Executive Summary

"The Contract for Deed Prevalence Project"

A Final Report to the Texas Department of Housing and Community Affairs (TDHCA)

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OVERVIEW OF PROJECT

This Report by the University of Texas at Austin examines titling and land acquisition practices in Texas colonias and similar communities on the Texas-Mexico border, as well as interior counties around Austin. The Report is the result of a Contract for Deed Prevalence Research Project (hereafter the Project) commissioned by the Texas Department of Housing and Community Affairs, in response to a 2011 recommendation from the Texas Sunset Advisory Commission. The core requirement and focus of the Project was to estimate the current number of recorded and unrecorded Contracts for Deed (CFDs) in Texas colonias in six counties: Cameron, El Paso, Hidalgo, Maverick, Starr and Webb (we also added Val Verde for a portion of the study).

In addition to looking at hard counts of CFDs, we set out to understand more deeply: (1) who is still using CFD and why; (2) the full range of homeownership acquisition methods in colonias and the extent to which these areas are related to increased informality and a concomitant "clouding" of title; (3) what is happening to ownership interests in older colonias as the aging owners die and pass on their housing assets; and (4) what barriers and issues are homeowners facing in obtaining secure, clean title to their homesteads. Since we know from prior research that conditions found in colonias exist throughout Texas, the Report also set out to examine similar informal subdivisions in Central Texas, near our base at U.T.-Austin, with varying degrees of focus on Guadalupe, Hays, Travis, and Bastrop counties.

Summarily defined, a colonia is a state designation of a neighborhood within 150 miles of the Mexico border comprised primarily of low-income households and defined by poor physical and economic conditions, including limited infrastructure and substandard housing. In the Report, we refer to similar communities that don't meet the formal state definition of a colonia as informal homestead subdivisions, or IFHSs. These include subdivisions in interior counties as well as the new generation of subdivisions being developed along the border since 1995 under the State's model subdivision rules. But for varying degrees of more developed infrastructure and housing conditions, these subdivisions resemble colonias in form and function.

The Project was undertaken by a research team comprised of faculty and graduate students at the University of Texas at Austin. It was co-directed by Dr. Peter M. Ward at The Lyndon B. Johnson (LBJ) School of Public Affairs, and at the UT School of Law by Heather K. Way, Lecturer and Director of the Community Development Clinic and Lucille Wood, Lecturer and Research Fellow in the William Wayne Justice Center for Public Interest Law. Responsibility for the research findings, views, and recommendations contained in this report are those of the aforementioned authors, and should not be construed as those of the TDHCA.

RESEARCH STRATEGY

Our study used a "mixed methods" approach that included interviews with key informants, focus groups, archival analysis, household surveys, aerial imaging, etc. The Project was designed in three stages, or phases. Phase One was undertaken primarily in the first four months and focused upon getting a hard count of the **recorded CFDs** (RCFDs) from 1989 through 2010 in the targeted counties and the data sources were county deed and CAD records, and assistance from title companies in a few counties. We also assessed the relative and current importance of RCFDs against the backdrop of all recorded land sales transactions in each county.

Phase Two of the Project was focused on estimating the numbers of **unrecorded CFDs** (UCFDs). Since the data for UCFDs are unavailable in government records, this phase involved sampling and conducting household surveys. In the first four months of 2012, we conducted nearly 1,300 surveys of households in 65 colonias and IFHSs in 8 counties. In order for us to extrapolate settlement findings to the wider county level in the 6 border counties designated by TDHCA (Cameron, El Paso, Hidalgo, Maverick, Starr, Webb), our selection of all of the colonias was random. The surveys also included a number of purposively-selected IFHSs on the border developed post-1995 under the model subdivision rules, given our interest in understanding current developer practices and examining neighborhoods where developers are currently most active (the State does not include these subdivisions in the formal definition of a colonia given their access to water and wastewater infrastructure). The findings from these newer subdivisions were **not** included in our extrapolations to the county level. Finally, the communities we surveyed included purposively-selected IFHSs in Hays and Guadalupe counties in Central Texas. We also did not make any extrapolations to the county level for these interior counties. Households were selected randomly and gathered detailed information about the nature and costs of lot/home purchase, the papers that they received, etc. This data formed the basis for the second part of Phase Two which consisted of painstaking tracking of individual title histories in the County Appraisal District and county clerk records, with assistance from title companies in some counties, in order to arrive at estimates of UCFDs.

Phase Three of the Project sought to offer more qualitative insights related to titling practices and informality in land transactions and to research major trends and issues arising from current land acquisition processes. We conducted a systematic analysis of the survey database to examine issues such as inheritance, renting, the evolution of developer practices over time, consumer-to-consumer sales, cross comparisons of newer and older colonias, and lot abandonment. We also conducted follow-up phone interviews of purposively-selected households, along with a follow-up mail survey of absentee owners, and a lot "flipping" analysis of CAD records for newer subdivisions in El Paso and in Hidalgo, to better understand the extent to which developers are rapidly repossessing lots.

OVERVIEW OF CONTRACTS FOR DEED AND LAND TITLING IN TEXAS

There are three primary mechanisms for titling and financing the purchase of a homestead[1] in Texas: (1) a deed with lender financing via a deed of trust; (2) a deed with seller financing via a deed of trust; and (3) a contract for deed. Of the owners we surveyed who purchased their homes, 70% purchased the land by itself, while the other

[1] In the Report, we use the term "homestead" to refer to the purchase of a lot with a home on it, as well as a purchase of just a lot where the buyer has the intention of moving a manufactured home or other residential structure onto the lot. In both instances, we use the term to refer to a property that someone intends to own and is occupying as his or her primary residence.

30% purchased land with a house on it, which could have been a manufactured home, module (stick frame) structure, house built on site, or a combination of these structures.

The most common pathway to homeownership in the formal market is a deed with a deed of trust, with the buyer obtaining financing for the purchase from a lending institution. With a bank-financed loan, the process is very formal, with legal documents prepared by attorneys, title insurance, a survey, an appraisal, consumer disclosures, and a host of regulatory protections for consumers. When a buyer is unable to secure bank financing to purchase a home and does not have the personal means (either personally or through family) to pay cash up front for the purchase, the buyer is left with the option of obtaining seller financing for the home.

This traditional (formal) pathway to homeownership is the exception in colonias and IFHSs: Of the homebuyers we surveyed, only 11.7% purchased their homes did so with bank or credit union financing. With seller financing, instead of receiving an upfront payment for the home via the bank, the seller receives payments towards the purchase price directly from the buyer over a period of time, typically ranging from five to thirty years. Both developers and residents selling property in colonias and IFHSs are by and large utilizing seller financing.

When seller financing is utilized, the seller has two options as to how the titling and financing for the transaction will be handled. The first option is to use a deed with a deed of trust and vendor's lien. Similar to a bank-financed transaction, the buyer receives the title from the seller upfront, via the deed, as soon as the closing documents are signed and down payment is made. This type of transaction can range in levels of formality. Similar to buyers obtaining bank financing, some buyers receiving seller financing go through a very formal process with a real estate agent and a title company to scrutinize the transaction and assist with the paperwork, and a title insurance policy to safeguard against title issues. In other transactions, with much lower levels of formality, the seller handles all the paperwork, the closing happens around the kitchen table, and no outside parties are involved to review the transaction or the title for irregularities or problems.

As an alternative to using a deed of trust and deed, a seller can utilize a contract for deed. With a CFD, the seller promises to issue a deed to the buyer only after the buyer has paid the entire agreed purchase price. In other words, legal title does not transfer to the buyer until all payments owed under the contract are completed. Contracts for deed are referred to as "executory contracts" in the Texas Property Code, and have also been called "contracts for sale," "poor man's mortgages," and "land contracts." Starting in 1995, the Texas Legislature adopted a series of regulations bringing CFDs under stricter regulation, including a requirement in the Texas Property Code (§ 5.079) that CFDs be recorded, although as discussed below this required is being ignored by some sellers, especially in consumer-to-consumer transactions. Purchasers often lack information about the title and conditions of the contracting, interest rates, and the importance of recording their documents in the county clerk records or do not understand the process for recording their documents.

A key element of most CFDs is the forfeiture clause—which provides that if a buyer defaults under the contract, the seller can declare the contract terminated, regain possession, and retain the buyer's prior payments as liquidated damages. Moreover, the homebuyer also typically loses the right to recover from any improvements made to the property. During the contract term, the buyer with a CFD is typically responsible for maintenance of the property and payment of the taxes and insurance, but this depends on contract terms, which are not always delineated. Typically (but not always in the case of non-developer transactions), CFDs include interest on the sales price, with rates significantly higher than conventional financing rates: 12% to 18% interest rates are common, although we came across rates as high as 20% during our field work for the Project.

A variation of CFDs is the lease-to-own contract. In a typical lease-to-own contract (also referred to as rent-to-own and lease-option contracts), the homebuyer pays a nonrefundable option fee up front and makes monthly payments under a lease for a set term. At the end of the lease term, if the buyer has followed the terms of the lease and is able to secure financing (from a bank or the seller), the buyer is eligible to purchase the home and obtain title from the seller. Otherwise, the buyer forfeits all payments made under the contract. Lease-to-own contracts are subject to many of the same state regulations as CFDs. For purposes of this Report, references to CFDs also include lease-to-own contracts.

Our fieldwork confirmed that CFDs range broadly in degrees of formality. The most formal documents are those used in developer-to-consumer transactions, and involve a lengthy and detailed typed contract. At the other end of the spectrum, the most informal of these contracts are merely oral agreements or understandings with receipts as the only written evidence of the transaction. In between the oral agreement and a formal CFD lies the informal CFD. Informal CFDs, which are seen most often in consumer-to-consumer transactions (versus developer sales), typically involve a document prepared from scratch by either the buyer or seller with varying degrees of information about the terms of the transaction. These agreements are usually very cursory and fail to include the statutory-mandated consumer disclosures, notices, and other provisions required by the Texas Property Code, as well as basic information about the parties' rights and responsibilities under agreement.

OVERVIEW OF THE RESIDENTS WE SURVEYED

Below is a summary overview of the 1,287 residents we surveyed in 8 counties from January to April 2012:

- 96% are Hispanic, and 62% are female.
- The heads of household we randomly surveyed included: 972 (76%) owners, 190 (15%) renters, 29 respondents who live rent-free from an absentee owner, and 20 who live rent-free from an owner who resides on the property.[2]
- A majority of the residents are living in deep poverty: 57% of the owners and 63% of the renters we surveyed make less than $1,600 a month.
- The average household size of our survey respondents—4.16—is higher than the U.S. and Texas average of 2.59 and 2.78 respectively, with larger household sizes found in the newer subdivisions we surveyed.

[2] There were an additional 76 interviewees who did not identify in their survey whether they were owners or renters.

- The households are very stable in terms of very low divorce rates: 75% of the heads of household we surveyed are formally married or in a common law union—only 7% have been divorced, and only 6% are single.
- 523 (54%) of the owners we surveyed had purchased from a developer (or land company), 326 (34%) had purchased from another consumer, and 24 had inherited their homestead from a deceased former owner. An additional 33 had received their property via a gift from living family members.
- Informal pathways to homeownership in colonias and IFHSs still provide a stable source of housing for many residents. Three-fourths of residents who purchased their have lived on their lots for at least 10 years.
- Roughly half of owners and renters live in colonias and informal homestead subdivisions that were developed prior to 1989.

KEY FINDINGS RELATED TO RECORDED CONTRACTS FOR DEED

During Phase One, we examined thousands of county deed and CAD records to obtain an estimate of the total number of CFDs recorded from 1989 through 2010, and the total number of active RCFDs in the following 10 counties: Bastrop, Cameron, El Paso, Guadalupe, Hidalgo, Maverick, Starr, Travis, Val Verde, and Webb. We then assessed the importance of RCFDs against the backdrop of all recorded land sales transactions in each county, via what we termed the Transaction Usage Rate.[3] Finally, we assessed the importance of RCFDs against the number of residents living in colonias and IFHSs for the counties we examined, via what we termed the Housing Unit Usage Rate.[4]

Our key findings related to recorded Contracts for Deed are as follows:

- **RCFDs continue to be in use and recorded at significant rates in the border region and also interior counties far from the border.**
- **The use of RCFDs peaked in 2000-2001, around the time of the state legislative reforms, and has since leveled out at around 450 contracts recorded a year in all 10 counties combined.** However, we observed a recent upswing in Bastrop and El Paso counties.
- **We estimate that 16,261 total CFDs were recorded between 1989 and 2010 in the 10 counties, and that 5,451 of these CFDs are still active**. Most of the

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[3] Transaction Usage Rates were computed by taking the total number of CFDs recorded over a period in a particular county and dividing by the total number of recorded land transactions in the same period that involved a recorded CFD or instrument conveying ownership in a similar land sale transaction. We multiplied these figures by 1000. Since counties differ in their categorizations of deeds full details on which transaction types were included in these denominators are provided in the individual county narratives at Appendix A.ii of the Report. .

[4] Housing Unit Usage Rates were computed by taking the total number of CFDs recorded within a period in a particular county, divided by the estimated total number of housing units in the colonias or IFHSs located within that county. These are described fully in Chapter 3 and Appendix A.i of the Report.

active RCFDs are in five counties: Bastrop, Travis, Webb, Maverick, and El Paso counties. The fewest outstanding contracts are in Starr, Guadalupe, and Val Verde counties.

- As one might expect, border counties with larger colonia populations had the largest absolute numbers of recorded CFDs. **Counties where colonias form a high proportion of the residential fabric generally had a higher Transaction Usage Rate**.

Some of our additional key findings related to RCFDs include:

Buyers with RCFDs appear to have very low success rates in eventually obtaining a deed, at least this was the case in the one county where we were able to obtain extensive title history data, Maverick County. With the assistance of a local title company, we conducted a closer analysis of RCFDs in Maverick—a county where RCFD usage has been significant and is ongoing. According to the title histories we reviewed, 45% of the CFDs recorded since 1989 had been cancelled (based on a 10% random sample of CFDs). Fewer than 1/5th of Maverick County buyers with RCFDs made the transition to a deed, and 37% still hold an active RCFD. While not a perfect comparison,[5] the 45% failure rate stands in stark contrast to the formal mortgage market: Of homeowners nationwide who received institutional loans for the purchase of a home between 2004 and 2008 (i.e., origination date), 6.4% total, and 11.9% of Latinos, had lost their homes through foreclosure by February 2011, in the heart of the nation's foreclosure crisis.[6]

For those buyers we surveyed with RCFDs who were successful in obtaining a deed, the conversion time was fairly short. From our survey, we found that it took homeowners on average 8.4 to 10 years to convert from a RCFD to a deed.[7]

KEY FINDINGS RELATED TO UNRECORDED CONTRACT FOR DEED

For our estimates of unrecorded contracts for deed (UCFDs), we had to turn to in-person interviews with households in colonias and informal subdivisions—close to 1,300 surveys were conducted from January to mid-April 2012. The nature of UCFDs—the fact that they are unrecorded—means there is no online record or other public record of their existence. However, even relying on the survey data alone turned out to be problematic, as we discovered that many households do not know what type of title they purchase with or currently hold. As a result, we ended up having to also conduct painstaking research to crosscheck the survey information with the ownerships records at the offices of the applicable county clerks and county appraisal districts. Through these channels, we were able to arrive at our estimates by determining which of the purported owners we

[5] This comparison is also imperfect in that some of the CFD cancellations for Maverick County could have been truly voluntary, for cases where the buyer chose to walk away from the purchase, although we suspect that most of the Maverick cases were involuntary cancellations.

[6] Center for Responsible Lending, Lost Ground, 2011: Disparities in Mortgage Lending and Foreclosures (November 2011), http://www.responsiblelending.org/mortgage-lending/research-analysis/Lost-Ground-exec-summary.pdf.

[7] See Chapter 4 for a discussion of the differences between these two estimations.

interviewed held, or had previously held, a UCFD. However, , even arriving at these estimates was a challenge given **the archaic and inefficient recordkeeping systems for deed records that exist in Texas counties**. This phase of our research ran right into these recordkeeping system deficiencies, making it difficult to come up with precise calculations about the extent to which someone's ownership interests had never been recorded. As a result, we ended up developing a range of estimates (conservative, moderate and liberal) concerning the use of UCFD. The moderate estimates are presented below, with the other estimates available in Chapter 4.

As mentioned above, in addition to the six border counties where colonias were selected randomly, for our survey sample we also included informal homestead subdivisions (IFHSs) in two Central Texas counties (Guadalupe and Hays), as well a number of newer colonias in border counties, all of which were purposively selected. Our extrapolative data therefore applies only to randomly surveyed households and colonias in the six border counties we studied (Cameron, Hidalgo, Webb, Starr, Maverick, and El Paso). Our key findings in regards to Unrecorded Contracts for Deed are as follows:

- **UCFDs are still in active use in Texas in colonias and informal homestead subdivisions.** Of the owners we surveyed (across all eight counties) who recently purchased their homesteads, approximately one of out of five purchased with a UCFD. Recent buyers in older established colonias are more likely to have purchased with a UCFD than those in newer settlements. UCFDs are most often used with consumer-to-consumer transactions than in developer sales, although UCFDs can still be found in developer/land company sales.

- **An estimated 6,597[8] homestead owners—13.8% of homestead owners—in colonias[9] of six Texas counties (Hidalgo, Webb, Starr, Maverick, El Paso, and Cameron) had a UCFD as of 2012.[10]**

- **UCFDs are also found in the interior counties we surveyed** (8% of homestead owners surveyed in Guadalupe and Hays combined), with the highest rates in Hays County (11% of homestead owners currently hold UCFDs).

- **Consumers entering into UCFDs lack access to information about the land acquisition process and how to protect their interests.** As a result, these consumers also lack information on the importance of recording their documents in the county clerk records or do not understand the process for recording their documents.

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[8] With a margin of error that varies for between ± 6.81 and ±8.61 as described in Appendix A.i.

[9] Appendix A.i. provides a full discussion of the colonia settlements and caluculations to arrive at these estimates.

[10] This estimate is based on we what have deemed to be a "moderate" calculation of UCFDs (see the Methodology section in Chapter 4 for a discussion of how we arrived at the moderate estimate as well as alternative "conservative" and "liberal" estimates of UCFDs. Appendix A.i. provides a discussion on the margins of error for these estimates.

THREE KEY TRENDS RELATED TO LAND ACQUISITION IN INFORMAL SETTLEMENTS

As mentioned above, during Phase Three of the Project we sought to offer more qualitative insights related to titling practices and informality in land transactions and to identify major trends and issues arising from current land acquisition processes in colonias and IFHSs. During this phase, we relied principally on a systematic analysis of the survey database and follow-up phone interviews, a follow-up mail-survey of absentee owners, and analysis of lot flipping in two settlements. Through this work, we uncovered three key big pictures trends in relation to how property is being transferred in colonias and similar low-income subdivisions:

Trend One: Developer-Financed Sales are Relying Largely on Deeds and Deeds of Trust but are Utilizing Other Problematic Practices that are Placing Homebuyers in Extremely Vulnerable Positions

Today, developers are much more active in land sales in newer subdivisions developed legally with infrastructure under the state's model subdivision rules than they are in older colonias and IFHSs. Less than 50% of homestead purchases in the older settlements we surveyed are by developers, in contrast to 89% of purchases in post-1996 settlements.

The legislative reforms of CFD in 1995 and 2001 have therefore been successful in steering most developers away from this form of land sale. Developers selling land prior to 1995 in colonias relied largely on UCFDs as the primary means for financing land sales. Since then, they have turned to deeds and deeds of trust as the primary method of titling and financing land sales, although some still use contracts for deed, which are by and large recorded. Of developer sales occurring between 2003 and 2010 in colonias, between 73% and 83% utilized a deed and deed of trust financing mechanism.

However, we found that **residents obtaining developer-financing today still face a number of exploitative practices through their participation in a market that still lacks regulatory oversight and contains limited consumer protections**. Since the implementation of the State's model subdivision regulations in the 1990s, some developers are promoting subdivisions with full services, but at greater cost and with aggressive practices that are facilitating rapid repossession and causing residents to feel vulnerable and inhibiting them from making investments and improvements to their homes. Paradoxically, therefore, even though the lots in these newer subdivisions come with infrastructure, they contain some of the poorest housing conditions in the state. Although they are not considered colonias (since they have infrastructure), many of the purchasers are confronted with the same dire housing conditions and high vulnerability to losing one's lot without compensation that we saw in the late 1980s when the Texas Legislature and policymakers first began regulating land transactions in colonias. But unlike the purchasers of the 1980s, due to high repossession rates, these new would be owners who purchase from developers are becoming de facto renters, trapped in some of the most substandard housing conditions that can be found in Texas.

One of these **newer subdivisions with high rates of repossession** is Pueblo de las Palmas in Hidalgo County. Even though the developer and related and unrelated land investors are selling the lots with deeds and deeds of trust, we observed very high levels of rapid foreclosure by the developer and investors before selling to another buyer (what we call "flipping"). . Out of 100 lots we reviewed in the CAD records via a random sample, at least 45%[11] of the lots have been foreclosed upon at least once by the seller, who was almost always the developer or a local land investor (93% of cases). Of the lots foreclosed, 44% were foreclosed within a year of the sale, and 62% were foreclosed less than two years after the sale.

Trend Two: Consumer-Financed Sales are becoming More Predominant and Have Higher Levels of Informality

One of our key findings in this Report is the growing predominance of consumer-to-consumer sales in older colonias and IFHSs, and a congruent heightened use of unrecorded CFD in these communities. As these communities age and their residents obtain title to their properties, these same residents are gradually replacing developers as the dominant actors in land sales. We found that properties purchased from consumers have higher combined land and house prices, down payments, and initial monthly payments than properties purchased from developers. The buyers in these transactions also have higher incomes than those buying from developers. In contrast, the poorest buyers are more likely to buy from developers. All depend upon seller financing.

Consumers attempting to buy or sell property lack access to information about the process, how to comply with the law, and how to protect their interests. Many of these transactions happen without the assistance of real estate agents or attorneys. As they venture out on their own to handle land sales, many of them are outright unaware of the importance of deeds, the importance of checking the status of the title before purchasing a property, and of how to record their documents. Many of the residents surveyed, for example, were unaware what type of title they had received, if any, and if it had been recorded.

As a result, **consumer-financed transactions, in contrast to developer-financed transactions, have much higher levels of informality** and an array of related issues, with much higher usage of unrecorded contracts for deed. These transactions also typically do not involve title insurance or homeowners insurance, placing the buyers in an especially vulnerable position. We heard repeatedly in our follow-up interviews with selected owners that they could have benefited greatly from having more information about the land sales process and access to affordable assistance in preparing or reviewing their sales documents.

Trend Three: Not Having a Will is Leading to Future Increases in "Clouded" Titles and Reproduces Informality

A final key trend that our research uncovered is that many more property transfers will be occurring via intestacy law in the coming two decades, most likely leading to a dramatic increase in clouded property titles, with multiple owners and legal ownership that does not match the residents' understanding of ownership or

[11] We suspect that the foreclosure rate is even higher, but in the CAD records we were only able to observe the most recent three land transactions for each lot, and transactions information for some of the lots was missing or was indecipherable to us as to what had transpired in relation to the lot.

the deed records. Only 10% of the owners we surveyed have a will. Meanwhile, 68% of the owners we surveyed in colonias and IFHSs developed before 1989 are 61 and over. Unless there is a rapid increase in the prevalence of wills among this senior population, as these owners pass away we can expect to see growing numbers of homeowners in these older communities dying and passing on their property via intestacy to the next generation, leading to an increase in clouded titles. This is the same trend that has been seen in older African-American communities in the state and country where property titles have passed across multiple generations via intestacy, leading to serious problems with delivery of disaster recovery and other government rebuilding assistance, barring families' ability to ever resell their property, market under-performance and under-valuation, and a host of other issues.

ADDITIONAL TRENDS AND ISSUES

- ❖ **Renting is on the rise in colonias.** One-fifth of lots we surveyed in all 8 counties are being rented or loaned to kin or friends, invariably on an informal basis—70% of renters we surveyed do not have a rental contract. Renters are much younger than their owner counterparts.

- ❖ **Vacant lots and non-occupancy remain commonplace (up to 20%) in many colonias and subdivisions**. During the survey, we also observed that vacant lots were sometimes a product of abandonment. We suspect that title impediments and the lack of formal financing are a major contributor to these high levels of lot abandonment and vacancies in colonias.

- ❖ **Homebuyers in colonias and IFHSs are confronted with a number of different clouded title issues**, including insufficient legal descriptions, conflicting names in titling documents, and failure to obtain formal divorce decrees reallocating title to the property. In some cases, most notably those in Starr County, we could not even find legal descriptions for the lots.

- ❖ **Homeowners in colonias and IFHSs are not accessing the numerous benefits they are entitled to under the Texas homestead tax exemption**. Of the homeowners we surveyed, 47% have not obtained a homestead tax exemption from the county appraisal district.

- ❖ **The price of land in land-only transactions from our survey sample (calculated in 2012 dollars), has risen over time in colonias and IFHSs.**

POLICY RECOMMENDATIONS

In the Report we outline a number of arenas that merit serious attention from legislators and other policymakers and break out directly from the CFD study we performed for TDHCA. Here is a brief summary of some of our key policy recommendations. These are discussed in more detail in Chapter Six of the Report:

- ❖ **Adopt an efficient, uniform, and modernized land information system that is easily accessible to the public in an online format**. Local jurisdictions' land records systems across Texas are archaic and costly, making it very difficult to access the status of someone's title today. Many records are not even available online. The grantor-grantee system for indexing records is particularly crude and outdated.[12] Over the long-run, reforms to land records systems would save the government, businesses, and landowners time and money.

- **Promulgate a simple deed and deed of trust template for consumer-to-consumer transactions** (in Spanish and English) that can substitute for the handwritten notes and other informal documents that we have described in this report.[13] These forms should carry clear instructions about notarization and filing requirements. Aggressive consumer education will be essential to the effectiveness of the templates.

- **Provide for stronger oversight of state laws protecting consumers in land transactions**, ensuring that consumers have somewhere to turn to when their rights under these laws are violated—whether this is through the Attorney General's Office or by providing funding support to legal services providers.[14]

- **Create a program with the Texas Equal Access to Justice Foundation to provide legal assistance to low-income homebuyers in seller-financed transactions**, to review the sales transaction documents, advise them about reviewing the title, and assist with the overall transaction, as well as enforcement of the buyer's rights once the initial purchase documents are completed. The program could be funded in a variety of ways, such as through a small fee on all recorded documents.

- **Provide for automatic conversion of a CFD into a deed and deed of trust as a matter of law**, which could automatically incorporate a set of rights and remedies codified in a statute.

- **Reform the State of Texas's contract for deed conversion program to allow it to reach more homestead owners with CFDs.**

- **Promote a Sensitive Campaign for the Use of Wills**.

- **Improve and Reduce the Costs of Probate for Low-Income Home Owners**.

- **Cap legal interest rates for home and lot purchases for residential use at the higher of 12% or 7% over the amount charged by the Federal Reserve.**

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[12] http://www.columbialawreview.org/articles/foreclosures-and-the-failure-of-the-american-land-title-recording-system.

[13] Texas statutes contain many examples of promulgated forms, such as the affidavit of heirship in Chapter 52A of the Texas Property Code.

[14] When we spoke to the Attorney General's office about enforcement of contract for deed laws, they reported to us that do not dedicate resources to this issue. That being the case, the most suitable candidates for legal assistance and enforcement are likely nonprofit organizations with a mission of delivering legal services to the poor.

- **Launch a major consumer education initiative to expand awareness of homebuyer rights and responsibilities, inheritance, and land purchase agreements**.

- **Promote the Creation of Community-Based Lending Institutions**. Support is needed to set up non-profit, community-based lending institutions to assist buyers with cleaning up their credit and with obtaining financing to purchase and improve their homes. Many successful models of these institutions exist across the United States and other countries.

- **Expand Access to the Texas Homestead Tax Exemption in Colonias and IFHSs.** As discussed above, 45% of the homeowners we surveyed do not have the homestead tax exemption. Aggressive consumer education should also be provided to homeowners in informal subdivisions about their eligibility for the homestead tax exemption. Policies should also be adopted to provide homeowners with any assistance they need to complete the application paperwork. As a related issue, TDHCA should be providing homeowners with used manufactured home expanded assistance to obtain title to their used homes (which is needed for the homestead exemption) and provide greater enforcement against used manufactured home sellers who are not providing the required titling paperwork.

PRIORITIES FOR FURTHER RESEARCH

Several of these policy arenas would benefit from further research, including:

- Research to examine more fully what the barriers are that families face in utilizing wills and the probate process, given the low rate of wills in colonias and IFHSs.

- Research to assess and better understand the nature and reasons for the existence of a significant number of vacant and abandoned lots that we observed in colonias, including the ways in which such processes impact upon poor land market performance, government resources, and neighborhood vitality.

- Research to better understand developer practices in new subdivisions, especially the subdivisions with rapid repossession and lot flipping. Also, more information is needed on what extent homebuyers who purchase with seller-financing in colonias and informal subdivisions and who ultimately are unsuccessful in becoming owners. It is also important to compare their trajectories with those who buy through the formal mortgage market, and to identify the triggers for failure rates for seller-financing.