the aim is to better understand the drivers of lot abandonment, although this will form the basis follow-on research in 2013, and is not reported on here.

As discussed above, we had information about both lot vacancy and abandonment for only three different counties (Guadalupe, Hays, and Maverick). Our Phase Three lot abandonment analysis included ten of the 66 settlements that we surveyed in these counties. More than half (1099) of the 1,822 lots we examined were located in colonias of Maverick County. For Hays, we examined 351 lots, and for Guadalupe County we examined 372 lots.

After constructing databases to reflect the occurrence of lot vacancy and abandonment across the three counties, the data were plotted using aerial imaging from Google Earth Pro, often alongside maps from online county appraisal district websites. Before representing each vacant/abandoned property lot on Google Earth maps, it was necessary to corroborate survey data with corresponding CAD data to ensure triangulation with lot location and property ID data. Almost five hundred (486) unoccupied lots were painstakingly matched and then mapped using drop-down pins in Google Earth.[27] Four different pin colors corresponded to the different classifications as previously discussed: yellow pins represented vacant lots (VT); royal blue pins represented unfinished structures (US); green pins represented abandoned structures (AS); and light blue pins represented unoccupied homes (UH). For examples of this aerial imaging of unoccupied lots, see Appendix D.vi.

Once plotted successfully, our goal was to build a database for each case that would include the purported owner's address in the CAD records that might allow us to subsequently survey absentee lot owners by phone or mail, to gather property tax data (to assess whether the owners were still making tax payments), and where possible, the last date of consumption data from utility companies. Time constraints ended up preventing us from following through on the latter, and the low returns from mail-back questionnaires in the main survey and from follow-up surveys of landlords gave pause to whether that would be a worthwhile strategy.

However, we did manage to gather some partial information from the county tax assessor offices. In both Hays and Guadalupe counties, surveyors were often unable to accurately identify the property address of vacant lots such that we were hampered in many cases in tying the lot log data to a property address in the tax assessor records. As a result, the information we gathered is a sample only and is probably not representative. In Maverick County where we generally had better addresses to work from in the lot logs, no online tax data was available, so we sent the county tax assessor a listing of everyone other address in our sample and requested the data be faxed or mailed back us.[28]

Table 5.17. Vacant and Abandoned Lots with Property Tax Arrears in Maverick,Hays and Guadalupe Counties.

County	# Cases reviewed for which data were found	% (&N) of cases found to be in arrears	# of lots in arrears	Average arrears amount (all) $	Average # of months since last payment	N of all vacant lot cases reviewed that were abandoned
Guadalupe	40	8% (3)	2	753.33	2	8
Hays	14	7% (1)	0	638.86	N/A	3
Maverick	88	26% (23)	22	578.73	36	12
Total	142	19% (27)	24	656.97	19	23

27 This analysis was undertaken by graduate research assistant Adam Torres, and builds upon the methodology elaborated in an earlier study at the LBJ School (see Danielle Rojas 2012).

28 We would like to thank Irma Frausto and the staff at the Maverick County Tax Assessor Collector Office for complying with our request.

The data in Table 5.17 are incomplete and should be read as tentative and initial examination into abandoned and vacant lots in these three counties.[29] However, the data suggest that many of the lots we were able to track in the tax assessor records are not tax delinquent. Much higher rates of delinquency appear in Maverick County. Across the board, the average amount of tax arrears is quite high ($657). In Maverick, most of the tax delinquent lots are ones we flagged as being abandoned in our survey. On average in Maverick County, at least three years have passed since the last property tax payment, suggesting that here at least there is a significant problem of lots becoming locked out of the market until they are foreclosed upon by the county.

In the coming months, we propose to develop this analysis further by triangulating these data with utility company information for abandoned lots, and probably by widening the analysis with revisits to lots in some of the colonias and informal homestead subdivisions that we previously surveyed. At this stage, we still know too little about the extent to which vacant lots are indeed truly abandoned and what triggers the abandonment.

CONCLUSIONS: THE REPRODUCTION OF INFORMALITY

While chapters three and four provide the core analysis arising from the TDHCA request to provide estimates about the use of Contract for Deed as a titling mechanism in colonias and informal homestead subdivisions, this chapter – indeed the whole of our Phase Three analysis -- seeks to offer a better understanding of the broader dimensions of informality that underpin tilting and property transfers in these communities. Our reasons for proposing and undertaking a Phase Three analysis in the first place were threefold. First, the nature of informality and informal social processes are intrinsically interesting intellectually, and are at the forefront of much current academic research. Indeed this is research in which the principal investigators and several of our graduate students are already fully engaged. Second, is that scholars and policymakers are beginning to better understand how informal practices often appear to morph over time, and that they do so in ways that often lead to the **reproduction of informality** downstream. One example here is the way in which formal titling programs can give full title to homeowners, only to have those titles be thrown into disarray and become "clouded" by intestate property succession, or by informal arrangements among family members, or by *traspasos* (buyouts) that go unrecorded. The third reason is to inform both the TDHCA and the Legislature about how these informal processes and responses are changing, and how sensitive policy making can help to mitigate poverty and hardship, and be more supportive of low-income households' aspirations to share in the American Dream of home ownership and asset creation. The key word here is **sensitive**, namely to create policies and laws that will support these legitimate aspirations and try to ensure that the social capital, sweat equity and bootstrap efforts of the people themselves will generate modest wealth and assets and that these efforts are not undermined by poor market performance, or by a lack of access to resources and opportunities that are necessary in order to advance people's self-help housing efforts.

This chapter has laid out the broad findings of the extensive survey that we conducted in order to gather baseline data on titles and the prevalence of unrecorded contracts for deeds. While we are able to generalize our findings in six of the eight counties in which most colonias were selected randomly, this was not the primary aim of our Phase Three analysis. Rather, our aim

[29] We are still waiting on additional information from Maverick County, and need to do further checks on tax data fort Hays and Guadalupe.

was always to offer a better understanding of these contemporary processes, and in particular to broaden the scope of that understanding to include informal subdivisions in Central Texas, as well as the new subdivisions and the poor housing that often accompanies them in the border. By social science standards this can be considered an extensive one-off survey that provides many new insights that legislators and policy makers probably have not yet seen but which are likely to constitute "hot button" issues in the next two legislative cycles. Specifically, we observe a sizable minority of renters and other non-owners who live in colonias and subdivisions; a modest but worrying level of abandonment of homes and lots; the rise in the costs of land acquisition in real ($2,012) terms, and the quite high down payments that are necessary whether to purchase under a formal a Deed or more informal use of CFD; the fact that CFDs and UCFDs have been important not just in the past, but remain commonplace today in more recent property transfers; the emergence of new colonia-type housing under model subdivision rules; seemingly aggressive practices of "flipping" lots, at least by some developers in some of these new subdivisions; indeed, new forms of poverty and housing conditions that suggest little scope for medium or longer term housing consolidation, and may come to resemble de facto renting as people buy for a year or two and then have their properties repossessed. We also observe important differences in developer versus consumer to consumer sales, and how the latter are particularly likely to be challenged when it comes to selling their properties under seller financing, at a fair price, in a timely manner, and with full formal titles such as Warranty Deeds.

We always understood that few people would have wills; what was unanticipated was the extent of a myriad of informal arrangements that many people have regarding the transfer of their properties post mortem, and the poor levels of understanding about what happens to one's property under dying intestate, and the various ways in which legitimate claims from siblings, and from children from previous marriages and relationships, are all likely to confound "clean" title. Our research also suggests that even with a successful policy of promoting wills as the instrument for assigning one's property, the relatively high costs of probate and the inability to liquidate the property through sale, will lead people back into informality as they attempt to avoid the unintended consequences of what, on the face of it, would seem to be common sense from a policy perspective. Indeed, many of the adjustments and reversions to informality that we have described in this chapter demonstrate that informality is alive and well, and actively evolves to reproduce, if not itself, new forms of informality. We will return to the policy implications of our research in the following chapter.