

## **Housing Minister's Award for Early Career Researchers Award**

**6<sup>th</sup> Australasian Housing Researchers' Conference  
8-10<sup>th</sup> February 2012  
The University of Adelaide, Adelaide, South Australia**

### **Organisations, governance and multi-owned housing**

**Miss Erika Altmann  
School of Sociology  
University of Tasmania**

**Contact:  
Miss Erika Altmann  
University of Tasmania  
Email [Erika.altmann@utas.edu.au](mailto:Erika.altmann@utas.edu.au)**

#### **Abstract**

The creation of multi-owned, strata titled housing occurs as a legal mechanism at the time local and state governments accept and approve the developer's survey plans. Economic and social forces allow the creation of an organisation by people who have little ongoing interest in its ability to function. From an organisational viewpoint, this is a unique situation.

When an owner buys into a strata complex, they cede power to the owner organisation that controls the common property within the apartment or master planned estate. This occurs through contract mechanisms at the point of sale. Set within a structure and agency framework, this review of literature moves the focus from planning and legal considerations and the actors voice, to the formation of an organisation. It considers whether a new type of hybrid organisation has been created in which governance, transparency and accountability are hampered by the legal framework that is set up to protect it.

#### **Key Words**

multi-owned housing, governance, developer, owner corporation, not-for-profit, Australia

## **Introduction**

The growth of private cities, master planned communities and apartment complexes are recognised as a global phenomena. From the Purple Jade compound in China (Wu 2006) to Buenos Aires (Janoschka and Borsdorf 2006), Russia (Lentz 2006), South Africa (Jurgens and Landman 2006), England (Blandy, Dixon et al. 2006), USA (McKenzie 1996; Frantz 2006; Le Groix 2006; Lentz 2006; and Australia (Sherry 2009), the urban spread of privately governed neighbourhoods, estates and apartments have been widely commented on by urban planners and housing theorists (Thuillier 2006, Le Goix 2006). For many academics, it is the spatial spread of these phenomena that is crucial. Others are interested in the reasons why this form of housing has arisen and linked it to issues of fear and segregation (Low 2003), economic rationalism (Nelson 2002; Webster and Glasze 2006), growth of middle class elitism (Foldvary 2006), issues of private governance (Atkinson and Blandy 2006; Blandy and Lister 2006; McKenzie 1996) and the need for more dense, environmentally friendly cities.

The academic literature provides insight into a range of aspects relevant to the multi-owned housing environment. This paper reviews the academic literature, considers the influences that create the organisation, and how these impact on the organisation's ability to function in an Australian context. Literature gaps are considered, and consideration is given as to whether a unique organisation has been created. However first, there is a need to provide a working definition of multi-owned housing.

## **Defining multi-owned housing**

McKenzie (2006) and Glasze (2006), use different terminology to provide definitions for a range of multi-owned housing types. However Blandy, Dupuis and Dixon (2010) introduce the generic term 'multi-owned housing' to encompass a number of different forms of housing organisation containing similar, shared governance structures. The term provides a generic background to the discussion of shared governance structures within the real property sphere.

Two types of multi-owned housing are excluded from this discussion. Firstly, the trading of intangible property shares are excluded. Glasze (2006) refers to these as 'stock corporations'. Where a company owns the total property with owner-shareholders purchasing a 'block' of shares and the right to occupy a particular dwelling, intangible shares

are traded. Up until the 1961 this was the only type of multi-owned housing available in Australia (Butler-Bowden and Pickett 2007).

Also excluded, are forms of housing in which prospective owners come together to create a deliberate community with shared values. In co-operative housing, there is a deliberate intention to build a community through consensus, maximised prior to purchase. Beito, Gordon and Tabarrok's (2002) 'voluntary city' most closely equates with this type of consensus built housing. In the Australian context this possibility still exists through other forms of legislation, though it remains a minor part of the housing market. McKenzie (2006) has commented on the disjunct between the global discourse around the rise of multi-owned housing, society's need for more inclusive communities, and dwindling forms of consensus built housing.

The discussion then, is centred on multi-owned housing that occurs when real property is sold to more than one owner, with each owner retaining ownership over his or her private real property, while at the same time retaining an interest in elements common to more than one owner. Because owners retain an interest at the individual and collective level, this type of housing is often referred to as strata titled property. As such it applies to residential and commercial realty, master planned estates, apartments complexes, gated communities, retirement and lifestyle villages and in some countries, whole cities. Strata titled developments are initiated by the developer for the purpose of on-selling individual real property units for profit. The owner may on-sell their real property along with their interest in the common property without reference to other owners within the complex. In Australia, the mechanism is equivalent to McKenzie's (2006) explanation of 'condominium type' development, though not exclusive to apartment dwellings. It is on multi-owned property created through the strata title mechanism that this paper concentrates.

All property formed under this type of multi-owned or strata mechanism is legally connected to a committee of management via legislation. For the purposes of this paper, the management committee is referred to as an 'owner corporation', though the term differs between states, for example in New South Wales, the term 'body corporate' applies. Multi-owned housing complexes are influenced by the collective ownership of amenities and membership to a governing body that creates enforceable legal rights and duties between owners (Blandy et al 2010, Sherry 2009).

Sherry (2009, p. 133) has succinctly identified three major concepts within owner corporations as:

- collective ownership of common property;
- creation of rules that govern behaviour within the complex and
- creation of a governing body to control administration of the common property.

Included as part of the administrative controls are items such as raising levies from the owners to undertake maintenance and cover insurance costs. The three concepts of collective ownership, rule making ability and control through a governing body remain universal for multi-owned housing.

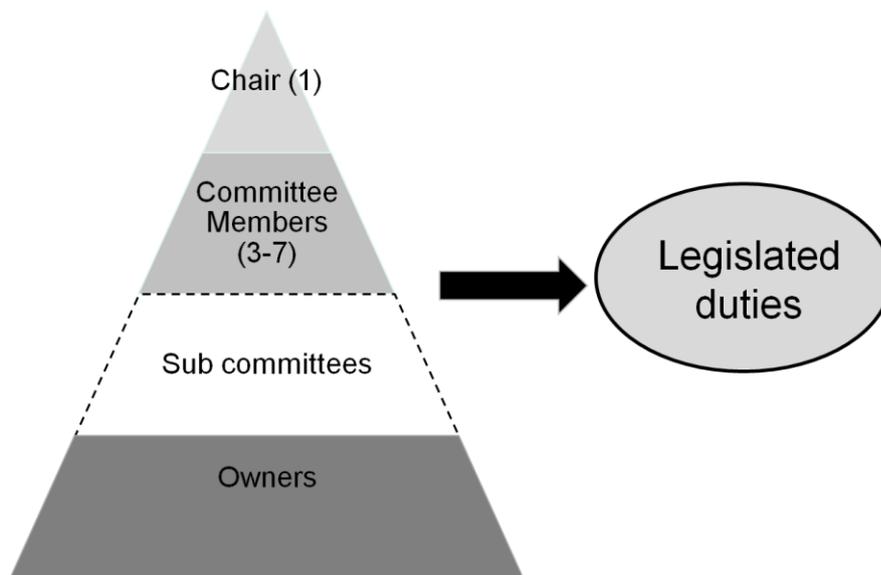
Definitions of common property are difficult. The Victorian state legislation defines common property as 'land shown as common property on a plan of subdivision or a plan of strata or cluster subdivision' (Owners Corporations Act 2006, Act No. 69/2006 Victoria). In practice, areas between and separating each unit, such as wall cavities, roof, roof space, air above the roof, and the building facade may be included within the common property. Other areas may include gardens, car spaces and driveways, stairwells, lifts, security and air conditioning systems, electrical and fire connections. In master planned or gated communities the common property may include parkland, water, sewerage and roads. The range of items included as common property may make it difficult for prospective purchasers and owners to understand where their exclusive ownership ends and the common property begins, putting power in the hands of professional plan readers such as engineers, surveyors and strata property managers. Moreover older complexes may not have designated common property on the survey plans because the common property was prescribed in the legislation at the time the scheme was created, creating a costly legal quagmire for owners. As McKenzie (2010) states, the metastasizing body of law creates difficulties for owners.

## **Committee and Organisational Considerations**

It is increasingly acknowledged that the creation of a governing body with explicit duties, including the ability to make rules to govern behaviour has created a fourth layer of government (Blandy, Dixon et al. 2006; Sherry 2009; McKenzie 2010; Randolph 2010). Glasze (2006) believes that privatisation of neighbourhoods is a shift from an omnipotent state to a minimal state, placing decision making closest to those affected. He describes it as a 'new territorial organisation on a sub-local level which enables the exclusive consumption of collective goods and in which political decisions are taken in a shareholder democracy'. At the very least, it fulfils Clegg, et al's (2006, p. 1) definition of an organisation as 'the collective bending of individual wills to a common purpose' and Robbins Bergman et al's (2009, p. 57) definition of an organisation as a 'deliberate arrangement of people to

accomplish some specific purpose'. The legal structure and authority creates a purpose driven organisation.

Strata title mechanisms create an organisation and give it shape through a committee structure (McKenzie 1996; Jurgens and Landman 2006). The committee structure enables the owner corporation to function in a collective manner and meet its legislated, private governance duties. Owners are given voice through the committee structure. The following figure indicates the organisational structure as defined through legislation in the Australian context. Committee member numbers differ between jurisdictions. It should be noted however that sub committees may exist at the behest of owners, or be mandatory as a result of the schedules lodged against the property title by the developer. For example the Docklands precinct in Melbourne, Victoria has at least twenty-four developer initiated sub-committees. Developers influence the owner corporation structure and therefore functioning of the owner corporation.



**Figure 1, Legal structure of the owner corporation**

The raising and spending of funds for long and short term repair and maintenance are all subject to the committee's approval. So to, is the creation of by-laws for the smooth functioning of the complex. The natural range of owner views creates conflict and power plays within the organisation. Viewing the organisational structure in this way, allows us to more clearly see how Glasze's (2006) micro political aspects and contestation of power within the organisation may arise. For Clegg et al (2006, p. 2) power is central to all organisations stating 'we cannot make an enquiry into organisations without an enquiry into power'.

Feng's research (2008 in Blandy et al 2010, p. 134) indicates that it is not unusual for new resident committees to face multiple serious neighbourhood problems involving developers, local government, property managers and home owners. Certainly McKenzie (1996; Glasze 2006; Jurgens and Landman 2006) comments on the growing conflict experienced within owner corporations. Brackertz and Kenley (2002, p. 127) report that local governments have difficulty managing their facilities strategically and operate within an environment of inherent distrust where change is rarely welcomed. Likewise, common property facilities such as fire services, air conditioning, roads and similar items are costly, commercial in nature and require professional asset management. Owner corporations have similar difficulties in convincing owners of the need for strategic business management. McKenzie (2010) goes further stating that much of the conflict and power play within the organisation can be attributed to untrained volunteers undertaking what are essentially municipal duties in their spare time.

Multi-owned housing management committees are hampered not only by their untrained volunteer nature, but also by the duality of purpose that each owner experiences. Owners are torn between their needs as individual home owners, and the need to address collective good and long term needs. Volunteer owner-committees struggle with issues of participation, governance, transparency, accountability, trust and control (Blakely and Snyder 1999). The participatory nature of committees may cause delay in decision making through the need to negotiate outcomes, increased conflict and cost. Chen and Webster (2006) found that when levels of trust decreased among owner corporations, the level of buy in decreased leading to fewer participants within the owner corporation environment. They cite Gao (1999) who reported that participants 'drew lots' in order to appoint committee members, since no-one volunteered. There are similarities to Bush and Gamage's (2001) discussion of school boards which found that the provision of governance was a volunteer activity with no extrinsic rewards resulting in difficulty attracting suitable candidates. Time spent volunteering for an owner corporation is rarely recognised or valued by on-lookers, though it is as essential as it is mandatory.

Bush and Gamage (2001) raise an important point. For school parent and friend associations, the volunteer labour comes from a wider society and is not confined to parents of existing pupils. Yet still they have difficulty fielding sufficient committee members. Membership within an owner corporation is compulsory and quite static. Committee members are selected from existing owners, not the wider community. Membership numbers are limited by the number of dwellings contained within the complex, and relies on property

sale to renew membership from new owners. Proxy voting is limited or banned within some complexes. Within Australia, the strata industry's policy is to ban onlookers from committee meetings (OCV 2010) effectively limiting transparency and stymieing opposition. From an organisational perspective, this is a unique situation. The organisation has closed membership, no say over who becomes a member, and is still expected to function in an altruistic manner to provide municipal like duties and in doing so act with transparency and accountability. The limited membership and proxy voting rights, adversely affects the organisation's ability to function.

McKenzie (1996; Silverman & Barton 1994) note that within western constitutions principles of public and pluralistic decision making and principles of equity and sovereignty exist at national, state and municipal levels. However these are violated at the owner corporation level. Scott (1999) notes that competing interests and missing democratic institutions are out of balance within them. Glasze (2006, p. 41) highlights three ways in which democratic principles may be violated by 'private governments':

- At higher levels of government, representatives are not bound to property ownership or place of residence. Tenants have voting rights.
- Institutional opposition exists at higher levels of government whereas owner corporation committee members determine the agenda through privileged access to information.
- 'Dictatorial and oligarchic' structures exist in which developers may dominate decision making in owner corporations.

However, at higher levels of government, representatives and board members are paid, not voluntary. As organisations, rather than fourth tier governments, owner corporations have a considerable amount in common with not-for-profit (NFP) organisations, also reliant on volunteers. Moreover, in the western world, governments are set up through democratic processes, not by one person, the developer, having total say over the governing documents, as in the case of the owner corporation.

Within the Australian setting, there are other indications that owner corporations should be treated as organisations. In Australia, incorporation does not allow large estates to secede from the municipality as appears to be the case in America (Blakely & Snyder 1999, McKenzie 2006). Secondly, for owner corporation seeking to claim back goods and services tax (GST), the Australian Taxation Office (ATO) has provided owner corporations with not-for-profit (NFP) status up to a threshold of \$150,000 where they do not intend to distribute

non-mutual income. Moreover, ATO ruling IT 2505 clarified the tax treatment of income from owner corporations (Australian Taxation Office 2010). The ruling views income from members (typically strata levies) as mutual income and therefore not taxable in the hands of the owners corporation. However income derived from common property (e.g. parking, gym hire, interest on levies) is considered a taxable event though income is used for the upkeep of common areas. The ruling applies the principles of mutuality determining that non-mutual income is taxable in the hands of the individual lot owners rather than the owners corporation. The ruling means that even though profits may never be distributed to the owners, the owners are required to declare income from belonging to the owner corporation ([www.ato.gov.au/rulings](http://www.ato.gov.au/rulings) accessed 11/4/2011), thus putting the income on the same basis as income from privately held intangible shares trading income. The effect of the ruling is to require larger owner corporation to provide an annual income statement to each owner for their use in end of year financial statements, a time consuming activity for volunteer committee members.

At an individual level, the annual income statement creates an additional burden for owners, particularly those on fixed incomes or reliant on pensions. They need to declare the income, even though it remains within the sinking funds of the owner corporation, and they cannot individually access it. Moreover since individual owner income levels are artificially raised, individual owners may be unable to access low income subsidies such as reduced water, electricity and municipal rate subsidies. The existing tax legislation impacts on owner corporation members in ways that owning freehold property does not, and places it as a NFP organisation.

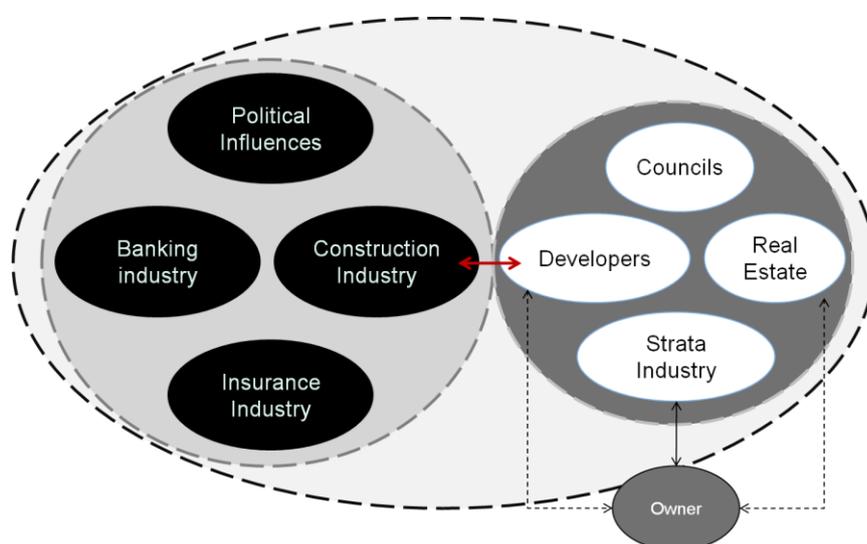
At an organisational level, the distribution of funds requirement may act to limit the amount of income sought through rental of common property or act as a disincentive for owner corporations to save for periodic maintenance renewal, one of their key responsibilities. More importantly however, the owner corporation NFP status means that it can compete for community funding against other NFP organisations. The impact on other community organisations has not been investigated.

## **Structure considerations and the organisation**

Government agencies, banks, insurance companies, construction industry, and developers all seek to influence the macro political agenda. The economic health of these industries is frequently commented on as an indicator of national economic health. It is no wonder when

the construction and associated industries provide 9% of Australia's employment and contribute \$160 billion to Australia's economy annually (Master Builders Association 2011). Banks and insurance companies provide finance and risk mitigation for the construction and developer driven industries, federal and state jurisdictions advocate for urban renewal of inner city areas and approve legislation. Bounds and Morris (2006) investigated Sydney's inner city urban renewal and found that it was large-scale in nature, stimulated by the state and led by private developers. Collectively, the banking, insurance and construction industry create a formidable political lobbying force at the macro level. Figure 2 groups the four major players within one circle of influence.

Legislative mechanisms provide a framework for the creation of privatised complexes and subdivisions. Population pressures feed federal and state policy for higher density (Randolph 2010). Politicians are lobbied to create frameworks that benefit special interest groups. Within the Australian context, the strata title mechanism was championed by developer Lend Lease, whose founder Dusseldorp, engaged a private solicitor to write Australia's first strata legislation and present it to the NSW government (Butler-Bowden & Pickett 2007). Developers sold the legislation to politicians on the basis that it would provide low cost housing, a view increasingly negated by the high maintenance costs of the commercially constructed buildings and infrastructure they contain.



**Figure 2, Structural influences in multi-owned housing**

At the local level, councils, developers, real estate agents and the strata industry combine to create a second circle of influence impacting on the owner corporation, also shown in Figure 2. The strata industry is supported through sponsorship deals provided by banking and insurance industries, and may take trailing fees for products sold. The strata industries' role

is to provide lobbying on behalf of professional property managers of multi-owned housing and contribute to the growth of the industry. Owners remain unrepresented and have no political voice. Real estate agents sell property on behalf of the developer. Jurgens and Landman (2006) report that estate agents are a key influence in rise of multi-owned housing. Councils, developers, strata managers and real estate agents create macro level political influence in the creation of multi-owned housing developments. Figure 2 (above) depicts the two groups of four key structural influences on the owner corporation's formation and functioning.

Market economies have allowed the creation of new privatised services that filled the void in service provision previously held by government within a contract environment (Ernst, Glanville et al. 1997). The fiscal constraints faced by state and local governments required new approaches to invest in major infrastructure (McKenzie 1996; Blandy 2010; Sherry 2009) at a time when banks began to lend more liberally to the private sector. To reduce financial impacts, municipalities were forced into contracting for services with each other and with the private sector (Brackertz and Kenley 2002). Profit seeking private sector developers were able to market new products to cash strapped municipalities in the form of privatised housing estates and apartment buildings (McKenzie 2006). McKenzie (1996; Blakely & Snyder 1999) advised that local governments encourage the establishment of private 'neighbourhoods'. Some, including Las Vegas, have banned all other types of development, McKenzie (2006) reports.

For cash strapped municipalities, multi-owned housing is desirable. Finance for the infrastructure is paid by the developer (Curtin 2000) who recoups the upfront capital costs through the purchase price. Ongoing maintenance for infrastructure and services is placed in the hands of owners through the owner corporation structure (Le Goix 2006, p. 137). Moreover, the developer pays additional fees to the municipality for planning approval, and for the waiving of some planning edicts. At the same time the number of rateable properties increases. For inner city municipalities, vertical apartment complexes may be the only way to increase the number of rateable properties. The owners, through their owner corporation may be double charged for services such as garbage collection, once through the organisations levy system and once through the rates paid to the municipality for a service that they do not receive, creating a saving for the municipality. In this instance, far from being predators of public resources as Foldvary (2006) suggests, owner corporations are contributing to the financial functioning of a public system they may be unable to access. Thuillier (2006, p. 75; Blakely & Snyder 1999) indicate that some owners are reluctant to pay

their share of local council taxes for this reason. Private multi-owned housing may decrease the usage of public goods while increasing the number of rateable properties.

Local government and developers may conspire to provide a supply driven economy through limiting approval of free hold housing (McKenzie 2006). When this occurs housing choice is diminished. Consumers may purchase in these developments because no other option is available, rather than for fear, seclusion or economic reasons. Franz's (2006; Low 2003; Webster & Glasze 2006) assumption of voluntary participation in governance structures set up through this legal mechanism is voided in supply driven economies. Moreover Foldvary's (1994) assertion that private communities are not free riders on the public purse because they are paying privately for the items they choose to use is not valid either. In supply driven housing situations, people are paying for their 'dwelling' and as Blandy and Lister (2006) put it, and the centrality of location set within a wider community, without necessarily seeking the additional facilities supplied by the developer and may actively avoid using them.

Moreover the objectification of 'home' as a consumer good has allowed place marketing by developers and the real estate industry. The idea of 'community' is sold, despite no evidence to support its' existence (Blakely & Snyder 1999). At the same time, estate agents fail to mention the administrative aspects attached to governing common property. Academic discourse around private estates assumes a knowledgeable and discerning consumer in which prospective purchasers choose certain neighbourhoods because of the products supplied (Low 2003; Foldvary 2006; Chen & Webster 2006) however there is little evidence to support this. Blandy and Lister (2006) interviewed residents six months after moving into their multi-owned housing estate and found that some residents were unaware of the governing structure, or their role in it.

Within Australia, some states such as Tasmania, have no requirement for the vendor to provide access to a full set of governing documents at the point of sale. In other states such as Victoria, legislation mandates that the purchaser is provided with full documentation; however these documents may not be understood to be part of the contractual obligation by the purchaser. The purchaser may not be notified that by signing the 'contract for sale' documents, he or she is contractually bound to third party obligations with the other owners. Graw (2005) reports that one of the essential elements of any contract is 'the intention to be bound', however there is no requirement for estate agents to draw attention to the organisation, or shared assets. This is a key failure of the strata title system in the Australian context. How real estate legislation affects the owner corporation is not well understood by academics seeking to understand and work with owner corporations.

## **The developer, the organisation, and legislation**

The owner corporation is created on paper as a legal mechanism by the developer prior to any building taking place, placing the developer in a unique position of influence over the owner corporation and its members. McKenzie (2006) states that the contract structure over which the developer has primary influence, is convoluted and may contain many hundreds of pages of legal documents. They comprise the sale documents, by-laws, schedules to the title, and covenants over the title, the title documents and legislative constraints that rely on professional expertise to decipher. These are overlaid by planning constraints contained within a different set of legislation.

McKenzie (1996) noted that American legislation skewed the developers influence by allowing them hold the balance of voting power while owning as little as seventeen percent of properties. Similar mechanisms exist in Australia and are designed to protect the developer's profit margin. While the developer has control of the owner corporation, he has the ability to set in place third party contracts with property managers, maintenance, landscaping and cleaning contractors. The developer may also negotiate contracts on behalf of the owner corporation to lease out facilities such as gymnasiums to third parties at this stage. Where third party contracts are given to other developer controlled companies, it creates a conflict of interest situation to the detriment of the functioning organisation.

The developer can appoint themselves to be the owner corporation property managers (Blandy 2010). This practice has been outlawed in some but not all Australian states. However legislative changes have not moved to rescind existing property management contracts of this type and there are still a number of complexes and estates that experience ongoing difficulties due to the conflict of interest it creates. Docklands is a case in point. The owner corporation is hampered in its ability for self determination by contracts formed in this way.

Developers may retain ownership to the gym or golf course and then rent it out at market prices to the general public, affecting property prices within the development and exclusivity of the property (Glasze 2006). Such a move by the developer limits the owner corporation's ability to gain rental from key facilities which may be needed to assist in maintaining the facilities. Poudier and Clark (2009) noted that strategic planning along these lines was often essential to maintain funds for asset renewal.

Glasze (2006) reports that developers may dominate the decision making within an owner corporation by retaining ownership to a portion of the properties and influence decision making into the future as a home owner, or by making use of the proxy voting where available. The developer in this instance has a privileged position within the owner corporation. The complex nature of the governing documents are such that the developer may be the only person on the committee of management that understands the full impact of a given decision.

### **Summary and conclusion**

Multi-owned housing may be a global phenomenon, however the experience will differ between countries. Academics have commented on the internal organisational conflict, however because the owner corporation is seen as a fourth level of government, little research on inter-organisational conflict, funding mechanisms, governance strengthening or resource management has occurred.

While there are commonalities in the governing documents and the part that developers and municipalities play, there are also significant differences between jurisdictions. The three concepts of collective ownership, rule making ability and control through a governing body as defined by Sherry (2009) remain universal. Though many may consider the owner corporation to be a fourth level of government, in Australian law, it remains a not-for-profit organisation. The impact of this status on owners and tenants is little understood. The impact on other NFP organisations has not been considered, nor has the impact on the volunteer workforce. The Australian taxation regime is punitive towards larger complexes maintaining municipal like infrastructure. Where complexes are not maintained, and developers force the standards required in covenants to be met, owners are may be faced with escalating periodic levy payments at the behest of the developer, or be forced by other owners to agree to demolition of the whole complex, thus playing into the hands of developers needing more land for greater profit. The impact of inconsistencies with other legislation is not understood.

A number of ways that developers are able to influence the formation and performance of the owner corporation organisation have been highlighted throughout this paper. Firstly they influence the legislative and political processes and the formation of policy to their advantage. Lend Lease's drafting of strata title legislation is a case in point (Butler-Bowden & Pickett 2007). Secondly, developers conspire with municipalities to create a supply driven economy in multi-owned dwellings (Blakely & Snyder 1999, McKenzie 2006). As Blandy &

Lister (2006) noted, owners pay for additional goods within the strata complex which they may have no need for but are required to maintain. Developers determine the amount of common property, which in turn influences the amount of levies payable for maintenance and replacement. Thirdly, developers determine the standard to which property is built. Cheap construction methods wear out more quickly and are less flexible in meeting changing societal needs. Properties outlive their useful life and require demolition more quickly. Fourthly, as McKenzie (2006) noted, developers determine the legal and contractual documents. Included in this is the apportioning of votes and percentage of levies paid per dwelling. Developers also determine the boundaries between private and common properties within the legal documents and through applying covenants, determine the standard to which the property is maintained or initial set of bylaws as part of this stage (Blakely and Snyder 1999). This fourth way that developers influence the owner corporation is equivalent to the first of Blandy's (2010) type developer influence. Fifthly, as noted previously, developers may determine the number and type of sub-committees, influencing the committee structure, and the number of volunteers required to operate the owner corporation. Together, developers influence the governing structure. A sixth way that developers may influence the owner corporation is by appointing themselves to be the property manager for the complex. This is equivalent to the second of Blandy's (2010) two type developer influence. Associated with this, is the developer's ability to set up multiple third party contracts on advantageous terms (for the developer), limiting the owner corporation's ability for self determination. This is a seventh way that developers influence owner corporations adversely. An eighth way that developers may adversely affect the owner corporation is by remaining an owner through the performing stage of the organisation. This enables the developer to sit on the committee as an owner. The developer may be the only person on the committee able to fully comprehend the governing documents and the ramifications of the decisions made. Finally, developers influence the owner corporation through marketing campaigns. As Blakely and Snyder (1999) report, real estate agents sell the emotion of home not the associated owner corporation. By failing to mention the governing documents in the marketing material, the developer and his estate agent, influence people to purchase without understanding third party contractual relationships with other owners.

Against this backdrop of structural forces, owners are given limited autonomy of their complexes. They have no institutional opposition. Owners are provided with a structure within which to operate, but not versed in how to run an organisation, nor can they significantly change the organisational structure or increase membership. Yet they are expected to manage increasingly large financial sums and commercial assets within a

transparent and accountable framework without being versed in governance, financial or property knowledge. Owners may not have been told when purchasing that they are joining an organisation, have obligations towards it, need to adhere to by-laws, or provide volunteer labour for the organisation. The balance between individual and collective decision making within the organisation is not always understood as a conflict of interest. Personal conflicts that beset the organisation provide a sense of powerlessness that contrasts with intended benefits of participation. Participation dwindles as trust and transparency is lowered, and no effective opposition occurs to provide a balanced view of decisions and decision making. Owners, who are able to, may move away (Blakely & Snyder 1999) taking organisational knowledge with them. Hampered on so many fronts, the organisation may not be able to recover and function effectively, move from the organisational forming stage to the performing stage, since the organisational attributes are unique and hampered by the very framework that is setup to ensure its functioning.

## Reference List

- Australian Bureau of Statistics (ABS) (2004), Housing: highrise living. Australian Social Trends 2004, Australian Bureau of Statistics. Available at <http://www.abs.gov.au/Ausstats/abs@.nsf/0/939bff64e38e18ddca256e9e002912f0?OpenDocument>, viewed 1/7/2011 2011.
- Australian Taxation Office, Ruling IT 2505, ACT, viewed 11 November 2010, <http://www.ato.gov.au/rulings>
- Atkinson, R. and S. Blandy, Eds. (2006). Gated Communities. Oxton, Routledge, Taylor & Francis Group Ltd.
- Beito, D., P. Gordon, et al. (2002). The Voluntary City: Choice, Community, and Civil Society. Michigan, Ann Arbor, University of Michigan.
- Blakely, E. and M. Snyder (1999). Fortres America. Washigton DC, The Brookings Institution.
- Blandy, S., J. Dixon, et al. (2006). The Rise of Private Neighbourhoods in England and New Zealand. Private Cities: Global and Local Perspectives. G. Glasze, C. Webster and K. Frantz. Oxton, Routledge: 190-205.
- Blandy, S., A. Dupuis, et al., Eds. (2010). Multi Owned Housing: Law , Power and Practice, Ashgate England.
- Blandy, S. and D. Lister (2006). Gated Communties: (Ne) Gating Community Development? Gated Communities. R. Atkinson and S. Blandy. Oxton, Routledge, Taylor & Francis Group Ltd. **1**: 97-111.
- Bounds, M. and A. Morris (2006). Second wave gentrification in inner-city Sydney. Cities **23**(2): 99-108.
- Brackertz, N. and R. Kenley (2002). "A Service Delivery Approach to Measuring Facility Performance in Local Government." Facilities **20**(3/4): 127-135.
- Bush, T. and Gamage (2001). "Models of self-governing school: Australia and the United Kingdom." International Journal of Educational Management **15**(1): 39-44.
- Butler-Bowden, C. and C. Pickett (2007). HOMES IN THE SKY: Apartment Living in Australia. Melbourne, The Miegunyah Press.
- Chen, S. C. Y. and C. Webster (2006). Homeowners Associations, Collective Action and the Costs of Rivate Governance. Gated Communities. R. Atkinson and S. Blandy. Oxton, Routledge, Taylor & Francis Group Ltd. **1**: 18-33.
- Clegg SR, Courpasson D, Phillips N 2006, Power and Organisations, Sage Publications Ltd, London
- Curtin, D. (2000). California Land-use and Planning Law. Poin Arena, CA, Solano Press Book.
- Ernst, J., L. Glanville, et al. (1997). Breaking Contracts. O. U. R. P. Unit. Melbourne, Victoria University of Technology: 1-63.
- Foldvary, F. (1994). Public Goods and Private Communities, Aldershot, Edward Elgar Publishing.
- Foldvary, F., Ed. (2006). The economic case for private residential government. Private Cities: Global and local perspectives. Oxton, Routledge.
- Frantz, K. (2006). Private Gated Neighbourhoods: A progressive trend in US urban development. Private Cities: Global and local perspectives. G. Glasze, C. Webster and K. Frantz. Oxton, Routledge: 64-75.

- Glasze, G. (2006). Some Reflections on the Economic and Political Organisation of Private Neighbourhoods. Gated Communities. R. Atkinson and S. Blandy. Oxton, Routledge, Taylor & Francis Group Ltd. **1**: 34-44.
- Glasze, G. (2006). The Spread of Private Guarded Neighbourhoods in Lebanon and the Significance of a Historically and Geographically Specific Governmentality. Private Cities: Global and local perspectives. G. Glasze, C. Webster and K. Frantz. Oxton, Routledge: 127-141.
- Graw, S. (2005). An introduction of the Law of Contract. Sydney, Thompson Legal & Regulatory Limited.
- Janoschka, M. and A. Borsdorf (2006). Condominios Fechaos and Barrios Privados: The rise of private residential neighbourhoods in Latin America. Private Cities: Global and local perspectives. G. Glasze, C. Webster and K. Frantz. Oxton, Routledge: 92-108.
- Jurgens, U. and K. Landman (2006). Gated Communities in South Africa. Private Cities: Global and local perspectives. G. Glasze, C. Webster and K. Frantz. Oxton, Routledge: 109-126.
- Le Goix, R. (2006). Gated Communities: Sprawl and Social Segregation or Social Cohesion? Gated Communities. R. Atkinson and S. Blandy. Oxton, Routledge, Taylor & Francis Group Ltd. **1**: 131-151.
- Le Groix, R. (2006). Gated communities as predators of public resources: The outcomes of fading boundaries between private management and public authorities in southern California. Private Cities: Global and Local Perspectives. G. Glaze, C. Webster and K. Frantz. Oxton, Routledge: 76-91.
- Lentz, S. (2006). More Gates Less Community? Guarded housing in Russia. Private Cities: Global and local perspectives. G. Glasze, C. Webster and K. Frantz. Oxto, Routledge: 206-221.
- Low, S. (2006). Unlocking the gated community: moral minimalism and social (dis) order in gated communities in the United States and Mexico. Private Cities: Global and local perspectives. G. Glaze, C. Webster and K. Frantz. Oxton, Routledge.
- Master Builder Association of Australia (MBA), (2011). <http://www.mba.org.au> viewed 8 Aug 2011
- McKenzie, E. (1996). Privatopia: Home Owner Associations and the Rise of Residential Private Governments. Yale University Press, New Haven.
- McKenzie, E. (2006). Constructing the Pomerium in Las Vegas: A Case Study of Emerging Trends in American Gated Communities. Gated Cities. R. Atkinson and S. Blandy. Oxton, Routledge, Taylor & Francis Group Ltd. **1**: 1-17.
- McKenzie, E. (2006). The Dynamics of Privatopia: Private residential governance in the USA. Private Cities: Global and local perspectives. G. Glasze, C. Webster and K. Frantz. Oxton, Routledge: 9-30.
- McKenzie, E. (2010). Emerging regulatory trends, power and competing interests in US common interest housing developments,. Multi-owned Housing: Law, Power and Practice. S. Blandy, A. Dupuis and J. Dixon, Ashgate.
- Owner Corporation of Victoria. (2010), Policy Position Paper V2.2 October 2010, Owners corporation of Victoria, Collingwood, viewed 5 Nov 2010 <http://www.ocv.org.au>
- Owners Corporation Act . (2006). viewed 19/6/2009 <[http:// www.legislation.vic.gov.au](http://www.legislation.vic.gov.au)> Victoria, Australia
- Pouder, R. and J. Clark (2009). "Formulating strategic direction for a gated residential community." Property Management **27**(4): 216-227.

- Randolph, B. (2010). Socially sustainable higher density: Plenty of questions; not many answer. Australasian Housing Researchers Conference 2010, Auckland, AHRC
- Robbins, Bergman, et al. (2009). Foundations of Management 3. Frenches Forest, Pearson Education Australia.
- Scott, S. (1999). The Homes Association: will 'private governance' serve the public interest. Common Interest Communities: Private Governments and Public Interest. S. Barton and C. Silverman. Berkely, Berkey: Institute of Governmental Studies Press: 19-30.
- Sherry, C. (2009). "The New South Wales Strata and Community Titles Acts: A case study of legislatively created high rise and master planned communities." International Journal of Law in the Built Environment 1(2): 130-142.
- Silverman, C. and S. Barton (1994). Shared Premises: community and conflict in the common interest development. Common Interest Cmmunities: Private Governments and the Public Interest. S. Barton and C. Silverman. Berkley, Berkely: Institute of Governmetal Studies Press: 129-144.
- Thuillier, G. (2006). Gated Communities in the Metropolitan Area of Buenos Aires, Argentina: A Challenge for Town Planning. Gated Communities. R. Atkinson and S. Blandy. Oxtan, Routledge, Taylor & Francis Group Ltd. 1: 67-83.
- Webster, C. and G. Glasze (2006). Conclusion: Dynamic urban order and the rise of residential clubs. Private Cities: Global and local perspectives. G. Glasze, C. Webster and K. Frantz. Oxtan, Routledge: 222-237.
- Wu, F. (2006). Rediscovering the 'Gate' Under Market Transition: From Working Unit Compounds to Commodity Housing Enclaves. Gated Communities. R. Atkinson and S. Blandy. Oxtan, Routledge, Taylor & Francis Group Ltd. 1: 46-66.