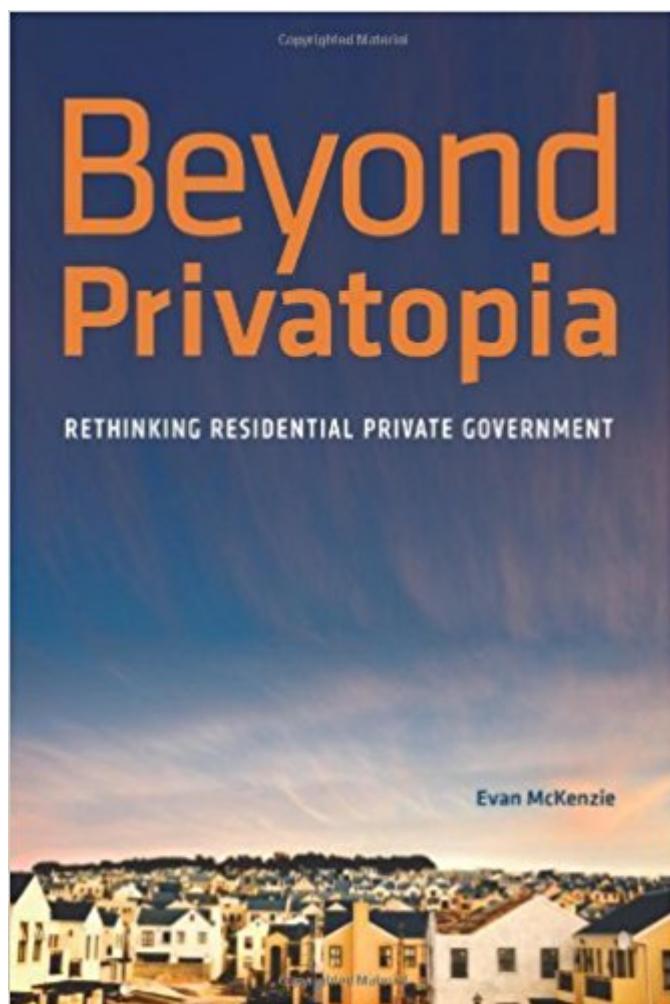


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# Beyond Privatopia: Rethinking Residential Private Government



## Synopsis

The rise of residential private governance may be the most extensive and dramatic privatization of public life in U.S. history. Private communities, often called common interest developments, are now home to almost one-fifth of the U.S. population--indeed, many localities have mandated that all new development be encompassed in a CID. The ubiquity of private communities has changed the nature of local governance. Residents may like closer control of neighborhood services but may also find themselves contending with intrusions an elected government would not be allowed to make, like a ban on pets or yard decorations. And if things go wrong, the contracts residents must sign to purchase within the community give them little legal recourse. In *Beyond Privatopia: Rethinking Residential Private Government*, attorney and political science scholar Evan McKenzie explores emerging trends in private governments and competing schools of thought on how to operate them, from state oversight to laissez-faire libertarianism.

## Book Information

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## Customer Reviews

An important topic given that vast majority of new housing is located in "planned developments." The dangers of private government were demonstrated recently in eastern Florida where a man was fined \$5,000 because 2 trees he planted in his yard were deemed to be too small (guess the hoa

wasn't willing to wait for them to grow). Those who live in condos or developments where they are legally bound to abide by covenants need to consider the ramifications of extensive power by boards and management agencies. A little heavy on theory and thought book should have addressed more practical matters in addition to the content. Author has done a public service by staying on top of this issue.

This is a must read for all persons owning a home in an HOA. I (as a board member) felt that reforms are needed in the HOA laws written by state legislatures. HOA "dues" are an unnecessary extra taxation (of sorts) implemented several years ago and now the construct needs reform to put home ownership back to the private property rights status it has historically owned in the USA. Since most new homes are now only built with HOA status, finding one without the extra fee burden is difficult. (Cities and Town governments like them for their infrastructure care and maintenance, I believe.)

The effective privatization of local government by mandatory membership homeowner associations represents a major transformation of local government with implications that are only now being appreciated outside the circle of developers, land planners and real estate attorneys behind their explosive growth over the past four decades. McKenzie rightly questions the sustainability of this form of governance by private nonprofit corporation that's heavily reliant on often reluctant volunteer homeowners to provide its leadership and funding. A subject matter expert who first wrote on the topic in his 1994 book, *Privatopia: Homeowner Associations and the Rise of Residential Private Government*, McKenzie details the larger policy issues behind the growing number of media accounts of embezzlement, frivolous litigation and mismanagement involving these associations.

Evan McKenzie is THE authority on this topic and it is still highly relevant. This book is now a classic in my opinion. Seriously thought provoking. McKenzie examines the explosion of common interest communities in the U.S. and their related social, legal, and fiscal challenges--that will demand address likely sooner rather than later--whether we choose to acknowledge them or not.

A must read for a full understanding of Public Policy pertaining to Common Interest Communities (HOAs, COAs, POAs, Planned Communities, etc.) Explores the past, present, and future of private communities in America, and their inter-relation to local and state governments. A concise summary of challenges and problems that vex many of over 300,000 "privatopias," the case for appropriate

oversight and regulation, and possible public policy solutions. Important information for public policy makers, homeowner advocates, and HOA leaders.

Professor Evan McKenzie, thank you, thank you, thank you for writing this long awaited book. Homeowners just don't know what they're getting into when they give away all their Constitutional rights to enter a Homeowners Association. Your first book was important. This update is critically important.

Excellent and fast shipping.

First scan . . . Once again a short book, 168 pages, by McKenzie is packed with very important information for those seriously interested in understanding the HOA phenomenon. A must reading for the public interest nonprofits, the legal-academic aristocrats, and all state legislators who have failed over the years to face the realities of the social and political impact of HOAs on our democratic system of government. In his Preface, McKenzie proclaims that "this book is written in my own unusual hybrid perspective", having one foot in the legal-academic club and the other foot amongst the homeowner rights advocates. He names names of leading advocates (p. 121, n. 4): Shu Bartholomew, Jan Bergemann, Pat Haruff, George Starapoli [sic], Fred Pilot and Monica Sadler. Yet, my impression so far is that the book is addressed to the legal-academic aristocrats to remind them that America was not founded on the state being an neoclassic economic force, a business, concerned with efficiency, productivity, wealth redistribution, or rational choice. But, that America was founded on principles of democratic government as set forth in the Preamble to the US Constitution (my interpretation): "We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity . . ." In Chapter 3 McKenzie discusses the libertarian views of Robert H. Nelson and Nozick, among others. He references Nelson with, "They contend that CIDs [McKenzie's generic term for HOAs] are more efficient and more democratic than municipalities and should replace them." (p. xi). He presents Nozick's 1974 argument (p. 47) for "minimal states" that lead to "private protective associations." Minimal states and protective associations have become today's call for less public government and the CC&Rs enforcement agency known as the HOA. Nozick's defense of minimal states, according to McKenzie, is that "This [minimal] state would be legitimate, even though it may infringe on the liberty of individuals, because from the bottom up it would have been based on voluntarism and the

rights of contract." Sounds eerie doesn't it? We hear these arguments today in defense of the HOA legal scheme, but as McKenize argued, they are based on myths. "The notion that individual owners agreed among themselves to perform these services for each other, and subsequent owners took over from them, is entirely fictional." (p. 60).Enough for now. More to come . . . .

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