

# ENCLOSED NEIGHBOURHOODS IN PERSPECTIVE

By

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## 1. Background

Our homes are the centres of our lives, where we feel most safe (or are supposed to). As crime becomes more and more of a threat to that feeling of safety, people are, according to Blakely & Snyder (1998: 22) turning to high walls and fences around residential areas, thereby segregating and privatising parts of the city.

The development of security enclaves is a worldwide phenomenon. According to Lieberman (2000) it is found in the USA, Canada, United Kingdom, Brazil, Chile, Russia and South Africa. Restricted access to neighbourhoods is already a common sight in the northern parts of Johannesburg as well as Midrand. *“What is the South African public’s opinion of this phenomenon?”*

In the context of the high crime rates in South Africa, enclosed neighbourhoods are seen by many as the only option for crime prevention. *But is this really the case? And how are local authorities supposed to deal with this issue?* (Landman, 2000: 1)

Debates arise about *whether the improvement of safety outweighs the negative impacts it brings to the enclosed area as well as the immediate surrounding areas*. Often the safety measures taken such as high fences and videomonitoring gates can have a negative instead of a positive effect on residents (City of Orlando Planning and Development Department). According to Napier *et al.* (1998: 57) it is important that the location and design must consider the impact it will have on the surrounding environment. Arguments that peoples’ constitutional rights such as the right to privacy, the right of worthiness and the right of freedom of movement, might be infringed on, builds a strong case against these initiatives.

According to Blakely (as in Tucker, 1998:24), in some cases these enclave communities are merely prestige communities, the gates denote a barrier of status. These developments feed on exclusion and status. This brings the question: *“Is security the real reason for controlling access?”*

### 1.1 Aim of this study

The aim of the study is to investigate issues surrounding the enclosure of existing neighbourhoods. The essay consists of four major components. Firstly, a literature survey was done. The second part looks at the general public’s opinion of enclaves. The third part is an investigation into relevant legislation and policies with regard to neighbourhood enclosures. The last part is a case study of an enclosed neighbourhood. The case study will contribute the most to the field, because it is the first time that the phenomenon has been researched on such a micro scale.

### 1.2 Research approach

Each of the four components needed different research approaches and types of data sources. In part 1 and 2 a qualitative approach was followed. In part 2 various newspaper clippings were used. The third part of the study was addressed through a systematic

investigation of the relevant legislation. In the case study, a combination of qualitative and quantitative data was used. Questionnaires, title deed slips, interviews and property valuation rolls were used as data sources.

### 1.2.1 Crime data

There is some doubt as to whether the enclosure of a neighbourhood actually deters crime. Special permission was obtained from police headquarters in Pretoria to access detailed crime statistics at Brooklyn Police station. But on Thursday, 20 July, 2000, the Safety and Security Minister Steve Tswete, agreed to a moratorium on releasing crime statistics until certainty had been attained about its reliability. He assured the public that this was not aimed at depriving them of information. He is a firm believer in providing accurate statistics. The National Police Commissioner, Jacki Selebi said that statistics are only valuable if they help to fight crime, and misleading figures could undermine this (Daily Dispatch, July 21, 2000).



**Figure 1:** Moratorium on crime statistics

**Source:** Sowetan, 27 July 2000

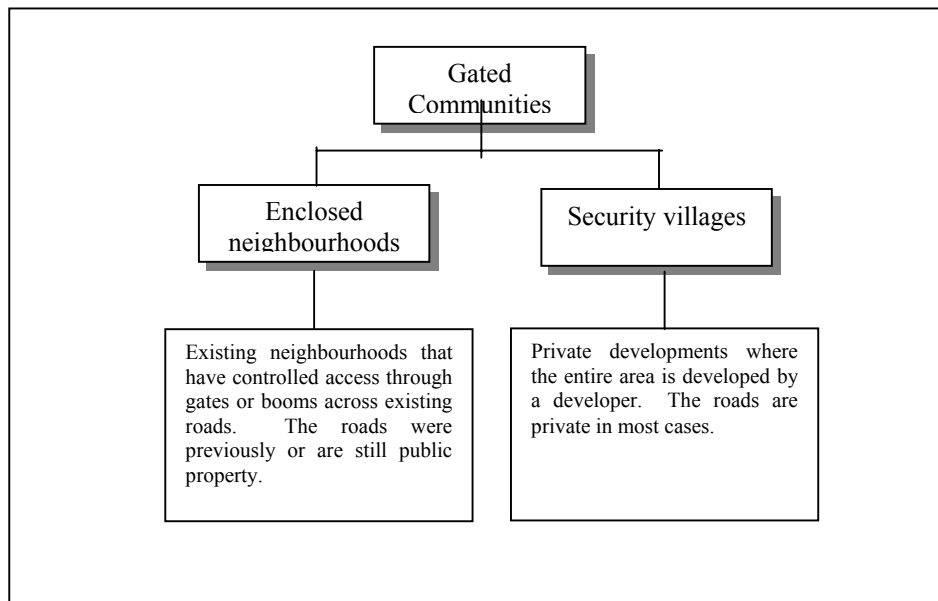
With this moratorium in place, Brooklyn Police station refused to supply the researcher with any crime data. However, Mr. Wiehan (personal interview, 2000) supplied some information about crime in the study area.

## 2. Literature Review

The literature review was done to gain a broad understanding of the topic. It starts off with a discussion on the types of security developments in order to gain a better understanding of what an enclosed neighbourhood is. Thereafter the reasons for enclosed neighbourhoods are discussed. This leads to a discussion on fear of crime. One of the crime prevention approaches, Crime Prevention Through Environmental Design, is discussed as a precursor to the debate on enclosing neighbourhoods. Arguments for and against enclosed neighbourhoods are presented with the following themes; integration versus segregation, design guidelines as arguments, and a discussion on rights and principles of prominent documents for urban development in South Africa.

### 2.1 Types of security developments / gated communities

Gated communities refer to any physical area that is fenced or walled off from its surroundings, either prohibiting or controlling access to these areas through gates or booms. Gated communities can include both enclosed neighbourhoods and security developments, see figure 2 (Landman, 2000: 2)



**Figure 2: Flow chart of gated communities** Source: Adapted from Landman (2000: 3)  
 There are various types of security enclaves. The Midrand Policy on Road Closure and Enclosure of Suburbs (Roodt & Schoonraad, 1998: 4,5) categorises them as follows:

- Fenced townhouse development: This consists of new medium density development. All the roads in the development are private.
- Security villages: These are new developments where a variety of housing types and even social facilities are often found. In some instances the roads are not private.
- Enclosed townships: These are, existing, residential areas, where a fence is erected as a boundary. Some of the existing access roads, are closed, others are merely controlled.

According to the above policy (Roodt & Schoonraad, 1998: 5) road closure can be done through:

- Leasing road reserves from the Council with conditions guaranteeing access to services, responsibilities and performances.
- Permanent closure of a section of a street and the rezoning thereof for municipal uses and the construction of access control points. The rest of the street will remain public.
- Closure of all affected streets and the rezoning them for municipal uses or private road with services servitudes, with ownership in a Section 21 company of which the council is a majority member.
- Permanent closure of all the streets in the enclave and privatisation of these streets.

In planning one we are dealing with two fundamentally opposed concepts, namely the sanctity of individual ownership and the necessity of public control without regard to ownership (Van Wyk, 1999: 74). Here the problem of *de jure* ownership versus *de facto* ownership, where the street remains public. Basically it involves the situation where the legal owner of the street is the municipality (*de jure*), but the residents in the enclave, treat it as private property (*de facto*).

There have not been many attempts to define gated communities in international literature. Blakely and Snyder (as in Tucker, 1998: 22-25) identify three types of security enclaves or as they call it, gated communities: "lifestyle" communities, "prestige" communities and "security zone" communities. In contrast with the policy on road closure and enclosure of suburbs, which concentrates more on the physical characteristics and the issue of street ownership; they base their types on social characteristics of the enclaves.

In "lifestyle" communities the gates provide security and separation for the leisure activities and amenities offered inside (Tucker, 1998: 23). This compares with the policy's security villages.

Gated “prestige” developments feed on exclusivity and status. Blakely and Snyder write (as in Tucker, 1998: 23): “In the prestige communities, image is of primary importance; their gates denotes a barrier of status.” It seems to me that this type of development can just as well be any of the previously mentioned types, the only requirement for being a “prestige” community will be the reason why the development took place. Security will not be the main reason; instead it will be property values and exclusivity.

According to Tucker (1998: 24) “security-zone” communities differ from “prestige” and “lifestyle” communities, in that the communities are gated by the residents themselves, whereas some of the others are gated by developers as a marketing strategy. There is a strong correlation between “security-zone” communities and the enclosed townships of The Policy on Road Closure and Enclosure of Suburbs.

This study will focus on enclosed neighbourhoods. This will provide the opportunity to look at the before and after situations of the enclosed areas themselves as well as the surrounding area. By comparing crime statistics and property values before the closure with crime statistics and property values after the closure to verify / counter allegations that crime is in fact not the main reason for the closure.

## **2.2 Reasons for the enclosure of neighbourhoods**

People are terrified of crime and concerned about property values. This makes them flock to gated enclaves (Dillon, 1994: 8). De Villiers (as in Fourie, 1999: 22) says that the main reason for restricting access to an area is safety and to keep the area clean. According to Blakely (as in Tucker, 1998: 23) segregated space is increasing, the driving force behind this is income security and physical security. People feel more secure behind gates and want to ensure that their property values remain high.

It is clear that security and property values are the main factors for a community deciding to close itself off. However, Dillon (1994: 8) adds another dimension to the issues at hand. He is of the opinion that gated communities are part of a broader privatisation movement, catalysed by scepticism about government’s ability to look after the public realm. Bredenkamp (2000: 9) is also of the opinion that the state can obviously not provide solutions to the problem of safety and security, because it doesn’t have the resources. She says that people are solving their own problems by enclosing their neighbourhood and claims that crime rates have dropped by up to 80%.

According to Davidson (1983: 116) there is also a perception among people that outsiders commit crimes. The solution? Prevent them from coming in by restricting access or putting up high fences and gates.

A developer (as in Blakely & Snyder, 1998: 86) believes that the gates create “a friendlier place, and open communities because of the perception, insularity and being in their own little bubble.” This brings another variable to the equation: People’s perception of safety. Glanz (1989: 62) says that perceptions of the crime situation, whether these are accurate or not, play a significant part in determining levels of fear. This statement underlines Coklin’s argument (as in Glanz, 1989: 62) that people react to their perceptions of a social problem rather than the social problem itself.

### **2.2.1 Fear of crime**

Fear of crime has become an influential factor in nearly every aspect of our daily lives (Blakely & Snyder, 1989: 55). Fear of crime has become an important issue, mainly because of its perceived effects on people’s social behaviour. According to Lieberman (2000) South Africans have a greater fear of crime than anywhere else in the world.

According to Louw (1998: 66) in South Africa the social effects have taken a backseat to economic and political effects of the fear of crime. Fear is not based upon direct experience of victimisation; it is often anticipated fear, which can be fed from other sources (Evans et al. 1992: 146). According to Evans et al. (1992: 147) attempts to form models of fear of crime were not really significant. We do know though, that fear of crime tends to be high in areas

with high crime rates, but according to Davidson et al. (1983: 117) they may also be high in some low crime areas, for example high status suburban areas.

In a study by Louw (1998: 71) people in Pretoria were asked to name the places in the metropolitan area which they regard as most unsafe. Most people named the inner city as the least safe (49%) after that, places in the suburbs were named, even before townships were named. Most of the people, who say that suburbs are unsafe, are the people who live there.

People act the way they think others expect them to act. When the “moral reliability” dissolves, people aren’t sure to what behaviour their neighbours will conform (Lewis & Salem, 1986: 99). In an open city, people from various sectors of society, have to negotiate their mutual fate. In some respects they learn to value one another more highly. In socially isolated environments (such as gated suburbs), social distance leads to stereotyping and misunderstanding, which in turn leads to greater fear (Blakely & Snyder, 1997). According to Davidson (1983: 118) the less attachment to or more negative feelings people have of their neighbourhoods, the greater the fear of crime.

Fear may lead to increased anxiety, suspicion and general mistrust of strangers (Glanz, 1989: 61). It can also lead to withdrawal of residents, and the decline of neighbourhoods and surrounding areas (Planning centre, 2000: 1).

### 2.3 Crime Prevention Through Environmental Design

Fear of crime resulted in a need to create safer environments to live in. There are three different approaches to crime prevention; law enforcement (police, legal practitioners, justice system, etc.), social crime prevention and locational crime prevention (planners, architects etc.). These approaches are often used in combination. Locational prevention has to do with the way in which the built environment is designed to prevent crime (Class notes, 2000).

“The physical environment can be manipulated to produce behavioural effects that will reduce the incidence and fear of crime, thereby improving the quality of life. These behavioural effects can be accomplished by reducing the propensity of the physical environment to support criminal behaviour.”- Crowe (as in Oc & Tiesdell, 1997: 55).

This refers to a new approach in crime prevention – Crime Prevention Through Environmental Design (CPTED). According to the American Crime Prevention Institute (as in City of Orlando Planning and Development Department) CPTED can be defined as follow:

*“The proper design and effective use of the built environment can lead to a reduction in the fear and incidence of crime, and an improvement of quality of life”*

CPTED had its theoretical origin in the work of Jane Jacobs, *The Death and Life of Great American Cities*, 1961. She focused on the design of sidewalks, land-use and public housing. She also introduced the now famous “eyes on the street concept”. Jacobs was followed by Oscar Newman with his book *Defensible space: People and design in the violent city*, 1972. His work focused on the effects of urban planning on public housing. He developed the theory of “Defensible space” based on the concept of territoriality. His approach was the first to link crime prevention to design changes. Others who also made valuable contributions to the development of CPTED are Jeffery with *Crime Prevention Through Environmental Design 1971*, Alice Coleman with *Utopia on trial: Vision and reality in Planned housing 1985* and Timothy Crowe with a system to categorise CPTED solutions in 1991.

The City of Orlando Planning and Development Department identified four overlapping CPTED strategies:

#### 1) Natural surveillance

This strategy aims primarily at keeping the perpetrator easily observable. Features that maximise visibility of people, parking areas and building entrances would promote this: doors, windows that look out onto streets and parking areas; active sidewalks; adequate lighting.

- 2) Territorial reinforcement  
A sense of territorial control is created and this will deter the potential offender.
- 3) Natural access control  
A design concept directed at minimising crime opportunity by denying access to targets and creating a perception of risk in offenders.
- 4) Target hardening  
Accomplished by features that prohibit entry or access.
- 5) Community involvement  
A concept directed improving community involvement and responsibility.

Clearly these strategies have an impact on or implication for neighbourhood enclosures.

## **2.4 Arguments for and against**

There are various arguments for and against road closure and the enclosure of suburbs. Both arguments for and against will be discussed in terms of the debate on design guidelines for safety, segregation or integration and in terms of the most prominent documents of urban development in South Africa.

### **2.4.1 Design guidelines as arguments**

The discussion about whether design guidelines support the closure of streets and the enclosure of suburbs will be based on guidelines by Jane Jacobs (1961), Oscar Newman (1972), Barry Poyner & Barry Webb (1991) as well as the Delft Checklist (1990).

#### **2.4.1.1 Design guidelines For:**

A CPTED strategy, target hardening, serves as an argument for enclaves because it prohibits entry or access. According to Newman's defensible space (as in Oc & Tiesdell, 1997: 60) controlling access can reduce criminal opportunities. The intention is to admit only those with a legitimate purpose.

Poyner & Webb (classnotes, 1999) suggest street closure and privatisation of roads as a way to deter criminals. They feel that residential areas should be homogenous in terms of function and it should be separated from commercial uses. Residential areas should also be separated in terms of income group.

They say that there should be limited road access to neighbourhoods. According to them this reduces the opportunity for criminals to reach their potential targets (Poyner & Webb, 1991: 100). It is important though, to take note that they are not necessarily promoting gates, but rather a layout with limited access. The Delft checklist as well as Newman (1972) mentions that the access as well as escape routes of criminals should be limited and should be under surveillance. This is possible in a formal way where neighbourhoods are enclosed and an access is controlled.

The Delft checklist as well as Newman (classnotes, 1999) proposes formal supervision such as security guards and electronic surveillance devices, as can be found at many / most security enclaves.

The Delft Checklist (1990) also highlights the importance of community involvement and responsibility. The closure of streets or the enclosure of suburbs could improve community involvement and responsibility within the enclave. But as discussed in the next section, it could have a negative impact in that respect, on the larger community.

#### **2.4.1.2 Design guidelines against:**

According to Montgomery (1998: 269) street eyes is Jacob's shorthand for the connection she drew between safe streets and informal surveillance. Jacobs (1961: 35) and the Delft checklist say that sidewalks must have continuous pedestrian movement. According to Jacobs (1961: 35) this will increase the effective number of eyes on the street and will encourage people in buildings alongside the sidewalk to look out on the sidewalk (Who want to look at empty spaces?). Potential perpetrators would sense the surveillance and it could keep them from doing wrong (Montgomery, 1998: 269). The way in which to obtain this continuous movement is not through homogenous residential areas as suggested by Poyner

& Webb. According to Newman (in class notes, 1999) land uses should be diversified. Uses that encourage pedestrians should be situated so that they draw people along sidewalks, where there are no attractions to the public (Jacobs, 1961: 36).

Security enclaves could damage community involvement and responsibility, which is part of the criteria, set out in the Delft checklist. Although the smaller community within the enclave might find a new sense of belonging and therefore responsibility and involvement, they cut themselves off from the larger community and take no responsibility for anything that happens on the outside.

Another criterium set out in the Delft checklist is that you should not make potential targets attractive to criminals. The concentration of people in an area, exclusive to those who have enough money to afford it – sounds rather attractive.

#### **2.4.2 Segregation versus integration**

On the area / neighbourhood level, there is considerable debate about the merits of 'integration' versus segregation. Hiller (as in Oc & Tiesdell, 1997: 159) advocates the merits of integrating residential developments into their immediate surroundings. Many others such as Newman and Coleman argue the merits of enclosure.

By its nature an enclosed neighbourhood physically separates a specific area from its environment and creates zones of restricted access within the urban fabric (Landman, 2000: 23).

According to Marcuse (1997: 311) the overall phenomenon is the increasing separation of parts of the city from each other, reflecting in space an increasing economic, social and political separation. Emphasis on non-spatial developments could lead to a society that is increasingly disconnected both socially and spatially, fragmented and polarised (Kempen & Marcuse, 1997: 285).

According to Marcuse (1999, 10), integration is a very complex subject. Integration is internationally defined as that spatial pattern that would result if everyone had equal freedom – this maximises freedom. If people then want to live together, they will and if they want to live separately, let them, just do not force anyone to live separately. But it is not as simple as that. South Africa has a history, complex urban settings, discrimination and inequalities in power and wealth. By allowing some exercise full freedom, you restrict the freedom of others.

Suburbanization started with the invention of the streetcar and suburbs of the late 19<sup>th</sup> century. Exclusion has always played a role in suburbs, people who can't afford to live in suburbs are and always were excluded (Kempen & Marcuse, 1997: 313). According to Kostof (1992: 118) the first demonstration of the modern extremes of what a geographer calls residential differentiation – the conversion of social distance to physical distance was seen in the 1930s in the newly industrialised Manchester. Blakely (1994: 46) is of the opinion that economic segregation is not new. Zoning and city planning were in fact designed in part to preserve the position of the privileged

Marcuse (1997: 313) adds that if there is a correlation between income and race, then income segregation will also be racial segregation.

Freedom must be created and actively put in place by government (Marcuse, 1999:11). In the absence of strict regulation, markets (as opposed to planning, intervention, legislation and redistribution) generate high degrees of inequality of income.

#### **2.4.3 Rights and principles of prominent documents for urban development in South Africa as arguments**

In this section the principles put forward in Chapter 1 of the Development Facilitation Act (Act no. 67 of 1995) (DFA) and The Bill of Rights in Chapter 2 of the South African Constitution (Act no. 108 of 1996), will be used as arguments for and against security enclaves.

##### **2.4.3.1 Rights for**

The following rights, as set out in Chapter 2 of the South African Constitution can be used as arguments for security enclaves:

- Freedom and security of a person
  - Section 12. (1) Everyone has the right to freedom and security of the person, which includes the right -*
    - a) *Not to be deprived of freedom arbitrarily or without just cause;*
    - b) *not to be detained without trial;*
    - c) *to be free from all forms of violence from either public or private sources;*
    - d) *not to be tortured in any way; and*
    - e) *Not to be treated or punished in a cruel, inhuman or degrading way.*
  - (2) Everyone has the right to bodily and psychological integrity, which includes the right -*
    - a) *to make decisions concerning reproduction;*
    - b) *to security in and control over their body; and*
    - c) *not to be subjected to medical or scientific experiments without their informed consent. - RSA, 1996.*

This right includes the right to be free from all violence. According to the Northern Metropolitan Council (1998: 11) the closure of streets has to be considered if there is no other effective measure to provide this right.

- Limitation of rights
  - Section 36. (1) The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including -*
    - a) *the nature of the right;*
    - b) *the importance of the purpose of the limitation;*
    - c) *the nature and extent of the limitation;*
    - d) *the relation between the limitation and its purpose; and*
    - e) *less restrictive means to achieve the purpose.*
  - (2) Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights. – RSA, 1996*

Prohibiting the development of security enclaves may go against this right. “ The limitation of rights must achieve the purpose and extent of the trade-off must in relation to the problem” (Roodt & Schoonraad, 1998: 8). Ms Mary Peel (as in Kruger, 2000: 18) a community official of Honeydew police stations says that statistics prove that crime has almost been phased out completely in areas where suburbs have been enclosed. Some might argue that it is reason enough to limit other rights. But according to Ehlers (2000: 18) crime maps will show that most booms can at most deter one serious crime every three months, yet thousands of cars and pedestrians are stopped or diverted. But this brings another argument to the discussion, where has the crime of this area gone? Has it not made another area unsafe?

Opposing rights must be taken into account. The enclosing of neighbourhoods should also be the last resort, when all else has failed.

#### **2.4.3.2 Rights and Principles against**

The following DFA principles are against the development of security enclaves:

- Integrated development:
  - Paragraph (c) Policy, administrative practice and laws should promote efficient and integrated land development in that they- (i) promote the integration of the social, economic, institutional and physical aspects of land development; (ii) promote integrated land development in rural and urban areas in support of each other; (iii) promote the availability of residential and employment opportunities in close proximity to or integrated with each other. - RSA, 1995.*

Security enclaves segregate different land uses and income groups and complicate the integrated development planning process (Roodt & Schoonraad, 1998: 5). It will also

make it difficult to have residential areas and places of employment in close proximity to each other.

- Correct historically distorted spatial patterns:

*Paragraph 1(c)(vii) contribute to the correction of the historically distorted spatial patterns of settlement in the Republic and to the optimum use of existing infrastructure in excess of current needs – RSA, 1995.*

According to the Policy on Road Closure and Enclosure of Suburbs (1998: 5) it reinforces elitist patterns of the past. Mr. Naweed Hasan (in Swanepoel, 1999: 14) says that the Benoni City Council turned down an application for the enclosure of a suburb, to prevent the development of small “volkstaatjies”. In St. Lucia it was reported by Van der Westhuizen (1999: 3) that taxis weren’t allowed inside a security enclave in St. Lucia. Taxi passengers were forced to walk from the gate to their workplaces. The taxi associations felt that the gate was used to keep blacks out of St. Lucia. The gate has been removed, as it was illegally erected.

- Affordable land development of basic needs in an affordable way:

*Paragraph 1(h)(iv) meet the basic needs of all citizens in an affordable way*

The enclosure of a suburb is an expensive development and is exclusive to those who can afford it. According to Fourie (2000: 21) the closure of streets involve additional tariffs in order to provide for the additional municipal services. What about the people living in the suburbs that cannot afford to make a contribution towards carrying the cost?

According to the South African Constitution the following Rights are against the development of security enclaves:

- Equality

*Section 9. (1) Everyone is equal before the law and has the right to equal protection and benefit of the law.*

*(2) Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons or categories of persons, disadvantaged by unfair discrimination may be taken.*

*(3) The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.*

*(4) No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.*

*(5) Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair.*

As a matter of principle, equality consists as much in the different treatment of those who are not alike, as it does in treating those who are alike. Each and every visitor to the suburb will need to be approached and treated alike according to a set out procedure (Louw, 2000).

Looking at the St. Lucia example (also discussed in the previous section), it is reported that the object was to “discriminate against criminals” (Van der Westhuizen, 1999: 3).

It also creates a situation of unequal protection if one area is enclosed and another is not. These enclaves protect a selected few while ignoring the broader community of which we are all part.

The promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000) was specifically enacted to give effect to this section (section 9 of the Constitution).

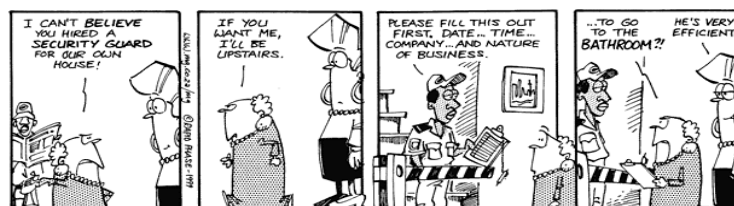
- Privacy

*Section 14. Everyone has the right to privacy, which includes the right not to have - their person or home searched;*

- their property searched;*
- their possessions seized; or*
- the privacy of their communications infringed.* – R.S.A, 1996

In most cases it is inadmissible to ask for an address or a telephone number, from someone who want to enter an enclosed area. According to the Northern Metropolitan Council (date unknown: 10) a security check can be an invasion of privacy. According to Louw (2000), privacy, like other rights, is not absolute since the scope of personal space lessons as a person moves into communal relations and activities such as business and social interaction.

Vehicle details such as colour and registration may be written down. Pedestrians may not be denied access. As a general rule, search and seizure is a violation of a person's right to privacy. Security personnel have no greater powers or rights than ordinary citizens. They may therefore only effect a citizen's arrest in terms of the Criminal Procedure Act, 1977 of anybody who is in the act of committing a crime or who may with sufficient reasonable cause be believed to have committed a crime. Only if there is reason for suspicion, for instance when a person walks into the suburb empty handed and walks out with packages, the packages may be searched (ANON, 2000: 16). A security check at the entrance could be viewed as an invasion of privacy (Roodt & Schoonraad, 1998: 10).



**Figure 3:** Invasion of privacy

**Source:** Mail&Guardian, 2 Feb, 1999

- Freedom of association

*Section 18. Everyone has the right to freedom of association*

The enclosure of a suburb could infringe the right of association of an individual and the right of dissociation of a resident forced into an enclosed area by access control structures. According to Louw (2000) this right can easily be the main ground for lodging a complaint against a proposed restriction. It should be weighed by the Council against the protection of other human rights e.g. the freedom and security of a person.

- Freedom of movement and residence

*Section 21. (1) Everyone has the right to freedom of movement.*

*(2) Everyone has the right to leave the Republic.*

*(3) Every citizen has the right to enter, to remain in and to reside anywhere in, the Republic.*

*(4) Every citizen has the right to a passport.*

Any control on movement would infringe on freedom of movement (Roodt & Schoonraad, 1998: 8). It is clear that the rights protected under this section would be affected by the enclosure of a suburb. If a member of the public were to be restricted to use of a public road, it would be directly against this section. According to Louw (2000) it is clear that the rights protected under this section could be adversely affected by the restriction of access to a public place. The right to enter "anywhere" would also be affected (Roodt & Schoonraad, 1998: 10). Vogel (1999: 6) reports that in some areas in Johannesburg many were complaining that they had difficulty in reaching their family and friends, because they were unable to visit them freely.

- Just administrative action
  - Section 33: 1) Everyone has the right to administrative action, that is lawful, reasonable and procedurally fair*
  - 2) *Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons.....*

An administrative decision such as authorisation to restrict access must be lawful, reasonable and arrived at in a procedurally fair manner. A person whose rights are adversely affected by the decision has the right to written reasons. The onus rests on the applicant to demonstrate that these rights have been violated.

### **3. Public opinion in the press**

Neighbourhood enclosures have aroused an active debate, both nationally and internationally over the last few years. And it is clear from the previous section that there are valid arguments supporting both sides. In this section, different opinions voiced by the public are discussed. The public are after all those who are most affected by neighbourhood enclosures.

#### **3.1 Value for taxpayers money**

Dr. Willem van der Waals said in Beeld (24 June, 1999) that the principle of city improvement districts, whereby areas want to control access to their neighbourhoods, is one of the best ways in which communities can improve their own safety (see also par 4.2, a discussion on misused legislation).

According to Vogel (1999:22) it is definitely worth it for those who can afford it, because according to the Bryanston police, neighbourhood enclosures lead to a dramatic decline in the area's crime.

The DP (Democratic Party), UDM (United Democratic Movement) and believe it or not, with all the human rights issues surrounding the closures, the ANC (African National Congress) are all in favour of neighbourhood enclosures in certain instances.

Me Barbara Robertson, DP-leader in the Northern parts of Johannesburg, said that the approval of such enclosures symbolises a victory for taxpayers who have worked hard to make their neighbourhoods more safe (Kruger, 2000: 18).

In Benoni, the UDM in the Council made an appeal against the denial of an application to fence off an area that is plagued by crime (Swanepoel, 1999: 14).

Mr. Saeed Cachalia, of the ANC in the Northern Metropolitan Region of Johannesburg, said that the party support access control because it is in the interest of the community.

#### **3.2 Only for those who can afford it**

Lesley East (The Star, 24 February 2000) says that road closures are only available to those who can afford them. So while the gardener or domestic worker may feel safer in the "masters" environment, what about his or her family members who does not reside in the laager? And then what when he / she visits friends and family or lives elsewhere?

In a letter to the editor (The Star, 13 March 2000) Lee Johnson indicated his disapproval of residents in closed streets who appear to have an "I am all right" attitude and is not really interested in solving the problem of crime at all. Mike Prior of Sandton also wants to know what gives the local residents to unilaterally declare public roads as their own private preserve, to deny other road users and taxpayers their democratic right of free access, thoroughfare and use? He also says that his taxes contribute towards the upkeep and general maintenance of their roads, why is he denied thoroughfare?

Another argument that is used several times is that it is a measure that serves only to protect a selected few while ignoring the broader community of which we all are a part.

### **3.3 Inconvenience**

There are also various complaints about traffic congestion at access points. Cox (2000: 10) reports that people complain that since the closures were put up, they have had great difficulty in getting to and from their own neighbourhoods and it consumes a lot of their time.

There are numerous pedestrians who complain that they cannot freely visit their family or friends who work in these areas (Vogel, 1999: 23).

There are also a number of residents who complain that they feel like hermits or some even says that it feels as if they are living in a jail because of the high walls and the security gates (Vogel, 1999: 6).

Many residents say that although it is inconvenient, it brings back pleasures such as children playing in the streets and walking outside at night without constantly looking over one's shoulder (Vogel, 1999: 6).

### **3.4 Could put lives in danger**

Laing (2000: 9) says that it hampers the effectiveness of emergency services and that people's lives could be compromised. If emergency services are not informed about the closures, it could lead to detours, which could be the difference between life, and death.

### **3.5 Popularity**

Another indication that a large number of the Gauteng population is in favour is the number of such enclosures, in the metropolitan areas of the province. Although there are only three applications at the Pretoria City Council, there are 220 applications in the northern parts of Johannesburg. In that area there is approximately 360 enclaves, most of which is illegal (Fourie, 2000: 12). The Greater Johannesburg Eastern Council, who was the first council to put in place a new security neighbourhood policy, has approved 35 applications in the last three years. There are another 120 applications pending and furthermore there are an estimated 200 illegal closures (Cox, 2000: 6).

## **4. Policies and legislation**

Enclosures are getting more popular as a result of escalating crime. Local authorities are increasingly being approached by residents seeking permission to enclose their neighbourhoods, as well as information about the procedures and conditions for street closures for security purposes.

At the moment there is no general policy in place regarding neighbourhood enclosures in South Africa. A few local authorities have developed their own policies or are in the process of formulating a policy. For those who are pressured into decision-making regarding enclosures, the general trend is to either develop a policy to allow for temporary road or neighbourhood closure, or to deny it in terms of existing local authority policies (Landman, 2000: 13). But are these policies merely developed to justify the current situation.

In the past legislation was often misused by local authorities due to the absence of appropriate legal procedures.

The Gauteng Legislature intervened to address the problems encountered with the approval of applications.

This chapter starts off with a discussion on how legislation was misused before 1998 followed by a short discussion on the Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998). Thereafter it examines the manner in which the different policies handle critical issues such as the issue of private or public control as well as the issue of management.

### **4.2 Problems with legislation before 1998**

In the past legislation was often misused by local authorities due to the absence of appropriate legal procedures. Prior to March 1999, Section 66 (Closing of certain places) and Section 67 (Permanent closing for diversion of street) of the Local Governance Ordinance No. 17 of 1939 were used.

Neither of these sections contained any guidelines as to when or under what circumstances or for what purpose the power to close a road may be used. Also, according to Landman (2000: 15) these sections could never have been to cater for the security problems experienced in the 1990s and early 21<sup>st</sup> century.

Some residents associations use the Gauteng City Improvement Districts Act, 1997 (Act 12 of 1997) and Regulations in terms thereof, for decisions on enclosures. This Gauteng Act provides for the formation and independent management of districts to fund the provision of services in addition to those, which a municipality ordinarily provides, in order to enhance or improve a certain district.

Where a certain percentage of owners of property prepare a petition a municipal council must consider and approve the formulation of a city improvement district. According to Van Wyk (1999: 188) it must be consistent with the LDO, and city improvement district plans must be drawn up and approved. Thus the intention of the Act is not to provide legislation to establish or manage security areas.

#### **4.3 Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998)**

The Rationalisation on Local Government Affairs Act, 1998 (Act 10 of 1998) was enacted on March 19, 1999. Chapter 7, which includes sections 43-48, specifically provides for restriction of access to public places for safety and security purposes. The act is, however, provincial and therefore only applicable in Gauteng.

The purpose of chapter 7 of the Act is twofold, viz.:

- ◆ To grant a municipal council the power to impose a restriction on access to a public place on its own initiative subject to certain requirements and procedures.
- ◆ To grant any person or body or organisation the right to apply to a municipal council for restriction of access to a public place subject to certain requirements and procedures (Louw, 200).

#### **4.4 Problems with new legislation**

A major problem with this new Act is that it is not concerned with the future. It makes provision to justify the current situation. Basically it seems as if it was enacted to legalise, illegal closures. Cox (2000) writes that the Greater Johannesburg Eastern Council has become the first city to adopt a new security neighbourhood policy in terms of the Rationalisation of Local Government Affairs Act, 1998. She states that, that means that many of the areas estimated 200 illegal closures could now be legalised.

Another problem is that, although the new Act makes provision for the new phenomenon of security enclaves, Mr Robinson (2000), is concerned that there is a shortcoming in the Act since it does not make provision for security developments such as Woodhill. Developments such as Woodhill are developed by private developers, but often contain public facilities such as schools and shops. Such developments cannot use the previous or the new legislation.

#### **4.5 Private or public control?**

According to Landman (2000: 13) the Eastern Metropolitan Local Council (EMLC) of the Greater Johannesburg Metropolitan Council, is one of the few local authorities that has a comprehensive policy regarding road or neighbourhood enclosures for security purposes.

In the EMLC all closures will be temporary in terms of Chapter 7 of the Rationalisation of Local Government Affairs Act, 1999 and shall only be approved for a period not exceeding 24 months. According to Landman (2000: 14) it is seen as temporary measure only and the council will still be responsible for the maintenance of all roads and services. It is therefore in effect still public property and are still controlled and managed as such.

In some areas, there have been complaints that property owners are maintaining areas as their own and refusing public access to, for example the beachfront or parks in the area.

Because of problems with the existing policy and legal problems, it is proposed that a distinction be drawn between a Level 1 scheme application and a level 2 scheme application. A Level 1 scheme application affords residents the opportunity to apply for a restriction on access to a portion of a street or streets to allow for the erection of a security gate(s). In this scheme the road remains the property of the Council. This procedure is relatively simple and the legislation (Rationalisation Of Local Government Affairs Act, 1998) is self-explanatory.

According to Robinson (2000), a Level 2 scheme application consists of a number of applications, the purpose of which is to give the closure of the street more permanence in that-

- ◆ The residents' association will take possession of the portion of the street that will accommodate the access control point structures; and
- ◆ A portion of streets or a street in its entirety will be closed as a public street on a permanent basis and be transferred to the Council as an erf or erven. Wiehan (2000) questions this and wonders if it would not make more sense to transfer the ownership back to the township establisher.

According to Landman (2000: 14) this policy highlights the need for greater permanence to be given to access control systems, since substantial costs will be incurred to installing the security systems.

The Greater Benoni City Council has adopted a slightly different approach. According to Landman (2000: 14) it has a policy in place that covers the closing of public streets and the alienation of the streets. The residents are held responsible for the maintenance and control of the enclosed area, although it is still public property. In Pretoria and the EMLC, the Council still remains responsible for the maintenance of the enclosed area.

In Port Elizabeth the trend towards privatisation is taken even further. The approach of the Port Elizabeth City Council involves the privatisation of public spaces and the transfer of ownership of these spaces to the local residents' association. The residents' associations will be responsible for the management and maintenance of these spaces. The sustainability of this approach still has to be proven. It has not yet been in operation for a long time and there are still questions around the ability and future willingness of residents to maintain these areas. This is the only policy, to date, that provides for the transfer of the ownership of the streets. An option for the Level 2 Scheme for Pretoria, if it proves sustainable?

#### **4.6 Management**

Management is an issue that is closely linked to that of "private of public control". According to Landman (2000: 17) many homeowners' associations establish a Section 21 Company to manage the process and collection of fees. The EMLC Policy on Road closures as well as that of the Northern Metropolitan Local Council (NMLC) of the Greater Johannesburg and Pretoria City Council recommends this.

Sometimes even an outside party may be contracted to manage and control the affairs of the enclave for example a security company or a non-profit organisation.

The powers and functions of the managing body differ from case to case.

In the case of the Port Elizabeth City Council's policy the residents' associations will be responsible for the management and maintenance of the enclosed spaces.

#### **4.7 Conclusion**

In general, the limited number of policies in place includes more or less the same issues, ranging from the application procedures to the period these enclosures would be valid, if approved. There is a vast difference in the approach to "ownership" of enclosed neighbourhoods, as well as the responsibility of management and maintenance of these areas. It also appears to facilitate and justify the current situation.

There are also a number of problems with which the local authorities are faced. These problems are as follows:

- ◆ Only a few local authorities have developed their own policies or are in the process of formulating a policy.
- ◆ In some areas, there have been complaints that property owners are maintaining areas as their own and refusing public access to, for example the beachfront or parks in the area.
- ◆ The application for neighbourhood enclosures could be a lengthy process and take several months to be processed.
- ◆ Some neighbourhoods deviate from their proposals after these have been approved.
- ◆ Not all of the residents in the proposed areas support the enclosures
- ◆ In many cases the residents close off a street without informing the police, which causes them to end up at dead ends.
- ◆ Another problem is that often the shortest route to a specific destination is closed, and the emergency vehicle must then take a longer route.
- ◆ A number of questions also arise around the issue of public liability.

In reviewing the different policies and the relevant legislation, it appears as if applications for neighbourhood enclosures are merely treated as another land-use application. Even so, there are no consideration to the wider planning frameworks as set out in the DFA and consequent IDPs. There is also a lack of consideration for social justice or the long-term impact of these enclaves on our cities. It is true that the Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998) stipulates that such areas can only be closed off for two years, after which they must re-apply. But still these structures are permanent (not to mention expensive) structures!

## **5. The Case study**

All the above is on enclosures in general, which could paint an exaggerated picture. In order to establish what the impact of a neighbourhood enclosure could be, a study of a specific enclave was conducted. The enclave has been closed for more than a year, this was important, because it is possible that the effects directly after the closure could be exaggerated, because it is something new. The enclave is situated in a high-income residential area. It is an existing neighbourhood that has controlled access through an electric gate across the public road. It has only one entrance and exit. The closure entails a palisade fence across a park and an electronic gate, with an intercom system. The residents bought the park, which is no longer, a public open space.

### **5.1 Community involvement**

According to Mr. Wiehan (personal interview, 2000), the whole process of closing the street created an opportunity for the residents to get to know each other. They needed to get together and discuss technical issues such as the cost, an intercom system, the possibility of employing a security company, etc.

### **5.2 Research results**

The findings of the research are organised into four topics perception of crime and crime patterns, perception of safety and security, property values and general opinions about the enclave.

#### **5.2.1 Perception of crime rates**

According to Blakely and Snyder (1989: 55) fear of crime has become an influential aspect of our daily lives. People's fear of crime is not determined by actual crime rates. The enclosure has a specific impact on the perception of crime. The residents within the enclave definitely feel that there is less crime within their neighbourhood than the residents of the adjacent properties. Since its closure, there has been only one burglary, which occurred during a period in which the electronic gate was out of order. But crimes in guarded communities are not necessarily lower than in unguarded communities. Ironically, experts say that in some cases, crime has risen in gated communities. This is because the potential target is attractive, since it consists of a concentration of people who have enough money to afford to live in such a community (Stern, 2000:1). Blakely (1994) submits that crime in gated communities mirrors the crime in the external communities outside its gates.

#### **5.2.2 Perceptions of safety and security**

A feature that stood out in the survey is that no one indicated that they felt very safe in their neighbourhood. This reflects what Bollen (in Landman, 2000) says, according to him, surveys have shown that South Africans feel more unsafe in their own neighbourhoods than in any other country in the world, where similar studies have been carried out.

People's perception of crime rates is closely linked to their perception of safety. It was clear that the residents in the enclave generally feel a lot safer than the residents of the adjacent properties. Landman (2000: 20) agrees with Blakely that enclosed areas could create a false sense of security and consequently residents become negligent, leaving cars unlocked and front doors wide open.

All of the respondents within the enclave feel that it is safe enough for children to play in the streets. But this is not only because of a perception of safety, but also due to less traffic.

### **5.2.3 Property values**

The results in this section have been inconclusive, due to uncertainty of external factors such as what exactly was taken into account when the valuations were made. It is a combination of location, name and reputation of the area, size of the property and security measures, which influence property valuations. But it does lean toward a theory that the closing resulted in higher growth in property values of the enclosed erven. When looking at the selling prices of recently sold properties, the closing of a street would definitely influence property values in the enclave, positively. It also seems as if the enclosure has no negative effect on property values of the adjacent properties.

Another interesting finding regarding property values is that the fear that property values will fall was rated as the third most important reason for the closure.

## **6. Concluding statements**

High crime rates are a reality in South Africa. People are afraid and the fear of crime is a constant reality. Within this context, people will do almost anything to protect themselves from crime. One of the results is an increasing number of enclosed neighbourhoods in South Africa.

Everyone has the right to be free from all violence. If there is no other effective measure to protect this right, closing neighbourhoods surely must be considered.

The first problem with enclosures is, however that this is a crime prevention method, which protects only those who can afford it. Two issues immediately arise from this. Firstly the question of unequal protection. These enclaves protect a selected few while ignoring the broader community of which we are all part. In real terms, enclosed neighbourhoods does not prevent crime, it just prevents it from being committed in a certain area. Another issue concerns the right of association and for that matter dissociation. What about those, inside the enclaves, who oppose it? There are various complaints about traffic problems, the jail-like environment and the extra cost incurred.

It is claimed that the closing encourage community involvement, which is a CPTED principle. It surely has positive effect in the enclosed community, but what about the fragmentation of the bigger area. By putting up a gate the residents of the enclave deny their responsibility towards the greater community, which implies zero involvement.

The Gauteng legislature enacted the Rationalisation of local Government Affairs Act 10, 1998 to provide guidelines to assist local authorities in their decisions on this topic. Although this Act provides a basis from which local authorities can formulate their policies, it does raise a few concerns.

The act does not take the future of urban areas into consideration. It is a reply to the current situation. Market forces (as opposed to planning) were the rationale behind this act. It does not fit into the broader regime of integrated development planning, instead it leads to fragmentation. It also ignores the DFA principle that states that the historical patterns of the past must be corrected.

In reaction to this many would argue that the act does consider the future, because the closures are only temporary (for a period of two years). But this in itself indicates that it is a questionable practice.

When considering all the above, it seems as if there is a strong case against the enclosure of neighbourhoods. But looking at a real situation will reveal the real effects. The results of the case study paint another picture.

Peoples' fear of crime is regarded as the most important reason for closing of neighbourhoods. Although no hard data were available to measure whether the closure had an effect on the crime patterns, it clearly had an effect on the perception of safety and security for the residents of the enclave. The reasons for this could be:

- ◆ Increased community involvement, because the community had to come together to discuss the closure, management and costs involved.
- ◆ Target hardening, in other words, the physical strengthening of boundaries.
- ◆ The limiting of access- and escape routes of criminals.

Although residents of the adjacent properties had a lower perception of safety, no one indicated that they thought that the closure had an effect on their safety.

The fear that property values will fall is a major reason for enclosures. Overall it was rated as the third most important reason.

When the municipal values were compared over time, it indicated that there was in fact a greater increase in the values of the properties inside the enclave. But when the selling or market prices were compared, it showed that the enclosure had no negative effect on the neighbouring properties' values.

Another important finding was that it appears as if location is more important than security measures when the municipality is valuing a property.

Thus it appears, as if the gain of the residents of the enclave did influence the neighbouring community, therefore there is no reason why not to close.

What Robinson said proves to be true. There are certain instances where enclosures could function quite well and this specific enclave is such an example. But where does one draw the line?

Apart from the controversies already mentioned, there are still a few questions that remains unanswered. First of all the issue of crime displacement was not addressed. This will be extremely difficult to research, since crime could be displaced to just about anywhere and therefor the extent of the problem would be very difficult to determine.

But seeing that the overall crime rate does not drop and that some areas are now safer, crime must be displaced.

Also, what about the children that grow up in these gated communities, believing that anything or anyone from the "outside" is harmful or dangerous. Will they not grow up to be individuals who constantly live in fear once they leave their protected environment?

Another major concern is that most of the role-players, who are pro-enclosures (and even those who are against it) tend to focus on short-term and legal issues. These issues are important, but what about the long term impact and sustainability of road and neighbourhood enclosures?

When looking at the number applications, it is clear that neighbourhood enclosures are growing in South Africa. It is a relatively new and a very controversial issue. Whether for or against, most people agree that it is a pertinent urban issue of our time that should not be

taken lightly. The fact is that there are various arguments supporting enclosures and visa versa.

A few isolated enclaves might not have a major impact on our urban areas. It could however, have a dramatic impact on the urban landscape in a few years time. In future people could be living in safe prisons of their own creation, situated in a sea of dangerous spaces. What will need to be established is whether there is a compromise that could be made and if not what will have to be sacrificed.

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