The Politics of Public Space

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CHAPTER 5

How Private Interests Take Over Public Space: Zoning, Taxes, and Incorporation of Gated Communities

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This chapter began when my mother sent me a clipping from the Los Angeles Times about Broad Beach in Malibu, “where non-resident sunbathers, picnickers and others are booted off the dry sand, which the community considers private property” (Weiss, 2003: B1). California’s public access law guarantees beach access only seaward of the mean high-tide line, the portion of the beach with damp sand. But many oceanfront communities—including Broad Beach—have granted public easements to an additional 25-foot strip of dry sand. Yet Broad Beach is littered with no-trespassing signs to keep the public away from the homes of celebrities such as Steven Spielberg, Danny Devito, Goldie Hawn, and Dustin Hoffman. These wealthy homeowners assess themselves $3,000 to $5,000 per year to maintain security guards who harass visitors even when they have the right to be there. Earlier this year there was another confrontation concerning access to the Malibu Beach when two homeowners obstructed the public easement that ran between their houses.

The Malibu article arrived shortly after residents of Georgia Estates, a private community best known for its Hollywood entourage, illegally dug a trench to drain East Hampton Town’s Georgia Pond, because their
basements were flooded from heavy rains. There is a long history of apathy between townspeople and renters who use the public pond to supplement their diet with fish, crabs, and clams, and for weekend sailing and canoeing, and the elite homeowners who find the pond's high water table an annoyance. The pond is opened to the ocean every fall after the summer activities. But this year, Georgia Associates residents, who already restrict access to their private community by employing a guard to stop visitors from entering, wanted to reduce the water level to dry out their basements in the spring. The elected trustees in charge of natural resource decisions denied Georgia Associates' request, stating that the pond is for everyone's enjoyment. So the homeowners illegally cut a trench that emptied the pond for the entire summer. The police are still searching for the person who did the trenching, but no one has been charged in the case.

Beaches, ponds, and lakes are significant public places for residents of Los Angeles and the East End of Long Island, yet the wealthy homeowners who border them are successfully restricting their use. In both Los Angeles and New York, security guards and surveillance augment blatantly illegal actions—putting up no trespassing signs and fences and degrading the natural resource—used by private property owners to privatize public space.

This resurgence of urban privatization reverses a trend started in the mid-nineteenth century when water, sewer, street cleaning, policing, and fire protection were provided privately in cities. The first public police officers were hired in Boston in 1838, followed by New York in 1844, and Philadelphia in 1850. New York employed 5,000 street sweepers by 1900, and began designing a series of public parks (Cranz, 1982; Stark, 1998). The public realm continued to expand, encompassing most urban services and functions that we now take for granted. But recently the boundaries of what is private or public have become less clear, and increasingly incursions by privatization and other neoliberal practices have been transforming public space, placing it back in corporate or commercial hands.

During the past 20 years, privatization of urban public space has accelerated through the closing, redesign, and policing of public parks and plazas (Low, 2000), the development of business improvement districts (BIDs) that monitor and control local streets and parks (Zukin, 1995; Briffault, 1999), and the transfer of public air rights for the building of corporate plazas ostensibly open to the public (Kayden, 2000; Low et al., 2005). In the suburbs, privatization takes the form of conservation easements that restrict access to public lands, the creation of shopping malls and new town centers relocated within these private commercial developments, and the building of gated residential communities (Harvey, 1990; Low, 2003). Accompanying this expansion of private interests are
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c among interests in which private interests coopt the public, placing public goods in the hands of a private corporation or agency. These schemes are harder to identify, as they utilize normative governmental procedures but are manipulated for private ends. For example, BIDs are private organizations allowed to tax local businesses and retail establishments to provide private services such as special policing, trash removal, or street renovation. The BID decides on the level of taxation and retains the right to use the money in ways that enhance their commercial interests. In this privatization scheme, public space is often lost, such as Herald Square in the Thirty-Fourth Street BID in Manhattan, which is now fenced, gated after 6 p.m., and guarded by private security guards to keep homeless people from sleeping there. Park conservancies also blur traditional public/private distinctions when the municipality—New York City in the example of Central Park or San Francisco for Golden Gate Park—gives over decision making to a group of private citizens who raise money and then use those funds to run what was formerly a public park.

Private gated communities employ still another set of practices connected with regional and municipal planning. Incorporation, incentive zoning, and succession and annexation recapture public goods and services, including taxpayers' money, and use these goods for the gated community and residents. These strategies are not illegal in the sense that
they are not draining a pond or posting no-trespassing signs on land that is not theirs, and do not employ brute force, but they do mislead taxpayers and channel funds into amenities that the public cannot use, and instead contribute to the maintenance of private communities.

This chapter focuses on this last set of relatively unstudied privatization practices by focusing on how gated communities manipulate municipal and town planning laws and regulations to control public space and tax dollars. To accomplish this task, I discuss the emergence of gated communities as a new form of privatization of urban/suburban space and then tease out the legal and institutional underpinnings of this spatial governance. Case studies drawn from geographical research on gated communities in Greater Metropolitan Region of Los Angeles and an ethnographic study of residents living in urban and suburban gated communities in New York and Texas, illustrate how the strategies of private governance and exploitation of the public sector differ. I examine incorporation in Greater Metropolitan Region of Los Angeles, California, incentive zoning in Long Island, New York, and annexation in San Antonio, Texas. These manipulations of private land use controls in the United States are not necessarily new, but with gating there is an accelerating trend away from governmental and public control of land use toward an increased reliance on privately created controls. The consequences of this shift toward privatization of land use control are an impoverishment of the public realm and limited access to public resources.

The Case of Gated Communities

Defining the Gated Community

A “gated community” is a residential development surrounded by walls, fences, or earth banks covered with bushes and shrubs, with a secured entrance. In some cases, protection is provided by inaccessible land such as a nature reserve, and in a few cases, by a guarded bridge (Frantz, 2000–2001). The houses, streets, sidewalks, and other amenities are physically enclosed by these barriers, and entrance gates operated by a guard, key, or electronic identity card. Inside the development there is often a neighborhood watch organization or professional security personnel who patrol on foot or by automobile. Gated communities restrict access not just to residents’ homes, but also to the use of public spaces and services—roads, parks, facilities, and open space—contained within the enclosure. Communities vary in size from a few homes in very wealthy areas to as many as 21,000 homes in Leisure World in Orange County, California—with the number of residents indexed to the level of amenities and services. Many include golf courses, tennis courts, fitness centers, swimming pools, lakes,
on land that led taxpayers, and instead of privatization the municipal space and tax ated commun icity and then spatial govern ed communit y ethnographic territories in a governance corporation in entive zoning Texas. These tates are not ed away from ased relianceoward priv alic realm and

or unspoiled landscape as part of their appeal, while commercial or public facilities are rare.

As commercial developments, gated communities are predominantly new settlements built as part of large-scale housing developments or “master-planned communities” (Frantz, 2000–2001). They are located mostly at the edge or just outside the city on rural or otherwise undeveloped land. Within any one master-planned community, there are various kinds of subdivisions built for different income-level buyers. Each has its own architecture, amenities, and facilities, but they are often connected by shared parks, golf courses, artificial lakes, or shopping centers.

Once the roads and lights are in, developers divide up an area into subdivisions, survey the individual house lots, and then sell the rights to builders who function as general managers. The developer also sets up the legal framework, the common interest development (CID) agreement, and the covenants, conditions, and restrictions (CC&Rs) for each private community. These rules and regulations stipulate how the houses and gardens will be maintained, and establish the homeowners association that will ultimately govern the community. A management company is usually hired to organize the necessary services until the lots are completely sold and the developer relinquishes financial and administrative control (Frantz, 2000–2001).

History of the Gated Community

Gated residential communities in the United States first originated for year-round living on family estates and in wealthy communities such as Llewellyn Park in Eagle Ridge, New Jersey built during the 1850s, and as resorts exemplified by New York’s Tuxedo Park, which was developed as a hunting and fishing retreat with a barbed wire fence eight feet high and twenty-four miles long in 1886 (Hayden, 2003). Another early resort was Sea Gate in Brooklyn, established with its own private police force in 1899. The architect and real estate developer Julius Pitman designed the majority of St. Louis’s private streets between 1867 and 1905, borrowing from the English private square to create exclusive residential enclaves for the business elite (Beito, 2002).

Planned retirement communities such as Leisure World in Southern California built in the 1960s and 1970s, however, were the first places where middle-class Americans walled themselves off. Gates then spread to resort and country club developments, and finally to suburban developments. In the 1980s, real estate speculation accelerated the building of gated communities around golf courses designed for exclusivity, prestige, and leisure.
Gated communities first appeared in California, Texas, and Arizona, drawing retirees attracted to the weather. One-third of all new communities in Southern California are gated, and the percentage is similar around Phoenix, Arizona, the suburbs of Washington, D.C., and parts of Florida. In areas such as Tampa, Florida, gated communities account for four out of five home sales of $300,000 or more. Since the late 1980s, gates have become ubiquitous, and by the 1990s they were common even in the northeastern United States (Dillon, 1994; Fischler, 1998).

The number of people estimated to be living in gated communities in the United States increased from 4 million in 1995, to 8 million in 1997, to 16 million in 1998. By 1997, there were in excess of 20,000 gated communities with over 3 million housing units. A census note by Tom Sanchez and Robert E. Lang provides more accurate demographic statistics based on two new questions on gating and controlled access that were added to the 2001 American Housing Survey (Sanchez and Lang, 2002). They found that 7,058,427 or 5.9 percent of households report that they live in communities surrounded by walls or fences, and 4,013,665 households, or 3.4 percent live in communities where the access is controlled by some means such as entry codes, keys cards, or security guard approvals. The West has by far the highest number of households living in walled or gated communities (11.1 percent), followed by the South (6.8 percent), Northeast (3.1 percent), and Midwest (2.1 percent). The metropolitan areas of Los Angeles, Houston, and Dallas have over 1 million walled residential units.

The Rise of Gated Communities: The Enclosure and Control of Open Space

The contemporary gated community as a sociospatial form is a response to transformations in the political economy of late twentieth-century urban America (Low, 1997; Harvey, 1990; Smith, 1984). The increasing mobility of capital, marginalization of the labor force, and dismantling of the welfare state began with the change in labor practices and deindustrialization of the 1970s, and accelerated with the “Reaganomics” of the 1980s. This economic restructuring and relocation of global capital weakened existing social relations and contributed to the breakdown of traditional ways of maintaining social order. Social control mechanisms and their associated institutions, such as police and schools, were no longer seen as effective (Foucault, 1975; Devine, 1996; Schlosser, 1998). This breakdown in local control threatened some neighborhood residents, and the gated residential community became a viable and socially acceptable option.
Racism is another major contributor to patterns of urban and suburban separation and exclusion in the United States. Cities continue to experience high levels of residential segregation based on discriminatory real estate practices and mortgage structures designed to insulate whites from blacks. Blacks are less likely to move to the suburbs in the first place, and then more likely to return to the city (Skogan, 1987, 1995: 66; Bullard and Lee, 1994; Denton, 1994; South and Crowder, 1997; Massey and Denton, 1998). Residential proximity to blacks intensifies whites’ fear of crime, and whites who are racially prejudiced are even more fearful.

Residents of middle-class and upper-middle-class neighborhoods often cordon themselves off as a class by building fences, cutting off relationships with neighbors, and moving out in response to problems and conflicts. At the same time, governments have expanded their regulatory role through zoning laws, local police patrols, restrictive ordinances for dogs, quiet laws, and laws against domestic and interpersonal violence that narrow the range of accepted behavioral norms. Indirect economic strategies that limit the minimum lot or house size, policing policies that target nonconforming uses of the environment, and social ordinances that enforce middle-class rules of civility further segregate family and neighborhood life (Merry, 1993: 87, 2001). The gated community is an extension of these practices.

The creation of “common interest developments” provided a legal framework for the consolidation of suburban residential segregation. “Common interest development” describes “a community in which the residents own or control common areas or shared amenities,” and that “carries with it reciprocal rights and obligations enforced by a private governing body” (Judd, 1995: 155). Specialized “covenants, contracts, and deed restrictions” (CC&Rs) that extend forms of collective private land tenure and the notion of private government were adapted by the lawyer and planner, Charles Stern Ascher, to create the modern institution of the homeowner association in 1928 (McKenzie, 1994).

The evolution of “pod,” “enclave,” and “cul-de-sac” suburban designs further refined the ability of land use planners and designers to develop suburban subdivisions where people of different income groups would have little to no contact with one another. Regulated resident behavior, house type, and “taste culture” are more subtle means of control. Even landscape aesthetics function as a suburban politics of exclusion, often referred to as making everything “nice” (Bourdieu, 1984; Duncan and Duncan, 2004). The number of legal proceedings in California courts has grown as some residents attempt to deregulate their rigidly controlled environments (McKenzie, 1994), but litigants have not been successful. Instead, common interest developments guarantee a “bundle of goods”
that includes security, exclusiveness, and an extraordinary level of amenities, and this promise is "nestled at the center of all advertisements for the new walled cities" (Judd, 1995: 160).

Supply-side economic factors also figure prominently in understanding the widespread expansion of these communities. Developers want to maximize their profits by building more houses on less land, and incentive zoning packages for common interest development housing allow them to cluster units and achieve this higher density within otherwise low-density residential zoning areas. California and states that have experienced a property tax revolt find CID housing particularly attractive because it transfers the debt liability, building of infrastructure, and provision of services to private corporations, while at the same time the municipality collects property taxes from residents (McKenzie, 1998; Webster, 2002).

Like gated communities, the number of homeowners associations has also grown exponentially. In 1962, there were only 500 homeowners associations in the United States, but by 1970 there were 10,000; in 1980, 55,000; in 1990, 130,000; and by 1992, there were 150,000 housing over 32 million people. While only 1 percent of American housing units were in a homeowners association, condominium, or cooperative—the three main instruments of collective private ownership of housing—in 1970, by 1998 this figure had risen to 15 percent. Today, in major metropolitan areas, 50 percent of all new housing units are being built and sold as part of a collective housing regime (Kennedy, 1995). This increase is a social revolution in governance, with private organizations now responsible for collecting trash, providing security, and maintaining common property. Private enforcement of covenants has replaced municipal oversight in regulating the environment by zoning, and new ground rules—voting rights determined by property or home ownership and not citizenship—are being put into place.

Cases

The case of incorporation of gated communities in the Greater Metropolitan Region of Los Angeles is based on the work of Renaud Le Goix, a French geographer who has studied gated communities in Southern California for three years at the time of this writing, and Evan McKenzie, a lawyer and political scientist, who has written extensively on homeowners associations in California and Nevada (McKenzie, 1994, 1998, 2003; Stark, 1999; Le Goix, 2002, 2003). The cases of zoning variances in Long Island, New York, and annexation in San Antonio, Texas are based on an ethnographic study that began with gaining entrance into upper-middle- and middle-income gated subdivisions in 1994 and 1995: one in Nassau...
County on Long Island, and three in the northern suburbs of San Antonio, Texas. Additional gated communities were added: an upper-middle- to middle-income community in Mexico City in 1998, and a middle-income and middle- to lower-middle-income community in the New York City area in 2000.

**Setting**

*Greater Metropolitan Region of Los Angeles, California*

From 2000 through 2003, Le Goix studied the social and ethnic impact of gated communities within the metropolitan area of Los Angeles (Le Goix, 2002, 2003). He selected a sample of 219 gated communities and integrated geographic information systems (GIS) maps of these housing subdivisions with race/ethnicity, age, and socioeconomic status data from the 2000 census. With this database, he was able to describe the social and economic patterns of gating in the Greater Metropolitan Region of Los Angeles area locating 108 gated communities within the richest areas, thirty within dense, middle-income white suburbs, thirty-one on the edges of urbanization in desert areas with lower-income housing, and thirty-four within predominantly Hispanic or Asian neighborhoods (Le Goix, 2002). Through a cluster analysis of race/ethnicity, age, income, social status, and mobility, he demarcated the level of sociospatial discontinuity created by the walls and gates demonstrating the negative impact of gated communities on segregation patterns (Le Goix, 2003). As part of his inquiry, he critiqued “gated communities as predators of public resources” which I used as a starting point for this chapter (Le Goix, 2002: 8).

McKenzie (1998) has argued that California is the best place to study political incorporation as it is used in defense of CID interests. A statewide survey of California in 1987 located between 13,000 and 16,000 CID, and by 1993, 25,000. These figures suggest that approximately 13 percent of California’s population and 16 percent of the state’s housing units have homeowners associations, a large percentage that, according to McKenzie, influences electoral politics in favor of private interests.

These two studies illustrate how profoundly gating and private governance influence urban politics and spatial relations in the Greater Metropolitan Region of Los Angeles, providing a sociospatial model for how cities might be privatized and physically segregated in the future.

*Nassau County, Long Island, New York*

Nassau County, Long Island has experienced a resurgence of residential development, much of it gated, following the decline in the real estate
market in the early 1990s. With a population of 1,298,842 in 1997, Nassau County abuts the eastern boundary of Queens. Although complete statistics for the number of gated communities in Nassau County have not been compiled, a 2001 survey of the Manor House neighborhood identified seven gated developments along the main road (Plöger, 2002a, 2002b), and in the Pine Hills area, at least three gated communities located in the immediate vicinity (Kirby, personal communication).

**Manor House.** Located in Nassau County, this mostly white and wealthy development of single, detached houses is situated on an old estate with the original manor house retained as a community center. There is a security guard at the entrance who controls the gate. The individual houses are large (3,250 to 4,500 square feet), generally two-story structures, built in a variety of traditional styles, and sell anywhere between $745,000 and $1,000,000. Houses are organized along a winding thoroughfare with dead-end streets branching off, leading to groups of houses clustered quite close together on small lots, fifteen feet wide, on a quarter to a third of an acre. The built-out community will contain 141 houses, tennis courts, and an outdoor swimming pool, and the mansion has been renovated to accommodate an indoor pool, billiard saloon, library, conference rooms, sauna, and cigar-smoking rooms.

**Pine Hills.** Pine Hills is a gated townhouse development of eighty units completed in 1997. There is a gatehouse, and residents use electronic identity cards to raise the arm blocking the entrance. Located near the Long Island Expressway in Nassau County, Pine Hills is a middle-income, mostly white community made up of long rows of similar-looking attached houses in three basic styles. All the houses are two-story, white and beige clapboard, single-family townhouses with wood or stone trim and bay windows. There are few amenities except for the streets, sidewalks, and jogging paths. The location and quality of the townhouses have kept the prices in the $400,000 to $500,000 range, even though it is located in a prestigious, suburban neighborhood.

**Waterview.** Waterview is a gated condominium complex of 800 units located in the lower-middle to middle-class neighborhood of Bayside, Queens, near the Nassau County line. There is both a guarded entrance and a pedestrian entryway that can be opened with a key. Organized as a series of three-story buildings, each with three apartments arranged around a swimming pool with health club facilities and sauna, Waterview has been successful in maintaining its prices in the $350,000 to $450,000 range. Many of the apartments are rented by their owners, so that there is
In 1997, Nassau complete statistics have not been identified (2002a, 2002b), located in the wealthy old estate with. There is a secular houses are 100,000 and boughfare with clustered quite a third of an is courts, and renovated to conference rooms.

For eighty units near the Long Valley, middle-income, 800 units of Bayside, and entrance organized as a Waterview o $450,000 hat there is a broad spectrum of residents of various income levels and greater cultural diversity including African nationals, African Americans, Korean Americans, and white workers and professionals.

San Antonio, Texas

San Antonio is divided by Loop 410, a highway that circles the city and defines inner and outer loop differences in quality of life, schools, housing development, and municipal services. Inside the loop, 96 percent are non-Anglo and poor, and house prices average $20,000, while beyond Loop 410, residents are mostly Anglo and wealthy, and homes in newly constructed gated communities average $200,000. Inside Loop 410, 43.5 percent of people mention crime as a neighborhood problem, contrasted with 26 percent of residents outside the loop (MacCormack, 2000).

Sun Meadow. Sun Meadow is part of the master-planned suburban development centered on a private golf and tennis club with swimming pools, restaurant, and clubhouse. The subdivision includes 120 lots, a few fronting the golf course, surrounded by a six-foot masonry wall. The main entrance is controlled by a grid design gate that swings open electronically by a hand transmitter or by a guard who is contacted by an intercom and video camera connection. The single-family detached houses are large (3,000 to 6,000 square feet) two-story brick colonials or stucco Scottsdale designs, with a few one-story brick ranch-style houses, and sell between $275,000 and $650,000. These different models accommodate the mostly white and a few Hispanic upper-middle- and middle-income families.

The Links. The Links is a mostly white and upper-income, luxury gated community with a 24-hour guarded entrance. All of the twenty-two lots face the golf course. The single-family houses are large (4,000 to 6,000 square feet), and designed by individual architects to look like small mansions with French, Italian, or Southwestern architectural details. They sell for $500,000 to $750,000. These houses have large gardens as well as common landscape spaces that abut the clubhouse and tennis courts of the master-planned development.

The Lakes. The Lakes is a white and Hispanic, middle-income gated community in a northwestern central suburb of San Antonio. The fifty-nine lots are organized along a series of curving roads with three cul-de-sacs. The mixture of townhouse styles is unusual, and lower the overall house prices to the $250,000 to $300,000 level.
Methodology

For the ethnographic research in New York and Texas, family members, friends, and real estate agents were contacted to gain entry. Nonetheless, obtaining interviews was a slow and difficult process that stretched out over eight years. Open-ended, unstructured residential histories lasting over two hours each were conducted in the home, with the wife, husband, or husband and wife together for married couples, and with the three single female residents. The majority of the interviewees were European Americans and native born; however, of the fifty interviews completed in the United States, three interviews were in households in which one spouse was born in Latin America, one interviewee was born in the South Pacific, and one interviewee’s spouse was born in the Middle East. Interviewees were aged twenty-three through seventy-five; all husbands were either professionals such as doctors or lawyers, businessmen, or retired from these same pursuits. In most cases, the wives remained at home while the husband commuted to his place of work. A few women worked part-time. There were three single women in the sample, one divorced, one never married, and one widow, and of these three, one was retired, while the other two worked in professional occupations.

Extensive participant observation in the surrounding neighborhood and shopping areas provided additional contextual data. Interviews with architects, builders, developers, and real estate agents, as well as town planners and government officials were completed in order to understand the underlying legal and economic structures of gated community development, supplemented by the collection of sales materials, advertising campaigns, and local planning documents.

Analysis

The ethnographic analysis of participant observation field notes focused on identifying empirical evidence of changes in the local environment. Further, it produced data on casual conversations and everyday observations that naturally occurred, and provided a test of ecological validity for data collected through the interviews. Field notes were coded by the themes that emerged during the research process.

A thematic content analysis of the interviews and documents collected from the media, marketing, and sales materials provided both a qualitative and quantitative understanding of the data. The interviews were coded based on themes identified in the interviews and the ethnographic fieldwork. Depending on the number and specificity of the themes, they were consolidated to allow for a quantitative (ranking, numbering, calculation of percentages) of the expression of those themes.
Incorporation: Greater Metropolitan Region of Los Angeles and Orange County, California

In the Greater Metropolitan Region of Los Angeles, the incorporation movement began between 1954 and 1970 sparked by the “Lakewood Plan,” a state law that allowed small bedroom communities to incorporate and contract with counties for their urban services (McKenzie, 1998). It was a “quiet tax revolt” by homeowners who wanted to limit their property tax burden, expansion of government bureaucracies, and social welfare programs. Even though the creation of these “minimal cities” was an ineffectual land-use planning strategy, it benefited homeowners by ensuring that people who needed welfare benefits could not live within the local boundaries, protecting high property values without the assessments that would otherwise be taxed for extensive social services in the City of Los Angeles.

In 1961, one of the nation’s oldest gated communities, Hidden Hills, incorporated as a city, but remained gated and left their private homeowners association in place (Stark, 1993). They divided up the provision of local services between the two government agencies, but placed most of their public functions, including the Fourth of July Parade and parks, roads, and horse trails, in the hands of the private government so that these activities and public spaces would not have to be open to all. More recently, the city hall has been relocated outside the gates, so that people could not demand to “go to city hall,” and thus threaten Hidden Hills residents’ security (Stark, 1993). Hidden Hills has been successful in privatizing everything but the seat of the public government.

Incorporation of Los Angeles–area gated communities continues to thrive as residents realize that they can transform their private governments into public entities that will fund and service their interests. It is a complicated strategy in which the voting power of gated community residents is drawn on to create a public entity that can tax all residents in its jurisdiction, and then use the funds exclusively for private community needs.

Gated community incorporations include a range of political involvement. Of the twelve major gated communities involved in incorporation in the Greater Metropolitan Region of Los Angeles area, Rolling Hills (1958), Hidden Hills (1961), Canyon Lake (1991), and Leisure World/Laguna Woods (1999) created entire new cities, while in Indian Wells (1967), Rancho Mirage (1973), La Quinta (1982), Dana Point (1989), and Calabasas (1991), they included the majority of the housing stock. But in a few cases, such as Laguna Niguel (1989), Malibu (1991), and Rancho Santa Margarita (including Dove Canyon and Coto de Caza) (2000), the gated
communities were the principal actors even though they represented less than 10% of the housing units (Le Goix, 2002).

In all three scenarios, however, there has been a shift in the use of city services, paid by taxpayers or by local grants, to the “exclusive use of gated enclaves” (Le Goix, 2002: 8). Gated communities have used incorporation to pay for their aging infrastructure, such as in the case of Rolling Hills where their leisure facilities are the property of the city, and the homeowners association rents exclusive rights to their use, while the city bears the cost of repairs and maintenance. In Calabasas, the gated community of Parkway Calabasas created a public “community facility district,” and then took on a loan of $30 million to pay for parks, roads, and beautification of the gated community neighborhoods. It became so expensive for gated community taxpayers, however, that the loan was refinanced and paid for by the entire incorporated municipality, including the nongated community residents. The incorporation of Leisure World/Laguna Woods was motivated both by aging infrastructure and the rising costs of urban services, as well as their desire to fight the building of a public airport in nearby El Toro (Le Goix, 2002, 2003). And Coto de Caza would not allow a public school to be placed within its walls because the gates would have had to remain open for public access. The more recent example of Pelican Hills in the City of Newport illustrates just how complicated incorporation strategies can become. Newport Coast is proposing to annex the nearby developing gated communities to prevent them from opposing the airport, and enticing them by guaranteeing an $18-million gift to provide parks and a public library exclusively for their use.

Thus, the incorporation of gated communities reveals a new trend in the privatization of public space through the use of a land-use planning and municipal government strategy accompanied by active political involvement. While incorporation can be employed to reduce taxes and create a municipal government more responsive to local needs, in the Greater Metropolitan Region of Los Angeles gated community examples, it is a means of coopting public resources for private interests, to the detriment of surrounding neighborhoods and the city as a whole.

Incentive Zoning Variances: Nassau County, Long Island, New York

In Nassau County, where there is limited open land and strict zoning codes for new housing, developing a gated community can be a considerable undertaking. The architect John Gaines describes the history of the parcel of land and what he faced when developing Manor House in the early 1990s as a process of appeasing village officials.
The process of producing an acceptable plan, Gaines said, was relatively complex. The village had to approve the homeowners association, and there was a great deal of concern about how the development would be approved. The open space ordinance allowed the village to have an influence on the development of cluster housing, as long as the density was kept below the 25% limit. Gaines said that the proposed small lots, close together, but with little space, would be difficult to sell. Buyers purchase "fee simple" lots, that is, they own their land and house. But they also purchase the right to a member of the homeowners association. It was an innovative plan that finally got approval in 1994.
and wants to keep the tax burden to a minimum. These low taxes are made possible by offering only a limited amount of public services, and the village uses the fees paid by developers to create whatever public amenities are needed. The reason that developers who apply for incentive zoning always paid a fee and never actually created any public amenity, is that this village has so little public land and the land that exists is almost entirely privately owned. In the few cases where an amenity was created—such as scenic open space, agricultural fields with a preserved farmhouse, jogging paths, or unspoiled forest—it was placed within the gated community, or located in such a way that a conservation easement of the surrounding area restricted public access.

The idea behind incentive zoning is that the public will be the beneficiary of additional open space or public amenities achieved through increased housing density or other zoning concessions by the municipality, town, or village. But like the New York City Plaza Bonus Zoning Ordinance that allows developers to build additional stories on their buildings, these “privately owned public spaces” are located and/or restricted in such a way to discourage public use (Kayden, 2000). Private interests are able to craft complicated deals that benefit the developer and the gated community residents without enhancing public space and at the expense of taxpayers who unwittingly are trading higher-density housing for privatized open spaces and reduced public amenities. Ironically, the taxpayers are subsidizing the creation of a secured residential enclave with private parks, tennis courts, club houses, and swimming pools.

Annexation and Adequate Services: San Antonio, Texas

Like Nassau County, many of the incorporated towns north of San Antonio’s Loop 410 have amended their zoning ordinances to allow private subdivisions, but erecting gates around neighborhoods can be costly for residents, because they must pay for street maintenance and other expenses. Even though expensive, the demand for gating is increasing (Graham, 1999). New residential developments in the northern suburbs are almost all gated and built by a number of different architects and investment groups.

According to economists, the current growth in private communities—gated and nongated—is a response to municipal governments’ failure to provide adequate neighborhood services because of “free riding,” that is, services being used by those who do not pay for them, and the inability of local governments to supply services in rapidly growing areas. Instead, by “bundling up” a variety of public goods within a residential scheme and recovering costs through sale prices and fees, the house-building
industry and market has become a “neighborhood”-building industry and market (Webster, 2001: 163). For the people living inside gated communities it is an efficient solution, because of the legal requirement to pay fees, the homogeneity of the community needs and desires, and the fact that would-be residents can choose their package of communal goods according to their personal preferences (Webster, 2001: 164). Critics, on the other hand, are concerned that gated-community dwellers will vote to reduce municipal expenditures that they do not use. But from an economic point of view, the gated community is an opportunity to experiment with new solutions for the provision of goods and services that distribute them more efficiently, to those who can afford to join the “consumption club,” than current governmental strategies.

The Mitchells who retired to Sun Meadow illustrate this point. They lived in an incorporated town within San Antonio where they liked the schools, had their own police department, and purchased services from the city. But they found the services supplied by San Antonio expensive yet merely adequate, and therefore decided to move to Sun Meadow where services were initially provided by the homeowners association.

Economic recession and the decline of real estate prices, however, have altered the level of services and tax structure, particularly in Texas, because Texas is extremely reliant on real estate taxes—rather than income taxes—like many other Sunbelt states. Because of this dependence on real estate taxes, Texas relies on privatization of municipal services in order to expand its public tax base. In an interview, urban planner Wayne Trestle, who lives in Sun Meadow, offered his perspective on how taxation, private governance, and land planning influence the fees and services in their gated development and other gated communities.

A lot of what's happening in these gated communities is that local government continues to annex. As they annex, the level of service goes down, not only for the annexed areas, but also for the inner parts of the city. [The idea is that] we'll get more money and everybody will benefit. [But in fact] they get more taxes and dilute the level or quality of services.

So developers say, “Well, I have got to have my own amenity package, I have to have my own gated community.” All that is, is a reflection of the inability of the government to deal properly with the problems at hand. They create another level of service: homeowners associations in these gated communities. So the type of [gated] development we get is because the city is ambitious in terms of annexation.
I see problems with gated communities in the future.... The reality is that when gated communities are annexed, the city does not take responsibility for repairs of streets [and infrastructure]. Homeowners associations have to provide that.

Trestle believes that Sun Meadow will be annexed within two years. It means that residents will have to pay city and county taxes as well as their homeowners association maintenance fees. Tax assessments also will change with annexation, and resident taxes will increase. But the city will not take over responsibility if they have private streets, and even though the city offers police and fire protection, the gating prevents access.

While annexation bolsters municipal revenues and broadens the city’s tax base, it has a downside for gated community residents in terms of double taxation—paying fees to the homeowners association and paying high real estate taxes. For example, Gilbert and Marie moved to Sun Meadow in an attempt to escape some of these taxes, and to purchase private services at a reasonable cost. Their motivation for moving to a gated community was that there is a private government, a homeowners association, providing services within the development. As Gilbert put it, “Anytime I can keep the government out of my business I do.” His attitude reflects the Sunbelt conservatism and rightwing politics espoused by a number of San Antonio residents. He thought being in a gated community would keep the government out, but now Sun Meadow is to be annexed by the city. When he purchased his home, they were two and half miles outside the city limit. But now “we’re going to be a gated neighborhood in the city.”

Gilbert is disappointed that the city is going to annex Sun Meadow. He agrees with Trestle’s prediction that Sun Meadow residents will be taxed for services they will not use. For Gilbert and Trestle, triple taxation (city taxes, county taxes, and homeowners association fees) is inequitable, especially when street maintenance and water are not provided. They expect that what city services they do get will be mediocre.

Some gated communities have applied to receive a rebate on their property taxes for services that they pay for privately. The executive director of Woodbridge Village in Irvine, California went to the state assembly in 1990 to make a case for deducting homeowners association dues from federal and state income tax, but was not successful. In New Jersey, though, a group of private homeowners associations succeeded in pushing the Municipal Services Act through the state legislature, which provides rebates on property taxes that residents pay for trash collection, snow removal, and street lighting. The New Jersey chapter of the Community Association Institute, the national association of homeowners associations, also continues to lobby for rebates on taxes paid to maintain public

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roads (Stark, 1998). If gated communities that are annexed are successful in reducing their taxes, it will also mean that they can use public highways, parks, and services without having to pay for them. Tax rebates will create the same kinds of public/private inequities and the loss of public space and resources as incorporation and incentive zoning.

Conclusion

The sociospatial characteristics of gating in the Greater Metropolitan Region of Los Angeles are already anticipated in San Antonio, Texas as the rapid expansion of jobs and housing peaks, and annexation is no longer an adequate alternative for solving urban problems. New York and Los Angeles have already been through this phase of extreme urban growth, and as San Antonio's growth spurt slows, different planning strategies will emerge. Yet the Greater Metropolitan Region of Los Angeles still leads the way in its use of incorporation and municipal succession to solve an array of social, economic, and financial problems. Eventually San Antonio, and Nassau and Suffolk Counties in New York, will catch up with Los Angeles by having more than a third of their housing stock located in private gated communities. And when this happens, I expect there will be even greater similarity in the ways that private interests take over, manipulate, and/or overlay resources in the public domain.

Unfortunately, with this increase in private gated communities there will be increased social and economic segregation according to Le Goix's analysis, a public that votes for private interests from McKenzie's point of view, and an insecure and anxious gated world where residents are not safer, deplete their sense of community, and are disgruntled about the strict rules and regulations of private governance (Wilson-Doenges, 1995, 2000; Low, 2003). At many levels—political, legal, social, and psychological—residents are expressing disappointment with the outcome of these privatizing strategies for refashioning the urban and suburban fabric.

But from the perspective of cities, the building of private communities has the advantage of providing the "front-load" infrastructure construction costs. Municipalities and towns that cannot fund new development, but want to expand their tax base, rely on real estate developers to produce new housing through incentive zoning and annexation mechanisms. The benefits of these strategies became even more apparent after the passage of laws like Proposition 13 in California that restrict the power of local government to finance activities through property taxes (McKenzie, 1998). Thus, as states follow the lead of California's tax abatement, they will also increasingly privatize the provision of what are currently public services. Gated communities will gain even greater popularity as one of the only
solutions for the failure of the public sector. And the public sector will become private by incorporation.

What happens to public space in this scenario? Based on the Greater Metropolitan Region of Los Angeles example, it becomes privatized, walled, and/or restricted for those who are “members” rather “citizens.” But in this rather dark vision of the urban future, the latest trend in gated communities emerges, faux fortresses located in the Simi Valley called “neighborhood entry identities,” which offer all the visible signs of gating, but without guards. Since functional gates come with problems such as the maintenance of private streets and the hiring of internal police, manager staff, and landscaping and trash services, these new residential developments are designed to look like a gated community, but in fact are not. For many residents, the walls, unlocked gates and guard house are enough to provide the sense of feeling special, exclusive, and secure. The unmanned guard house implies that it is a private community, but anyone is free to enter. These pseudo-gated communities provide the same housing and amenities without the additional costs. According to the *Los Angeles Times*, “Many who want to live in a modern-day fortress find the fake model just as good as the real thing” (Halper, 2002: B14). Do these fake fortresses mean that the costs of privatization and gating will ultimately outweigh their social and political appeal?

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**Notes**

1. Evan McKenzie puts this figure at one-eighth of all housing.
2. Not discussed in this chapter.
3. These prices are for 1995–1996. Jörg Plöger reported that in 2001 a house sold for as high as $1.8 million.
4. Like most towns on Long Island, there is a zoning review board that controls development in the village and the township.
5. I am not using the name of the village to protect the interviewees involved.
6. The developer calculates the maximum density allowed by local zoning standards, but distributes it differentially. For example, two-acre residential zoning allows a developer to build ten houses on twenty acres, each house on a two-acre lot. With cluster zoning, a developer can build ten houses on quarter-acre lots, leaving the remaining seventeen and a half acres as open fields, woods, or setting for a historic structure.
7. From fieldnotes of Jörg Plöger.
8. According to Webster (2001, 2002), gated community debates frequently espouse overly simplistic notions of the private and public realms. Adding a third category, the "club" realm, modifies this dichotomy. From the point of view of public goods theory, access to and consumption of a good or service is what makes it public or private. "Public goods" have the quality of nonexcludability, so that once they have been provided, everyone benefits regardless of whether they pay or not. Cities or suburbs, in this scheme, are made up of small publics, each of which may be thought of as a collective consumption club. These "consumption clubs" assign legal property rights over neighborhood public goods by property market institutions (ownership, real estate assessments) and are not different from other governance institutions where included "members" (taxpayers) share goods and "nonmembers" (nontaxpayers) are excluded. A comparison can be made between municipal governments supplying collective services on the basis of taxes, and gated communities with their own management companies, local service budgets, and contractual regulations providing goods and services based on fees. Rather than focusing on the distinction between public or private, it is more fruitful to ask whether gated communities deliver more equitable services to "club" residents.
9. Annexation is a process by which a town, county, or other governmental unit becomes part of the city, in this case the metropolitan region of San Antonio.

References