

# **Privatizing Community: The Growth of Private Resident Associations**

**BY**

**Jeff Loomis, MEdes  
FCC Community Planner**



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## **Executive Summary**

A wide range of privately organized communities are becoming increasingly common in North America, particularly in new housing developments in the United States. These new forms of community organization are typically referred to as Resident Associations or Homeowner's Associations. Common features shared by all Resident Associations are the use of collective property ownership, mandatory membership fees and community rules and bylaws that guide the operation of the governing association. The growth of Resident Associations in North America is primarily due to municipal government 'downloading' of service provision, developer desire to create unique selling features for new communities and a growing consumer demand for the additional amenities associated with Resident Association communities.

Resident Associations in Calgary have a much shorter history and are less privately structured compared to many Resident Associations in the United States. Originally Calgary Resident Associations were created by developers in order to manage large recreational amenities. The role of Resident Associations in Calgary is expanding, so that now many are assuming similar responsibilities to Calgary Community Associations. Additionally, there is an apparent shift towards an increase in private communities with the development of community-sized bareland condominiums in the Calgary region. Bareland condominiums, such as Elbow Valley and Heritage Pointe, are very similar to American style Resident Associations as they are responsible for additional services, such as street repairs and garbage pickup, and property controls.

New Resident Associations in Calgary could potentially evolve into serving a similar role as Community Associations if four key limitations are addressed. These limitations include: the private nature of Resident Association facilities, divisive Resident Association boundary issues, the large disparity in the roles of different Resident Associations and the limited representative capacity of Resident Associations. This report presents several key recommendations for both existing Calgary Resident Associations and future Resident Associations to address their limitations. Calgary must ensure that it does not follow the example of the United States, where the private community trend occurred without a thorough evaluation and consideration of the social, economic and political impacts of Resident Association developments.

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# **1 Introduction to Resident Associations**

## ***1.1 Background***

The last three decades of the 20<sup>th</sup> century resulted in significant changes in the form and function of community organization and home ownership throughout North America. A variety of new forms of private community organizations are becoming increasingly common in new housing construction in North America, particularly in the United States. These private community organizations, commonly called Common-Interest Developments (CIDs), require membership in a self-governing group typically identified as a Homeowner’s Association (HOA), Resident Association (RA) or Community Association (CA)\*. Common-Interest Developments generally include planned-unit developments of primarily single-family homes, condominiums and housing cooperatives with each form of development organized by a Resident Association that is responsible for providing a varying degree of services.

All three forms of CIDs are similar in terms of common property ownership, mandatory membership, and the use of documents that guide the operation of the governing members association. The most common form of CID, which comprises about 60% of the existing total in the United States, are planned-unit developments (Economist, 2001). In a planned-unit or “master planned” development, home buyers have exclusive ownership of their lot or unit, along with being a mandatory member of the Resident Association that owns and manages the common areas, including parks, recreational amenities and occasionally roads (Introduction to Community Association Living, 2003: 6). One particular form of a master planned development CID that represents the most extreme form of a privatization is the gated community. Many CIDs in the United States are not gated, but all gated communities have Resident Associations responsible for operating common areas. The trend to barricade private land in order to secure a community is strengthening to the point that more than 20,000 gated communities housing 8 million residents have been developed in the United States (Blakely and Snyder, 1997: 180). The

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\* Due to the use of the term Community Association in the Calgary context as a grassroots, voluntary community organization, this paper will use the term Resident Association to describe a private community organization

planned-unit form of CID with its associated Resident Association is the primary focus of the discussion in this research paper.

Condominiums and housing cooperatives are less common form of CIDs and are not discussed as thoroughly in this study. The term condominium refers not to a specific building, but to a form of ownership in which each purchaser owns a shared interest in the common areas in addition to his or her individual unit (McKenzie, 1994: 126). Housing cooperatives are similar to condominiums except that owners have shares in the co-op and they make up only 8% of CIDs in the United States with most located in New York City (Economist, 2001). Condominiums and cooperatives have had less impact on North American housing patterns and lifestyle because they do not typically occur at the community scale and tend to be limited to individual buildings or complexes.

## ***1.2 Resident Associations in the United States and Canada***

Private community organizations differ in Canada and the United States in terms of their structure and mandate. Resident Associations in the United States are often structured more privately than Canadian Resident Associations and, correspondingly, they tend to offer additional services that are generally provided publicly in Canada. In reality, many of the American Resident Associations in planned-unit developments are structured and function more similarly to a bare-land condominium in Canada. The term bare-land condominium in Canada is used to describe a form of common ownership in which structures are entirely privately owned, and only the land is held as a condominium (Canadian Condominium Institute). American Resident Associations also differ from Canadian privately organized communities due to contextual differences in terms of local governance and land use planning in the two countries. American municipal governments have typically been more willing to allow privately provided services than Canadian cities. Additionally, the planning process in the United States is influenced more by the development industry as a result of a greater emphasis on private property rights and reliance on the free market than in Canada.

Even though there are comparative limits, it is still valuable to contrast Canadian Resident Associations to those in the United States because comparison can provide valuable insight into the potential future of community organization in Canada. Understanding how and why Resident Associations have experienced such tremendous growth in the United States will inform the examination of the trend in the Canadian and local context.

The Resident Association trend started in earnest in California during a massive housing boom in the 1970's at a time when local municipalities were also under increasing financial constraints. This scenario is very similar to the current situation in Calgary, which is also experiencing incredible growth with a limited level of funding sources. Also, the growth of Resident Associations in California occurred without a thorough evaluation of the costs and benefits of creating more privatized communities. The only analysis of the private community trend occurred in scholarly circles and there was very little critical discussion within the general public and popular media at the time (McKenzie, 1994: 180). In Calgary, there is a need to evaluate where we are going with regards to the private community trend and we should seize the opportunity to learn from the experience of Resident Association growth in the United States. Further evaluation of Resident Associations in the United States and Canada is included in the second part of this report.

### ***1.3 Purpose***

The purpose of this report is to investigate the trend of Resident Associations in North America and the status of private community organization in Calgary in order to analyze the potential impact that this type of development can have on the form and function of our city. Essentially, this report will present the current status of Resident Associations in Calgary compared to the trend in the United States, and explore where we are going in Calgary with regards to private community organization and where we should be going in the future.

### ***1.4 Objectives***

The purpose of the research examines the mandate and roles of Resident Associations in both the American and Canadian context through the following specific objectives:

1. Identify issues associated with the structure and function of Resident Associations.

2. Evaluate the potential social, economic and political impacts of the Resident Association trend in the United States, Canada and locally in Calgary.
3. Analyze the Resident Association trend in the Calgary context in terms of their roles, organizational structure and relationship with Calgary Community Associations.
4. Generate future dialogue between the City of Calgary, development industry and Calgary's communities pertaining to the Resident Association trend and the potential impacts on established and future communities in Calgary.

### ***1.5 Research Design***

Several research methods were used to meet the stated objectives of the report:

1. *Literature Review* was conducted that provided insight into the growth of private community organizations in the United States, including a historical summary of the Resident Association trend, analysis of the issues associated with Resident Association roles and mandates and the potential social, economic and political impacts of the Resident Association trend. A literature review was also completed on the limited research of privatized communities in the Canadian context.
2. *Key Informant Interviews* with a variety of key stakeholders involved with Resident Associations and Community Associations in Calgary were conducted to evaluate the privately organized community trend in the Calgary context. Nine interviews were completed with representatives from various Business Units in the City of Calgary, including Parks, Land Use Planning and Policy, and Community Neighbourhood Services. Six interviews were conducted with various representatives from the development industry as well as eight interviews with volunteers from Community and Resident Association boards. All of the stakeholder interviews were semi-structured using many open-ended questions that allowed respondents to express their personal opinions and perceptions regarding Resident and Community Associations in Calgary.
3. *Survey Analysis* of the City of Calgary 'Exploration of the Roles of Community Association and Resident Associations' study was used to enhance the investigation of community organization in the Calgary context. The survey was conducted by the City's Community and Neighbourhood Services Department and was published in June 2005.

## ***1.6 Report Outline***

Section 2 examines Resident Association trends in North America. Further definition of Resident Associations and the growth of private communities in the United States are examined to demonstrate the extent of the trend in the United States. This section presents the reasons why Resident Associations are used, the benefits that they provide to the homeowner as well as the typical roles of American Resident Associations. Several contentious issues associated with the organizational structure of Resident Associations are examined and the potential social, economic and political impact of the Resident Association trend in the United States is also discussed in this section. Lastly, the literature pertaining to Resident Associations in Canada is reviewed in this section in order to comparatively analyze the trend in the American and Canadian context.

Section 3 examines the Resident Association trend in the Calgary context. The results of the stakeholder interviews and City of Calgary survey are used to evaluate the use of privately organized communities in Calgary.

The final sections of the report present conclusions regarding the roles and organizational structure of Calgary Resident Associations as well as discussing the impact of the trend in Calgary compared to the broader North American context. Recommendations are proposed that provide practical actions for the use of Resident Associations that will inform future dialogue regarding the Resident Association trend in Calgary.

## **2 The Private Community Trend in North America**

### ***2.1 What are Resident Associations?***

#### **2.1.1 Introduction to the Trend of Common-Interest Developments in the United States**

The trend towards more private communities is contributing to a “revolution in American housing patterns” (Natelson, 1990: 42). Living in and owning property in a Resident Association organized community differs from traditional community organization and home ownership in several ways. Firstly, all homeowners in a Resident Association community share in the ownership of common property and have exclusive access to the amenities provided by the Resident Association (Introduction to Community Association Living: 3). The level of common property owned in common within a Resident Association community can vary significantly depending on the structure of each particular development. The common areas can simply include certain parks or recreational facilities, but can also include all the streets and traditional “public” spaces within the community if the developer establishes the community entirely privately prior to the start of development.

The second way that Resident Association communities differ from traditional communities is that as an automatic member of the association each resident must typically abide by the rules of the community. The bylaws of the Resident Association, which often include Covenants, Conditions and Restrictions (CC&Rs) in the United States, bind all owners governed by the Resident Association and require mutual obligations to be performed by each individual owner (ibid). The extent of the Resident Association’s bylaws is also initially determined at the outset of development though they can be changed with appropriate resident consent.

The third unique feature of Resident Associations is that all property owners in the community are required to pay a mandatory fee. This assessment fee is generally levied on the title of every property in order to operate and maintain the Resident Association (ibid). According to a recent

survey conducted by the Community Association Institute, a U.S national organization founded to support and professionalize the management of private community organizations, the mandatory fees range from less than \$300 per year to more than \$6,000 per year (Homeowners and Community Associations Survey, 2005).

**2.1.2 The Growth of Common-Interest Developments in the United States**

Common-Interest Developments (CIDs) in the United States have experienced explosive growth over the past thirty years. Only one percent of American housing units were located within a CID in 1970, while by 1998 this figure had risen to 15% with an anticipated increase to 25% by 2020 (Nelson, 2004). In the U.S. in 1970, there were approximately 10,000 association-governed communities with residential population of 2.1 million, and as of 2005 there are now 274,000 communities’ totalling approximately 54.6 million residents (Community Association Institute – refer to Table 1). Additionally, some estimates report that almost 50% of all new housing units in major American metropolitan areas are being constructed within a legal framework of private collective ownership (Nelson, 2002: 1).

**Table 1: Growth of CIDs in the United States**

Year	Communities	Housing Units	Residents
1970	10,000	701,000	2.1 million
1980	36,000	3.6 million	9.6 million
1990	130,000	11.6 million	29.6 million
2000	222,500	17.8 million	45.2 million
2002	240,000	19.2 million	48.0 million
2004	260,000	20.8 million	51.8 million
2005	274,000	22.1 million	54.6 million

(source: www.caionline.org)

The growth of CID housing developments is concentrated in the Sunbelt states of the United States and is particularly prominent in California and Florida. However, this growth is not largely attributable to regional consumer preferences, but is generally a result of the tremendous new housing construction in these areas, which is increasingly CID housing (McKenzie: 11). CIDs have become so common-place for new housing developments that the Advisory Commission on Intergovernmental Relations (AICR) noted in 1989 that “in many rapidly

developing areas, such as those in California, nearly all new residential development is within the jurisdiction of residential community associations” (McKenzie: 12). The rapid increase of CIDs, and their affiliated Residents Associations, in the United States demonstrates that the trend towards private organization is expected to strongly continue both in terms of the total number of CIDs and the level of service provided by the governing Resident Association.

### **2.1.3 History of Common-Interest Developments in the United States**

Private communities existed in the United States long before the explosive growth experienced in the latter half of the 20<sup>th</sup> century. Originally private communities were created as a special domain of the wealthy that were largely designed as exclusive neighbourhoods separated from the rest of the urban environment. One of the earliest examples of this form of development was Gramercy Park in New York City, which formed a Resident Association in 1831. Developers of these communities created “provisions for common ownership of the land by all residents and private taxation of the owners” (McKenzie: 9) in order to maintain the private amenities within the neighbourhood. Additionally, “restrictive covenants” were attached to the deeds of each private property as a land use planning device to ensure that the use of each property would remain unchanged in perpetuity (ibid).

The private community movement was significantly influenced by the Garden City theory of Ebenezer Howard at the end of the 19<sup>th</sup> century. Howard’s Garden City concept involved the inter-relation of comprehensive physical planning, common land ownership and a unique political organization (ibid: 3). An ideal Garden City was meant to be comprehensively planned with all the land owned publicly by the municipality and governed by a democratically controlled corporate technocracy leading to the elimination of local politics through rational management of the community (ibid: 5). Elements of this utopian vision, such as master-planning communities and common ownership through a Resident Association, were later incorporated into CID housing developments when Howard’s ideas became popular in the United States in the 1920’s (ibid: 7).

CID housing remained primarily a form of community organization for the wealthy until after the Second World War. Mass production of homes in master-planned communities with CIDs

allowed developers and municipalities to accommodate the post-war housing and population boom. Rising land prices and a burgeoning population in the 1960's placed pressure on developers of new communities to conserve and use land more efficiently. CIDs allowed developers to provide housing on smaller lots, while also providing additional amenities, such as parks, swimming pools, lakes and community facilities that would have been unaffordable on an individual basis for the middle-class home consumer. The creation of Resident Associations provided the vehicle for community ownership and management of these additional amenities. In 1963, the use of CIDs was institutionalized when the United States Federal Housing Administration (FHA) began insuring mortgages in CIDs and also endorsed the Urban Land Institute's document outlining the creation of CIDs and their accompanying Resident Associations (ibid: 92). By this time Resident Associations had gained legitimacy as a new form of community organization in the United States allowing for the remarkable growth witnessed in the last thirty years.

## ***2.2 Why are Resident Associations Created?***

The trend towards an increasing level of privatization in community building and organization is due to several inter-related factors. Firstly, developers originally found CIDs with Resident Associations attractive because they were a mass-produced consumer commodity, which enabled them to concentrate more people on less land. The large corporate developers that initiated the creation of master-planned communities governed by Resident Associations found them enormously profitable as they allowed for a greater housing density while still satisfying middle-class consumer preferences (ibid: 10). CIDs continue to be built by developers because the housing market in North America has become so competitive that the Resident Association managed amenities can provide a unique selling feature for the community. Now that Resident Associations are so common in many areas of the United States it would be very difficult for a developer to compete without providing the additional amenities associated with privately organized communities.

Local governments have also played a significant role in the growth of private communities. Public officials are willing to support these privately organized communities, which often have

private infrastructure and services, because they add to the tax base at minimal public cost. As local fiscal deficits increased in United States in the 1970's, it meant that local governments were less willing to accept any new responsibilities for such services as building and maintaining new streets, collecting garbage and other traditional municipal services (Nelson, 2002: 40). This 'downloading' of municipal responsibility was intensified in the 1970's in California when the state legislature passed Proposition 13, which limited the ability of local government to raise revenue through property taxes (Economist, 2001). McKenzie (1994: 180) argues that the decision to privatize community building and organization occurred without public discussion. The privatization decision was due to government inaction as private developers gradually transferred local government functions to private entities (ibid). A thorough public evaluation of the costs and benefits of Resident Associations was never conducted in the United States until the 1990's when they were already thoroughly established. In many areas of the United States, CIDs have now become established as the standard form of new communities and municipal governments have little choice when deciding to permit continued development of private communities.

Another factor in the growth of Resident Associations is that they are merely a response to consumer demand. Potential home buyers are often willing to accept the increased density in CIDs because the community often has open spaces and desirable amenities, such as lakes, parks, recreational facilities and social centers, which are owned in common by all residential homeowners. As mentioned previously, residents are also attracted to the prospect of having access and partial ownership of the amenities managed by the Resident Association that they otherwise would be unable to afford on their own. However, a 1998 study indicates that the demand side explanation for CID growth is less significant than the supply side explanations of high housing values and local government fiscal constraints (McKenzie, 1998: 63). This study indicates that two-thirds (67.6%) of the variation in levels of CID construction in California is due to these two supply side variables.

The growth of private Resident Associations is due, in part, from the desire of residents to control their own environment. As famously portrayed by Garrett Hardin (1968) a "tragedy of the commons" is inevitable when public goods are exhausted due to overuse by individuals who

only consider the individual benefit of the resource consumption. A Resident Association allows for a community to exclude less desirable land uses that would be able to capitalize on the benefits of a high quality environment while not contributing to a neighbourhood's environment (Nelson, 2004: 41). Hardin emphasized that "a solution to the tragedy of the commons can be found in either a governmental regulation or a private property right" (idid). In suburban North America, zoning was used as a governmental regulation to protect community environmental quality and the creation of Resident Associations represents the private property approach of maintaining property values through land use control.

Private communities are also a reflection and product of a trend in North America towards increasing privatization of our society. A trend of privatization emerged throughout the second half of the 20<sup>th</sup> century, in which citizens became more inclined to lead private rather than public lives. Putnam (2000) demonstrates that a decrease in civic spirit and public participation since the Second World War has greatly impacted the social capital of the United States. This precipitous decline in public life is largely attributed to the increasing privatization of leisure activities, such as watching television or using the Internet (Putnam, 2000). The privatization trend is also a result of economic factors, including the emphasis on private ownership and individualism in a capitalist society (Lefebvre, 1971). Richard Sennett (1977) argues that economic abundance transforms community life and encourages people to retreat into their private lives, which encourages citizen defensiveness and insulates individuals from active participation in society. An emphasis on privatization can significantly erode a sense of community because it can impede democratic, collective and community activity by emphasizing and promoting disparity and private interests (Stormann, 2000: 167). Resident Associations both reflect this trend and contribute to increasing privatization through their emphasis on private property. The private emphasis of Resident Associations is demonstrated by the fact that membership and participation in the association is largely based on private property ownership within the community. Additionally, one of the primary rationales for the creation of a Resident Association is to protect or increase the community's property values reflecting a focus on private issues rather than on broader civil society interests. Resident Associations represent, in the words of one study, "a trend away from increased governmental control over land use and

governmental provision of services toward an increased reliance on privately created controls and privately supplied services” (Ross, Smith & Pritt, 1996: 802).

## ***2.3 What are the Roles of Resident Associations?***

### **2.3.1 Service Provision**

The most common service typically provided by Resident Associations is the maintenance of the property owned in common by all the community homeowners. Maintenance of commonly owned property can include such facilities and amenities as swimming pools, tennis courts, lakes, parks, and social centres. Since these amenities are privately supported through the mandatory Resident Association fee only residents of the community are allowed to use them and they are not accessible for the general public. Resident Associations are also often responsible for essential services such as trash pickup, snow removal, landscaping, street and sidewalk repairs as well as arranging social activities for their residents (Wheeler, 2005: 2). Many of the services provided by Resident Associations were once the responsibility of municipal governments and reflect the growing privatization trend in the United States.

The level of service provided by Resident Associations is largely dependent upon two factors. The first factor is the size of the Resident Association, as generally the larger the population living within the Resident Association the greater the level of service provision. There is a significant range in the size of Resident Associations in the United States though the average size of a neighbourhood with a collective ownership agreement is approximately 200 housing units (Nelson, 2002: 6). However, the largest scale of Resident Associations in the United States is similar to a small city in terms of size and function. For example, the Reston Resident Association in Northern Virginia covers approximately 74,000 acres, has a population of more than 35,000 and contains 12,500 residential units with more than 500 businesses (ibid).

Secondly, service provision in a Resident Association is dependent upon the level of privatization. Resident Associations that are established as a completely private entity, in which all the property within the community that is not owned privately is owned jointly by the residents rather than by a public municipality, has a much higher level of service provision than a

Resident Association that controls a limited amount of commonly-owned property. The most significant indicator of the level of privatization in a Resident Association is whether traditional public spaces, such as the streets and parks, are all owned by the residents and are the responsibility of the Resident Association. Typically, a prevalence of fully private communities will result in geographic areas where the municipal governments are more willing to pass the responsibility of service provision onto private groups.

### **2.3.2 Monitoring and Enforcing Controls**

The vast majority of Resident Associations in the United States utilize restrictive covenants and conditions that limit the range of what is permissible within the community. Typically, these rules are called covenants, conditions and restrictions (C,C&Rs) in the United States and are enforceable due to their inclusion on the deed of each property. Restrictive covenants can vary considerably between communities depending on the bylaws for each Resident Association, but the types of C,C&Rs can be classified into two categories: cosmetic and property use controls.

*Cosmetic controls* generally involve regulating architecture in order to preserve the community's integrity. These controls typically identify what owners can do to modify the external appearance of their homes, such as roofing materials, and can regulate the appearance of everything from fences and decks to the colour of doors and mailboxes (Wheeler: 2). *Property use controls* tend to restrict the ability of residents to freely use their own property for the supposed good of the entire community. These controls usually entail banning all signs except for real estate placards, restricting what types of vehicles that can be parked outside, including on private driveways, and can also limit the number and types of pets that residents may keep (ibid). The common goal of all C,C&Rs is to maintain the community's appearance and to protect or enhance property values in the community.

Property use controls exhibited by Resident Associations vary in their scale and severity depending on the community context. Several commentators have expressed concern over the extreme levels of control that some Resident Associations have used in an effort to maintain their community's property values. Several examples of excessive control have appeared in the popular press in the last few years indicating that enforcement of extreme regulation by Resident

Associations are not rare events. For example, in Massachusetts a CID board informed a Vietnam veteran that he could not fly the US flag on Flag Day, but backed down after public pressure (Macionis and Parrillo, 2001: 129). In another example of excessive control, a Resident Association board in Florida took legal action against a homeowner for having a dog that weighed more than the community's 30 pound weight limit and persisted with the suit even though the dog only weighed one ounce over the limit (ibid). Such excessive rules generate the question whether or not Resident Association control infringes upon the rights and freedoms of the residents. However, Resident Associations are not a regime based formally on rights similar to a civil government, but are based on restrictions that are legally established by the developer (McKenzie, 1994: 148). The difficulty that residents have understanding this difference often leads "to people becoming angry at board meetings and claiming that their 'rights' have been violated – rights that they wrongly believe they have in a CID" (ibid). However, a New Jersey court recently ruled that New Jerseyans do not sign away their constitutional rights by purchasing a home in a community governed by a private association (Shwaneberg, 2006). This recent ruling indicates that the courts are starting to address the issue of Resident Associations limiting the rights of residents through restrictive covenants.

Restrictive covenants are established by developers at the planning stage of development as a set of private laws that dictate the future community's land use and lifestyle. Typically in the United States, the Resident Association is responsible for monitoring and enforcing these rules, especially when the community is built-out and the developer relinquishes control of the community's development. In cases of non-compliance with the community's C,C&Rs, the Resident Association will often issue fines or will pursue legal action against offending homeowners. A common difficulty with the restrictive covenants in Resident Associations is that they are tied to the property and can only be changed through an amendment to the association's bylaws. Efforts to change an association's bylaws are often very onerous, in requiring a two-thirds supermajority vote of all members, not just those who choose to vote (McKenzie, 1994: 127). The inconvenience and problems associated with amending bylaws can result in Resident Associations having a limited ability to rectify mistakes in the original plan or adapt to changing circumstances or populations (McKenzie, 2003:229). This difficulty can result in the developer's

vision for a community lasting in perpetuity regardless of changing demographics and lifestyle preferences of the residents.

### **2.3.3 Security Responsibilities**

The last primary role that Resident Associations play is that of ensuring community safety. Many Resident Associations in the United States fulfill the function of protecting the residents' personal security through private policing (Nelson, 2004: 45). Gated communities are the form of CID that are the most concerned with providing enhanced security. The trend towards gating communities in an effort to use design strategies to keep strangers out of neighbourhoods is increasing in the United States (Blakely, 1999). Many residents of gated communities that choose to live in barricaded neighbourhoods segregated from a larger municipality do so in search of privacy, a sense of community and in flight of fear arising from a lack of security in the outside world (Dillon, 1994; Low, 2001). Since the mid-1980's an increasing percentage of CID housing has incorporated private security measures, including entry controls, such as gates or guardhouses; hardened boundaries, such as surrounding walls and fences; and internal surveillance, which frequently consists of roving patrols, video cameras and alarm systems (McKenzie, 2003: 205). Blakely and Snyder (1997) estimate that one-fifth of all CIDs in the United States fit the description of a gated community.

## ***2.4 What are the Benefits of Resident Associations?***

The rapid increase of Resident Associations in the United States is at least partially a result of the benefits to the homeowners in such a community. According to a 2005 survey, 71 percent of those governed by a Resident Association rate their overall experience positively (Homeowners and Community Associations Survey). One of the primary reasons these residents positively rate their experience is that the amenities provided privately by a Resident Association are not commonly available in an entirely public community. Ownership of amenities, such as tennis courts, swimming pools and lakes, which are usually privately unaffordable, can be secured through the common ownership of the Resident Association.

Homeowners may also be attracted to a Resident Association because of the stability of property values provided through the association's controls. One recent study found that homes in the Virginia suburbs of Washington within a Resident Association are worth on average 5 percent, or approximately \$14,000, more than similar houses in the same area, but outside of a Resident Association (Agan and Tabarrok, 2005: 16). Apparently, many people want land and property use to be privately controlled and regulated at the community level rather than by politicians and civil servants at the municipal or regional level of government. Increasing privatization of local communities results in a corresponding increase in local control. According to Nelson (2004: 43), a private community status often confers greater flexibility on the local community in shaping new institutions of local governance. Many residents of private communities in the United States seemingly appreciate having a Resident Association in place to serve as a buffer or enforcer in disputes with neighbours and developers over land use within their neighbourhood.

## ***2.5 How do Resident Associations Function?***

The structure of a Resident Association is established by the developer of the community at the planning stage of development. At the outset of development, the developer tends to fill all board positions with their own employees and usually retains votes based on the amount of unsold units, which allows the developer to retain control of the association until nearly the entire project is developed. After build-out, the developer then presides over a transition period during which elected residents take over all positions on the board of directors and the operation of the community (McKenzie, 1994: 128). Once a buyer chooses to purchase property in such a 'master-planned' community, they automatically become mandatory members of the Resident Association. The typical Resident Association structure has created several contentious issues regarding the nature and functioning of private communities.

### **2.5.1 Issue of Resident Associations functioning either as a Government or a Business**

A common issue in legal cases involving Resident Associations in the United States is whether or not they should be classified as a business or a form of government. Currently, the legal authority of Resident Associations is similar to that of a private business corporation, and is primarily organized under state law as a form of private corporation (Nelson, 2002: 26). However, the debate concerns whether Resident Associations should be accountable to the

appropriate powers of government or if they should have similar liability requirements of a private business. CIDs in the United States engage in many activities that would be prohibited if they were consistently viewed by the courts as a form of local government due to the limits placed on government powers in both state and the national constitution (McKenzie, 1994: 154). If American CIDs were consistently defined as a form of a private corporation (*ibid*), they could be subjected to the liability associated with private businesses, which can require businesses to pay damages to those they injure, negligently or intentionally. An appropriate check on the activities of Resident Associations in the United States would be established if the courts consistently recognized the constitutional limitations as governments or the civil liability as businesses.

Due to the prevalence of private communities in California, the state courts have dealt with numerous court cases in which defining the organizational structure of Resident Associations has become a significant issue. The California courts have never ruled consistently and clearly on whether a Resident Association should be treated as a form of government or as a private business, calling CID boards both ‘mini-governments’ and ‘business establishments’ depending on the case and circumstances (*ibid*). The result of inconsistent judicial rulings and legislative intervention in California is that CIDs have neither the limitations of a government nor the full potential for civil liability of a business allowing CIDs to be the “beneficiaries of a double standard” (*ibid*:155). To the continued benefit of Resident Associations, they have maintained an ambiguous status as neither a form of government nor a private business corporation.

### **2.5.2 Issue of Voluntary Consent and Resident Association Membership**

Another key legal issue involving Resident Associations is whether the residents have consented to live by the restrictions of the association’s bylaws by choosing to purchase a home in the community. Currently, the basis for the legal powers of a Resident Association is based on the premise that membership in the association is voluntary. Case law in both the United States and Canada supports the assumption that by joining the organization (through purchase of property in the community), one agrees to abide by its rules at the expense of any constitutional rights or freedoms (Maxwell, 2003: 4). The argument against voluntary consent is based on three

arguments: i) awareness of what one is consenting to ii) ability to change the rules one consents to iii) ability to freely choose.

The first argument is based on the idea that many prospective buyers are unable to fully understand the complicated legal documents, often written in obtuse ‘legalese’, that comprise the rules of the Resident Association, and therefore, are not fully enough aware to provide consent (ibid: 7). The second argument is that due to the difficult requirements necessary to change CID bylaws, residents are forced to provide consent to rules they did not participate in creating and would find extremely hard to change (McKenzie, 1994: 147). The last argument is that the choice of home buyers is becoming significantly limited in certain markets in the United States because almost all new housing is provided within a Resident Association. There is also less choice available among CIDs since the basic terms of the bylaws have become increasingly standardized by the legal profession through legal inertia that relies heavily on the use of standard forms for drafting Resident Association documents (Hyatt, 1998: 336). These three arguments raise significant issues with the assumption that all homeowners in the United States voluntarily consent to the Resident Association rules based on their choice to buy property in a CID-governed community.

### **2.5.3 Issue of Representation within a Resident Association**

The last major issue with the organization structure of Resident Associations relates to their ability to fairly represent all members of the community. Representation in a Resident Association community is typically based on property ownership rather than the standard democratic principle of one-person, one-vote. Since Resident Association representation is based on property ownership, renters are essentially disenfranchised from the community decision-making process. The issue of a lack of representation for renters in a Resident Association is amplified when one considers the large number of rental units that are located within these developments, especially as the lifecycle of the community changes. In California, a median of 20 percent of CID units are rented and in 14 percent of the total Californian CID developments the majority of units are rented (McKenzie, 1994: 128). Additionally, the issues regarding consent discussed previously are exacerbated for renters. Rental residents are assumed to have consented to abide by the Resident Association bylaws they have had, or will have, no part in

making and are not necessarily aware of the association's rules before committing to rent (Maxwell: 16). Based on the typical structure of Resident Associations in the United States, renters are the equivalent of second-class community citizens.

## ***2.6 What are the Potential Impacts of the Resident Association Trend?***

### **2.6.1 Social Impacts of Resident Associations**

One of the primary criticisms of the growth of private community organization is that Resident Associations result in an increase of social segregation based on socio-economic class. The exclusive nature of American Resident Associations is indicated by the fact that they tend to be highly homogeneous by income and race (Cashin, 2001: 1678 and Blakely and Snyder: 148). This economic selection is fuelled by practices of the development industry, such as the tailoring of new communities towards certain income brackets or lifestyles (Cashin: 1678). Also, the history of CID bylaws includes the use of racially restrictive covenants that were common-place in private communities until they were deemed unenforceable by the Supreme Court in 1948 (McKenzie, 1994: 68) Any social segregation currently associated with Resident Association communities is aggravated in gated community CIDs where the residents are also physically separated from the rest of the surrounding urban environment. Gated communities are not only created based on the residents' desire for homogeneity, but also on assuaging a fear of the 'other' (Cashin: 1678). The marketing brochure of a gated CID demonstrates the desire for homogeneity by proclaiming that their community is the "perfect place to live" and it is where you know you are "secure within the boundaries of your own neighbourhood" (Blakely and Snyder: 152). The potential social ramification of the exclusive and homogeneous nature of Resident Association communities in the United States is that:

they deprive people of social resources and thus stultify their lives; promote isolation and conflict between residents of the community and the rest of society; stunt children's ability to relate to people unlike themselves; and leave residents frozen in their present way of life (McKenzie, 1994: 189).

Charles Murray, a conservative critic of CIDs in the United States, has commented that the growth of private communities could result in an American “caste society” in which the wealthier classes will be able to bypass traditional public government through private service provision (Macionis and Parillo: 128). The long-term social impact of the Resident Association trend in the United States is largely unknown and based on speculative theory since private communities only became prevalent in the last thirty years. Future studies will have to be conducted to quantitatively or qualitatively determine whether or not Resident Associations do have a significant impact on the social composition of American society.

One recently completed study indicates that the negative social impact of Resident Associations as previously described may be overstated. This study presents evidence that McKenzie’s criticism of Resident Associations as “privatization for the few” may be unwarranted based on the fact that most of the houses sold in one Northern Virginian county were located within a Resident Association (Agan and Tabarrok: 16). Therefore, according to this study Resident Associations represent a privatization for the many and not the few. Also, this study claims that Resident Associations are usually not exclusive neighbourhoods for upper income residents, since homes within Resident Associations are often less expensive than relevant alternatives (ibid). However, this study does not address the issue of the location of low-cost rental or non-market social housing. The re-sale value for homes in the Resident Association communities in the study may in fact be lower than comparable areas, but one must inquire about the prevalence of non-market housing in these private communities compared to non-Resident Association communities. It would probably be safe to assume that non-market housing is virtually non-existent in most private communities due to the focus of Resident Associations on maintaining property values and exclusively representing homeowners.

### **2.6.2 Political Impacts of Resident Associations**

The growth of Resident Associations could potentially have a significant impact on the function of local government in the United States. According to Steven Siegel (1998: 560), the rise of private communities is achieving “a large-scale, but piecemeal and incremental, privatization of local government.” The trend towards private community organization is starting to compete

with the traditional function of municipal government in terms of service provision and citizen representation. Essentially, a new form of local government is being created in the United States although it is not always legally recognized as such by the court system. However, due to the private nature of this new form of local government it is not entirely similar to the traditional government in terms of its organizational structure. American Resident Associations have been described as quasi-governmental agencies that have no division of power, since the same people that write also enforce the community's laws (Wheeler: 2). It is unclear at this point whether or not Resident Associations will become institutionalized as a new form of private local government, though if the trend towards private community organization continues unabated they will no doubt gain further legitimization as a local governing authority.

Another potential political impact is the ability that Resident Associations may have on influencing higher levels of government. Large Resident Associations in the United States have the ability to serve as an interest group to lobby higher levels of government due to their ability to represent a significant block of voters. In the United States politicians are increasingly appealing to the Resident Association constituency to the point now that the suburban voter is identified as the common interest community voter (McKenzie, 1994: 195). Resident Associations are a means by which thousands of votes could be delivered to politicians because the political interests of many residents are very similar based on the homogeneity typically prevalent in privately organized communities. The boards of Resident Associations could be a useful venue for communicating with voters as they have regular and established contact with the community through newsletters and regularly scheduled meetings. Several studies have investigated the level of political activity of Resident Associations in California and determined that they have been a significant power for decades with regards to such issues as municipal incorporation, anti-property tax initiatives, anti-growth and anti-crime campaigns (McKenzie, 1998: 56). The primary issue raised by the political influence of Resident Associations is that the interests of private community residents can differ significantly from other American voters. The risk is that as more American citizens separate themselves into private communities their ties to the larger polity could become weakened and they could "increasingly resist governmental efforts to address problems they do not perceive as 'theirs'" (Cashin: 1679). Resident

Associations not only represent a shift towards local private governance, but they also reflect the influence that private groups of citizens can have on higher-levels of government.

The final potential political impact of the Resident Association trend in the United States is that they can have a negative impact on community-level public participation. Cashin (1675) notes that residents of CIDs tend to primarily view themselves as taxpayers rather than as citizens and that this perception can negatively impact their involvement in civic life. According to this argument, a “governance mechanism constructed primarily to protect and preserve private property rights does not build a sense of community” (ibid: 1676). Studies of Resident Associations have found little evidence demonstrating that they breed higher levels of participation and self-governance largely because participation in the community is reduced to the payment of mandatory fees (Blakely and Snyder: 35). A participatory civic realm is potentially hindered in such a private association where it is easy for a resident to enjoy the benefit of the services provided through the payment of their association fee without the burden of being involved in the community.

### **2.6.3 Economic Impacts of Resident Associations**

One of the primary impacts of the private community trend in the United States is that Resident Associations compete with the economic resources of traditional local government. This direct competition could result in less financial support for public municipal services. Robert Reich coined the term ‘succession of the successful’ to describe the potential situation resulting from the growth of Resident Associations, in which the successful enjoy privatized versions of former public services while the poor and marginalized citizens struggle to survive in cities faced with increasing responsibilities and reduced revenues (Macionis and Parillo: 128). The ‘succession’ is only fully possible if the residents of Residents Associations are able to withdraw their support for public services through a reduction in their municipal taxes.

Municipal tax rates for residents of private communities are becoming an increasingly significant and contentious issue in the United States. Many Resident Association residents support the idea of tax relief based on the idea that they experience a form of ‘double taxation’. These residents feel that since they pay for several services, such as park maintenance, garbage pickup, and

sometimes street repairs, privately they should be eligible for a municipal tax reduction for these services. The mandatory fee-for-service arrangement in private communities encourages the residents to believe that they should have limited fiscal obligation beyond their immediate community (Cashin: 1680). Lobbying for such tax relief resulted in the state of New Jersey passing a law that municipalities must reimburse CIDs for the services they provide privately and tax rebate measures have also been introduced in several other American constituencies (McKenzie, 1994: 195). However, the legitimacy of such tax reduction can be called into question for two important reasons. Firstly, the services provided by a Resident Association are generally only available to the residents of the private community and not the general public. These are private services that are used privately and should not automatically be considered as tax deductible expenses. Secondly, Resident Association residents will continue to use the services provided by neighbouring municipalities once they leave the confines of their own community. Only if a private community was completely segregated from other public municipalities should a tax reduction for private service provision be considered legitimate.

#### **2.6.4 Resident Association Impact on Growth and Redevelopment**

Private communities could also have a significant impact on the capacity for future regional growth and development. Since a primary goal of Resident Associations is to protect the property values in their community through the maintenance and preservation of the community's character, they have extra motivation to influence and restrict future development both within and adjacent to their community. One of the common functions of existing Resident Associations is to ensure that zoning laws are enforced both within and outside of the community boundaries (Fischel, 2004: 50). For example, one of the objectives of a Texas Resident Association's Architectural and Land Zoning Committee is to "monitor zoning changes within five miles of the neighbourhood" (ibid). The focus on property values in Resident Associations could result in a potential increase of NIMBY (Not In My Backyard) reactions to development proposals and potential land uses that are considered a threat to the community's value. Resident Associations in California have been very active in movements to stop growth and preventing construction of apartments and commercial complexes (Davis, 1990: 153). Potential increased NIMBYism in Resident Associations is particularly worrisome for the proponents of social

services, since new communities in the United States have historically resisted taking on any form of affordable housing (Cashin: 1680). Resident Associations provide a venue for the residents of private communities to voice their concerns regarding any new development that they perceive to threaten the community property values and it allows for a stronger voice through the strength associated with greater numbers.

Many of the described impacts associated with private communities in the United States are largely based on theory and anecdotal observation rather than on empirical study. Also, many of these impacts will only be measurable in the long-term. Since private communities have become increasingly prevalent in the last thirty years, it should be possible to accurately determine whether or not many of these impacts have occurred. However, the potential for such negative impacts to occur as a result of an increase in Resident Associations should create a desire for more evaluation of the impacts that private communities can have on the social, political and economic environment in North America.

## ***2.7 Resident Associations in the Canadian Context***

The trend of private communities in Canada has a considerably shorter history and is less pervasive than in the United States. Due to Resident Associations being less established in Canada there is a corresponding lack of research specific to the Canadian trend and very little data is available demonstrating the growth of private community organization in Canada. However, observation of new community development in any large Canadian metropolitan area would lead one to conclude that Canadian Resident Associations are becoming more prevalent. One could reasonably assume that the use of Resident Associations will increase in Canada due to the general influence of American cultural and business trends on Canadian society. The rapid increase of CIDs and their affiliated Residents Associations in the United States demonstrates that the trend towards private organization is expected to strongly continue and could potentially lead to an increase of the trend in Canada.

The majority of research completed on private communities in Canada has focused on more extreme forms of private developments, such as gated communities, and little research has been completed on Canadian Resident Associations that are not structured as an entirely private

community. Research completed thus far indicates that Canadian Resident Associations tend to be less private and do not typically provide the same level of service as private communities in the United States. An example of the more limited private nature of Canadian Resident Associations is the structure of their bylaws. Although it has not been explicitly studied in depth, an overview of the litigated cases and personal study of Canadian gated communities, indicates that Resident Association bylaws in Canada are currently less extreme than in the United States (Maxwell: 3).

Another example of the more public nature of privately organized communities in Canada is the purpose or impetus for the creation of Canadian Resident Associations. In Canada, “lifestyle communities”, including retirement communities, tend to be the most common form of private community, which usually emphasize private amenities, such as lakes, golf courses and recreation facilities and generally attract people who want a higher level of services provided privately (Blakely and Snyder: 46). However, private communities in Canada are seldom developed in order to provide the additional security that is increasingly common in American Resident Associations. Gated communities tend to be the primary way that private communities in the United States attempt to provide additional security for their residents. In the United States gating demonstrates a fear of crime and a search for homogeneity in an increasingly diverse society, while in Canada gated communities arguably represent a search for privacy, exclusivity and quiet within the urban environment (Canjura and Grant, 2004: 1). It is reasonable to assume that cultural and societal differences between the United States and Canada are the primary reason that Canadian Resident Associations tend to provide fewer services, are less privately organized and less focused on security concerns than American Resident Associations.

Although private communities in Canada seemingly differ significantly from standard American Resident Associations, many issues are equally relevant in either national context. The first issue that similarly affects the residents of both Canadian and American Resident Associations is the increased restrictions associated with living in a private community. Due to Resident Associations typically not being defined as a form of government, an association’s rules are not entirely subject to the constitution in either the United States or in Canada (Maxwell: 4). Therefore, by choosing to live in a Resident Association governed community a resident agrees

to abide by the association's rules at the expense of any constitutional rights and freedoms. The restriction of a resident's rights is supported by case law in both the United States and in Canada (ibid). Since these bylaws are created by the developer before the community is developed, the lifestyle of the future residents is somewhat dictated in advance according to the developer's vision of a good community. The issues associated with voluntary consent discussed earlier also apply in the Canadian context as potential home buyers in Canada may not be fully aware of the restrictions associated with living in a Resident Association prior to purchase.

Additionally, the problems associated with restrictions instituted by a developer are exacerbated when it is very difficult for residents to amend or repeal unwanted or out of date association bylaws. In British Columbia this problem is largely alleviated because bylaw amendments are passed by a  $\frac{3}{4}$  vote of those attending an association meeting rather than a supermajority vote of all possible voters as required in many American Resident Associations (ibid: 13). However, in Alberta the more problematic American approach is generally used, in which bylaws can only be amended by a  $\frac{3}{4}$  vote of all possible voters and not just those attending a meeting (ibid). When it is difficult to change an association's bylaws, the residents may be forced to accept restrictions that would be prohibited under the Canadian constitution if they were living in a community governed exclusively by a traditional form of municipal government.

Another issue that pertains equally in Canadian and American Resident Associations is that of the rights and representation of renters. Canadian Resident Associations as in the United States are based on the principle of homeownership. However, the provinces in Canada have taken different approaches to dealing with the rights of renters living in private communities. British Columbia in particular has made efforts to protect renters living in condominiums, including bare-land condominiums, so that even short-term tenants can be assigned the owner's right to stand for a board position (Maxwell: 17). Comparatively, in Alberta there is less recognition of renter's rights as the Condominium Property Act supersedes the Residential Tenancy Act, so that an association can evict a tenant for contravening any of the association's bylaws (ibid). The issue of the rights of renters living in Residential Associations will increasingly become a more important issue in Canada as the already established private communities age and more housing becomes used as rental properties.

Gated communities are the only form of private community that have been extensively studied in the Canadian context. Researchers at Dalhousie University have identified 240 fully gated projects in Canada with more than half of the communities located in British Columbia (Grant, 2003a: 2). Generally, gated communities are the most common in the provinces, such as British Columbia and Alberta, which allow ground-oriented condominiums, while those provinces that prohibit bare-land condominiums have experienced little demand for gated communities (ibid: 7). The Dalhousie School of Planning research has primarily focused on local government responses to gated communities with regards to policy and permit approvals. The municipal response to gated communities varies considerably across Canada as some cities clearly do not want them, others have learned to live with them, some have no idea that gated projects are developing in their area and others have had no experience with them yet (Grant, 2003b). Most planners who responded to the researcher's survey stated that their communities did not have explicit policy to deal with gated communities, though nine municipalities reported local policies to regulate or limit gating (Grant, 2003a: 5). In the absence of formal municipal policy, many planners report relying on the power of persuasion to convince developers that proposals for gating are not in the public interest and would potentially slow down their applications (ibid).

There also seems to be very little interest or concern for gated communities at the provincial level of government. Most provinces do not have policies on gating and only New Brunswick with its 1969 *Condominium Property Act* prevents gating because it does not enable bare-land condominiums (ibid: 7). The lack of planning responses to gated communities in Canada indicates that they have not yet become a significant trend in Canadian cities. However, it would be prudent for local governments to implement proactive policy to limit gating in order to avoid the negative ramifications that the rapid increase of such private communities has had in American cities.

The social, economic and political impacts associated with Resident Associations in the United States are not commonly observed in Canada due to the nature of the private community trend in the Canadian urban environment. The trend towards privately organizing communities is both considerably newer in Canada and more moderate in terms of the privatization. There are simply

many fewer examples of private communities, including developer instituted Resident Associations in master planned developments, bare-land condominiums and gated communities in Canada compared to the United States. Further study of Resident Associations in Calgary in the next section will provide additional comparative analysis of the private community trend in the American and Canadian context.

## **3 The Calgary Context**

### ***3.1 Introduction to Calgary Community Organization***

#### **3.1.1 Calgary Community Associations**

Any study of community organization in Calgary must first acknowledge the extensive and well-established model of Calgary Community Associations. Historically in Calgary, Community Associations (CAs) have evolved within a given community's geographic boundary to fulfill the role of a "community-based" organization. Community residents form these associations that typically include objectives to provide local social and recreational activities, develop and maintain a community centre, and act as the political liaison between residents and local government agencies (Davies and Townshend, 1994: 1740).

Calgary may now have one of the most comprehensive and active networks of territorially-based community associations in the Western world (Davies and Townshend, 1994: 1741). The first group to function similar to a community association was in Bridgeland in 1908, which was formed to organize recreational and social activities, while the first to be called a "community association" was in Scarboro in the 1920's (Davies and Townshend, 2005: 336). By the 1930's many community groups in Calgary became formalized by registering under the Alberta Societies Act and adopted specific by-laws and constitutions (ibid). The number of Community Associations steadily increased throughout the 20<sup>th</sup> century from 41 in 1960; 67 by 1970; 100 by 1980; 123 in 1990 and 137 in 2006 so that now along with Edmonton it has a unique level of grassroots community organization in North America (ibid). Although each of the Calgary Community Associations is an independent entity, the vast majority of CAs choose to join the Federation of Calgary Communities (FCC). The FCC is a non-profit umbrella organization that was established in 1961 by 47 different associations to assist CAs in administrative matters and to foster increased communication between individual associations and local government bodies (Davies and Townshend, 1994: 1742). Calgary Community Associations are one of the primary

examples of place-based community organizations created through grass-root efforts that contrast significantly with Resident Associations created privately by the developers of new communities.

### **3.1.2 Historical Summary of Resident Associations in Calgary**

Developer instituted Resident Associations are a significant feature in Calgary's new communities. However, the Resident Association trend is not a recent creation in Calgary suburbs as their use dates back to the establishment of such groups in Lake Bonavista and Lake Bonaventure in the 1970's (Frazer-Harrison, 2005: J1). Calgary's first Resident Association community, Lake Bonavista, started development in 1968 and the maintenance of the lake and surrounding park became the responsibility of the Resident Association in 1978 (Calgary Herald, 1978: F9). The Lake Bonavista developer was inspired by the idea presented at the 1963 National Association of House Builders Conference in Chicago that 'builders could no longer simply sell houses, but must sell a lifestyle' (ibid). Keith Construction Company Ltd. used Lake San Marco in California, which had luxury homes built around a lake and included extensive amenities such as a beach, swimming pool, tennis courts and a community centre, as its precedent for Lake Bonavista (ibid). Initially in Calgary, Resident Associations were only implemented by developers for communities in the higher end of the housing market. Resident Associations were essentially a response to the additional amenities, such as lakes and upgraded parks, incorporated in high-end communities that the City was unable to operate and maintain (personal communication, November 29, 2005).

The use of Resident Associations in Calgary shifted during the period of economic recession in the 1980's. Resident Associations became viewed more as a marketing tool to generate demand in the housing market and were no longer used exclusively in higher end communities. An example of the use of a Resident Association and its affiliated amenities for marketing purposes was Carma's development of the McKenzie area in Calgary's Southeast quadrant. According to a former senior planner with the City of Calgary, Carma began development in McKenzie after the original land developer went bankrupt and decided to build McKenzie Lake in order to help sell houses in the community (personal communication, November 25, 2005). Coral Springs is another example of a Resident Association community in Calgary in which a lake was used as a

selling feature in a development that did not exclusively offer higher-end housing. The implementation of Resident Associations changed again in the 1990's in Calgary. A former senior planner with the City believes that at this time the market for lake communities was saturated, which resulted in developers providing community facilities through the Resident Association instead of large recreational amenities (ibid). Examples of developer instituted Resident Associations that provide community facilities without a corresponding large recreational feature, include Tuscany, Crestmont and Rocky Ridge Ranch. The use of Resident Associations has shifted considerably over time in Calgary as they were originally used for the management of large amenities, but are now also created for smaller functions, such as the maintenance of community facilities and open space.

### **3.1.3 Present State of Resident Associations in Calgary**

Currently, a Resident Association is established in almost every new suburban community. An estimated twenty-three Resident Associations are presently operating in Calgary, although there may be several small Resident Associations within the city boundaries that are difficult to identify due to their limited operating capacity. Additionally, two community-sized bare-land condominiums, Elbow Valley and The Lake at Heritage Pointe, have recently been developed in close proximity to Calgary and both have Resident Associations in place to serve as the self-governing organization. The increasing use of Resident Associations in new Calgary communities was confirmed in the stakeholder interviews, as every respondent stated that they thought there was an increased focus on creating Resident Associations in Calgary.

Even though the various stakeholders unanimously agree that the Resident Association trend in Calgary is increasing, the reason for their growth is contentious. Many interview respondents disagreed as to why Resident Associations are becoming more common in Calgary. Their reasons are shown in Table 2. Six of the respondents thought that the increase of Resident Associations was due to developers, while three respondents stated that the City was responsible due to downloading services, seven stakeholders cited market demand, and six respondents thought that a mix of these factors accounted for the Resident Association trend.

<b>Developer Driven</b>	<b>City Downloading</b>	<b>Market Demand</b>	<b>Mix of Factors</b>
<b>6 (27%)</b>	<b>3 (14%)</b>	<b>7(32%)</b>	<b>6(27%)</b>

n=22

Of the respondents who attributed the growth of Resident Associations to developers, many viewed Resident Associations as a marketing tool. The amenities provided privately in a Resident Association community serve as a selling feature for the developer because they are often additional to what is offered in many older Calgary neighbourhoods and can be provided by the developer very early in the development process. According to one City employee, providing Resident Association amenities on private land, usually through a Direct Control site, allows the developer to be relatively unconstrained from the City system making it much easier to develop extra features to create a marketing advantage (personal communication, November 16<sup>th</sup>, 2005). Several of the interviewed stakeholders thought that consumer demand for the additional amenities in Resident Association communities was the primary reason for the trend in Calgary. For example, one development industry stakeholder commented that homeowners generally demand certain lifestyles and developers have the ability to meet the consumer demand for conveniently located community amenities through the use of Resident Associations (personal communication, November 22<sup>nd</sup>, 2005).

The respondents who attributed the growth of Resident Associations to the City of Calgary, typically believed that Resident Association development stemmed from the inability or unwillingness of the City to pay for amenities in new suburban areas. For instance, one developer respondent thought that the apparent under-funding of community amenities by the City makes it necessary for the community residents, through the auspices of the developer established Resident Association, to pay for the operation and maintenance of the community’s amenities (personal communication, November 29<sup>th</sup>, 2005). Some City of Calgary representatives suggested that the growth of Resident Associations is due to City policy to decrease maintenance costs and reduce taxes (personal communication, November 25<sup>th</sup>, 2005). This downloading of City services has resulted in Residents Associations in Calgary no longer being used just for large, community-scale amenities, but also for smaller functions, such as the maintenance of entrance features and park space. The number of Resident Associations is

increasing in Calgary as they are now implemented for a variety of purposes, which has created a wide range in the roles of various Resident Associations in new communities.

### ***3.2 The Roles of Resident Associations and Community Associations in Calgary***

#### **3.2.1 The Roles of Community Associations in Calgary**

Calgary Community Associations essentially attempt to identify and serve the needs of the community. Often the role of each Community Association is dependent upon the local community context and the age of the community as typically newer communities with more young children emphasize a recreational provision role while inner city communities have more of a political and advocacy role (personal communication, November 25<sup>th</sup>, 2005). The interviewed stakeholders tended to identify three key roles of Calgary Community Associations, including serving as a community focal point, providing recreational and social programming and representing the interests of the community.

One of the key roles of Calgary Community Associations is to contribute to a community's identity. Community Associations were described as providing a cohesive element for the community that serves to pull the community together (personal communication, November 22<sup>nd</sup>, 2005). Another stakeholder interview stated that Community Associations are a natural focal point for a community, which is most evident during difficult circumstances like the Hub Oil explosion or flooding in 2005 (personal communication, January 27<sup>th</sup>, 2006). A core function of Calgary Community Associations is to generate a greater sense of community.

A second essential role of Calgary's Community Associations is the provision of social and recreational programs. In the City of Calgary's 2005 survey that explored the roles of both Community and Resident Associations, the majority of community respondents believed the primary role for Community Associations involved recreation provision for the community, whether it was by providing a venue for the programs or running the actual programs themselves (Community & Neighbourhood Services, June 2005). The form of recreational delivery by Community Associations has changed since their original inception. Community Associations

now do not tend to provide recreational and social programs on their own, but typically collaborate with other groups to provide the services on a more regional level (personal communication, January 27<sup>th</sup>, 2006). The roles of Community Associations have evolved beyond only providing recreational services as they now have an increased representative role.

Currently in Calgary, Community Associations have become politically active and engage in more of an advocacy role than in the past (personal communication, January 17<sup>th</sup>, 2006). Many stakeholders mentioned that a primary role of Community Associations is to represent the community interests and serve as a voice for the community. For example, the Arbour Lake Community Association describes its primary responsibility as representing the wishes of the community in all civic issues, including transportation, planning, development and law enforcement ([www.calgaryarea.com/nw/arbourlake/communitynews/amenities.htm](http://www.calgaryarea.com/nw/arbourlake/communitynews/amenities.htm)). According to one community representative, a Community Association serves as a filter for community concerns in order to effectively represent the community's residents (personal communication, November 23<sup>rd</sup>, 2005). The formally recognized representative role of Community Association is one element that makes them distinct from Resident Associations in the Calgary context.

### **3.2.2 The Roles of Resident Associations in Calgary**

Resident Associations originally had a very limited mandate in Calgary as they were initially only responsible for the management and maintenance of Resident Association owned assets. Many of Calgary's older Resident Associations, such as Lake Bonavista, are only responsible for the operation of private lakes and adjacent park spaces. A representative from Coral Springs stated that the role of the Coral Springs Resident Association is restricted to what is inside the fence of the Resident Association property and that they do not deal with community wide issues (personal communication, November 30<sup>th</sup>, 2005). Also, the City of Calgary survey results indicate that the primary role of Calgary Resident Associations continues to be the maintenance and management of the extra amenities left behind by the developer, which can include lakes, park spaces and entrance features (Community & Neighbourhood Services, June 2005).

However, the role of many of the new Resident Associations in Calgary is expanding, especially when the developer provides a community facility. Now that developers are building community

facilities in many new communities, the Resident Associations are expanding their role to include social and recreational programming. Developers are often hiring coordinators for their Resident Association facilities who are responsible for organizing events and activities (personal communication, December 21<sup>st</sup>, 2005). Rocky Ridge Ranch is an example of such a community where programs delivered out of the community centre include - Mom and Tots, Urban Dance Projects and Family Karate ([www.rrrha.ca](http://www.rrrha.ca)). Crestmont is another example where the Resident Association has assumed responsibility for organizing community events, such as a Stampede breakfast, teen night, summer picnics and family skating parties ([www.crestmont.ca](http://www.crestmont.ca)). These programs and services are very similar to the traditional recreational roles of Community Associations in Calgary.

The expanding roles of Resident Associations often overlap with the traditional roles of Community Associations, especially when they are both located in the same community. Historically in Calgary, Resident and Community Associations located in the same geographic area have complemented each other well if they assumed distinct roles. The Resident Associations were generally responsible for the maintenance of their assets and the Community Association was responsible for broader community-wide issues. For example, one interview respondent referred to the Resident Association role as focused on the management of the community's 'hard assets', while the Community Association's role is to manage the community's 'soft assets', such as recreation and social activities (personal communication, December 8<sup>th</sup>, 2005). Table 3 shows that the majority of interview respondents (fourteen) believe that Resident and Community Associations can function in the same geographic area, but one respondent felt they definitely could not function in the same community and seven respondents believed that they can only somewhat operate in the same area effectively. Additionally, ten respondents described the roles of Resident and Community Associations as complementary, while six thought their roles were clearly competing and another six thought their roles were somewhat competing.

<b>Table 3: Resident &amp; Community Associations in the Same Geographic Area</b>		
<b>Can Resident &amp; Community Associations function effectively in the same area?</b>		
Yes	No	Somewhat
<b>14 (64%)</b>	<b>1 (5%)</b>	<b>7(32%)</b>
<b>The roles of Resident &amp; Community Associations in the same area?</b>		
Competing	Complementary	Somewhat
<b>6 (27%)</b>	<b>10 (45%)</b>	<b>6(27%)</b>

n=22

Many of the stakeholders who thought they could function effectively in the same geographic area mentioned that a complementary relationship was possible largely as a result of clear mandates. According to one Community and Neighbourhood Services representative, if the Resident and Community Association have clearly defined roles they are often both able to operate within the same community (personal communication, December 1<sup>st</sup>, 2005). The interview respondents who described the roles of Resident and Community Associations as competing tended to highlight the fact that both groups rely on volunteers to operate and that Resident Associations have a distinct advantage due to their guaranteed funding source. Many of the stakeholders also mentioned that confusion is created amongst the residents in understanding the differences between a Resident and Community Association when they are located in the same community. Even if the groups may not have competing roles, the community residents often perceive the Community and Resident Association as competing organizations (personal communication, December 5<sup>th</sup>, 2005).

### 3.2.3 Resident Associations as a Representative Organization in Calgary

Resident Associations are also increasingly involved in representing the community’s interests, especially when they are located in a new community that does not have a Community Association. According to one City employee, Resident Associations are serving more as a voice of their community and Aldermen are paying more attention to Resident Associations than they have in the past (personal communication, January 17<sup>th</sup>, 2006). This statement is supported by the fact that the Resident Association newsletters in Tuscany, Cranston, New Brighton and Crestmont, which are published by the developer, include update letters from the area aldermen. The Resident Association in Crestmont has also attempted to create a Planning and Development Steering Committee as an “alternative to a Community Association” (Crestmont Courier, August/September 2005). The purpose of the Steering Committee is to act as a unified voice to represent the best interests of Crestmont residents with regards to planning issues. The Crestmont

group is now formally recognized by the area Alderman and is receiving development circulations. These examples demonstrate that Resident Associations in new Calgary communities are striving to fulfill a representative role similar to that of Community Associations in the established areas of the city.

Whether or not Resident Associations in Calgary should function as a representative body for the community is a contentious issue as illustrated in Table 4. Eleven of the stakeholders interviewed thought that Resident Associations could have a representative role with municipal government, while four respondents thought they should not have a representative capacity and six believed that they could be representative only if their organizational structure was modified. Several of the respondents who thought that Resident Associations could have a representative role believed that the mandatory membership required in a Resident Association allows for better representation. Another respondent believed that Resident Associations could have a representative role if they work in conjunction with existing Community Associations (personal communication, January 18<sup>th</sup>, 2006).

<b>Table 4: Representative Role for Calgary Resident Associations</b>		
<b>Should RAs be a representative group? n=21</b>		
<b>Yes</b>	<b>No</b>	<b>Perhaps with modification</b>
<b>11 (52%)</b>	<b>4 (19%)</b>	<b>6(29%)</b>

### 3.2.4 Resident Associations and Restrictive Covenants in Calgary

Typically Calgary developers are responsible for establishing and enforcing a community’s Restrictive Covenants\* (RCs), such as architectural controls, while an area is being built-out. In Wentworth, a new community in Calgary’s southwest, the RCs on the title of each property determine what is permitted on a lot. The developer of Wentworth claims that RCs are for the benefit of the entire community because they maintain property values in the community ([www.dundeeresidents.com/wentworth](http://www.dundeeresidents.com/wentworth)). Restrictive Covenants in Wentworth include restrictions on the condition of the house, yard and fences and ensures that any proposed changes to the external structures on a lot are approved by the Architectural Control Committee (ibid).

\* Restrictive Covenants are similar to Covenants, Conditions and Restrictions (C,C&Rs) in the United States discussed in the previous chapter

Similarly, the RCs in Chaparral include restrictions on the use of private property in the community beyond that in City of Calgary bylaws. A developer representative states that the RCs in Chaparral include additional controls on RV parking, free standing out-buildings, landscaping guidelines and additional setback requirements from open space (personal communication, December 8<sup>th</sup>, 2005).

Calgary developers typically do not empower Resident Associations with the responsibility for enforcing the community’s RCs after build-out, which is a typical role for American Resident Associations. In order for a Calgary Resident Association to become responsible for enforcing architectural controls, the guidelines have to be included in the encumbrance on each property and enforcement responsibility included in the Resident Association bylaws. Since it is currently uncommon for Calgary Resident Associations to assume responsibility for enforcing a community’s RCs the enforcement usually defers to each individual resident (ibid). Hampton’s is one of the few established Resident Associations in Calgary that is explicitly responsible for ensuring architectural controls are followed (personal communication, November 29<sup>th</sup>, 2005). The stakeholder interviews revealed that it is unclear whether or not Resident Associations should have the responsibility for enforcing architectural controls. Table 5 shows that eight of the interview respondents thought that Resident Associations should enforce architectural controls; five respondents thought they should not enforce the controls and six believed they could potentially be responsible for enforcing architectural controls in their community.

<b>Table 5: Calgary Resident Associations and Architectural Controls</b>		
<b>Should RAs be responsible for enforcing architectural controls? n=19</b>		
<b>Yes</b>	<b>No</b>	<b>Maybe</b>
<b>8 (42%)</b>	<b>5 (26%)</b>	<b>6 (32%)</b>

Many of the stakeholders who expressed reservations about Resident Associations assuming responsibility for architectural control enforcement suggested that it would be a very difficult role and consistent enforcement would be problematic. However, one of the respondents who thought that Resident Associations could potentially enforce architectural controls stated that a community group would probably be more objective and less agenda driven than enforcement by individual residents (personal communication, November 22<sup>nd</sup>, 2005). The limited role of

enforcing RCs currently in Calgary Resident Associations is one major difference between the role of Resident Associations in Calgary and United States.

### ***3.3 Comparing the Roles of Resident Associations in Calgary and the United States***

Resident Associations in Calgary offer considerably fewer services than are typically provided in American private communities. As mentioned in the previous section, Resident Associations in the United States often provide such services as snow removal, garbage/recycling pickup, street lighting, street repairs as well as being responsible for the maintenance of amenities and open space within the community. Additionally, many private communities in the United States focus on ensuring the security of the community through access control measures like gating or an extra security presence beyond the public police. Calgary Resident Associations typically do not provide these additional services, though a few Resident Associations are providing extra maintenance and landscaping for the public open space in their community. For example, the Tuscany Resident Association has assumed the responsibility for maintenance of the parks in their community through an Optional Amenity Agreement with the City (personal communication, November 15<sup>th</sup>, 2005). In an Optional Amenity Agreement the City pays the Resident Association the rate for the standard service level and the association assumes responsibility for any costs for additional maintenance. Table 6 demonstrates that the stakeholder interview respondents were quite divided on whether or not Resident Associations in Calgary could be responsible for additional services, such as snow removal, garbage or recycling pickup, street lighting improvements, street repairs and security. Street repair was the service that the majority of respondents felt most strongly should not be the responsibility of Resident Associations. Comparatively, grass cutting on public land, which is already done in several Calgary Resident Associations, was the service that most respondents felt could be the responsibility of Resident Associations. There was a much more even split amongst stakeholders on whether or not Resident Associations should be responsible for providing the service, such as security, street lighting improvements and snow removal.

<b>Table 6: Service Provision of Calgary Resident Associations</b>		
<b>Should RAs be responsible for: n=22</b>		
<b>Grass Cutting on Public Land</b>		
YES	NO	MAYBE
<b>17 (77%)</b>	<b>3 (14%)</b>	<b>2 (9%)</b>
<b>Snow Removal</b>		
YES	NO	MAYBE
<b>11 (50%)</b>	<b>4 (18%)</b>	<b>7 (32%)</b>
<b>Garbage/Recycling Pickup</b>		
YES	NO	MAYBE
<b>5 (23%)</b>	<b>14(64%)</b>	<b>3 (14%)</b>
<b>Street Lighting Improvements</b>		
YES	NO	MAYBE
<b>11 (50%)</b>	<b>8 (37%)</b>	<b>3 (14%)</b>
<b>Street Repairs</b>		
YES	NO	MAYBE
<b>3 (14%)</b>	<b>16(73%)</b>	<b>3 (14%)</b>
<b>Security</b>		
YES	NO	MAYBE
<b>11 (50%)</b>	<b>5 (23%)</b>	<b>6 (27%)</b>

The services that are often provided by American Resident Associations are commonly the responsibility of bareland condominiums in Calgary. Several of the interview respondents stated that their answers would probably have been different if they pertained to a bareland condominium situation rather than the current model of Calgary Resident Associations. In the Calgary context Resident Associations and bareland condominiums are very different in terms of their structure and roles. According to one developer representative, bareland condominiums focus much more on governance, enforcement and operational roles, while Resident Associations tend to still serve more of a recreation function in Calgary and have little control over the entire community (personal communication, November 22<sup>nd</sup>, 2005). Resident Associations typically rely on City bylaws to regulate the use of property while bareland condominiums have the ability to implement additional rules of use. The prevalence of bareland condominiums in Calgary represents a potential shift towards more of an American style private community organization.

### ***3.4 Bareland Condominiums in Calgary***

In a bareland condominium all the structures are individually owned and the land is owned in common by the residents. A bareland condominium automatically operates with a governing body similar to a Resident Association that is responsible for the maintenance of all the common land, including all open space, streets and sidewalks. Bareland condominium Resident Association boards are responsible for providing all the condominium's essential services, such as garbage pickup and street maintenance. In a bareland condominium additional controls, such as architectural controls and restrictions on the use of one's property, can be implemented and the condominium board is responsible for monitoring and enforcement. For example, in Tanglewood, which is a bare-land condominium within the Tuscany community in Calgary's northwest, the condominium has banned parking cars on all the streets (personal communication, November 22<sup>nd</sup>, 2005). The Slopes Community Association, which governs a bareland condominium in Calgary's southwest, has also established rules and bylaws that all residents and visitors must abide by while on the property. However, all of the controls associated with a bareland condominium have to be included in the condominium's bylaws and cannot conflict with the requirements of the Alberta Condominium Property Act. A development industry representative stated that they are attracted to the bareland condominium model in new communities because it allows a developer to have greater flexibility in designing a community as they are less hindered by City of Calgary rules (personal communication, December 14<sup>th</sup>, 2005). City planning staff stated that bareland condominium developments are currently treated as another form of subdivision and that there is not a lot of formal policy in existence regarding guidelines for bareland condominiums (personal communication, November 29<sup>th</sup>, 2005).

Large, community-sized bareland condominiums are currently not common within the City of Calgary boundaries, though there are two, Elbow Valley and the Lake at Heritage Pointe, in very close proximity to the city limits. Both of these developments were established as private communities and essentially operate independently from the Municipal Districts of Rocky View and Foothills respectively. Elbow Valley was developed as a series of bareland condominiums and the developer established a Resident Association, the Elbow Valley Residents Club, as an umbrella organization for each individual condominium. The separate condominium boards in Elbow Valley each have their own bylaws to govern their operations, which include matters such

as home upkeep, pet management, garbage storage and collection and sign controls, while the Elbow Valley Residents Club is responsible for the maintenance of the major amenities in the community including roads, parks, lakes and the community centre area (Elbow Valley Purchaser Handbook, 2003: 11). Elbow Valley also has a private security service which patrols the community daily in the evening hours ([www.elbowvalley.com](http://www.elbowvalley.com)). Heritage Pointe is structured similar to many American private communities as its Resident Association is responsible for the maintenance of common areas, community amenities and *infrastructure* ([www.heritagelake.ca/community](http://www.heritagelake.ca/community)). The Resident Association in Heritage Pointe also operates a Community Care program that “promotes positive practices and demands conformance to guidelines, policies, standards and bylaws established for the betterment and well-being of the community” ([www.heritagelake.ca/community/care/index.php](http://www.heritagelake.ca/community/care/index.php)). The developer of Heritage Pointe has also instituted strict architectural controls that dictate the architectural and landscape elements required for each home site. Both of these bareland condominiums are larger than any currently located within the city boundaries; however, with future annexation they could both be incorporated within the City of Calgary. It would then become imperative to determine how these communities would relate with the City in terms of service provision and public access. The presence of such community sized bareland condominiums in the Calgary region indicates that there is a certain level of market demand for the exclusivity typically associated with American style Resident Associations.

The use of access controls, such as gated communities which can only be created under a bareland condominium form of development in Calgary, creates another contentious issue when communities are developed privately. According to one City planner, little formal policy concerning gated communities exists in Calgary; however, the Planning Department generally opposes gating based on good planning principles and would strongly discourage a bareland condominium from implementing such form of access control at the entrance to the community (personal communication, November 29, 2005). There are currently very few gated areas in Calgary and none at a large community scale. However, a small gated community called Spring Valley Lane is currently being developed in the city’s southwest. Spring Valley Lane is conceived as a community that offers unprecedented security for its residents and according to the developer a gated entrance was implemented to increase the privacy of the properties (Spring

Valley Lane, 2005: 30). The use of an American style gated community in Calgary demonstrates that developers in Calgary are potentially interested in pursuing development forms similar to the private community trend readily apparent in the United States.

### 3.5 Organizational Issues Associated with Resident Associations in Calgary

#### 3.5.1 Organizational Structure of Calgary Resident Associations

Similar to Resident Associations in the United States, it is often unclear if Resident Associations in Calgary should be classified as a business or a form of government. The ambiguity of Resident Associations both in Calgary and the United States makes it difficult to determine the appropriate roles of the organizations and limits of their responsibility. The stakeholder interview results confirm the ambiguous nature of Calgary Resident Associations. Table 7 shows that two respondents classified them as a form of government, eight stated they functioned as a business, five viewed them as a non-profit group and six respondents thought that Resident Associations represented a mix of the three classifications.

<b>Table 7: Organizational Structure of Resident &amp; Community Associations</b>				
<b>Resident Association n=22</b>				
Government	Business	Non-Profit	Mix	None
2 (9%)	8 (36%)	5 (23%)	6(27%)	1 (5%)
<b>Community Association n=17</b>				
Government	Business	Non-Profit	Mix	None
2 (12%)	1 (6%)	12 (71%)	2(12%)	0 (0%)

The City of Calgary and community representatives were the most likely to classify Calgary Resident Associations as a form of business, while developer representatives tended to consider them non-profit groups. One City of Calgary representative classified Resident Associations as a form of business because she thought they functioned like a management company since they provide a defined service, collect mandatory fees and contract out services to other for-profit businesses (personal communication, December 15<sup>th</sup>, 2005). Alternatively there was considerable less division when the stakeholders were asked how they would classify Calgary Community Associations. Twelve respondents classified them as a non-profit group, only two respondents classified them as a form of government, one stated they were most similar to a business and two thought Community Associations were a mix of the three classifications. The

interview results clearly indicate that even informed stakeholders disagree over how Resident Associations should function and the role they should assume in the community.

The organizational structure and classification of Resident Associations as a non-profit group, business or form of government is also largely dependent on how they are legally incorporated. Many of the stakeholders were unsure how Resident Associations were incorporated and several respondents simply assumed they were incorporated under the Societies Act similar to Community Associations. The reason why many stakeholders were unclear of the incorporation status of Resident Associations is that in Alberta they can be incorporated under either the Societies Act or Companies Act of Alberta. In Calgary, fifteen Resident Associations are incorporated under the Companies Act and ten Resident Associations are incorporated under the Societies Act (refer to Table 8). The older Resident Associations in Calgary, like Lake Bonavista and McKenzie Lake, tend to be incorporated as Public Companies, while several of the new Resident Associations, including Crestmont and Wentworth, are incorporated under the Societies Act.

	<b>Societies Act</b>	<b>Companies Act</b>
<b>1</b>	Douglasglen	Lake Bonavista
<b>2</b>	Diamond Cove	Lake Bonaventure
<b>3</b>	Springbank Hill	Midnapore
<b>4</b>	Springside	Parkland
<b>5</b>	Wentworth	McKenzie Lake
<b>6</b>	Crestmont	Sundance
<b>7</b>	Hampton's	Coral Springs
<b>8</b>	Douglasdale	The Uplands in Hawkwood
<b>9</b>	<i>Elbow Valley*</i>	Chaparral
<b>10</b>	<i>Heritage Pointe*</i>	McKenzie Towne (Elgin, Inverness, Prestwick)
<b>11</b>		Cranston
<b>12</b>		New Brighton
<b>13</b>		Tuscany
<b>14</b>		Rocky Ridge Ranch#
<b>15</b>		Arbour Lake

\*Elbow Valley and Heritage Pointe are bareland condominiums outside the City of Calgary boundaries  
 #Rocky Ridge Ranch has reportedly changed the association’s bylaws to incorporate under the Societies Act

The developer of a Resident Association community can choose to incorporate it as either a public company or as a society, even though until build-out is complete the development company controls the operation of the Resident Association board. The inconsistent

incorporation of Resident Associations contributes to the wide range of roles, varying from merely managing the maintenance of amenities to representing residents, exhibited by various Resident Associations in Calgary.

### **3.5.2 Representation in Calgary Resident Associations**

Renters living in Calgary's privately organized communities are typically not represented by the Resident Association since Resident Association membership is based exclusively on home ownership. In Calgary, the right of a renter to access Resident Association amenities and serve on the association's board depends on the Resident Association bylaws. Typically, a renter can be assigned access privileges by the owner of a property, but will not have voting rights for the association's board activities. For example, in Carma Resident Associations there is a tenant registry that provides tenants with access privileges, but only association members (i.e. owners) are allowed to serve on the board (personal communication, November 29<sup>th</sup>, 2005). The Arbour Lake Resident Association for instance mandates that owners must choose whether they will assign access privileges to the property renters or if they will maintain their lake privileges ([www.arbourlake.com/aboutus.html](http://www.arbourlake.com/aboutus.html)). Typically the only way for a renter to participate on a Resident Association board is through a proxy vote assigned to them by the property owner. The organizational structure of Calgary Resident Associations is based on homeownership, which results in the under-representation of renters living in such a community.

## **3.6 Potential Impact of Resident Associations in Calgary**

### **3.6.1 Economic Impacts of Calgary Resident Associations**

Resident Associations in Calgary have a limited economic impact compared to the economic influence the private community trend has had in the United States. The development of Resident Associations in Calgary has not resulted in competition with the economic resources of the local government. The concern of 'double taxation' for Resident Association residents in the United States is not as significant an issue in Calgary. Several of the interview respondents thought that 'double taxation' is not an important issue in Calgary because Resident Association residents primarily pay for extra amenities or services that would not normally be provided in a community without a Resident Association. These respondents considered it fair that a Resident

Association resident should have to pay privately for extra services or amenities that are not generally provided by The City. However, the ‘double taxation’ issue is more contentious in a bareland condominium situation where the condominium residents are required to pay for services traditionally provided by the local government. Bareland condominium residents in the Calgary region have to pay for the private provision of services, such as garbage pickup and street repairs, in addition to the standard tax rate applicable to all residents in the municipality. According to one interview respondent, the residents of Elbow Valley have been seeking a tax reduction from the Municipality of Rocky View to compensate for the services provided privately in the community (personal communication, November 22<sup>nd</sup>, 2005). If additional large bareland condominiums are developed in the Calgary region or if Elbow Valley and Heritage Pointe are annexed into the City boundaries, the concern for ‘double taxation’ and its corresponding economic impact could become a contentious issue.

### **3.6.2 Social Impacts of Calgary Resident Associations**

As discussed in the literature review section of the report (Sec. 2.6.1), Resident Associations in the United States are often criticized for resulting in an increase of social segregation in the urban environment. The social impacts of Resident Associations in Calgary can potentially occur at both a community and city-wide scale. Social segregation could result at a community level if a community district contains multiple Resident Associations that provide a varying degree of service or if a community has both Resident Association and non-Resident Association areas. Tuscany was cited by several of the interview respondents as an example of a community that has had problems dealing with community division, since the Tuscarora area of Tuscany is not a part of the Tuscany Resident Association. The Uplands in Hawkwood is an example where a relatively small portion of the community has a Resident Association and an exclusive recreation centre that is not accessible to general Hawkwood residents. Rocky Ridge is an example of a Calgary community with multiple Resident Associations located within the community boundaries that provide a range of services, including the Rocky Ridge Ranch Resident Association that offers programs out of their facility and the Cascades Resident Association that only offers additional landscaping maintenance. Multiple Resident Associations within a single community are a result of fragmented land ownership as developers establish independent Resident Associations for the land they own and plan to develop. Social segregation is possible

at a city-wide level due to the extra amenities and exclusive nature of Resident Associations that are not associated with traditional Calgary communities.

The results of the stakeholder interviews indicate that social segregation resulting from Resident Associations is a pertinent issue in Calgary. Table 9 reveals that the majority of respondents indicated that social segregation is occurring at the community scale and slightly fewer respondents thought that social segregation is evident at the city-wide level.

<b>Table 9: Social Impact of Calgary Resident Associations</b>		
<b>Community level social segregation? n=20</b>		
Yes	No	SOMEWHAT
<b>12 (60%)</b>	<b>5 (25%)</b>	<b>3(15%)</b>
<b>City-wide level social segregation? n=21</b>		
Yes	No	SOMEWHAT
<b>10 (48%)</b>	<b>7 (33%)</b>	<b>4(19%)</b>

Several of the respondents who thought that Resident Associations contribute to social segregation at the community level believe that the exclusive nature of Resident Association amenities creates a sense that those residents are an elitist group. A specific example of social division apparent at the community level cited by a former resident is an anecdote about the daughters of a board member of the Tuscany Community Association who were not allowed to play in the Resident Association park with their friends because they lived in Tuscarora even though they lived only a few blocks away and went to the same school as their friends (personal communication, November 15<sup>th</sup>, 2005). One respondent also stated that social segregation occurs at the city-wide level due to the status symbol of Resident Associations (personal communication, November 16<sup>th</sup>, 2005). A potential hierarchy may be created between Resident Associations that have extra features and those communities that do not have additional amenities and services. Those respondents who thought that Resident Associations somewhat contribute to social segregation at both the community and city-wide level tended to indicate that Calgary Resident Associations have the potential to create such a social impact, but that it has not yet occurred. Several of these respondents commented that increasingly privatized Resident Associations, such as bareland condominiums, would probably result in greater levels of social segregation.

Lastly, many of the stakeholders who do not believe that Resident Associations contribute to social segregation stated that inequities already exist between Calgary neighbourhoods due to the City's market based property tax assessment. A common example cited by these respondents was that upper Mount Royal does not have a Resident Association, but that it appears significantly different than Forest Lawn. Several stakeholders also mentioned that Resident Associations do not contribute to social segregation because these communities have segments of starter, move-up and estate housing as well as various forms of multi-family housing (personal communication, November 29, 2005). However, as mentioned in the literature review (Section 2.6.4) it is likely that social or non-market housing would be strongly resisted in a Resident Association community. The social impact of the Resident Association trend in Calgary will only be fully observable in the long-term. Since Resident Associations, particularly bareland condominiums similar to Common-Interest Developments in the United States, are relatively new to Calgary it will take time to determine the extent of the social segregation associated with the private community trend.

The stakeholder interview results allow for a number of conclusions to be made regarding the status of Resident Associations in Calgary. From these conclusions several recommendations are put forward that present possibilities for improving on the Calgary Resident Association situation and opportunities for further evaluation of the trend so that we can avoid the negative ramifications associated with many American forms of private communities.

## **4 Conclusions**

### ***4.1 Status of Resident Associations in Calgary***

The relationship between Resident Associations and Community Associations in Calgary was originally very complementary. Older Resident Associations tend to only provide services for a community's extra amenities and have a clear mandate restricted to the management of the Resident Association's assets. However, the expanding role of many Resident Associations, including social programming and community representation, has created a more competitive relationship between existing Resident Associations and Community Associations in Calgary. Currently, when Resident and Community Associations are located in the same community they function most effectively when there are open lines of communication between the two groups. Several stakeholders mentioned that communication allows for mutual understanding of each organization's roles, which is essential for a Resident and Community Association to function effectively in the same geographic area.

The expanding role of many new Resident Associations has lessened the need for a Community Association in several new Calgary communities. In communities, such as Crestmont and Cranston, a Community Association may never be created by the community residents because the developer established Resident Associations already achieve many of the CA roles, including offering social programs, operating a Block Watch and representing the community. It remains imperative that the City encourages the grassroots community networking and representative role of Community Associations in new communities. Future Resident Associations could evolve into a Community Association capacity if they are structured differently. The name of the group that accomplishes the community organization role of Community Associations is unimportant, but it is imperative that an association exists in all Calgary neighbourhoods that can adequately respond to the needs of community residents. Four limits to the current organizational structure of Calgary Resident Associations need to be addressed before they can match functions provided by established Community Associations. If the following limitations are adequately addressed,

modified Resident Associations could potentially serve in a similar capacity as traditional Community Associations in new Calgary communities.

## ***4.2 Resident Association Limitations***

### **4.2.1 Private Nature of Resident Associations**

The current structure of Resident Associations allows them to provide many of the same social and recreational opportunities as Community Associations, but in more of a private and exclusionary form. Recreational and social programs operated from a Resident Association facility are more exclusive because they are usually only accessible to association members and not the general public. Since Resident Association facilities are built on private land they are not required to adhere to the City's Public Use Policy, which applies to all community buildings developed on public land. The City's Public Use Policy requires that community facilities, including all Community Association buildings, built on City owned land offer access to the general public for 50% of the facility operating time or by offering access membership to any citizen of Calgary. However, many new communities in Calgary currently have private club community centres that are not publicly accessible for all Calgarians. In order for a Resident Association facility to serve as a truly public asset, similar to a Community Association building, it would have to meet the requirements of the City's Public Use Policy.

### **4.2.2 Resident Association Boundary Issues**

The function of a Resident Association is severely limited when an association's boundaries do not correspond with the general community boundaries. The boundary issues primarily result from fragmented ownership in which each land owner in an area establishes a separate and distinct Resident Association for their development. Fragmented ownership can create multiple Resident Associations in one community, such as in Rocky Ridge, or can result in only certain areas of the community being part of a Resident Association, which has occurred in Tuscany, Lake Chaparral and McKenzie Lake. When Resident Association boundaries do not coincide with the community district boundaries it creates the potential to divide a community. This division is especially pertinent if each Resident Association provides a different level of

amenities and services, which can produce inequities within a single community. This inequity must be limited as much as possible in all new Calgary communities.

#### **4.2.3 Disparity of Resident Association Roles**

Resident Associations in Calgary differ greatly in terms of their service and program provision. Many new Resident Associations function similarly to a Community Association by offering social programming while others have a very limited mandate, such as only being responsible for landscaping maintenance. Community Associations also differ from each other in terms of their service provision due to the different population and age of many established communities. However, differences in service and programs in Community Associations are largely determined by community residents, whereas the disparity between Resident Associations is a result of decisions made by developers. The future roles of Resident Associations are primarily determined by developers at the outset of development through the association's bylaws and incorporation status. Inconsistent incorporation contributes to the varying level of services provided by Resident Associations in Calgary. According to one stakeholder, there is little evaluation in the application process for the Societies Act. To register a Resident Association as a non-profit society a developer only needs to demonstrate in generic terms that the organization is structured to benefit society (personal communication, December 5<sup>th</sup>, 2005). Incorporation of Resident Associations under the Societies Act creates the contentious issue of public money supporting a privately established group through various grants, such as the Alberta government's Community Facility Enhancement Program. The inconsistency of Resident Association bylaws and incorporation status should be examined if they are to function similarly to Community Associations in established communities.

The disparity of Resident Association responsibilities is also largely due to market demand. A developer typically creates a Resident Association to accommodate a particular market demand, such as demand for a lake or upgraded park space in the community. Comparatively, the role of a Community Association is determined by the desires of the community residents. Originally in new Calgary communities, if the residents wanted a recreational centre and children's playground in the community then a Community Association would be formed in order to enable

the provision of those facilities. The benefit of the Resident Association model in new communities is that facilities are provided earlier in the community's development and the facilities have a guaranteed source of operational revenue. However, the greatest potential drawback with the Resident Association model is when multiple Resident Associations located within one community have disparate roles. When Resident Associations in one community provide different levels of service, a 'have' and 'have-not' situation can be created that may detract from a community's cohesiveness.

#### **4.2.4 Representative Capacity of Calgary Resident Associations**

The implications of the limited representative role of Resident Associations need to be acknowledged. Firstly, when the Resident Association boundaries do not correspond with broader community boundaries, representation is fragmented into smaller geographic areas. This scenario undermines the ability to create one, overseeing community organization. When multiple Resident Associations located in a community approach issues separately, inconsistencies on certain issues may arise, which would limit the effectiveness of resident representation.

The second limit to Resident Association representation primarily concerns development issues. Since the developer is the majority land owner in the community during the build-out phase of development they can hold the majority of positions on the Resident Association's board. Therefore, while a community is being developed the Resident Association could primarily represent the developer's interests and may not effectively represent the residents on development issues.

The third limiting factor of Resident Associations representative role is that they only represent the homeowners in a community and exclude the interests of renters. A Resident Association's mandate would have to include representation of all residents and provide renters voting rights in order for the organization to be truly representative. Renters are essentially disenfranchised from the community decision-making process in a Resident Association neighbourhood unless the property owner decides to grant the rights affiliated with association membership. Therefore, the rights of renters in a Resident Association is dependent upon the motivation of the property

owner as homeowners are generally not required to grant access or voting privileges. Property owners may be disinclined from granting access and voting rights if they are forced in turn to give up their own privileges. The dependency of renter rights on the will of property owners has not yet become a significant issue in the majority of Calgary Resident Associations. However, as Resident Association communities in Calgary age more of the housing stock will be used as rental properties and the rights of renters will likely become a contentious issue. Resident Associations need to modify their mandate if they are going to serve the same representative role in many new communities that Community Associations typically fulfill.

## 5 Recommendations

### 5.1 Relationship of Existing Resident & Community Associations

Recommendations to improve the current relationship of Resident Associations and Community Associations located in the same community include:

1. Further clarify the responsibilities of Resident Association and Community Associations to promote understanding of the roles of both organizations.
  - i. Outline the roles of existing Resident Associations and Community Associations in the City of Calgary's CA Policy Framework.
  - ii. Develop a pamphlet that explains both organizations in an easy, accessible format that can be provided to community residents, City staff, developers and real estate agents.
  - iii. Enhance communication between City departments, particularly Community & Neighbourhood Services and Planning, so that City staff is consistent in their understanding of Resident Associations and Community Associations.
2. Improve communication between Resident Association and Community Association board members.
  - i. Encourage a liaison to serve on the respective boards of a community's Resident Association(s) and Community Association.
  - ii. Encourage the Executive of the Resident and Community Association board to meet on a regular basis.
  - iii. Promote Resident Association and Community Association collaboration on mutually organized events, such as Stampede Breakfasts, family picnics and Christmas parties.
3. Ensure that the City of Calgary continues to support existing Community Associations in established communities where Resident Associations are not present.
  - i. Support for existing Community Associations is imperative to avoid a have and have-not situation on a city-wide scale between older, inner city communities and new Resident Association communities.

## ***5.2 The Private Nature of Future Resident Associations***

The private nature of Resident Associations must be addressed in order for them to effectively function as a community-based group. Calgary must also be wary to avoid the negative impacts associated with many private communities in the United States by actively limiting further privatization of our communities. In order to stop further privatization of services the municipal government must be prepared to increase investment in new Calgary communities. Recommendations concerning the private nature of Resident Associations include:

1. Ensure the Public Use Policy is upheld for all community facilities on public land.
  - i. Resident Association members could receive a rate reduction for community centre rentals and programs compared to non-community users due to their payment of the mandatory fee if Resident Association facilities were allowed on public land that met the requirements of the Public Use Policy.
  - ii. Allow developers to provide community facilities on public Municipal Reserve (MR) land if they are not creating a Resident Association for the community and if the facility meets the requirements of the Public Use Policy.<sup>†</sup>
2. Encourage developers to establish Resident Associations that primarily provide additional services and amenities and not services that are typically the responsibility of municipal government. Correspondingly, the City must be willing to adequately fund service provision in new communities.
3. Limit the development of large, community-scale bareland condominiums within the City of Calgary boundaries
  - i. The City should study potential policy options that regulate the form and function of bareland condominiums.
  - ii. The City should develop a formal policy that restricts the use of gated communities in the city boundaries, including in bareland condominiums.

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<sup>†</sup> Hopewell Residential Communities has attempted to provide Copperfield a community centre facility on MR land by helping establish the Marquis de Lorne Community Association for area residents.

### ***5.3 Boundary Issues in Future Resident Associations***

The recommendations to improve upon the issues associated with Resident Association boundaries not corresponding with general community district boundaries include:

1. Ensure community district and Resident Association boundaries are consistent as early as possible since it is very difficult to alter Resident Association boundaries after development is complete.
  - i. Guidelines should be provided for the location of Resident Associations as early as possible in the planning process in order to coordinate community district and Resident Association boundaries.\*
  - ii. Standards should be developed, potentially in an Area Structure Plan, if multiple Resident Associations are proposed in a community so that future cooperation and cohesion between the groups is feasible.
  - iii. Land owners should be encouraged to coordinate their use of Resident Associations prior to submission of an Outline Plan or land use amendment application.
2. Support greater attention at the approvals stage of the planning process for how Resident Associations will function and relate to each other in communities with potential for multiple Resident Associations.

### ***5.4 Disparity of Future Resident Association Roles***

Mandating or limiting the roles of Resident Associations is not possible without insisting on a standardized Resident Association for all communities. Standardizing Resident Associations is not a practical option as they are private creations that reflect the developer's response to market demand. However, certain measures may create more consistency between Resident Associations in Calgary so that there is not such a wide variety in terms of the services they provide. Recommendations to enhance the consistency of Resident Association responsibility include:

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\* The City of Calgary cannot restrict or dictate Resident Association amenities or facilities due to their provision on private land and can only provide guidelines for the form of Resident Associations.

1. Promote a consistent form of incorporation status for all Calgary Resident Associations.
  - i. Encourage developers to incorporate Resident Associations under the Companies Act (Section 9) as non-profit public companies to reflect developer control of the Resident Association during the build-out phase of the community.
  - ii. Ensure that Resident Association bylaws are written to facilitate a future change to the bylaws by the community residents.
  - iii. Encourage Resident Associations to change their bylaws after build-out is complete to incorporate as a Society if a Community Association does not exist in the community.
2. Encourage developers to create Resident Association bylaws that better describe the operation and function of the association after build-out is complete.<sup>‡</sup>
  - i. The FCC or Community & Neighbourhood Services staff could work with developers to produce bylaw templates that are similar to Community Association bylaws.
3. Explore the possibility of Provincial legislation to govern Resident Associations similar to the Alberta Condominium Property Act.
  - i. Potentially create a model for Resident Associations that combines the roles of Resident Associations and Community Associations.
  - ii. Encourage a certain level of standardization for Resident Associations at a province wide level similarly to legislation being developed in several American states.<sup>§</sup>
4. Promote discussion between multiple stakeholder groups involved with Resident Associations in Calgary.
  - i. The FCC, Urban Development Institute (UDI) and the Calgary Region Homebuilders Association (CRHBA) could meet on a quarterly basis to discuss the roles of Calgary Resident Associations.<sup>\*\*</sup>

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<sup>‡</sup> Developers currently use a template for Resident Association bylaws that provides limited detail as to how the Resident Association will operate and function when the community is completely developed.

<sup>§</sup> The New Jersey State Assembly introduced a bill in February, 2006 to provide clarity to the ‘confusing labyrinth’ of different laws pertaining to condos boards and homeowner associations (Schwaneberg, 2006).

<sup>\*\*</sup> Similar meetings are held in Edmonton with the Edmonton Federation of Community Leagues (EFCL), UDI Edmonton and the Edmonton Region Homebuilders Association

- ii. Additional roundtable discussions could be held with the FCC, UDI, CRHBA and various City departments, including Planning, Parks and Community & Neighbourhood Services to ensure open lines of communication between the various representative stakeholder groups.

### ***5.5 Representative Roles in Future Resident Associations***

The recommendations for increasing the representative capacity of Resident Associations concern the role of Resident Associations during the building-out of a community and the rights of renters living in the community. These recommendations include:

1. Ensure that an independent resident group is established in every community with a Resident Association during the build-out phase of development to represent the community on civic issues.
  - i. Encourage all Resident Associations to establish a committee independent from developer control for community representation on land use and development issues similar to the Crestmont Steering Committee.
  - ii. Ensure the City recognizes such independent committees as representative groups and involves them in the planning and development process.
2. Require the inclusion of renter representation in all Resident Association bylaws at the outset of development.
  - i. Allow renters living in a Resident Association community (without a Community Association) to pay a pro-rated membership fee in order to access amenities, serve on the board and vote at elections.
  - ii. Potential for a pro-rated Resident Association fee for renters should be equivalent to a common Community Association fee in an established community, such as \$30 per year.

It is imperative that Calgary fully evaluates the Resident Association trend at this time before the city has to deal with many of the impacts associated with the privatized community trend in the United States. Calgary is currently at a critical point where Resident Associations are becoming increasingly common, but largely remain less private than typical American Resident Associations. The development of community-sized bareland condominiums on the outskirts of

Calgary suggest though that our new housing market may be shifting towards increased privatization. Calgary can ill afford to follow the example of the United States, where the private community trend was allowed to develop without an adequate evaluation of the social, economic and political costs of Resident Association developments.

## 6 References

- Agan, A. and Tabarrok, A. (2005). "What are Private Governments Worth?". *Regulation*. Fall 2005: 14-17.
- Blakely, E.J. (1999). "The Gated Community Debate". *Urban Land*. 58(6): 50-55.
- Blakely, E.J. and Snyder, M.G. (1997). *Fortress America: Gated Communities in the United States*. Washington, D.C: Brookings Institution Press.
- Calgary Herald. (1978). "Calgary's first lake community". Oct. 28, 1978, F9.
- Canadian Condominium Institute. (2005). *Condominium Terminology*. Retrieved November 26, 2005, from [www.cci-north.ab.ca](http://www.cci-north.ab.ca).
- Canjura, J. and Grant, J. (2004). "Considering the Implications of Gated Enclaves in Canada". Paper presented at Canadian Association of Geographers annual conference. Moncton, New Brunswick, May, 2004.
- Cashin, S.D. (2001). "Privatized Communities and the 'secession of the successful': democracy and fairness beyond the gate". *Fordham Urban Law Journal*. 1675(18).
- City of Calgary. (2005). *Exploration of Roles of Community Associations and Residents' Associations*. Community and Neighbourhood Services, Policy and Planning Business and Market Research.
- Community Association Institute. (2005). Retrieved on November 20, 2005, from [www.caionline.org/about/facts.cfm](http://www.caionline.org/about/facts.cfm).
- Crestmont Courier. (2005). Retrieved on November 24, 2005, from [www.crestmont.ca/html/communications.html](http://www.crestmont.ca/html/communications.html).
- Davies, W.K. and Townshend, I.J. (2005). "Calgary Communities: From Development to Social Character" in The Chinook Country Historical Society (ed.), *Remembering Chinook Country*. Calgary: Detselig Enterprises Ltd, pp.333-349.
- Davies, W.K. (1994). "How do Community Associations vary? The structure of Community Associations in Calgary, Alberta". *Urban Studies*. 31(10): 1739-1762.
- Davis, M. (1990). *City of Quartz: Excavating the future in Los Angeles*. London: Verso.
- Dillon, D. (1994). "Fortress America". *Planning*. 60(6): 8-12.
- Elbow Valley Purchaser Handbook. (2003). Retrieved on November 28, 2005, from [www.elbowvalley.com](http://www.elbowvalley.com).

Fischel, W.A. (2004). "Revolution or evolution? Do Homeowners association members benefit from – or even want – the dissolution of municipalities and local zoning?" *Regulation*. Summer 2004: 48-54.

Frazer-Harrison, A. (2005, August 27). "Welcome to the Club: Residents' Associations created by developers". *Calgary Herald*. J1.

Grant, J. (2003a). "Planning Responses to Gated Communities in Canada". Paper presented to conference on Gated Communities: Building social division or safer communities?. Glasgow, Scotland. September 18-19, 2003.

Grant, J. (2003b). "Is there a gate in your future?". *Halifax Chronicle-Herald*. August 14, 2003: B2.

Hardin, G. (1968) "The Tragedy of the Commons". *Science*. 162: 1243-1248.

Homeowners and Community Associations Survey. (2005). Retrieved on December 5, 2005, from [www.cairf.org/research/satisfaction.html](http://www.cairf.org/research/satisfaction.html).

Hyatt, W.S. (1998). "Common-Interest Communities: Evolution and Reinvention". *John Marshall Law Review*. 31(2): 303-395.

Introduction to Community Association Living. (2003). Retrieved on March 6, 2006, from [www.caionline.org/excerpts/index.cfm](http://www.caionline.org/excerpts/index.cfm).

Levebvre, H. (1971). *Everyday Life in the Modern World*. Translated by Sacha Rabinovitch. New York: Harper & Row.

Low, S. M. (2001). "The edge and the center: gated communities and the discourse of urban fear". *American Anthropologist*. 103(1): 45-58.

Macionis, J.J. and Parrillo, V.N. (2001). *Cities and Urban Life*. Upper Saddle River, New Jersey: Prentice-Hall Inc.

Maxwell, K. (2003). "Gated Communities and Homeowners Associations in Canada". Paper presented to Canadian Institute of Planners Conference. Halifax, July 6-9, 2003.

McKenzie, E. (2003). "Common-Interest Housing in the Communities of Tomorrow". *Housing Policy Debate*. 14(1): 203-234.

McKenzie, E. (1998). "Homeowners Associations and California politics: An exploratory analysis". *Urban Affairs Review*. 34(1): 52-76.

McKenzie, E. (1994). *Privatopia: Homeowner Associations and the Rise of Residential Private Government*. New Haven and London: Yale University Press.

Natelson, R.G. (1990). "Consent, Coercion and 'Reasonableness' in Private Law: The Special Case of the Property Owners Association". *Ohio State Law Journal*. Winter 1990: 42.

Nelson, R.H.. (2004). "The private neighborhood: Will homeowners associations lead to a revolution in local government". *Regulation*. Summer 2004: 40-47.

Nelson, R.H. (2002). "The Rise of Private Neighbourhood Associations: A Constitutional Revolution in Local Government". Paper presented to conference on 'Property Tax, Land Use and Land-Use Regulation'. Lincoln Institute of Land Policy. Scottsdale, January 13-15.

Putnam, R. (2000). *Bowling Alone*. New York: Simon & Schuster.

Ross, M.M., Smith, L., Pritt, R. (1996). "The Zoning Process: Private Land Use Controls and Gated Communities". *Urban Lawyer*. 28: 801-817.

Schwaneberg, R. (2006, February 24). "Homeowner Group Regulation Advances". *New Jersey Star-Ledger*. Retrieved February 28, 2005 from [www.planetizen.com](http://www.planetizen.com).

Sennett, R. (1977). *The Fall of Public Man*. New York: Alfred A. Knopf, Inc.

Siegel, S. (1998). "The Constitution and Private Government: Toward the Recognition of Constitutional Rights in Private Residential Communities Fifty Years after Marsh v. Alabama". *William & Mary Bill of Rights Journal*. Spring 1998: 560-561.

Spring Valley Lane. (2005). *Dreams Homes & Condos*. November, 2005. pp.30.

Stormann, W.F. (2000). "The Death of the Olmsteadian Vision of Public Space". *Journal of Leisure Research*. 32(1): 166-171.

The Economist. (2001). "America's new Utopias: The Growth of private communities". Sept 1, 2001.

Wheeler, T.B. (2005, December 25). "Abiding by Rules of your Neighbor". *The Baltimore Sun*. Retrieved December 28, 2005, from [www.planetizen.com](http://www.planetizen.com).

## Appendix A: Sample Interview for Developer Representative

### Resident Association Research Project Interview November 22, 29 and December 8, 21, 2005

- 1) Do you think there is an increased focus on creating Resident Associations in Calgary?
  - 2) If YES, Why do you think that RAs are becoming more common in Calgary?
  - 3) Why are developers attracted to the Resident Association model?
  - 4) What do developers view as the roles of a RA? What is the primary responsibility of RAs in Calgary from your perspective?
  - 5) Do you think the role of RAs in terms of service provision is increasing in Calgary?
  - 6) Do you believe that RAs can have a representative role with municipal government? How should the City and RAs relate with each other?
  - 7) How would you define the role of CAs? What do you think is currently the primary responsibility Calgary CAs?
  - 8) Do you believe that CAs and RAs can both function effectively in the same geographic neighbourhood? Would you define the roles of CAs and RAs competing or complementary?
  - 9) **Related to roles/responsibilities:** What level of service (not amenities/facilities) do RAs in Calgary provide? What level of service should RAs provide? **Should RAs be responsible for:** a) grass cutting on public land b) snow removal c) garbage pickup d) street lighting improvements e) street repairs f) park enhancements g) security?
  - 10) What level of development and property use control are commonly utilized in Calgary RAs? In other words, what are the common RCs used in Calgary RAs?
  - 11) Should RAs be responsible for: a) architecture control enforcement b) monitoring maintenance of personal property c) use of traditional "public" spaces i.e. streets within RA boundaries d) controlling the ability for someone to canvas door to door?
- BARELAND CONDO QUESTIONS**
- 12) How prevalent do you think larger bare-land condominiums (ie community size) are within the City of Calgary boundaries? Is there a desire in the development industry to create more and larger bare-land condos?

- 13) How would a bare-land condo relate with the City in terms of services and maintenance, like garbage pickup, snow removal, street repairs?
- 14) What level of control would bare-land condos have over access, the use of property and enforcement of architectural guidelines? Do you think bare-land condos would operate with private security?
- 15) How are issues of resident non-compliance to RA fees dealt with in Calgary? How are issues of resident non-compliance with RCs dealt with in Calgary?
- 16) How are renters living within a RA currently dealt with? Do renters have access to the RA amenities/facilities? *What would happen in the case of an absentee landlord? Can both the renter and owner have access to facilities? Can renters be represented on a RA board?*
- 17) How would you describe the organizational structure of a RA? Would you classify a RA as a form of government, a business or a non-profit group? How would you define a CA?
- 18) How are RAs incorporated? Are they incorporated under the Companies or Societies Act?
- 19) Do you feel that the City of Calgary is supporting the RA model more than the continuation of the CA model of community organization in new communities?
- 20) Do you think RAs should be specifically planned for in official City planning documents (ASPs and Community Plans)? In other words, should the City have input into the size and function of RAs? Why or Why not?
- 21) Do you think that RA residents are compelled into a "double taxation" situation? Do you think that RA residents should be eligible for a tax reduction if they pay for services/amenities provided privately?
- 22) Do you think that RAs contribute to social segregation in terms of socio-economic class in Calgary (both within a community with RAs and a city wide level)? Do the greater amenities provided in RAs contribute to more exclusive, non-equitable neighbourhoods?
- 23) What do you think is needed to improve the relationship of CAs and RAs? What action do you think the City should take with regards to future of CAs and RAs?

## Appendix B: Sample Interview for City of Calgary Representative

### Resident Association Research Project

Interview November 15, 16, 25, 29 and December, 1, 5, 15 and January 17, 2005

- 1) Do you think there is an increased focus on creating Resident Associations in Calgary?
- 2) If YES, Why do you think that RAs are becoming more common in Calgary?
- 3) What do you think are the roles of a RA? What is the primary responsibility of RAs in Calgary that you are familiar with?
- 4) Do you think the role of RAs in terms of service provision is increasing in Calgary?
- 5) Do you believe that RAs can have a representative role with municipal government? Should RAs be able to represent a community on planning and development issues?
- 6) How would you define the role of CAs? What is currently the primary responsibility of Calgary CAs?
- 7) What do you foresee as the role of Calgary CAs in the future? Do you think CAs will continue to form in new Calgary communities?
- 8) Do you believe that CAs and RAs can both function effectively in the same geographic neighbourhood? Would you define the roles of CAs and RAs conflicting or complementary?
- 9) **Related to roles/responsibilities:** What level of service do RAs in Calgary provide? What level of service should RAs provide? **Should RAs be responsible for:** a) grass cutting on public land b) snow removal c) garbage pickup d) street lighting improvements e) street repairs f) park enhancements g) security?
- 10) **Related to roles/responsibilities:** What level of development and property use control are commonly utilized in Calgary RAs? In other words, what are the common Covenants, Conditions and Restrictions (CC+Rs) used in Calgary RAs? **Should RAs be responsible for:** a) architecture control enforcement b) monitoring the maintenance of personal property c) traditional "public" spaces i.e. streets within RA boundaries d) freedom of expression i.e. ability for someone to canvas door to door?

### BARELAND CONDOMINIUM QUESTIONS

- 11) Would your answers to questions # 9 and 10 be different if the RA was operating as a bare-land condominium?

- 12) How would a bare-land condo relate with the City in terms of services and maintenance, like garbage pickup, snow removal, street repairs? What level of control would bare-land condos have over access, the use of property and enforcement of architectural guidelines? Would bare-land condos be allowed to operate private security?
- 13) How are renters living within a RA currently dealt with? Do renters have access to the RA amenities/facilities? Can renters be represented on a RA board?
- 14) How would you describe the organizational structure of a RA? Would you classify a RA as a form of government, a business or a non-profit agency? Why? How would you classify a CA?
- 15) Do you know how most RAs are incorporated? Are they incorporated under the Companies or Societies Act?
- 16) Do you feel that the City of Calgary is supporting the RA model more than the continuation of the CA model of community organization in new communities? And Why?
- 17) Should RAs be specifically planned for in official City planning documents (ASPs and Community Plans)?
- 18) Does the City or could the City have any input into the development of RA bylaws?
- 19) Do you think that RA residents are compelled into a "double taxation" situation? Do you think that RA residents should be eligible for a tax reduction if they pay for services/amenities provided privately?
- 20) Do you think that RAs contribute to social segregation in terms of socio-economic class in Calgary (both within a community with RAs and a city wide level)? Do the greater amenities provided in RAs with mandatory fees for all residents contribute to more exclusive, non-equitable neighbourhoods?
- 21) What do you think is needed to improve the relationship of CAs and RAs? What action should the City take with regards to future of CAs and RAs?

## Appendix C: Sample Interview for Community Representative

### Resident Association Research Project Interview November 17, 23, 30 and January 13, 18, 27, 2006

- 1) Do you think there is an increased focus on creating Resident Associations in Calgary?
- 2) Why do you think that RAs are becoming more common in Calgary?
- 3) What do you think are the roles of a RA? What is the primary responsibility of RAs within the xx boundaries?
- 4) Do you think the role of RAs in terms of service provision is increasing in Calgary?
- 5) Do you believe that RAs can have a representative role with municipal government? Should RAs be able to represent a community on planning and development issues?
- 6) How would you define the role of CAs? What is currently the primary responsibility of the xx CA?
- 7) What do you foresee as the future role of Calgary CAs? Do you think there will be a significant change in the operation and functioning of Calgary CAs?
- 8) What was the impetus for the establishment of the xx CA?
- 9) Do you believe that CAs and RAs can both function effectively in the same geographic neighbourhood? Would you define the roles of CAs and RAs competing or complementary?
- 10) What level of financial and volunteer constraints do you think are placed on CAs with a RA within the same geographic area?
- 11) What is the current relationship like between the xx CA and the various RAs in the same geographic area? Are the groups able to work together or are they divided by competing interests?
- 12) **Related to roles/responsibilities:** What level of service do RAs in Calgary provide? What level of service should RAs provide? **Should** RAs be responsible for: a) grass cutting on public land b) snow removal c) garbage pickup d) street lighting improvements e) street repairs f) park enhancements g) security?

- 13) **Related to roles/responsibilities:** What level of development and property use control are commonly utilized in Calgary RAs? In other words, what are the common Covenants, Conditions and Restrictions (CC+Rs) used in Calgary RAs? **Should RAs be responsible for:** a) architecture control enforcement b) monitoring maintenance of personal property c) use of traditional “public” spaces i.e. streets within RA boundaries d) controlling the ability for someone to canvas door to door?
- 14) Would your answers to questions # 12 and 13 be different if the RA was operating in a bare-land condominium?
- 15) How would you describe the organizational structure of a RA? Would you classify a RA as a form of government, a business or a non-profit group? How would you define a CA?
- 16) Do you feel that the City of Calgary is supporting the RA model more than the continuation of the CA model of community organization in new communities?
- 17) Do you think RAs should be specifically planned for in official City planning documents (ASPs and Outline Plans)? In other words, should the City have input into the size and function of RAs? Why or Why not?
- 18) Do you think the City could have any input into the development of RA bylaws?
- 19) Do you think that RAs contribute to social segregation in terms of socio-economic class in Calgary (both within a community with RAs and a city wide level)? Do the greater amenities provided in RAs with mandatory fees for all residents contribute to more exclusive, non-equitable neighbourhoods?
- 20) What do you think is needed to improve the relationship of CAs and RAs? What action should the City take with regards to future of CAs and RAs?