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Constructing The *Pomerium* in Las Vegas: A Case Study of Emerging Trends in American Gated Communities

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ABSTRACT *Private communities, many of them gated, are the predominant form of new housing construction across much of the United States. The rapid spread of this institution is driven by structural forces such as rising land costs, local government fiscal constraints, and consumer preferences for security and control over space. Some municipalities, such as Las Vegas, are actively promoting this transformation of home ownership and governance. New housing developments must be governed by private homeowner associations and existing neighbourhoods are under pressure to become private communities. This paper presents the case study of Bonanza Village, an old Las Vegas neighbourhood that was turned into a gated community, over the objections of many of its residents, through concerted action of a neighbourhood homeowner association and the City of Las Vegas.*

KEY WORDS:

Introduction

Privately governed residential enclaves, known as common interest housing developments (CIDs), many of them gated and walled, are the predominant form of new housing in America's fastest growing cities and suburbs. Over the last 25 years, this massive privatisation of local government functions has changed the appearance and organisational structure of American urban areas. This trend is not a passing fashion but an institutional transformation reflecting the ideological shift toward privatism characteristic of the neo-liberal consensus. Specifically, the CID revolution is driven by three main forces. Developers pursue higher density in order to maintain profits despite rising land costs. Local governments seek growth and increased tax revenues with minimal public expenditure. Many middle and upper-class home buyers, fearful of crime and disenchanted with government, are in search of a privatised utopia offering security, a homogenous population, and managerial private government.

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This transformation resembles the construction of a physical and institutional *pomerium*, or sanctified wall, around the affluent portions of an increasingly divided society. Nowhere in the US is this transformation more visible than in Las Vegas, Nevada, the fastest growing city in the nation, and one that exemplifies the national and global trend toward placing tourism at the centre of the urban economy and reshaping the spatial, social and political order accordingly. Las Vegas area local governments require developers to construct virtually all new housing in CIDs, and gated security developments are popular. So popular, in fact, that non-CID neighbourhoods come under pressure to emulate CIDs. One such neighbourhood, Bonanza Village, was literally walled in by the City of Las Vegas, over the protest of many of its residents, in order to make the old neighbourhood resemble contemporary gated communities and thus link it with downtown redevelopment.

This paper seeks to outline the trends that are emerging in the production and practices of these privately governed gated communities.

Production: Residential Private Government and Gated Communities

Privately governed residential enclaves, known as common interest housing developments (CIDs), are the predominant form of new housing in America's fastest growing cities and suburbs. About one-fifth of them are gated and walled (Blakely & Snyder, 1997, p. 180n1) Over the last 25 years this massive privatisation of local government functions, consisting of some 250 000 housing developments containing about 20 million housing units and 50 million people, has changed the appearance and organisational structure of American urban areas (Community Associations Institute, 2004).

Common interest housing includes planned developments of single-family homes, townhouses, and condominiums. These developments involve a form of ownership in which home buyers purchase both an individual interest in a particular unit and another interest, consisting often of streets, recreation centres, golf courses and other facilities, which they own in common with all residents in the development. They buy their property subject to voluminous sets of deed restrictions, rules and regulations, under which all owners agree to make monthly payments to a homeowner association, a private government into which all residents are enlisted at the moment of purchase. The association is run by the residents, supported by cadres of lawyers and other professionals, and it enforces the deed restrictions against all residents and manages the use of property and other aspects of life in the development. Increasingly, CID housing involves homeowner association-administered security measures, which typically include walls and gates, and may involve hiring guards and even private police forces.

There is considerable disagreement over the causes and effects of this phenomenon. It has been argued that the CID revolution is driven by the motivations of developers and local governments on the supply side, and consumers on the demand side, with the supply side interests predominating over the demand side (McKenzie, 1998a).

Developers have found that CIDs help them pursue higher density in order to maintain profits despite rising land costs. They can put more people on less land, and also provide amenities to buyers, by creating common ownership of parks, swimming pools and so forth. Local governments seek growth and increased tax revenues with minimal public expenditure. CIDs privatise what would otherwise be government responsibilities and place these burdens in the hands of homeowner associations, whose members pay for them

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through monthly assessments. These associations arrange for rubbish collection, plough snow in the winter and move leaves in the fall, repair and light streets, run parks and do many other things that government would otherwise have to do in order to enjoy the increased tax revenues from new development. Thus cities can acquire new property taxpayers without having to extend to them the full panoply of municipal services.

But the demand for such a lifestyle cannot be ignored. Many middle and upper-class home buyers, fearful of crime and disenchanted with government, are in search of a privatised utopia offering security, a homogenous population, and small-scale managerial private government that enforces high standards of property maintenance. For many people, the gated community is especially attractive, as it adds fortification to all the other attributes of CID living.

I have argued that the rise of residential private government facilitates the emergence of a two-tier society in which the 'haves' are increasingly separated—spatially, institutionally, socially and economically—from those of lesser means. I call this realm 'privatopia' because it represents the pursuit of utopian aspirations through privatisation of public life. Within privatopia the terms and conditions of life are at odds with the norms and expectations of liberal democracy. Residential private governments, known generically as 'homeowner associations', are not restricted by conventional notions of civil liberties and due process of law, and their activities are supported by a powerful cadre of professionals, including lawyers, property managers, accountants and others.

Yet, many observers see the situation quite differently. Some argue that the CID revolution is merely a manifestation of consumer sovereignty, representing the collective preferences of millions of home buyers. This demand side logic reaches its greatest extent with the libertarian justification of homeowner associations as private protective associations, a view anticipated in Robert Nozick's major work, *Anarchy, State, and Utopia*. By this logic, discussion of the social effects of these millions of individual choices is largely irrelevant, because principles of individual liberty that govern the choices justify the end result. The related 'caveat emptor' argument is generally persuasive to American courts, reflecting the view that each individual owner should be bound by the terms of her contract, and that the state should not interfere to remake that agreement. This argument has been considered elsewhere (McKenzie, 1998b), that the premises for the *caveat emptor* perspective often do not apply, because in many cases the contracts that create homeowner associations are in reality adhesion contracts, the terms of which are incomprehensible to the average buyer and non-negotiable in any event. However, it seems that the social and political consequences of private residential government are too significant to be left to individual market choices.

The homeowner association is not a passing fashion but an important institution, reflecting the ideological shift toward privatism that is characteristic of the neo-liberal consensus. Institutions insinuate themselves into people's lives, shaping the way they think and the choices they make. Mandatory membership homeowner associations induce people to identify with a small neighbourhood of people with similar social and economic characteristics, either by co-operating with the association or by opposing it. This is a kind of localised identity formation that otherwise might not happen. Some scholars, particularly those of communitarian leanings, like to think of this process as social capital formation, or as an embodiment of the 'defensible space' theory, and some think it is a voluntary community. The interpretation here is that typically this institution gathers a group of affluent people together and forces them to think of themselves in relationship

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to the institution and the neighbourhood it represents. It also locks them together economically to do things that otherwise local government would do. Although developers started this institution, in the last decade state and local governments have taken the lead in promoting the spread of CID housing.

What is the relationship of gated communities to this privatisation process and the institution that is at its core? Taken together, these things—homeowner associations, privatisation and gated communities—resemble the construction of a *pomerium*. The *pomerium* is an ancient concept dating to pre-Roman times and used in the demarcation of Rome itself. The *pomerium* was not necessarily a real wall, although it had physical markers. It was a symbolic, sanctified boundary that separated civilisation from barbarism, order from chaos and civil peace from anarchy. The *pomerium* was, in essence, an imaginary line drawn around the spiritual city. Instead of surrounding an entire city, today's emerging *pomerium* demarcates the protected islands of walled and gated private communities.

Practices: Homeowner Associations, Security Walls, and Development Trends in Las Vegas

Las Vegas is the fastest growing city, in the fastest growing county, in the fastest growing state in the USA. The spread of CID housing as the dominant form of new residential development is especially dramatic in the Las Vegas area. Nearly all new construction is in planned residential subdivisions with homeowner association private governments. In order to maintain low taxes with an astronomical growth rate, the City of Las Vegas and Clark County promote CID housing, which offers those who can afford it a range of privatised services, and minimises demands on local government. As Gottdeiner observes:

> While master-planned communities have been criticized as being insular for isolating themselves from the surrounding community, that is exactly what many homebuyers want . . . In short, they seek services and protection they can no longer expect from municipal government. Thus, while some may criticize them as sterile, master-planned communities continue to be a great success in the Las Vegas region, where developers continue to build and sell thousands of homes per year. (Gottdeiner *et al.*, 1999, p. 153)

While there is clearly a demand for such locations, their proliferation is not just the byproduct of interaction between buyers and sellers. The City of Las Vegas virtually mandates that new development be done with homeowner associations. This is a two-step process. First, the city's Zoning Code and Development Code are require that all new housing within the planned development zone contain certain features, including a landscaping plan, open spaces, and often security walls. Then, elsewhere in these codes, the city requires that *if* such features are included—which they must be—then there must be a homeowner association to maintain them. For example, in the following excerpt from Title 18 of the Las Vegas Zoning Code Section 18.12.5600, the word 'shall' was recently substituted for the word 'may' to provide as follows:

> *18.12.5600 Landscaping Plan. A landscaping plan shall be provided* by the subdivider as an integral part of subdivision design. Such a plan shall be prepared

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> and submitted with each final map application addressing the landscape design of the subdivision with respect to such features as wall or fence design; land forms or berms; rocks and boulders; trees and plant materials; sculpture, art, paving materials, street furniture; and subdivision entrance statement; common area landscaping and other open space areas ... *Where common lots are shown for landscaping, the applicant shall cause the creation of a homeowners association for purposes of owning the common lot and maintaining the landscaping*.

The code further provides that "All walls, setback areas and landscaping created to accommodate these regulations shall be located on private property. *If in common ownership, the property shall be owned and maintained by a Homeowner's Association*". (Las Vegas Zoning Code, Section 18.12.570, subsection C. And Chapter 19 of the Zoning Code requires that in Residential Planned Development Districts, "All development with 12 or more dwelling units shall provide 15 per cent useable open space for passive and active recreational uses".

The city's Urban Design Guidelines and Standards are similar, stating: "All required landscaping shall be properly maintained, based on standard landscaping practices, by the property owner(s) and/or *supported by a perpetual Homeowner's Association budget*, or a reasonable alternative approved by the City". According to a representative of the Southern Nevada Builders' Association, no such alternative has been approved to date. The same Guidelines and Standards provide that "Developers may provide and plant street medians on public and private streets as long as they are supported by a perpetual Homeowner's Association". Elsewhere, common open spaces, which must be HOA controlled are required: "Private and *common open spaces are to be provided* in Residential Planned Development Districts and in multi-family residential developments".

Title 19 of the city Zoning Code provides for HOA controlled private streets and gated entrances:

> Subdivisions developed with private streets must have a mandatory property owners' association which includes all property served by private streets. The association shall own and be responsible for the maintenance of private streets and appurtenances ... The entrances to all private streets must be marked with a sign stating that it is a private street. Guard houses, access control gates and cross arms may be constructed. (Chapter 19A.04)

Las Vegas Mayor Oscar Goodman was forced to respond to these "complaints that ordinances on the books since 1997 mandate all new subdivisions be structured as homeowner associations", saying to angry builders and owners only that, "We can see if we can make some adjustments" (*City Life, 2000*). But such adjustments are neither forthcoming nor probable. The City of Las Vegas not only requires HOAs in new development, but also encourages existing neighbourhoods that do not have homeowner associations to form them. In 1998, the Las Vegas City Council unanimously approved a measure directing city staff to work with neighbourhood 'community associations' in "crafting plans to guide development" in the city (Zapler, 1998) Through the Neighbourhood Services Department, the city has induced over 150 different neighbourhood associations to form (Gottdeiner *et al.*, 1999, p. 182).

There is one other major ingredient driving the current political economy of Las Vegas, and that is the competition between the City of Las Vegas and Clark County for tourist dollars. Downtown Las Vegas, known as 'Glitter Gulch,' was the home of the original Las Vegas casinos. But over the last 20 years, these casinos have been eclipsed by the construction of giant, spectacular 'mega-casinos' on Las Vegas Boulevard, or 'The Strip', outside the city limits. These mega-casinos are close to downtown and closer to the major airport, but are in Clark County. They drain tourist revenue from the city, creating a uniquely intense version of the city-suburb competition for business that is typical of most American metro area. During the 1990s, the City of Las Vegas fought back against the mega-casinos with a massive downtown redevelopment effort. Over half a billion dollars in development funds are being channelled through the Center City Development Corporation (CCDC), a non-profit corporation that is a 'private-public partnership' modelled after the entity use to redevelop downtown San Diego, California.

As in other downtown redevelopment efforts, the poor stand in the path of the city's economic resurgence in its competition with the county. The city recently forced one of the area's largest homeless shelters out of Las Vegas, denying it title to 10 acres of land it had been operating on, just north of downtown. As the Mayor and a city council member said:

> "I don't want to see Las Vegas become the only center for the homeless in this valley," Las Vegas Mayor Oscar Goodman said. "This is a problem that must be shared with the entire region." Las Vegas Councilman Lawrence Weekly said he doesn't want a "homeless Taj Mahal" built on the premises, where a shelter, medical clinic, crisis intervention facility and job counselling center have operated since the
> Q3 San Diego-based charity expanded to Las Vegas. (Moller, 2001)

Councilman Weekly's ward includes not only the homeless 'Taj Mahal' he spoke of so compassionately, but also Bonanza Village. As will be seen, the Bonanza Village episode illustrates the dynamics just described.

Case Study: The Bonanza Village Wall

Bonanza Village is a development of single family homes in what is known as the 'West Side' of the City of Las Vegas. The development was established in 1946 with 168 lots. At that time the area was on the western edge of the city, bordering on the desert. However, over the years the city has spread so far to the west that now the so-called West Side is actually located near the centre of the city. The West Side is the historically black area of Las Vegas, although in recent years there has been an influx of Hispanic residents. Bonanza Village is located about 1.5 miles northwest of downtown Las Vegas, or 'Glitter Gulch', the location of the original casinos that is currently undergoing large-scale redevelopment.

Bonanza Village is bordered by four streets: on the north by Owens, on the east by Martin Luther King, Jr., on the south by Washington and on the west by Tonopah. As originally constructed the development could be entered by automobiles at five places from these public streets, from all four compass points. It was, and is, zoned 'R-E', or 'Residential Estates'. This classification, sometimes called 'horse lots', bears the official description of providing for "low density residential units located on large lots and

conveying a rural environment". The lots are over half an acre in size. There were restrictive covenants, including a whites-only race restrictive covenant, recorded against the lots at the time of original construction, but, as was normal for that era, these covenants did not create a homeowner association to enforce them. There are no private streets or other 'common area', meaning property owned jointly by all residents. The covenants allow residents a great deal of latitude in the use of their land as long as it remains a single-family dwelling. They are allowed to have various kinds of outbuildings including stables, guest or servants quarters and greenhouses; grow crops for wholesale as long as they do not put up advertising signs; and have a 'reasonable number' of animals, including dogs, cats and horses, and up to 12 chickens and 6 rabbits

Many of the houses in Bonanza Village were built in the 1950s and 1960s, and a substantial number are still occupied by the original owners. These are older people, many living on fixed incomes. However, over the last two decades, there has been an influx of younger, more affluent residents to Bonanza Village. At present, the development is more or less evenly divided between these two groups (Edwards, 2000). The newer residents envisage remaking Bonanza Village in the mould of the newer subdivisions, with a homeowner association, walls and a gate, and a high standard of property maintenance. Given the large lot sizes and proximity to the redeveloping downtown, they anticipate that a substantial increase in property values would result if they could make the property fit the expectations of home buyers like themselves—young, professional and racially diverse. But older residents are accustomed to the freedom and the relaxed, near-rural lifestyle that Bonanza Village has always had, and they are fearful that they will lose their homes through the increase in property taxes and maintenance costs that could result from gentrification of their development.

The dispute over the Bonanza Village wall is in large part a conflict between these two groups, and the wall came to symbolise the gentrified Bonanza Village envisioned by the newer residents and feared by the older ones. The dispute began in the early 1980s, and at every turn the wall advocates identified themselves as voluntary homeowner association.[1]

Efforts to close off Bonanza Village from the surrounding areas were in evidence as early as 1981, a group of residents calling themselves the Bonanza Village Homeowners Association successfully petitioned the City of Las Vegas to vacate four of the five intersections from which Bonanza Village could be entered, leaving only the entrance from Washington at Comstock on the south of the development.

The city conditioned its surrender of these streets on the homeowner association installing 'crash gates' at three of the vacated intersections and keeping them locked at all times but available for emergency access. These gates were never installed, and instead the association put concrete traffic barriers in place. The net result of this episode was that the city allowed the notional homeowner association to close the development to vehicle traffic except from the south. Pedestrians could still walk into the development at these intersections. Some residents protested the action, but to no avail (Hawley, 1982; Null, 1981; Ogilvie, 1982).

Much of Bonanza Village's perimeter had been enclosed over the years by walls or fences erected by most of the 65 lot owners who lived on the perimeter of the development. With these barriers to entry, and the closed streets, there was enough security and separation from the surrounding neighbourhood and security for many residents. However, others were not satisfied with these measures and they began to campaign for construction of a full perimeter wall.

In 1985, the Bonanza Village Homeowner Association—an unincorporated and voluntary organisation—requested creation of a Special Improvement District in order to build a wall around the development. A letter from the association to the City Attorney in 1985 requested creation of a SID for "construction of a masonry wall on the perimeter of Bonanza Village at locations where said wall is non-existent". The wall and SID, said the association, would produce "improved security of total Village area", "improved property value", "improved safety for all residents", "environmental improvement (reduction of noise level; reduction of vehicle traffic", and "better control of unwanted foot traffic" (Simon *et al.*, 1985). This effort failed.

In 1990, a group of the newer residents attempted to secure passage of an amended set of deed restrictions that would have created a mandatory membership homeowner association for Bonanza Village. An incorporated association with power to enforce restrictive covenants would have been able to finance a wall with homeowner assessments and build a wall without petitioning the city to create a SID. However, the effort encountered sufficient opposition from other residents that it failed. Thereafter, the pro-gentrification residents returned to the earlier approach of using the voluntary homeowner association to petition the city for creation a special improvement district to finance the wall construction (Wills, 2000).

In 1997, the effort began to gain momentum. A new president of the Bonanza Village Homeowner Association—which was still not incorporated—introduced herself to the membership in January of that year and announced what would prove to be the pivotal event that would make the association's wall a reality: the City of Las Vegas now wanted the wall to be constructed:

> I look forward to working together to make a reality that much talked about block wall. *The City has re-committed itself to the block wall by assigning a full time staff person to help us achieve our goal*. The individual will be working with us from the Neighbourhood Preservation Office on Owens. This is a new and exciting development and shows a commitment we've never had before. *There is much development going on around us* as well as inside. (There are two new homes currently under construction in the Village.) As I see it, right now is the best time for all of us to pull together to get our wall completed. I truly hope that you will make a commitment to become more involved in improving Bonanza Village in 1997. Yes, it's been difficult, yes, we've gone down this road before, but I say that's no reason to stop trying! *We as homeowners are responsible for what Bonanza Village looks like and what it is. If we really want to look better, IT'S UP TO US to clean it up*. I'm willing to take responsibility for that and all I need is YOUR HELP. If the City doesn't come through for us, I say we come up with another plan and do it ourselves! Let's do more than talk, *let's work together to save Bonanza Village*. WE CAN DO IT!. (italics added; capitalisation in original) (Phillips, 1997)

The City of Las Vegas was, indeed, now supporting the wall project, with the city councilman for Bonanza Village's ward now pushing the project through. This time the project made sense to a city that was determined to redevelop and gentrify its downtown areas to keep pace with the County-based Strip. Bonanza Village lay within the West Side areas added in 1988 and 1996 to a special district called the Downtown Redevelopment Area. This district was receiving special treatment from the city through the Center City

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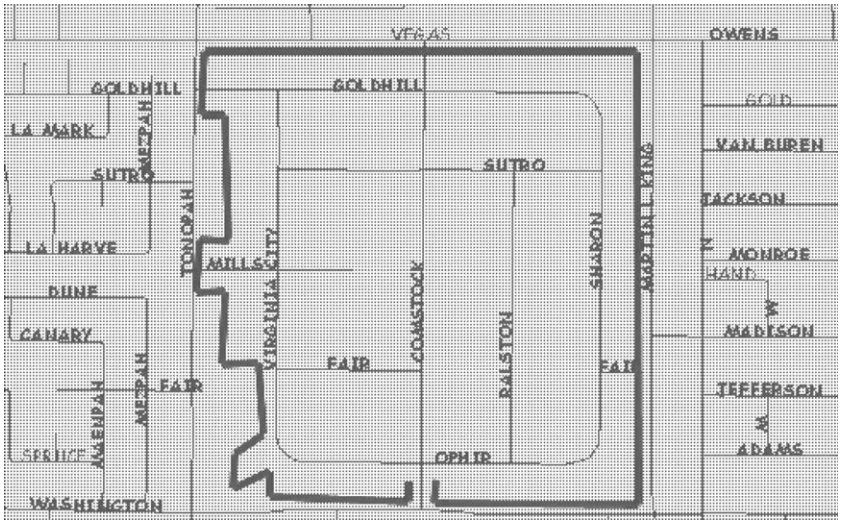


Figure 1. Bonanza Village neighbourhood showing approximate location of wall

Development Corporation, a non-profit corporation that was co-ordinating half a billion dollars in downtown redevelopment efforts. The Bonanza Village wall, and other efforts to make the old neighbourhood look like a contemporary gated community, were consistent with the city's overall redevelopment campaign. The wall opponents were no longer just opposing a group of their own neighbours. They were now, literally, fighting city hall. The association notified the residents in April 1997 that:

> The city now appears to be eager to get this project completed. Councilman Reese is applying pressure to the department of public works and other city offices to make them 'get on the stick' and quit procrastinating ... A 'special agent' has been appointed whose job it is to see that difficulties encountered in the planning and completion of the wall are quickly resolved ... The department of public works has completed detailed drawings of the perimeter wall. The wall being planned will be 8 feet high. (Bonanza Village Homeowner Association, 1997)

This communiqué also revealed that the association's plans for Bonanza Village's makeover with the gated community image went beyond a mere 8ft wall: "We are planning to do something nice to the Comstock entrance as a part of the wall project ... We would like to get some kind of nice sign out front saying Bonanza Village and *there has been talk of a guard house being built in the island*."[2]

There were two kinds of homeowner approval needed. First was the requirement of Nevada Revised Statutes Chapter 271 that SID creation be supported by a petition signed by 66.67 per cent of the owners who would be assessed. During 1997, the association went about the project gathering signatures on a petition to create the SID. The petition was drafted by the city for this purpose. There was major controversy over whether this requirement was satisfied, and anti-wall forces claimed the signatures had been collected over many years, were obtained with false information on the cost of the wall, included

signatories who no longer lived in the development, and included others who had changed their minds. By September 2000, 86 complaints from anti-wall residents—a majority of the current residents of the development—were sent to the state Ombudsman for Common Interest Communities. The complainants asserted that "their subdivision was illegally organised . . . without the homeowner's knowledge", and that the protesters "do not want to be represented by the Bonanza Village Homeowners Association" (Ashworth, 2000). But the city and ultimately the courts decided that the petition requirement had been satisfied, regardless of these protests.

However, there was another set of signatures needed. The chief impediment to what was now a joint effort of the city and the homeowners association proved to be the need to obtain easements over the 65 properties that lay on the perimeter of Bonanza Village, where the wall would be constructed. The city needed a permanent easement for the wall itself, and also a larger temporary construction easement, and these required intrusion on private property rights. The homeowner association worked to obtain signatures on both the SID petition and the easement documents. But ultimately 13 of these perimeter owners did not sign the easement documents in time, and this precipitated the litigation that eventually took the Bonanza Village case to the Nevada Supreme Court.

The city set up an aggressive schedule for creating the SID and building the wall, all of which was to be done between February 1998 and February 1999. One of the items on the schedule was 'Protest Disposal Resolution,' set for 11 May 1998. After the rejection by the city council resolution of the anticipated protests, the ordinance creating the SID was to receive its first public reading (*Bonanza Village Times, 1998*)

The schedule had to be set back a while and the protests were not rejected until 12 October 1998. The president and vice president of the Bonanza Village Homeowner Association addressed the Las Vegas City Council at a public hearing on 28 September 1998, to advocate for the wall project. They began by arguing that the wall was a crime prevention measure needed to prevent petty burglaries committed with shopping carts. The facts were that the crime rate in Las Vegas was plummeting, paralleling a similar drop in crime rates across the nation,[3] but crime was given as a justification nonetheless. They then portrayed the wall as an esthetic measure that would make Bonanza Village look like other, newer, communities, and thereby make the neighbourhood look like part of the downtown redevelopment. This, they said, would stimulate community pride and enhance property values. The president of the association spoke first (Las Vegas City Council, 1998):

> *Our reasons for wanting a security wall around Bonanza Village are the same reasons security walls have been and are currently being built, in fact, it seems to be the norm nowadays*, in many Southern Nevada neighbourhoods surrounding ours, like Summerlin, Green Valley, The Lakes, and Rancho Circle. *We want to discourage crime; namely, petty burglaries that occur on foot with the aid of a shopping cart. It's hard to push a shopping cart filled with a television or a lawn mower through a block wall, but this is the kind of crime that is occurring in our neighbourhood. So, like our surrounding neighbours, we wish to deter these crimes as well as protect our investments. We want to maintain a sense of neighbourhood pride and improve the appearance of the whole area*. Just like those other homeowners, we expect certain improvements for our tax dollars. Further because we are one of the oldest neighbourhoods in Southern Nevada, meaning we have been

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> paying taxes for a longer time, we need to know that the City has not turned its back on us because of the new kids on the block. *Bonanza Village lies smack dead in the middle of a major downtown redevelopment that we want to be a part of*. There is the Fourth Street Corridor project under way, the old Union pacific Railroad land that now has a beautiful new County building in place, and right on Bonanza the old Dula City Swimming Pool is being brought back to life. *Why should our neighbourhood be left behind? The approval of the SID will breathe new life into the Martin Luther King/Washington/Vegas Drive area with the building of a security wall and will serve as an example for others in our area to show what neighbourhood pride can do and make—can be done to revitalise an old and impoverished area. It will stimulate neighbourhood pride and make Bonanza Village a part of the new downtown*.

The president was followed by the association vice president, who added to her comments, noting among other things that the city, not the association, had prepared the petition that the HOA circulated to obtain the signatures needed to proceed with the SID, and then proceeding to advocate for the wall purely because it would make Bonanza Village look like nearby gated communities:

> There is some new development that's happening in our area that we're excited about. The Andre Agassi Boys and Girls Club looks really good. The Veterans Hospital close by us looks good. There's a new Post Office going in. And also *there's a subdivision that has planted itself north of us. It's single family homes and they have a really nice wall running along Vegas Drive. Now all these good looking projects, when they look across the road or into our area, they see what typical horse zoned property, the back side, lots of typical horse zoned property looks like. It's a mish-mash of different fencing*. Sometimes you're not going to put your lumber pile in the front yard if you got a half acre. That's one of the reasons you own it is so that you can have a few things other than just landscaping. And so a lot of that stuff winds up in the back yards . . . The project is not only good for Bonanza Village, but it's good for the City. *If we do not build this wall, Bonanza Village will fall behind the level of the new developments coming into our area and we don't want that. We're an inner-city neighbourhood that's willing to spend our own money to bring itself up to the level of the new stuff that's moving in around us*.

A third wall supporter made the case even more bluntly, saying, "Today we would like to see Bonanza Village in the same capacity as any other gated community".

Those who objected to the wall spoke at this hearing as well, but five weeks later, on 9 November 1998, Special Improvement District 1463 was created. The degree to which the city was willing to overlook obstacles in its rush to build the wall was illustrated by an indemnity agreement which was entered into on that date between the City of Las Vegas and the Bonanza Village Homeowners Association, 'a Nevada corporation'. In fact, the association was not incorporated, and did not incorporate until nearly a year and a half later, on 7 April 2000, with only 22 members.

The fact that the city was entering into a contract with an organisation that had no corporate existence did not stop the city from moving forward. The indemnity agreement set out the arrangement for financing, building and maintaining the wall. Bonanza Village became Special Improvement District No. 1463 for purposes of

building the wall. All property owners within the development were to pay equal shares for construction of the wall, pursuant to state statute. Other documents show that the brown, 8ft high, cinder block wall—two miles of it in all—was expected to cost over $800 000, and that each lot would be assessed approximately $5000 to pay for it (the final cost to be determined after the wall was built), with up to 10 years to pay the principal and interest.

After the wall was constructed, the association was to be fully responsible for maintaining the wall, and they also agreed to defend and indemnify the city against any claims made arising from the existence of the wall. The president of the association signed the indemnification agreement for 'Bonanza Village Homeowners Association, Inc.'—the corporation which did not exist—as did the Mayor Pro-Tem on behalf of the City of Las Vegas. The indemnification agreement was then recorded against every lot in Bonanza Village, as though it were a mandatory membership organisation that spoke for all residents, when in fact it was voluntary and even as late as 2000 only had 22 members. This raised the possibility in the minds of some owners that they would become individually responsible for liability under the indemnification agreement, given the fact that the voluntary homeowner association had no means to raise money except by asking for it from residents and hoping for the best.

Later, on 4 July 2000, a Bonanza Village homeowner wrote to city Councilman Larry Weekly, the new representative for their ward, to point out the problem of the non-existent association, and asked, "Doesn't the city require documentation that a Homeowners Association is a Bona-Fide one before awarding $825 000 for a SID?" After some six weeks had passed, one of Weekly's employees passed the letter on for reply to the Supervisor of the Special Improvement District, who responded by saying that, "The fact that a homeowner association exists in a neighbourhood has nothing to do with the SID process. Their only involvement in this case was to walk the petition around to get the supporting signatures to start the process" (Thompson, 2000). Yet, the association's involvement in the wall project had predated the SID process, and would post-date it as well given the indemnification agreement.

Armed with the Special District legislation and the indemnification agreement with the association, the city proceeded against the Bonanza Village perimeter residents who had not granted the city easements over their property. Foremost among these was Cuthbert Mack, an attorney. Mack and other opponents of the wall continued to organise and fight against the wall. When it became clear that a number of perimeter property owners would not voluntarily sign away the easements, the city decided to exercise eminent domain and take their property.[4] On 28 June 1999, the City Council authorised filing complaints in eminent domain against the recalcitrant owners, and on 19 October 1999, the case of *City of Las Vegas v. Mack*, Case No. A410116, was filed in the Clark County District Court.

Mack's argument was that the city lacked authority to take his property for the wall project, and the eminent domain action violated the Due Process Clauses of the US and Nevada Constitutions. His central contention was that there was in reality no public use involved, and that his property was being taken by the city for what amounted to a private use. He also argued that there was no objective need for the wall, there was no need to take his property to construct a wall, and that the city had failed to follow the statutory requirements for SID creation, including lack of notice (*City of Las Vegas v. Mack*, Case No. A410116, Motion to Dismiss Plaintiff's Complaint, p. 2, lines 13–19). In a separate suit (*Mack v. Bonanza Village Homeowners Association*, Case No. A421503), Mack also

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requested an injunction to stop construction of the wall until the case could be fully adjudicated, as well as declaratory relief.

On 31 January 2000, the District Court denied Mack's motion to dismiss the eminent domain complaint. On 8 April Mack petitioned the Nevada Supreme Court for a writ of prohibition. On 3 May the city awarded the wall construction contract to a builder, but on 16 June the Nevada Supreme Court issued an order staying the project until it could consider the merits of the case.

It was at this point that the city revealed just how determined it was to build the wall. The city took the position that the Supreme Court's order only applied to the Mack property, and not the rest of the development. The city ordered the contractor to proceed with the construction, which they did. Existing fences and walls were bulldozed, trenches were dug, temporary chain-link fencing was erected, and piles of cinder blocks and rebar were stacked all around Bonanza Village. Fire hydrants, water main valves and telephone poles that serviced Bonanza Village were walled out of the development.[5]

On 25 July Mack requested a contempt citation from the Supreme Court to punish the city for violating the order. On 3 August the Supreme Court issued another order reaffirming the earlier one, and making it clear that the order to stop construction applied to the entire project. At this point, the city halted the project.

The Supreme Court made its third and final ruling in the case on 15 March 2001, denying Mack's request for a writ of prohibition. The court ruled that Mack had failed to file a timely written objection to the SID as required by NRS 271.305, and therefore had waived his right to object and did not have standing to challenge the formation of the district. On the merits of his claim, the court held that:



Figure 2. The wall during construction, at Tonapah and Goldhill, from outside Bonanza Village looking in. *Source:* photo by Monica Caruso.

> The district court did not exceed its jurisdiction by denying petitioners' motion to dismiss the City of Las Vegas' eminent domain complaint because the right of eminent domain is an attribute of sovereignty, the express provisions of NRS Chapter 37 and 271 authorize the city to condemn property for local improvements, and *a security wall is defined as a local improvement* pursuant to NRS 271.203. Thus, the city's formation of a special improvement district (SID) and its efforts to condemn petitioners' property for purposes of constructing a security wall are not unconstitutional (Order Denying Petition for Writ of Prohibition, *Mack v. Eighth Judicial District*, Case No. 36091; italic added).

The language in italics in the quotation above reflects a provision of Nevada law which specifically defines a security wall as a 'local improvement', so that the city was not required to produce any further justification—a security wall is, per se, a project with a public purpose. The statute defines how SID funded security walls are to be paid for, stating that walls benefit all residents equally, so payment is to be equal: "Because the protection afforded by a security wall benefits each tract in the subdivision ... the governing body may apportion the assessments for a security wall on the basis that all tracts in the subdivision share equally in the cost and maintenance of the project" (Nevada Revised Statutes Section 271.367).

With this Supreme Court decision, all opposition to the Bonanza Village wall was effectively crushed, and the city completed the wall. Cuthbert and Lois Mack were soon in danger of losing their home in foreclosure for refusing to pay their share of the cost for the wall. The Macks and a number of other residents did not pay, and their homes thus became subject to foreclosure by the city. In Mack's case, the amount for which they were willing to lose their home over this issue was $1391, clearly a small sum in comparison with the value of the home (Couzens, 2003). The city sought a compromise to avoid foreclosure, but Mack and his wife continued to dispute the charge as a matter of principle (Silver, 2003).

This episode is replete with ironies and contradictions, one of which sits at the sole remaining entrance to Bonanza Village. The homeowners association obtained a grant from the city to put up a sign where the anticipated gate and guard house were to be built. It is a rock bearing the legend 'Bonanza Village, Est. 1946'. The sign invokes the long heritage of the community, symbolising the original Bonanza Village, where residents lived as they chose at the edge of the desert, with horses, chickens, sheds and crops. This was the very Bonanza Village that the new residents wanted to eradicate, and the homeowner association that erected the sign was the instrument for doing so.

The sign was paid for by the city that bulldozed the entire perimeter of the area, and this compounds the irony. The sign commodifies the area's semi-rural heritage as a selling point for a neighbourhood well on its way to becoming another gated, walled and homeowner association-controlled subdivision, against the will of many if not most of its residents.

The rhetoric of government responding the wishes of its citizen is used to legitimise and obscure the fact that it is suing them to take their land. The contract with a corporation that did not exist suggests that the incorporated homeowner association is so central to this type of activity that the city willed it into existence. The ultimate irony may be that a development created with restrictive covenants to keep out African Americans is now run



Figure 3. Entry to Bonanza Village at Comstock and Washington, and rock sign. *Source:* photo by Monica Caruso.

by African Americans who are fighting to keep out the 'riffraff', using new tools of exclusion that are far more sophisticated than race restrictive covenants.

In *City of Walls*, Teresa Caldeira writes:

> All fortified enclaves share some basic characteristics. They are private property for collective use, and they emphasise the value of what is private and restricted at the same time that they devalue what is public and open in the city. They are physically demarcated and isolated by wall, fences, empty spaces, and design devices. They are turned inward, away from the street, whose public life they explicitly reject ... they belong not to their immediate surrounding but to largely invisible networks ... Finally, the enclaves tend to be socially homogeneous environments ... Fortified enclaves confer status. (Caldeira, 2000, p. 258)

What Caldeira found to be true in Sao Paolo could have been written of Bonanza Village. The affluent residents who are transforming their neighbourhood into a fortified enclave, and the city officials that did the work for them, are part of the invisible network of professionals who understand the significance of secure residential compounds. The drive to wall-in Bonanza Village was an attempt to enhance the status of the development and raise its property values. While lip service was paid to crime prevention, the truth was that the residents who formed the Bonanza Village Homeowner Association were seeking status. In this respect, they were merely emulating their counterparts in the developer-created homeowner associations all around them. And the city, speaking the same language, saw the value of imposing the wall on the community's recalcitrant residents.

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Higher property values mean higher property tax revenues, and the wall, it was felt, would make Bonanza Village a neighbourhood whose appearance would contribute to the overall ambience of the redeveloping downtown area.

In this context, it may have seemed an easy and obvious choice to exercise eminent domain, take people's property from them by lawsuit and force, bulldoze their fences and yards, and even disregard a direct order from the state Supreme Court. The overriding consideration, it seems, was to extend the *pomerium* around this piece of real estate, to embrace these 168 lots within the arms of the sanctified, symbolic wall that separates civilisation from barbarism, civil peace from chaos, and us from them. Underlying the rhetorical superstructure of community betterment and neighbourhood empowerment, what happened at Bonanza Village exposes the new architecture of control that polices this boundary. This apparatus is comprised of special districts, homeowner associations, private-public partnerships and other special purpose, hybrid creations—a fusion of state, market and civil society in which the categories and concepts of liberal democracy are irrelevant and alien.

Notes

[1] In 1971, the Bonanza Civic and Homeowner Association was incorporated. This was not the organisation that engaged in the subsequent wall efforts described in this paper. It appears to have been organised around issues pertaining to the neighbourhood elementary school on the southwest corner of Bonanza Village. Its membership included areas outside Bonanza Village, all Bonanza Elementary School teachers were made honorary members, and the principal office of the corporation was the address of the elementary school. The incorporation papers describe the corporation's purposes as to "provide neighbourhood protection", "improve relationships between the Bonanza Elementary School and the Community", "promote neighbourhood beautification, maintenance, and improvement of property", "support youth activities and recreation within the community" and "improve public relations within the community boundaries and with other civic and political entities". This organisation's corporate status was permanently revoked on 29 August1995.

[2] The association circulated an architectural drawing of the proposed entrance, complete with guardhouse, and also a place for school children to wait for the bus, because school buses in Clark County do not enter gated communities and children must go to the entrance of the community to be picked up.

[3] According to FBI crime statistics, the crime rate in Nevada dropped by 4.8 per cent between 1987 and 1997, when the wall project began to gain momentum. For Las Vegas, the Metropolitan Police report that between 1995 and 2000, there was an overall drop in property crimes of almost 38 per cent, including a 40 per cent reduction in burglary.

[4] In Mack's case, the city determined that the easement was worth $1225.

[5] On 8 February 2001, a project notice was put out for bid by the Las Vegas Valley Water District to conduce extensive work at Bonanza Village. The project includes, among other things, "installation of 31 new fire hydrant assemblies". The engineer's estimate for the project was over $1.6 million.

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