

El Título en la Mano: The Impact of Titling Programs Upon Low Income Housing in Texas Colonias

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ABSTRACT:

This article analyzes the impact of The Community Resources Group Receivership Program undertaken 1998-2002 that provided clean property titles to residents in several informal (*colonias*) housing subdivisions in South Texas. Survey data were gathered from 260 low-income households comprising two populations: those who had secure title from the outset; and those who were beneficiaries of the land titling program. Focus group interviews were conducted with a number of beneficiaries in order to explore how people construct the meaning of ownership before and after title “regularization”. Formal titling consolidates understandings of absolute property relations in comparison with *de facto* rights born of use (legal or not), and this strengthens people’s sense of self-esteem and potential for political involvement. Contrary to conventional wisdom, title provision *per se* appears to have little direct impact either upon home improvement, or upon enhancing access to credit and financial services. We also find evidence that informality and illegality is likely to re-emerge as owners die intestate, and as they revert to informal land market property transfers.

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INTRODUCTION: THE ALLEGED IMPORTANCE OF TITLE

This paper explores what having full property title – “title in the hand” or *el título en la mano* as it is known in Spanish – means to very low-income populations living self-help housing subdivisions (*colonias*) in Texas and in other border states. Unlike their third world counterparts where land is invaded or sold illegally (Gilbert and Ward, 1985, 2008), where homes are self-built and consolidated gradually over a number of years, in Texas and elsewhere in the USA lots in these settlements are sold off legally by developers (albeit without adequate services). Thereafter dwellings are purchased through informal financing systems and the dwelling units are moved onto the lot (Ward 1999, 2004). These are ready-made manufactured homes (trailers), or are modular homes to which self- build improvements may be added either by external extensions or by interior fitting-out. Policy makers often argue that clear and efficient title systems are essential for land and housing markets to work effectively and that this applies in developed countries as well as in the global South (Linn, 1983; Cole and Grossman, 2002; de Soto, 2000). The argument is that without full title would-be purchasers, land developers, and utility providers feel insecure with the result that informality abounds creating dual or segmented markets, and land prices are driven up because of the relative scarcity of serviced land in the formal market. In a similar vein it is asserted that without an effective and formalized property registration system, public officials and private agents have little control over those operating outside of the formal sector such that taxes are avoided, land-use controls are ignored, planning is absent, and formal lending and credit markets fail to develop since there is little or no security that would ensure loan recovery in the event of default. In short, capitalism is stunted, markets are flawed and operations are undermined, and effective urban management and public administration become unsustainable.

Many of these arguments have merit: indeed it is the very nature of informality and avoidance or minimization of these formal market costs that makes land and housing affordable in the first place even though there are high social costs associated with living in such poorly serviced and substandard housing. Just as in less developed countries where the majority of households are so poor that they cannot afford to buy a house through the formal market, so too, across many parts of the USA would-be homesteaders earning between \$12,000-25,000 household each year resort to the informal housing market buying into such *colonias* or similar “informal homestead subdivisions” (Ward 1999, 2004; Ward and Peters 2007).

However, for those analysts who hold to the prevailing orthodoxy that full title is a prerequisite for normal market operations the very idea of informality is anathema. They advance a number of arguments in favor of titling programs. First, among planners and public officials the formal legal system is the one that they know best and are trained to work within, so that they are uneasy with plural or parallel (legal) systems and alternative property rights with which they are unfamiliar and threaten the sanctity of private property. A second argument stems from the idea that it is only within a formal property market that a proper capital market economy can flourish (McLaughlin and de Soto 1994). Third, is the important notion that legal title provides the security and protection against possible eviction and displacement, and the incentives necessary for successful home improvement and consolidation. According to McLaughlin and de Soto (1994, 308): "When people have formalized titles they feel their property is under their legal control and therefore have the incentive to invest their intelligence and work in improving it." Furthermore, they argue that where there is no formal title to provide security of tenure, planning horizons are necessarily shorter and there is no incentive to protect and improve property. Fourth, it is assumed that service providers cannot, or will not, introduce services until full property titles are in place. A fifth assertion is that full legal title provides the owner with collateral allowing them access to formal credit markets and to take out loans, etc. A sixth argument in favor of titles is ideological: namely that legal compliance and full title "integrates" the poor into the urban citizenry whose belief system respects the free market, supports democracy, and inculcates respect for, and participation in, the tax (fiscal) and regulatory bases of city management.

In fact, research in less developed countries where title irregularity is commonplace reveals that many of these arguments are at best overstated, and at worst may be fallacious.² Far from being separate and sluggish the informal land market is often quite dynamic with the free exchange (sales) of land and dwelling units (Jones and Ward, 1994). Moreover, as has already been suggested, it is precisely the informality and poorly serviced status of the land that makes this housing affordable in the first place, and even relatively low cost self-built and sometimes flimsy housing is firmly locked into commodity relations within the marketplace, albeit in a less regulated market (Burgess, 1982). Nor is it axiomatic that legality and secure property titles prime the marketplace as McLaughlan and de Soto argue. In both formal and informal land markets regulation restrictions sometimes severely inhibit the rational development and use of land (Ward, 1999). Nor does it seem to be the case that legal title *per se* raises land prices significantly in real terms (Jones et al. 1994), although some researchers continue to assert otherwise (Legoretta, 1994). The idea that the poor will come to use their titles in order to gain access to credit for housing improvements appears to be a classic middle-class projection since most low-income households traditionally eschew formal sources of credit (Riofrio 1998). Even where NGOs and government departments offer micro-credit support full legal title is rarely required as a loan criterion (Jones and Mitlin 1999; Cosgrove 1999).

Notwithstanding the depth and breadth of this research within the United States and elsewhere, many still believe that clear property titles are an essential element in being able to participate in the

market place. Only by holding legal title to one's land can homesteaders become true players and beneficiaries of the market. This is the nub of the so-called *Mystery of Capital* extolled by de Soto and his adherents (de Soto 2000) which in part runs as follows: by enjoying full legal title to their land and homes, property values will no longer be depressed by illegality; lots and homes can be freely traded in the market place, thereby making people more physically mobile and able to match their location of homeplace to criteria such as place of work, schools, stage of life cycle, etc. In short, regularization and legalization enhances self-help and bootstraps programs, helps to build wealth, and allows people to leverage capital by using their property as collateral. However, these broad-brush propositions beg many questions, and there is a rising body of research that challenges both the theoretical logic as well as the empirical practice of many of these assertions (Gilbert 2002; Varley 2002; Von Bender Beckmann 2002; Ward, de Souza and Giusti 2004).

The primary aim of the present article is to examine the extent to which the provision of formal title to residents in several irregular (*colonia*) settlements outside of Rio Grande City has resulted in more effective participation in formal market and political processes. Rio Grande City is a border town in South Texas located in Starr County which is one of the nation's poorest). Drawing upon detailed original land market research and survey data that was collected as part of a formal evaluation of a major land titling program outside of Rio Grande City, we were interested in assessing what the formal provision of property titles to households (where they previously had none) actually *means* to low income resident self-helpers. The research reported upon here asks a number of questions about how residents of *colonias* understand the practical and legal impact of formal title. How are property relations "constructed" and how do people within informal settlements view formality and informality? What are the costs and benefits of formality (title in this instance), and how do people make "use" of title once it is acquired? Specifically we wanted to know whether title makes a significant difference to the propensity and the rate of home improvement, and whether it facilitates access to formal credit markets so that people use their property and new-found titles in order to take out loans. In this sense does absolute ownership and freedom to sell one's property enhance participation in land market operations, thereby giving the poor a greater share in property value gains associated with the valorization of the property through home improvements and inflation? Did title provision in those *colonias* formerly without any title reduce the population's sense of economic and political vulnerability, and if so, did it also empower communities and individuals in their day-to-day relations with local government and in their dealings with their neighbors? In short, do property titling programs make a significant difference to the very people that the program was intended to support, and if so, how?

COLONIAS IN TEXAS, AND THE CRG's REGULARIZATION MANDATE IN RIO GRANDE CITY, STARR COUNTY.

Before turning to examine these multifaceted questions it is necessary to offer a brief overview of the nature of irregular settlement development and self-help in Texas and elsewhere in the United States, not least since few people are aware of the widespread existence of settlements that are closely akin to

their Latin American and Mexican counterparts. In Texas alone an estimated one-half a million people, almost exclusively Mexican origin, live in some 1600 plus settlements or *colonias* as they are more generally known (TWDB; Ward 1999). Although they are not nearly as extensive significant *colonia* populations also live other border states such as New Mexico and Arizona, and new definitions and typologies of *colonias* are also being identified in other states (Ward 2004; Mukhija and Monkonnen 2006; Mukhija 2007). While different from their Mexican counterparts in many important respects, these settlements have developed from a similar logic: namely they are the principal path to home ownership for working-class families – at least in those contexts where there is little or no alternative and affordable public or private system of housing supply for ownership. For them housing acquisition is made affordable in a number of ways but primarily it is achieved by cheapening the cost of the actual lot itself through the purchase of unserviced agricultural land in rural (peri-urban) areas. Once contracted, many residents do not occupy the lot immediately, but continue to live in rental accommodation in the nearby city. When they are ready to do so they use savings and/or seller financing to purchase a manufactured or modular home. Such sales are usually with no (or minimal) transaction costs but carry high rates of interest that are very favorable to the seller. In the border region before it was more regulated lots were sold under Contract for Deed whereby purchasers deferred receipt of any deed or title until the lot was fully paid (Ward and Carew 2001). However, in the border region legislation now requires that Warranty Deeds replace Contract for Deed, although the latter remain in common usage elsewhere. As we outline below, some developers sold lots even more informally, and just handed out receipts or noting payments in a ledger. In either case little or no deposit was required, and the usual monthly payments were quite modest (around \$100). Modal lot prices ran at between \$6000-\$10,000 in constant 2003 values, depending upon the county and lot size (

Ward, de Souza & Giusti 2004). Another important mechanism whereby costs may be reduced is to lower the cost of housing itself, either by self-building or by living out of a temporary camper or a dilapidated (but cheap) trailer, at least until household finances improve and allow the purchase of a better quality manufactured home. Services such as power and electricity would be acquired privately, and in the absence of county provision of water and wastewater removal services these must also be obtained privately, often through purchase of water from tanker lorries, and by building on-site septic tanks to deal with household effluent.

Despite the hazards and difficulties associated with *colonia*-type housing, this is the only mechanism of entering home ownership for low-income households earning less than \$25,000 a year (and in the border region most earn around half this amount). Even compared with other very poor counties in the border, incomes in Starr County are especially low: the median household income in 1999 was \$16,504 (cf. \$39,927 for Texas as a whole), and no less than 45 per cent earned below \$15,000 a year.³ Rio Grande City has little going for it economically with a median income of just under \$20,000, and 40 per cent of all households earn less than \$15,000. Within the specific settlements surveyed (described below) incomes were even lower. Fairly typical (but not the poorest) in the peri-urban area of

Rio Grande City was Las Lomas *colonia*, where the median household income in 1999 was \$10,927, with 65 per cent earning below \$15,000. Most households had at least one worker spanning a wide range of low-paid service jobs, supplemented sometimes by part time work in services for women, and for men, in agricultural work and haulage.

Two principal land developers controlled much of the peri-urban informal settlement outside of Rio Grande City. They were Blas Chapa (then a local judge) and Elías López, who independently and sometimes together, accounted for most of the land sales in the *colonias* that ultimately came to be the focus of the title regularization program. The two men were not unlike many other developers to be found in Texas (Ward 1999), selling un-serviced land at low prices and on terms that were affordable, with vague promises of later providing services. Unlike most other developers, however, the Chapa and López-sponsored *colonias* were quite different since many lots were *not* sold legally under the usual Contract for Deed mechanism (although some were), but were instead sold piecemeal and informally in exchange for receipts and simple entries in a sales' book. Even more problematic was the fact that not all settlements were surveyed and platted, and many lots were allocated imprecisely, or by some local system of "metes and bounds". Thus many people ended up living on lots allocated and sold (but not occupied) to someone else; others had unwittingly built their homes on land that formed part of the street; while others lived in an *arroyo* and only discovered the fact after a flashflood event. Finally, because relatively few people actually occupied their lots immediately after starting to make payments, and because the terms of default were so favorable to the developer/sellers, many lots were sold several times over to different people, which also ultimately led to multiple claimants of the same lot.

These scenarios will come as no surprise to researchers familiar with irregular settlement in Mexico and elsewhere (notwithstanding some important differences), but such extensive irregularity of lot titles in *colonias* is highly unusual in the US, so much so that an NGO – Community Resources Group (CRG) – was commissioned by the Texas Government to undertake the "regularization" of the affected settlements.⁴ The CRG targeted 15 *colonias* outside of Rio Grande City that affected over 2000 households and 2500 lots. Of these, some 1000 households and lots were the focus of land title regularization usually because these claimants had defective papers, or were living on a lot in which their ownership was challenged in some way – multiple claimants, mistaken occupancy of the wrong lot, or living in an *arroyo* flood plain, etc.

Once the CRG had been given responsibility for the regularization program it was handed a portfolio that included the *colonias* and land that had been sequestered from the developers. The agency's brief was to carry out the title and servicing regularization of these settlements, although the servicing component was later dropped since insufficient funds were appropriated to carry it through (Ward et al 2003). Thus, the central aim became that of providing clear title to those with legitimate claims, and to move some households to new lot sites (usually those found to be living in dangerous locations, or where there were multiple claimants to the same lot). This was achieved through an innovative strategy of sequestering the land from the developers using bankruptcy laws in which the

CRG became the Receiver, and which gave the agency greater flexibility and freedom for maneuver under Texas law.

METHODOLOGY & THE USE OF MIXED METHODS

The materials reported in this article were collected as part of a detailed analysis and evaluation of the CRG regularization program and its impacts from 1995-2002, with particular emphasis on the period 1997-02 which was when the clearing of “clouded” lot titles began in earnest. The study took a mixed methods approach that included: (i) a detailed and systematic review of the CRG archives; (ii) analysis of the individual household files created by the CRG; (iii) the creation of a major database “harvested” from those individual files; (iv) a household survey designed by the authors and applied during 2002 to some 266 families living in six of the *colonias* targeted by the CRG’s intervention; (v) interviews with key informant such as local community leaders and agency staff; and, (vi) several focus groups with community residents.

The responses to issues identified in the household survey, and subsequent focus group discussions that were held, form the basis for much of the subsequent analysis and discussion in this paper. However, before turning to describe the results of those focus group meetings, it is important to outline some of the principal findings from the two database sets since these were important both in the initial findings that they generated about the settlement and housing processes, as well as in informing our understanding of the characteristics of the sample population. These data offered a wealth of information about the household and dwelling structures, land titling experiences of residents, their opinions about title regularization, about people’s understandings of what title meant, and about the differences that receiving title actually made to their decision making. The insights gained from the surveys provided the subsequent basis for our focus group discussions which were designed to explore these and other issues in much greater depth.

The first of these two databases was derived from the files about each claimant that were created by CRG officials as part of their original investigations to verify who was eligible to benefit from the titling scheme, as well as to create a paper trail about who owned what land, how much they had already paid, and what papers they had to prove “ownership”. These files generated detailed information about the types of papers that individuals had received from the vendor (usually the developer), the price paid and the nature of the payments plan, the status of the lot at the time of purchase, whether or not it had an existing house or construction already in place (rarely the case). The database comprised some 1790 individual records with data stretching over more than 17 years from 1972 to 1999, although most people were found to have bought their lots during the 1980s. Data covered the following information for all of the 15 subdivisions included in the CRG program: (i) the subdivision name; (ii) the purchase date (year), (iii) the price paid; (iv) from whom it was bought; and, (v) whether or not the lot was sold with or without a Deed (a Contract for Deed usually).⁵

We began by converting all data from nominal prices (i.e. unadjusted for inflation) into constant land prices using standard deflators and omitting cases where there was uncertainty or missing

information, ending up with a “working database” comprising 1406 records. These data form the basis of a separate analysis which examined the real trends in land prices and sought to explain variations observed between households and between settlements. Our conclusions are reported elsewhere (Ward, de Souza & Giusti 2004), but suffice to say here that land price trends were quite “flat” over time and space, showing relatively little real price increases or variation between settlements – and which are similar to other survey findings that have been conducted in Mexico and in the USA (Ward and Jones 1994; Ward, Stevenson & Suesse, 2000). Neither location (distance from Rio Grande City), nor the level of services (which were modest at best), nor the promise and existence of title, appeared to shape land prices and land costs significantly. In fact the most important determinant appeared to relate to which developer had taken the lead in selling lots in the *colonia*, suggesting that informal relations between the developer were important, and that prices were determined by social criteria (e.g. knowing the buyer, or someone petitioning on her behalf) rather than reflecting supply and demand in the market place (Ward, de Souza & Giusti 2004).

The second database was also analyzed prior to running the focus group sessions. Smaller than the CRG database, it comprised a purpose-designed sample survey of households who had received titles as part of the CRG intervention (some 195 households referred to in this paper as the “Study Group”). In addition we surveyed a random sample of resident households (71) who had not experienced serious title problems and who were therefore less affected by CRG intervention. The idea was that these 71 households would serve as a “Control Group” for comparison with those households that received their titles as part of the CRG program. The questionnaire was comprehensive and was conducted in Spanish with interviewers collecting information about family housing trajectories, land market transactions, the “meanings” of title to the owner, property valuations in the area, the perceived impact of titles on *colonias* improvements and home improvements, as well as standard socio-economic indicator information. It took about 25-30 minutes to complete and respondents were given a \$15 voucher that could be redeemed for goods in a local supermarket. To the best of our knowledge this represents a unique experimental design in which the impact of land titling on a population in a single area could be evaluated and compared with a control group of people whose socio-economic characteristics were identical, and who had not been targeted by the program. Both databases and the survey instruments are publicly available for review.⁶

Only property “owners” (*de facto* if not *de jure*) are analyzed in this article. We do not include renters since these are almost non-existent in Texas *colonias* (Ward 1999), unlike in Mexico where renting can be quite significant (Gilbert and Varley 1991; Gilbert 1991). Texas *colonias* are invariably located several miles outside the city limits in the peri-urban hinterland beyond the reach of ordinances and planning controls associated with cities or their extra-territorial jurisdictions.⁷ This makes them largely unattractive to renters since they are a long way from the primary place of work, and low-cost rental apartments or trailer parks located in the city are a better option. *Colonia* residents, on the other hand, actively and deliberately trade-off distant location, poor services, and the absence of city

amenities, in order to break into the property market as homesteaders. They seek to share in the American “Dream” and to build equity and a future patrimony for their children, even if they do so at considerable social cost to themselves and to their children.⁸ And while the primary strategy of informal housing acquisition is to enjoy the home’s “use value” (i.e. to live relatively freely and to raise a family), they also hope to create a foothold in the property market and to ultimately benefit from the “exchange value” that their home commands -- if they ever come to sell it.

The household survey gathered preliminary data about many of the research questions that we subsequently wished to explore in the focus groups, namely: what property “rights” did people have in theory and practice when they first bought into the *colonias*; did the residents view themselves as legitimate owners when they first bought their lots (and before titling); what “trigger” assets (papers in this case) did they perceive as being most essential to their ownership claims; what was the nature of their social relations with the developers, and how did those relations shape residents’ perceived rights or feelings of vulnerability? And once they received title, what, if anything, had changed in the perception of themselves as owners? Specifically, did title change their market orientation and residential behaviors -- as home builders and improvers, as credit seekers, as family members, neighbors, and community residents.

When we compared the sample populations by *colonia* and by group (the study Group and the Control Group), no significant differences were observed for the dimensions of resident and dwelling characteristics: they were essentially very similar..This was as expected since all of the *colonias* formed part of the same city hinterland; they had developed at broadly the same time; and all were low-income households in which self-help and self-management of housing prevailed. Nor did we observe significant differences between the study group and the control group when it came to dwelling structures, number of rooms, dwelling organization of space, etc. This suggests that the fact that the study group had not enjoyed full title had not greatly impeded lot residential patterns or dwelling structures, a finding that is consistent with self-help housing in Latin America where other factors such as years of occupancy, political contacts, receipt of selected services and infrastructure rather than title per se appear to shape the levels and rates of housing consolidation and community development. However, given the similarity across the two populations, it did provide an excellent platform from which to begin to gauge the extent to which title provision was leading to a heightened motivation and fresh plans to improve or extend the home.

Insights Drawn From Focus Group Analysis

The survey offered a number of insights about these processes, but as we anticipated *a priori* it proved less effective in revealing the underlying meanings attributable to lot ownership, and which only began to emerged more clearly through the focus group meetings. These sought to elicit the perception of participants towards three key aspects of land ownership: first, legal issues including inheritance, ownership, and marriage; second, the financial implications of receiving formal title upon attitudes towards accessing credit and making home improvements; and third, the meanings of title in terms of

household and family relationships, community cohesiveness, community organizing, and political empowerment. This latter idea – empowerment -- was not something that we had anticipated or considered beforehand, so it was not the subject of questions within the household survey. To the extent that empowerment emerged as a salient issue, it did so only through the focus group discussions and analysis. Like unstructured interviewing, focus groups provide an opportunity to explore issues in a loosely-structured and a more free-wheeling discussion format, letting residents’ “voices” be heard in their own words, and allowing the group dynamic and facilitator(s) to pace the discussion.

As a qualitative methodology materials gathered through focus groups may be used either as a preliminary source of information that informs the research design and subsequent data gathering strategies, or, as in our case, they may be used to gather detailed insights that will offer a more nuanced understanding of processes that structured surveys rarely provide. The findings from both sources (surveys and focus groups) are interleaved in the following thematic discussion.

Seven focus groups were conducted with a total of 89 participants: two were all-female groups; three groups were couples and family groups; and two were mixed groups. In all cases only participants who had not participated in the household survey were selected in order to minimize the extent to which their interest and knowledge might have been “shaped” by earlier interviews (although they would have been aware of our presence and the purpose of the earlier survey). It was anticipated that the focus groups would offer an independent triangulation of the information that had been gathered from the household survey. The focus groups were conducted in a community hall belonging to the CRG in Las Lomas *colonia*. Volunteer participants had been invited by the CRG to attend, and flyers had been posted throughout the settlements. They were conducted in Spanish by two of the authors, and each focus group lasted about 1½ hours and followed normal human subjects’ review board protocols. At the end, each participant was given a \$15 voucher/gift card for use at a local superstore. The discussions were taped and later transcribed, with names changed to ensure anonymity. The full transcripts were analyzed using simple electronic content analysis software that identified a number of major threads and topic areas that are discussed below.

Subsequently a considerable amount of time was spent analyzing these focus group transcripts in order to better understand how they might provide more nuanced answers to the questions outlined above. However, given that the aim in this paper is primarily to reveal insights about our key research questions derived from both techniques (survey and focus groups), we elected to be quite selective in our editing process – much more so than is often the case when reporting upon focus group discourse – which would usually comprise longer and more verbatim commentary. However, we appreciate that such succinctness may not satisfy some researchers, and elsewhere we have made these transcripts available in full for those who wish to explore the “voice” of the participants in greater (and unedited) depth.⁹

LAND TITLES – ARE THEY AN IMPERATIVE?

That residents who have experienced a regularization process should view title as important is hardly surprising; it would be strange if they did not value something for which they and an NGO had

expended considerable time and resources to obtain. However, researchers have argued that property relations need to be analyzed as a social construction that emanates from law and societal values, rather than from any intrinsic or inherent property needs of individuals themselves (Azuela 1989). In this way the specific nature in which title “matters” relates to the ways in which it is viewed and shaped ideologically and legally within society at any one period of time. The following comment taken from one of the focus groups summarizes a general finding: namely that a “clean title” is important to the residents' perception of themselves, and within the context of widespread developer abuses in Starr County and the need to subsequently clear titles, it addresses the issue of whether or not title had emerged as an important symbol of success for the participants. In all of the focus groups, regardless of the size or composition, we observed that without exception participants recognized that having clear title to their land mattered.

Person A: “Look, the title is necessary for everything. For example I was already on my land, building my house. But I knew that I could not negotiate with it, I could do nothing with it. My house was worthless because there was no title. If for example I wanted to sell my house to her, say, (pointing) --‘look I’ll sell you my house but I don’t have a title’--well I might as well not have anything.”

Person B: “Exactly” (Focus Group, #1 June 28, 2002.)

When we delved further, however, it became evident that there was no clear consensus among residents about **how** or **why** title is important. Nevertheless the focus groups did suggest that having the title to one’s lot makes a difference in the perception of future possibilities, and in the way in which residents believe that they are perceived from the outside. If nothing else regularization appeared to enhance residents’ self esteem and sense of social legitimacy. For example, many commented that they now felt that they could hold up their heads when dealing and interacting with government officials, with banks, or with other formal institutions.

(Tables 1 & 2 About Here)

Title and Psychological Security

Title appears to be important insofar as it enhances psychological security and reduces fears about the possibility of losing one’s home. All focus group participants agreed that they felt more secure financially and economically once they had clean title. From the household survey it was apparent that almost everyone had recorded their titles in the public land records system, although this was largely because the CRG had systematically recorded everybody’s title for them at the time.¹⁰ Given that most of those in the Control Group population were not affected by the land titling program it was to be expected that they would be less likely to comment that regularization made them feel more secure and significant differences emerge between them and the Study Group on this dimension (30% cf. 48% in the Study Group, see Table 1A). Conversely that they would see it mostly as “proving ownership” (47% cf 31%). Significantly in the survey relatively few people said that title was important because of its economic impacts (Table 1A. ‘In order to apply for a loan’ -- a point discussed further below). In response to a focus group question, the overriding need for security does come across strongly:

QUESTION: Now that you have the property title to your solares -- to your land, to your lots -- do you really feel more financial or economic security?

Female voice: Yes of course.

Male voice: Yes.

Female voice: Of course.

Q: Why? How?

F: "For the reason that if you do not have your property title you do not feel secure. In any minute someone can arrive and say, this solar is mine. Having your title, being secure, you can say, it is my house and it is my solar. I can do whatever I want with it in case of an emergency or anything else. But if you do not have a title, then you are just there, like a doll someone will come and snatch you away. That's why. If you have a little piece of paper, as we say, the paper speaks for you. (laughter) Yes, the paper talks. It says that it is yours. Well it is mine." (Focus Group #5, June 29, 2002.)

This last commentary expresses how *colonia* residents perceive their new status as full property owners. The idea that "the paper talks" is especially evocative, and one participant reported that she carried the title everywhere because it provided the "proof" that one is "worthy" of owning a property. There are two important themes here. First that title is conclusive proof of ownership, ensuring that the property (especially if recorded) cannot be taken from the buyer. Second, that title indicates a new sense of self worth – how people feel about themselves -- and how these new owners expect to be perceived by others.

<Tables 1 & 2 about here>

THE "MEANINGS" OF FORMAL VERSUS INFORMAL TITLES

In the following section we explore the issue of security and ownership further, and begin by examining how the sense and meaning of being an owner has changed over time: first at the time of purchase, and later after formal titling.

Claims to Title at the Time of Lot Purchase

Only 10 percent of residents had the unequivocal proof of a Warranty Deed at the early stages of residence – hardly surprising, as this would have meant that they had purchased the lot outright (Table 2). Few were able to do so, and most (43%) had relied upon a written Contract [for Deed] mechanism, or kept their monthly receipts of payment as proof of purchase (38%). One also sees major variation between *colonias*, largely an outcome of the principal developer's (Elías López) particular influence and his use of Contract for Deed in Mike's (named after his son), and West Alto Bonito. Only at the end of such contracts or schedule of payments does the developer transfer full ownership by deed (Ward and Carew 2002).¹¹ Most people in the Control Group had purchased their lots earlier than those in the Study Group, which was why more of them (but still a minority) already had their Warranty Deeds.

When asked about documentation to property rights received at the time of purchase (see Table 2), most respondents claimed to have received either a written Contract for Deed (43%), or in almost

equal numbers, receipts or some sort of written note from the seller (38%). Residents of *colonias* Share 52, B&E (Blas and Elías), and the un-platted portions of Las Lomas, were especially likely to have acquired their lots with receipts as primary proof. Yet notwithstanding this lesser documentary status, relatively few in either group appeared to have felt vulnerable as a result (only 27% overall – see Table 1-Part B), suggesting that the need for title regularization was never a high priority for most and the differences observed in part B of Table 1 are not significant . However, a minority in both the study and control groups stated that they had felt vulnerable prior to receiving titles, albeit for different reasons. In the Study Group this insecurity emanated mostly from the fact that the buyer did not yet have "papers" – i.e. a Warranty Deed or a written Contract for Deed -- (54%); while another 28 percent felt that the developers couldn't be trusted (see Table 1B). In the Control Group, too, although the actual sample of those expressing concerns about initial tenure security is relatively small (22), 41 percent stated that the problem was the lack of a Deed or written contract, but there was also a broader range of "Other" reasons given by this group. In part these expressions of insecurity may have been "constructed" by the very existence of CRG intervention itself, highlighting as the agency did, that the lack of title was an underlying problem of legal insecurity, and that this needed to be fixed. The conclusion that we draw here about those that had secure title from early on and those that didn't, is that full and proven legal title is not what people need in order to feel that they are the rightful "owners" of their land and homes. This corroborates research and findings from less developed countries, namely that a sense of ownership emerges among individuals for many other reasons (such as occupation of their lot over several years, successful house consolidation, receipt of some partial services, close ties to politicians and other actors). In short, the sense of ownership and security is largely independent of prevailing law (Varley 1987; Azuela 1989; de Souza 1999, 2001). Thus although one would expect a Warranty Deed and perhaps even a written Contract for Deed to make "ownership" appear to be more real and tangible to the buyer -- our data suggest that "pseudo" contracts of sale or receipts from the seller were usually sufficient to confer a sense of ownership, even if in fact these claims could face a serious challenge in a court of law because of their partial and informal nature. The fact that the buyer was paying for the land as part of the transaction created a sense of entitlement to the property, notwithstanding an absence of formal title. However, we must also recognize even though the majority of those surveyed were not unduly concerned about title irregularities, they also stated that title was important because it gave them greater security and brought feelings of relief. Moreover, as we have seen, the focus group participants later strongly echoed these views. These findings support the proposition that tenure security is neither black nor white (de Souza 2001), but falls somewhere on a continuum. Further, it reinforces the idea that the desirability of full legal title is often socially constructed driven by the dominant legal system, rather than expressing an underlying organic "need" of the community itself. It also suggests that parallel and alternative systems of ownership can work equally well – if given the opportunity.

The Meaning of “Fee Simple” Rights

One area of research that remains poorly understood is that of people’s understandings of land ownership, and the various meanings that people have about home and property rights. In Latin America residents of irregular settlements develop a sense of de facto ownership even where they bought the land illegally or participated in a land invasion through squatting. Mention has already been made of how security of tenure and perceived de facto ownership is “constructed” by possession of the land, and by improvement of the land through self-help home building and investment of sweat equity. Many countries extend ownership to squatters after a period of uninterrupted occupancy.

In the USA such informal incursions and occupancy of property are strongly resisted, although certain people are accorded rights of usufruct – use rights over property. Here we are interested in trying to ascertain how colonia residents “construct” ownership? To what extent do people see ownership in terms of occupancy (as they might in Mexico), or does their sense of ownership stem from an accurate understanding of the more absolute rights associated with what, in legal terms, are considered “fee simple rights” (namely (i) the right to possess; (ii) the right to use; (iii) the right to exclude; and, (iv) the right to alienate or dispose?

When we asked what rights residents could lay claim to now that they had legal title they were allowed to give their responses in their own words which we later sought to classify in terms of whether they appeared to reflect underlying perceptions falling within fee simple ownership, or within rights of possession and use. Significantly, fee simple rights emerge as the underlying attributes in no less than 91 percent of cases for the Study Group, and 67 per cent of the Control Group, and that *usufruct* rights were identified in only a very small number of cases (4% and 9% respectively). Table 3 portrays some of the categorized responses in terms of fee simple or absolute legal rights. Thus being able to “freely trade the lot”, “use it as collateral” are rights of alienability; while “leave it to heirs,” “feel secure” and “build a permanent home” are rights of disposability and permanence, and were also classified as fee simple rights. By contrast we classified responses such as “not having to pay rent”, “can subdivide the lot”, and “can share lot”, as rights of present possession and use since they relate to the often found informal practices in such settlements among a minority of residents. The relatively large sized lots (one-quarter to a full acre) makes subdivision possible between two-close kin households (usually adult siblings or adult children and aging parents) even where this not permitted by local ordinances.¹² From this perspective it is striking that respondents had a very clear sense about what full title meant and allowed them to do, both before and after regularization, and that this includes **both** use rights and fee simple rights of ownership. Use rights are likely to prevail in the earlier phases of development, even though fee simple understandings are fully understood and recognized, albeit informally.

Table 3 shows how survey respondents’ responded when we asked what rights residents could lay claim to now that they had legal title. They gave responses in their own words, and we later sought to classify these responses in terms of whether they appeared to reflect underlying perceptions falling within fee simple ownership, or within rights of possession and use. Significantly, fee simple rights emerge as

the underlying attributes in no less than 85 per cent of cases when asked to explain what they understood by rights of ownership. Somewhat over half (58%) of the 243 respondents emphasized what would be considered fee simple rights over other rights such as those that related to possession, or to what we might consider informal uses. However, it is also apparent that absolute property (fee simple) rights also elicit different meanings among *colonia* residents. Most emphasize the ability to trade (alienate) and to will it to one's heirs (dispose). But other meanings also emerge: "feeling secure" (22%); building on the lot (use) 10 percent, while for a few it is the possibility of using the home as collateral (8%) Thus alienability (right to sell), permanence, and extensive control over one's property appear to be clearly embedded in what the lay conception of what "ownership" means – sometimes expressed as "I can do whatever I want with my property."

In this study the survey suggests that residents saw **both** usufruct and fee simple rights as valid forms of ownership -- as indeed they are in the American legal system. But there is also reason to believe that people generally recognized informal occupancy rights as offering a lesser and more limited set of rights than those provided by fee simple ownership – and largely for the right reasons. However, it also appears that before they receive actual titles some residents view themselves as "owners," but do so largely in terms of informal usufruct rights – they don't have to pay rent; they can share¹³ and subdivide with kin etc.¹⁴. After titling they are still the owners, but they are now vested with more powerful and more secure (absolute) fee simple rights.

<Table 3 About here>

From this perspective it is striking that respondents had a very clear sense about what full title meant and allowed them to do, both before and after regularization, and that this includes **both** use (occupancy) rights as well as fee simple rights of ownership. To the limited extent that they exist in the US colonias (in contrast to Mexican irregular settlements), use rights are only likely to prevail in the earlier phases of development, even though fee simple understandings are fully understood and recognized

THE IMPACT OF LAND TITLES. DOES TITLE MAKE A DIFFERENCE?

Impacts Upon Land Market Performance.

In a parallel study we found no evidence to show that full title significantly positively affects the price of land upon resale (Ward, de Souza & Giusti 2004). Land prices appear to be fixed according to social criteria (in this case by the two developers) and only in part derive from comparative pricing in the formal market, to the level of servicing, or to the improvement potential of the lot. Methodologically, however, it is extremely difficult to gauge with any accuracy how far formal intervention to regularize either clouded land titles or providing infrastructure actually shapes land values and land prices (Jones and Ward, 1994). Therefore we did not try to disentangle this relationship through modeling or through multivariate analysis, both of which would have required a much larger sample and a survey instrument specifically designed to try to capture the costs of improvements and house price values (Ward, de Souza & Giusti 2004)). Instead of trying to measure actual monetary impacts we asked respondents and

focus group participants whether they thought that land titles had significantly changed land prices locally, and whether title had any effect upon a household's willingness to invest in home and lot improvements.

Land Value Changes and Title.

Although most households felt that the value of their lots had increased since purchase, few in the Study Group population (9%) thought that land titling was the reason. Twelve percent thought that any increase in value was due to the relative scarcity of lots, since little new development was going on because of tougher state laws to restrict development after 1995. Thirty-four per cent felt that increased land and home values were a product of servicing provision and upgrading; while others simply felt that land prices had risen everywhere (38%).

These same findings found a clear echo in the focus group discussions in which many respondents seemed to believe that land prices were rising, but no one could explain it satisfactorily. However, the focus groups also indicated some divergence of views about trends in the local land market. Some residents felt that prices were not increasing at all, and opinions were divided about whether title provision had an effect upon increases in land and housing values. Similar disagreements surfaced about the question of how many lots were being still sold in these *colonias*, and participants seemed to be evenly split about whether or not there had been a quickening in lot sales in the immediately preceding years:

Q: Has the price of the lots, the solares, increased now that everyone has a title? Or has it not changed?

Male: Price has gone up.

Female: Well the people who do sell them, sell them more expensively.

Male: Naturally, they have to get back all they paid in taxes..

Female : ..and sewage and all that. But...

Female: They are valued the same.

Female: They are not going up at all. (Focus Group #4, June 29, 2002).

The moderator in this excerpt was seeking to elicit opinions about whether land prices related to having title, yet residents responded that price changes had more to do with taxes and services. The discussion followed rather different paths in another group:

Q: Is that what you think? Yes? And do you think that the value or price for your property has gone up now? Have they gone down or have they not been affected?

Male: They are stable. They do not go up or down.

Female: No, I think they have gone up a great deal. They are not worth as much as the ones in the city, but they are worth a little more than before.

Q: More than before you had the title?

Female: Yes, of course. (Focus Group #5, June 29, 2002.)

So it appears that residents expressed different views, and the behavior of the land market in these *colonias* appeared to be both a controversial and an ill-understood issue. Overall, most survey

participants estimated that their property values were increasing but few related it to the fact of having title. The focus groups confirmed that although most thought that property values were rising, few imagined that there would be many buyers who could pay such increases, saying that property is “hard to sell”, corroborating findings reported elsewhere (Ward, Stevenson & Stuesse 2000).

The Impact of Regularization on Property Inheritance

Twenty percent (54) of those surveyed said that one of the advantages of having title was that they could now safely leave the property to their heirs. Inheritance was also an important topic of discussion in the focus groups, with residents expressing the hope that their children would benefit from their – the parents’ -- hard work and sacrifice. Yet while almost everyone in the survey (88% N=232) agreed it was important to have a Will, only nine per cent actually had made a Will (see Table 1C).¹⁵ The reasons why so few had done so was intriguing to us, not least because as part of the title regularization process the CRG had simultaneously promoted the preparation of Wills without charge, a service that was made available at the title closings. However relatively few residents took advantage of the offer: only 11% (20) respondents in the Study Group made a will at the time they received their titles.

One key informant (a Mexican CRG staff officer) suggested that the resistance was cultural, since for Mexicans making a Will might be seen as tempting fate and invoking death – a kind of evil eye. The focus groups confirmed that making a Will does not sit comfortably with residents, albeit usually for less folkloric reasons. Many explained that writing a Will could create problems among family members: children would fight among themselves; couples would fight in cases where they had to confront the needs of children from previous marriages and partners, or from illegitimate children born outside of the marriage (Grajeda 2008). Generally speaking we found that while residents expressed a strong interest in the issue of inheritance, they also seemed to be highly ambivalent and uneasy about dealing with it.

Nor do people appear to have an accurate notion of what will happen if and when they die intestate (which in this case would be under the provisions of Texas law). When asked who they thought would inherit the lot if they died without a will, many were actually quite ill-informed, and 60 percent imagined that it would go to all the children equally (forgetting about the surviving partner, Table 1).¹⁶ An important element in intestacy laws in Texas is that the law makes property arrangements that it (the government) believes most people would want if they *did* write a Will, namely to leave the whole of the homestead to the surviving spouse, notwithstanding whose name is on the title. Some participants knew of the rule while others did not, but once informed most agreed that this was fair as a matter of marital equity. Yet in the focus group discussions it was also abundantly clear that some participants (male and female alike) had tried to control inheritance by titling the property in either the husband’s or wife’s name alone, not recognizing that this would be disregarded at the time of their death in order to protect the surviving spouse's preemptive right.

With respect to the rule that all children inherit equally upon the death of a parent, most of the focus groups found this rule to be both fair and consistent with their desires. But when it was made clear to participants that this would also include children from a former marriage, or those born outside of

marriage, or those born in a parallel non-marital family, some participants began to think again, arguing that this was not fair.¹⁷ Furthermore the focus groups reinforced our awareness that complex, multiple, and often informal family relationships are not unusual in Starr County. This includes cohabiting couples with children, former marriages with children, men and women who marry again without having formally divorced a previous spouse, and men who have more than one family. Inheritance issues are messy and are likely to involve many heirs, further increasing the likelihood of tenure downstream problems arising from intestacy, a point to which we return below.

The desire to control inheritance was evident from the focus group discussions, especially in the women-only groups. However, there was not a widespread awareness of the Will as a mechanism for directing inheritance. Some participants said that they wanted a Will but could not reach agreement with the spouse on the disposition of their property. A significant number of participants (male and female alike) had tried to control inheritance by titling the property in either the husband's name alone, in the wife's name alone, in the name of the female partner in a non-marital union, or in the children's names. In some groups it was clear that participants did not understand that in Texas a Will could override some unfavorable (in their view) intestacy provisions, especially as regards inheritance by children from a former marriage or relationship or from a parallel non-marital family. Interestingly, and dovetailing with these concerns about inheritance, among focus group participants we observed strong interest about the legal rules governing marital property and the property rights of non-marital families, an interest that, if widespread, should probably be the focus of future policy initiatives and information dissemination.

The Impact of Title on Home Improvements

The survey questionnaire asked respondents if title had helped or encouraged them to make significant improvements to their homes. Two-thirds of all respondents said that it had. However, when asked why title was (or was not) important there was a wide range of responses. Few reasons appeared to be tied to the legal attributes associated with full title such as being able to press for service provision, construct within code, secure a loan, etc. Instead, most responses reiterated the linkage between security and investment, as well as the greater freedom to do what they wanted with their property. Indeed, as mentioned earlier in this article there was little or no significant socio-economic difference between the Study Group and the Control Group, or did one observe any significant difference in terms of the quality and size of the home, since most people had already made significant improvements to their property without regard to whether or not they had full title..

Nevertheless, we wanted to ascertain if there was any discernable link between titling and a quickening in the pace of home improvements, and, if so, to determine the nature of that linkage. For this reason in the survey we only asked the Study Group population about home improvement since they were the population significantly affected by a recent change in title status.¹⁸ Fifty percent of respondents said that they had made one major improvement; 18 percent had made two improvements; and eight percent at least three. Thus three-quarters had improved their homes since receiving titles, and the median total amount of home improvement investment was estimated at \$3,700 – a large amount given

their low incomes. However, because we did not ask the same questions of the Control Group we have no way of knowing if such improvements were generalized across all the *colonias*, or if they were particularly concentrated in those cases where title had recently been provided by the CRG. We suspect that the differences were probably not that great, since making investments in home improvement and extension are a normal part of the self-help and self-managed housing processes in *colonias*. These commonly comprise building new rooms, upgrading or buying a second trailer or doublewide, putting in a bathroom or a new kitchen, building a car port and patio area, and so on.

Significantly, though, most households in the Study Group (71%, N=114) did have active plans to improve their homes over the next two years, and were able to specify the improvements that they planned as well as give a budget of the anticipated costs. Sixty-two percent estimated the cost of their first major improvement at a median price of \$2,500. Those who also planned second and third home improvements projected costs of \$1000 and \$800 (median amounts) respectively. Overall therefore, the median planned investment in improvements was in the order of \$3000. These projects are hypothetical, of course, and may not have been undertaken, but the record of previous improvements suggests that the likelihood of at least going some way to achieving these plans were not unrealistic or improbable (other things being equal – employment rates, economic buoyancy, etc). The clear impression gained was of *colonia* families striving hard to use their sweat-equity (i.e. their own efforts), as well as their modest savings and earnings to improve both their dwellings and their residential environment. This is made possible by the relatively low housing costs of *colonia* residence (not having to pay rent, being able to share expenses with kinsmen), and the considerable yard space offered by most *colonia* lots. Once established, provided that there is at least one regular source of income (albeit low paid), households can mobilize modest savings to make home improvements with the added advantage that they are not encumbered by codes and local inspections – the virtues of a “freedom to build” that John Turner and Bob Fichter many years ago described as one of the principal attributes of self-help housing in less developed countries (Turner and Fichter, 1972).

However, the point at issue here is whether the trigger incentive was having *el titulo en la mano*? No clear linkage between title and home improvements emerged in the focus group discussions, although there seems little doubt that participants understood that there were risks associated with improving their homes without clear title. Those who did comment on improvements to their homes said, almost without exception, that they had been undertaking dwelling improvements since the time they purchased. *“But if you are willing to risk it, yes. Keep up the house and the solar even if there was no title. It (the lack of title) was not a determining factor,”* was one such comment. Thus although title encourages home improvement, it does not appear to be an axiomatic relationship. CRG intervention did have the effect of reassuring the *colonia* population that their needs were finally and definitively being attended to, and this appears to have galvanized morale giving owners additional confidence to move forward with their home improvement plans. Our conclusion is that it is these **secondary** influences and “outwash” effects of CRG intervention that were probably more important than any direct impact of titling *per se*.

Title as a Basis of Collateral for Access to Credit

The survey did not enquire about any past use of credit for home improvement, although we did invite those households who anticipated making significant improvements in the future (at an estimated median investment cost of \$3000) to describe how they proposed to finance those improvements. Two-thirds claimed that they would finance future home investments from their own means, (i.e. out of income, windfall gains, help from kin, etc.); and 28 percent said they would apply for a loan. In summary, barely one-quarter were thinking about seeking formal credit. However, we do not know if this is indicative of the overall proportion of residents who normally use credit for major home improvement expenditures, or whether it reflects an increase and newfound strategy given the added tenure security and absolute title. However, there is some reason to think that it is not a new strategy born of titling: one third of the 162 respondents in the Study Group claimed that in the past they had sought a loan (for any purpose, not just home improvements), but only very rarely had they pledged their property as collateral (5%, Table 4). When asked about whether they were aware that they **could** use their title and property as collateral for a loan, just over 40 per cent of the Study Group declared that they understood that this was an option, but at the same time the large majority in both groups (87%, N = 228) expressed concerns about losing their homes if they failed to repay the loan (Table 4).

The Control Group was asked about their awareness and willingness to use property titles as collateral for a loan. This group has held a Warranty Deed for a longer period of time than the Study Group, and therefore had greater opportunity to pursue such an option; yet few (six) had sought to do so, and only three of those had actually used their Deeds as collateral. This group was more aware than the Study Group about the ability to use title as collateral for a loan (53% compared to 42%), but they (82%), too, recognized the possibilities of losing their land and homes should they default on the loan. Overall, of the thirteen individual cases from both Groups that had used their title as collateral for loans, the sources of those funds came mostly from banks (8 cases); two were from finance shops; and one each to the CRG and to a government entity, and one respondent did not know the source of the loan.

It is also important to recognize that banks are not especially interested in making loans on *colonia* properties, no matter how secure the title. As José, a focus group participant put it: “*Los bancos son bien vivos*” (Banks are very smart). He further elaborated the point that banks only loan against collateral that they can readily recover in the event of default on repayments. The problem with homes in *colonias* is that have a relatively low value (Ward, Stevenson & Stuesse 2000) , and are difficult to sell if repossessed, so that they are often not worth lending against no matter how secure the title. It is different if one has a substantial house, or a newish car or truck that can be more readily repossessed. José’s sense was is that it is all very well to have title security, but banks are still unlikely to see *colonia* property as worth the risk. This suggests that even if their assets are secured with property titles, more often than not the poor are still unable to reach even the bottom rung of the credit ladder. It is only for those who are already better-off and own more expensive houses or vehicles that title opens the door to the formal market of prime-rate lenders.¹⁹ Overall, we conclude that few *colonia* residents were willing to risk losing

their homes by foreclosure, and were therefore skittish about using their title deeds as collateral. Table 1A shows quite clearly that few people mentioned an application for a loan as a reason for recording title.

Hypothetically though, assuming that residents were willing to use their lots as collateral, for what purpose would they most likely use a loan? This was a question that was put to all households and the results are displayed in Table 4 and which show significant differences between the Study and Control groups. While many remained adamant that they would never contemplate the option, most were willing to consider the hypothetical scenario and said they would use it for home improvements, or to upgrade the housing unit (a new trailer or modular home, etc.). The second most common answer -- a significant minority of 14 per cent -- said they would use their property to secure a loan for their child's education. Within the Control Group 23 percent said they would use a loan secured by the property for a child's education and in general it appears that this group was more willing to pledge the property for purposes other than home improvement or education.

<Table 4 about here>

Similar questions were put to the focus groups, and the responses we received suggest that there are two different types of response: the majority who could be described as "cautious", and a minority who were more "adventurous". Although there were residents in all of the focus groups who eagerly voiced an interest in seeking credit for different purposes using their title as collateral, the majority was risk-averse, and expressed reluctance to jeopardize the only major asset they owned. Among those home owners whom we characterize as "cautious", supporting a child's education, or responding to an emergency were the **only** reasons they felt would justify the risk of pledging their title to secure a loan, and some thought that even in these circumstances it would never be worth it. Although there were contrasting views, and many residents (45%) understood that they could use their title to seek a loan, most were unwilling to do so. Even when it came to paying for a child's education, the risk may be just too great.

A much smaller group of respondents, whom we characterize as "adventurous", were openly interested in seeking loans in order to buy a new truck, or to invest in a new business. The following extract from one focus group discussion exemplifies this, albeit in a rather confused way:

Female: ...not me, I have a very responsible husband and I do it to get ahead...

Q: You do what?

Female: Get money out (i.e. take out a bank loan) It's at 6% interest rate-- Extremely low --so why am I going to buy a truck which is at 10% or 12% when I could buy it through the bank. I buy some solares [[land]... lots of people don't understand that it's not about need. No it's about getting ahead. Me and my husband. That's where we can get ahead. So they give you the money, your mortgage – not because you're dying of hunger because here they give you food stamps and Medicaid – but if you want to struggle to get ahead, that's how you can make money work. How can you get money? Sometimes through your property, that they are sure that you have good

credit and that you are not going to lose it. And that's what makes you make the effort to get ahead.

Q: And you can do that now with a title?

Female: Exactly.

This is a woman who had little to no “formal” education, and who would almost certainly have difficulty in getting a reasonable paying job. But during the focus group discussions it became clear that she was aware of her new economic prospects as an owner, and that she would seek to find the way to use her title in order to bring in extra money into the household. In one of the women-only groups, she was the only one who appeared to understand the full meaning and opportunities of title within a financial setting. Although we did not make any formal link between her opinions and her personal or family situation, it was quite apparent that she was among one of the “better-off” members of the *colonias*, and that she had a larger home than most of the others. . . Most participants did not share her views, nor did they have her relatively more favorable prospects. Our conclusion, therefore, is that although residents know that they can pledge the title to their property in order to get credit for home improvements, very few have actually done so, and most are uneasy about the doing so in the future for fear of losing their homes. In our opinion these are important findings that go to the heart of disarming many of the de Soto-type arguments that title leverages credit, and that low income households will welcome opportunities to enter the credit market.

PROPERTY TITLES AND COLONIA SOLIDARITY AND POLITICAL EMPOWERMENT

One arena where title did appear to have an important and positive impact was an apparent increase in individual self-esteem and sense of personal dignity, and a reduction in feelings of marginality among *colonia* residents. The relatively secure process of land acquisition in Texas and elsewhere in the US described earlier, together with the low population densities found in informal settlements, tends to create a low sense of community. This is certainly the case when compared with their Latin American counterparts who live in much larger settlements, on smaller lots, and are therefore more densely settled. Moreover the illegal forms of land capture means that residents have to mobilize and fight for legal recognition and for the survival of the fledgling neighborhood, thereby forging a strong sense of community and solidarity (Ward, 1999: 167). In Texas *colonias* the low population density and absence of a major threat from the county carries over into correspondingly low levels of observed community action and participation (ibid.). However, in the case of Rio Grande City we anticipated that CRG intervention to support untitled residents might be found to have led to the creation of a wider sense of group interaction and solidarity – what has been described as “horizontal integration” between residents and neighbors (Ward 1999: 194).

However, even before the CRG came onto the scene this set of *colonias* in Starr County had already demonstrated higher levels of organization and participation than most others in Texas. This was due in large part to the presence of an adept and well respected leader, and to the existence of a moderately effective self-help organization known as *Colonias Unidas* that she (the leader) had

established, which remained the anchor point for community activism and concern throughout the period of CRG intervention. Indeed, it is doubtful whether the CRG would have achieved the success that it did without having first gained the support of *Colonias Unidas* since this had been the key focus point of community education and previous political negotiation around titling issues, particularly the “bankruptcy” and sequestration strategy within the Chapa and López-developed *colonias*. Despite this background and history, focus group participants rarely agreed about whether or not there was good community collaboration: many felt that people mostly went their own way, and cared less.

When designing the survey we had not considered whether titling might lead to more politicized and active engagement among residents and in their collective interactions with supra-local organizations (especially with the government) , However, from the outset we were interested to know whether there was any connection between land title and political participation and empowerment, especially in circumstances where local governments control much of the local welfare resources that are available to low-income *colonia* residents. Land, services, and schools were the dominant political concerns for the *colonia* residents whom we interviewed. These local governments are funded almost exclusively by property tax revenues, and respondents often lamented that being a home owner in a *colonia* had rarely, if ever, been sufficient to trigger the concern of the county government. It is widely assumed (often incorrectly) that *colonias* largely comprise non US citizens who cannot vote, or who lack the electoral clout of significant voter numbers. The latter is true since these settlements are relatively small, and many citizens have not been registered to vote. Participants in the focus groups themselves raised the idea that now that they were legal owners and, therefore , (property) taxpayers, they were on a path to greater political participation and influence. The following exchange from one of the focus group discussions suggests this:

Female: (Many) Problems exist here regarding floods, and other things and the county does nothing to fix it.

Male: They do nothing.

Female: Starting from the school that is there ...up to date they have not done anything. That is true. But for you to vote for them, oh, they are so good making promises....

Male: Then they come to get you.

Female: They should show their faces (laughter).

Female: But you know it's because of what they say here, that more people with Green Cards [resident alien documents] live here than citizens. And since they cannot vote, well why do they worry about us?

Male: Even if you just have a Green Card, you have your property and we pay taxes...

Female: Exactly but it's not in their interests. They say, well I don't get votes from there so why am I going to help.

Male: Well I am going to make demands because I pay taxes. And even if I was not [a citizen], I pay taxes.” Focus Group #4.

This exchange largely relates to the question of citizenship status, but titling also appears to have the effect of facilitating political inclusion at a more symbolic level. In the U.S., state and local governments support the expectation that people will hold formal title that will be recorded in the public records system, and that this is a primary condition for effective land market operations. Thus to hold land outside of that formal market is to have a second-class legal entitlement and, by implication, a second-class civil status. The focus groups revealed that for *colonia* residents, title formality offers the political symbolism of enfranchisement, and that residents associate informality with marginality. They also recognized that this is how the outside world views them. But now that they have full title residents feel that they can hold up their heads when they go to government offices in Rio Grande City.

However, while it did help them hold up their heads in external relations with supra-local actors, most participants in the focus groups also said that receiving legal proof of their property had not changed their relationship to neighbors or with their families. Residents expressed a belief that being a good neighbor was important, period, and they frequently talked of unusual and generous accommodations that they had made for their neighbors. They perceived themselves as a community of neighbors (*vecinos*) rather than a community of property owners. This relates back to our earlier discussion of the use value of *colonia* residence, and it seems that the concept of ownership is not especially important in their construction of the meaning of community. In no *colonia* had residents created, or thought about creating, a homeowners' association or any such similar organization.

Indeed, there were different views about the sense of community within *colonias*. Most participants had strong family and friendship links within the settlement, and in many cases parents, children, and extended family lived in close proximity to one another. It was even the case that in several of the focus groups there were mother and daughter (Focus Group #2), or father and daughter (Focus Group #7), or sisters (Focus Group #1), each of them representing a different household. The survey highlighted the close family ties in these communities (81 per cent reported having relatives living in the *colonia*). Most said they had good relations with their neighbors, and when asked about possible conflictive situations (like boundaries) they expressed the willingness to solve the problems peacefully. However a few also described some points of conflict with neighbors, usually around daily life issues such as noise, and lack of privacy, and some participants were worried about crime, dangerous traffic, and neighborhood safety. But again it seemed that the perception of these problems and the way in which residents deal with them had little or nothing to do with having received property titles. If anything, residents attributed the neighborliness they practice to their Mexican-origin culture, and not to home ownership.

Thus the data offer a rather mixed sense of the impact of titling on community empowerment and participation: on the one hand it appears to raise morale and self-esteem, and fosters a greater sense of legitimacy and rights in relations with local government. On the other hand it appears to have minimal

impact in generating greater community activism around common issues of property ownership, or to significantly change neighborly relations.

CONCLUSIONS: THE RELEVANCE AND IMPORTANCE OF CLEAN PROPERTY TITLE

The Community Resources Group gave title to those who clearly had a legitimate claim of ownership. Without its intervention, many residents would never have achieved full and secure ownership. Within the Control Group some residents were already secure having received Warranty Deeds from the developers (even though in some cases even these deeds were defective and had to be corrected by CRG intervention). Had it not been for CRG intervention those without deeds may never have been able to secure legal proof for their claims, and many of the residents of the Starr County *colonias* would have been in permanent limbo, insecure about their status as homesteaders. But as this paper has shown, owners in *colonias* ascribe different meanings to ownership and to property titles. Although many felt that they had legitimate claims of ownership based upon proxy criteria such as receipts, Contract for Deed, tax payments, or even the plain fact of occupancy over a number of years, residents understood that full title would convey a more powerful and a more secure basis of ownership.

However, *colonia* residents' understanding of ownership includes both moral as well as legal meanings. As one delves more deeply into the meaning of title for *colonia* residents it becomes apparent that property right claims shift from those most usually associated with informality (use rights and occupancy), , towards fee simple (absolute) rights and formality. It is also apparent that this is important in so far as it has the potential to affect and shape future behaviors – self-esteem, relations with local government, home improvements, and the possible leveraging of loans. But despite this important shift, our research also identifies the high potential and likelihood for a **reversion to informality**, at least when it comes to selling or sub-dividing lots and homes, passing it on to their children, and so on. This should not be construed as a reversal to time-worn and traditional practices that are familiar to *colonia* residents, nor is it ignorance of the gains that formal (fee simple) title offers, but instead it represents a pragmatic response to the lack of financing systems in *colonias* that would enable low-income home owners to be able to sell their properties, and to avoid some of the relatively high transaction costs associated with formal market transactions (Ward 2009). Despite the CRG's intervention to create a platform of secure legal titles, people recognize that what matters most is the security of being able to prove ownership, and while in an ideal world they might like to sell their homes under Warranty Deeds the practical logistics often do not allow them to do so. Thus they revert to the lesser order of title transfers, and to (informal) usufruct arrangements of land subdivision and inheritance among their children, knowing that these are workable solutions, even if they lack the legal elegance and veracity that will make them fungible in the market place.

This analysis underscores an important and largely unrecognized point: namely that regularization may not be the one-off that many people imagine, and which ends with title provision and registration in the public record (Ward and Carew 2001). In future, additional provisions will almost certainly be required in order to facilitate and to ensure that property sales and lot parcel subdivisions

bequeathed under intestacy are adequately recorded and titled, and that this is done without a lot of red tape at minimal cost. If such measures are not undertaken, then it seems inevitable that there will be a reversion to informal arrangements and practices of land sales and subdivisions linked to inheritance and lot turnover, and that this will be increasingly widespread among low-income *colonias* and among informal homestead subdivisions nationally.²⁰

So far as market performance is concerned, this paper has sought to explore whether title is important in bringing people more formally into land market and property relations, thereby enabling them to access credit, facilitate home improvements, sell their homes more freely, and to capitalize on their sweat equity and cash investments. If such priming of the market place was an expected and desired outcome of the land-titling program then the findings of this study are not encouraging. *Colonia* land markets are not being valorized significantly as a result of self-help efforts, servicing, or legalization of clouded land titles. While prices and land values may rise in the future, the underlying effective demand among other lower income households to buyout lots and homes in *colonias* remains very low, such that few people are able to sell their lots and homesteads even if they wished (and most do not). This has little or nothing to do with title per se, but reflects a sluggish land market and limited elasticity of demand among low-income populations. The best strategy for *colonia* residents is to take advantage of the improved *use-value* of their properties now that the level of insecurity from possible eviction or dispossession has been reduced, and now that services are coming on-line. Many were already engaged in self-help activities to improve their dwelling environments prior to gaining full legal title. Having formal title -- "*el título en la mano*" -- will undoubtedly help that process, but it will not guarantee it, nor is it likely to be the trigger for consolidation efforts in the future. Only in those cases of extreme insecurity (flooding of one's lot, or living in an area that is designated for expropriation, for example) is the titling program likely to directly promote an onset of improvements. For the remainder formal legal title is an additional asset that may enhance consolidation, it is not the trigger determinant.

The titling program does not appear to have significantly altered the organizational capacity of the residents themselves, although in other situations where there is no existing organization then CRG-type intervention may be a galvanizing factor to propitiate new forms of local organization and empowerment. While residents appeared to be more confident about their ability and rights to challenge local authorities and demand that the latter provide services and treat them with greater respect, there was little evidence in that this had a significant empowering effect, or that it created more empowered communities. Most focus group participants were positive about the CRG Receivership and intervention, and they appreciated the work of local staffers. But ironically, perhaps, the very success of the CRG in conducting its affairs and undertaking the titling program may also have generated a level of complacency among residents, since they were confident that matters could be left to the CRG and to the local leaders. While this is more hypothesis than fact, it goes some way to help explain why in several of the focus group discussions apparently contradictory positions emerged: that of good neighborliness yet, at the same time, a tendency to bemoan the lack of community action and organization to get things done.

Several of these research findings will disappoint policy advocates who envisage that providing land title will leverage access to formal credit systems, moving households onto an upward trajectory of home consolidation and self-improvement now that they have a formal stake and share in the capital and credit markets. Using one's property as collateral is anathema to almost all *colonia* residents, and appears unlikely to change. As we have seen, security has traditionally been the watchword of *colonia* owner households, along with the creation of a patrimony for their children. For them, accessing credit creates a potential threat to that very security, precisely because it brings them into the formal market place and exposes their homestead to repossession if they are unable to fulfill their loan obligations. Few households are well disposed to substitute one form of insecurity for another, and most owners are streetwise in this respect, shying away from loans held against their homes. Nor is it clear to us how assiduously local finance institutions would ever wish to pursue low-income owners as recipients for loans, especially in today's environment after the prime and sub-prime meltdown in 2008. Unless the property market heats up considerably and offers greater potential cash gains to owners, then financial institutions will almost certainly continue to look askance at *colonia* housing collateral, even for relatively small loan amounts. That said, the data do indicate that despite their very low-income profiles, people are investing substantially in their homes, and expect to continue to do so in the future. However these improvements will be financed through the tried-and-tested means that they have used in the past. Title-in-the-hand is welcome in so far as it provides important family and homesteading security and raises self-esteem, but it is largely irrelevant as a trigger for improved socio-economic mobility, enhanced access to credit, and wealth creation among the poor.

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Table 1A-1C. Attitudes Towards Ownership and Titling

Variable	Control Group 27% (N=70)	Study Group 73% (N=193)	Total 100% (263)
1A. Reasons why Registering Title is Important			
- Feel more secure	30% (20)	48% (76)	43% (96)
- To prove ownership	47% (31)	31% (49)	35% (80)
- It is required by law	20% (13)	10% (16)	13% (29)
- Instructed to do so by CRG	N/A	10% (16)	7% (16)
- In order to apply for a loan	2% (1)	1% (2)	1% (3)
<p>P=.008931 ** Significant at 1% level Note: The categories 'Instructed to do so by CRG' and 'In order to apply for a loan' were not included in the Chi square test because there are less than 5 cases in at least one of the analyzed groups.</p>			
1B Number feeling insecure about ownership prior to receiving title and Why			
- Lack of Contract or Warranty Deed	41% (9)	54% (27)	50% (36)
- Distrusted developer	5% (1)	28% (14)	21% (15)
- Title unregistered or still paying	14% (3)	6% (3)	8% (6)
- Other	41% (9)	12% (6)	21% (15)
<p>P=.306136 Not significant Note: The categories 'Distrusted developer' and 'Title unregistered or still paying' were merged with the category 'Other' for the calculation of the Chi Square Test, because there are less than 5 cases in at least one of the analyzed groups.</p>			
1C Number with a Will and Expectancies about who will inherit the lot			
- Surviving partner	24% (17)	18% (35)	20% (52)

- Eldest child	7% (5)	8% (16)	8% (21)
- All children equally	49% (34)	63% (123)	60% (157)
P= .274364 Not significant.			

Table 2. Deeds and Papers Held at the Outset.

Variable	Control Group % (N)	Study Group % (N)					Total % (N)
<i>Claimed to have Warranty Deed from the Outset</i>	26% (18)	3% (7)					10% (25)
<i>Claimed to have Contract for Deed from the Outset</i>	36% (25)	45% (87)					43% (112)
		Las Lomas Unplatted	Mike's	B&E	Share 52	West Alto Bonito	
		20% (5)	69%(61)	19% (6)	14%(3)	44%(12)	
<i>Only had Receipts or informal documentation from the outset</i>	24% (17)	32% (84)					38% (101)
		Las Lomas Unplatted	Mike's	B&E	Share 52	West Alto Bonito	
		68%(17)	18%(16)	72%(23)	76%(16)	44%(12)	

Table 3. Categories of Responses About Ownership, Differentiating Between Fee Simple (Absolute) Rights And Informal Use Rights

	Authors' classification of what one can do having full ownership		
	Fee simple rights (alienation, and permanence)	Possession and use rights	Total N
	N (Col %)		
<i>Can freely trade the lot</i>	77 (37%)		77
<i>Can subdivide lot among kin</i>		4	4
<i>Can share ownership</i>		1	1
<i>Can Will lot to heirs</i>	48 (23%)		48
<i>Can build a permanent dwelling</i>	20 (10%)		20
<i>Can feel secure</i>	45 (22%)		45
<i>Can use the lot as collateral</i>	17 (8%)		17
<i>Not pay rent</i>		7	7
<i>Not know</i>			7
<i>Other</i>			16
TOTAL	207	12	243

Table 4. Actual and Prospective Use of Land Title as Collateral for a Loan.

Variable	Control Group	Study Group	Total
	Yes	Yes	Yes
<i>Have used Title Deeds to Secure a Loan in the Past</i>	Q. Not asked	5% (10)	5% (10)
<i>Aware that can use Title Deeds as Collateral</i>	53% (37)	42% (81)	45% (118)
<i>Aware of Risk of Losing Lot in the case of loan default?</i>	82% (57)	87% (171)	87% (228)
<i>Hypothetical willingness to use Title Deeds for future loan applications for:</i>			
-- home improvements	60% (36)	73% (124)	61% (160)
-- children's education	23% (14)	13% (22)	14% (36)
-- other (car loan, start a business, etc)	13% (8)	4% (6)	5% (14)
P=.005277 **significant at the 1% level			

¹ Primary authorship of this paper is by Ward, in collaboration with de Souza (survey analysis), Giusti (focus groups) & Larson (legal analysis). The research reported here derives from a final report coordinated by the lead author entitled "An Evaluation of the Community Resource Group (CRG) Colonias Lot Titling Program in Rio Grande City, Starr County, Texas", April 2003. The authors wish to acknowledge the other principal contributors and co-authors of that report, Jane Larson and Marlynn May. We are also grateful to Rebecca Lightsey and the Community Resource Group office in Austin, for permission to publish from the report, although neither bears responsibility for the opinions cited in this paper.

² There is an extensive literature here, Abrams 1966; Varley 1987; de Souza 1999, Gilbert 2002, Ward 2002, and the various articles in two major recent edited collections: Fernandes and Varley 1998, and Jones 2003.

³ For example data for the following border counties showing median household income and (in parenthesis) the percent receiving below \$15,000 for below: Cameron \$26,155 (29.6%); El Paso 31,051 (19.9%); Hidalgo \$24,635 (32%); Webb \$28,100 (26.9%); Zapata \$24,635 (32%). Outside of the border incomes are considerably higher: Travis County (Austin) = \$46,761 (12.2%); Lubbock 32,198 (22.5%) where *colonia*-type subdivisions are also to be found.

⁴ Regularization policies are part of the mainstream policy responses to irregular settlements in Latin America and comprise two separate sets of activities. First, is the provision of clean title to the lot "owner"; second, is the provision of basic infrastructure and services. While both are intended to be undertaken together, in practice providing title is easier to achieve since it does not require such large resources.

⁵ As well as analyzing the general trend for all records, we disaggregated 904 records for the four *colonias* in which were to conduct the survey (i.e. 64 per cent of the total), for which we had a good sample size.

⁶ In order to ensure statistical reproducibility of the analysis, full details of the methodology, sampling protocol, copies of the questionnaire, as well as the actual SPSS datafiles (and codes) are available and may be consulted and downloaded from the following website: www.lahn.utexas.org or on a CD Rom by request from the author (peter.ward@mail.utexas.edu). A copy of the final report (2003) is also available at that site.

⁷ Indeed where they are close to the city limits the boundaries of annexation are often drawn to circumvent incorporation of such settlements which are considered a fiscal drain on city services and infrastructure. In this way the city of Brownsville actively “gerrymandered” the city limits in order to avoid annexing Cameron Park – one of the largest *colonias* in South Texas (Ward, 1999).

⁸ Social costs in the sense of living in a poor quality residential environment with lower than average services, high levels of insecurity born of not having full title deeds, long travel times to work or school, and minimal access to city amenities.

⁹ See earlier footnote #6 for the location

¹⁰ Note that under U.S. law, recording the title does not affect its legal force in proving the ownership claim. An unrecorded deed is as good as a recorded deed although it cannot have any affect against anyone who has no knowledge of it. Thus recording does give public notice to anyone who may want to deal with that owner or to take other action on the property.

¹¹ It should be noted that sometimes developers have been unable to offer a Contract for Deed since they had failed to comply with the early regulatory laws that required an approved plat. Moreover, any sales after 1995 legislation require not only platting but service provision guarantees in order for a sale to proceed.

¹² Strictly speaking “not paying rent” could be seen as contributing to building equity and therefore ownership and fee simple categorization.

¹³ The relatively large sized lots (1/4 – one acre) makes possible subdivision between two-close kin households (usually adult siblings or adult children and aging parents) even where this not permitted by local ordinances.

¹⁴ This is akin to how many irregular settlement owners in Mexico often feel about land, although they also tend to emphasize rights of informal ownership especially “tener un patrimonio para los hijos” – to have something to will to their children. However here the boundary informal and formal becomes blurred since right to Will (dispose) is also a major element in a definition of fee simple rights.

¹⁵ This is about the same as in Mexico where a similar survey applied by the author to over 160 randomly elected households in two thirty year old low-income consolidated *colonias* in Monterrey found that only 8 percent of household heads had wills (Ward and Grajeda forthcoming). However, although most die or will die intestate, a large minority do apparently leave clear informal instructions about inheritance although we know little about whether these informal arrangements are adhered to. In Mexico overall less than 15% of the adult population have Wills (Grajeda 2008), compared to the USA where estimates suggest that the number is over 50%, a number that rises as people get older (in the USA 70 percent of persons aged 70-85 reportedly having Wills [O’Connor 1996 reported in Angel 2007: 21]), For younger adults, ethnic minorities and lower income groups the numbers are significantly lower (Angel, 2007)

¹⁶ In Mexico this is the norm for intestacy in most states under the Civil Code in which property is shared equally among the children, with the surviving spouse either receiving an equal share of the property or, in those cases where only the children are beneficiaries, the surviving parent is guaranteed support from the proceeds (Grajeda 2008). The fact that most respondent are Mexican origin for whom this system of intestate inheritance was the most familiar, probably explains why so many were actually misinformed.

¹⁷ This is also the case in Mexico (see previous footnote). In fact, of course, this is actually a very good argument *in favor* of making a Will, namely to ensure that it goes to the person(s) to whom one wishes to bequeathed, and not divided among all (proven) child claimants as the Civil Code in Mexico would usually require.

¹⁸ In retrospect it would have been much better (methodologically) to have also included the Control Group in order to evaluate whether the rates of home improvement were any different from the Study Group.

¹⁹ In some respects (and in retrospect given the 2008 financial crisis) this unwillingness or inability to significantly enter the formal credit market has proven advantageous since most *colonia* residents are not threatened by foreclosure. They are more likely to be exposed by job loss than by loan recovery or by having to meet loan repayments. This is one of the paradoxes of being poor and acquiring housing informally.

²⁰ The same argument is now being applied in Mexico to second and third generation “irregularity” among those who inherit *colonia* property shares from their parents, and who were the subject of massive regularization programs from the 1970s onwards. Here, too, one sees the likely scenario and trajectory of: INFORMAL to FORMAL back to INFORMAL property relations, and the need for public policy interventions that will seek to rectify newly emerging patterns of informality (Ward 2009).