

Factors Affecting Common Property Governance: The Case of Condominium Communities in Beijing

1.Introduction

From the 1990s, China began to privatize housing in urban areas while the welfare-oriented public housing distribution system broke up. In 2002, 82.1% of families had their own private condominium units and houses (Chen, 2007). Homeowners are beginning to emerge. Homeowners' property includes private property and common property. Private property indicates apartment units, and common property includes: (1) common facilities and areas, such as common indoor streets, park land, recreation facilities, public rooms, elevators and hall ways; (2) maintenance funds. Every household pays an extra 2% of the cost of apartments for maintenance funds, which is used for maintaining common facilities and areas.

All co-owners have the right and obligation to manage common property, but how does collective action work? What will contribute to common property governance, and how? In the meantime, there are more and more conflicts in common property governance. Beijing Chaoyang District court accepted and heard 194 cases concerning conflicts in common property governance in 2002, and the amount mushroomed to 2649 in 2005 (Ning, 2008) .In this paper, I will highlight these questions combined with a comparative analysis between two different kinds of communities. One kind of community set up formal self-governing associations, and another kind has only informal self-governing associations.

There are three hypotheses in this paper, (1) Attributes of physical World affects the way of participants' action. (2)Hypothesis2: heterogeneity affects actors' behaviors enormously; (3) Hypothesis3: Difference of self-governing association has a great effect on rule making and enforcement.

Institutional Analysis and Development framework (IAD) was designed by Ostrom and many colleagues. In the last several decades, IAD has been used as an analytical tool for approaching the study of complex institutions and governance structures (E. Ostrom, 2005). According to IAD, the factors affecting the structure of an action arena include three clusters of variables: (1) the rules used by participants to order their relationships, (2) the attributes of the bio-physical world that are acted upon in these arenas, and (3) the structure of the more general community within which any particular arena is placed (Kiser and Ostrom, 1982). In this paper, I will analyze factors affecting common property governance based on IAD.

2. Attributes of physical World and community

Common property in communities is different from some typical common-pool resources, such as fisheries, underwater systems, forests. Community common property means co-ownership which refers to legal relationships that entitle all homeowners to equal rights to the use and enjoyment of property (Marshall, 1999).

(1) Attributes of physical World.

Limited jointness. As an important variable, jointness refers to degrees of Subtractability(V. Ostrom and Ostrom, 1977). When common property is used appropriately, subtractability is not obvious. Once a threshold is crossed, individual uses begin to subtract from the beneficial use of others. (Oakerson 1992) Since

common property is finite, overuse by some participants will damage the interests of all participants.

Partial exclusion. Exclusion ordinarily refers to the ability of sellers to exclude potential buyers from goods and services unless they pay a stipulated price. (Oakerson 1992). Common property belongs to all of homeowners and is open to all of them, but people from outside the community are excluded.

Indivisibility. Common property in community has legal boundaries and cannot be divided. Some common property, such as common parking space, can be rented to certain homeowners, but still belongs to all homeowners as a whole.

Based on the above description, the common property is indivisible and should avoid being overused. Moreover, people outside the community should be prevented from using it. It's legitimate to conclude that actors' cooperation in collective action is necessary to achieve these goals. *Real Right Law of the People's Republic of China*¹ also confirm collective action of all owners, "matters on the common ownership and the common management right shall be commonly determined by all owners."

(2) Attributes of community

Government is withdrawing from basic self-governance areas. Local governments no longer directly intervene in the affairs of residential communities and they are only policymakers. Market power plays an important role in many areas, such as construction, selling apartments and managing common property. In local communities, self-governing organizations are forming in which people meet, debate, take action at

¹ Adopted at the 5th session of the Tenth National People's Congress on March 16, 2007

their own initiative, and manage their neighborhoods in a democratic fashion. The situation affords homeowners significant experience in self-governance of common property.

In a traditional view, there are two kinds of groups in the socialist Chinese city. One is the “socialist elite” who control political power or material privileges. Another is the “working-class masses” which are the majority of citizens. The transition toward a market system has been reconfiguring the class structure. The socialist elite might have maintained its privileges, but the working-class masses may well have become more differentiated (Bian and Gerber 2008). According to Lu (2002), there are ten social groups, from the management group to the unemployment group. Similarly, homeowners have different occupations, income and educational backgrounds in residential communities. From June 2007 to April 2008, I investigated six residential communities and had a questionnaire research (n=500), focus groups, and in-depth interviews in Beijing. The communities are located in three central districts, and the response rate of the questionnaires was 81 percent. The questionnaire data of basic homeowner heterogeneity follows.

| Occupation | | Education | | Income(RMB/month) | |
|---------------------------|-------|------------------------------------|-------|-------------------|-------|
| Ratio | | Ratio | | Ratio | |
| Government | 4.6% | Graduate | 4.1% | > 6000 | 4.0% |
| Institutions ² | 30.9% | Undergraduate | 16.4% | 3000~6000 | 14.9% |
| enterprise | 22.9% | Specialized college program | 26.8% | 1000~3000 | 61.1% |
| Freelance/self-employed | 15.1% | High School Graduate | 36.4% | 0~1000 | 20.0% |
| Others | 26.5% | Middle School Graduate and others. | 16.3% | | |

According to the survey, I found most homeowners would like to attend the activities of common property governance, but only some homeowners actually attended. 56.9% of respondents hope to join actively in activities of common property governance, and 25.5% of respondents think they would if most people would. Out of those homeowners, only 15% of respondents have relevant experience in common

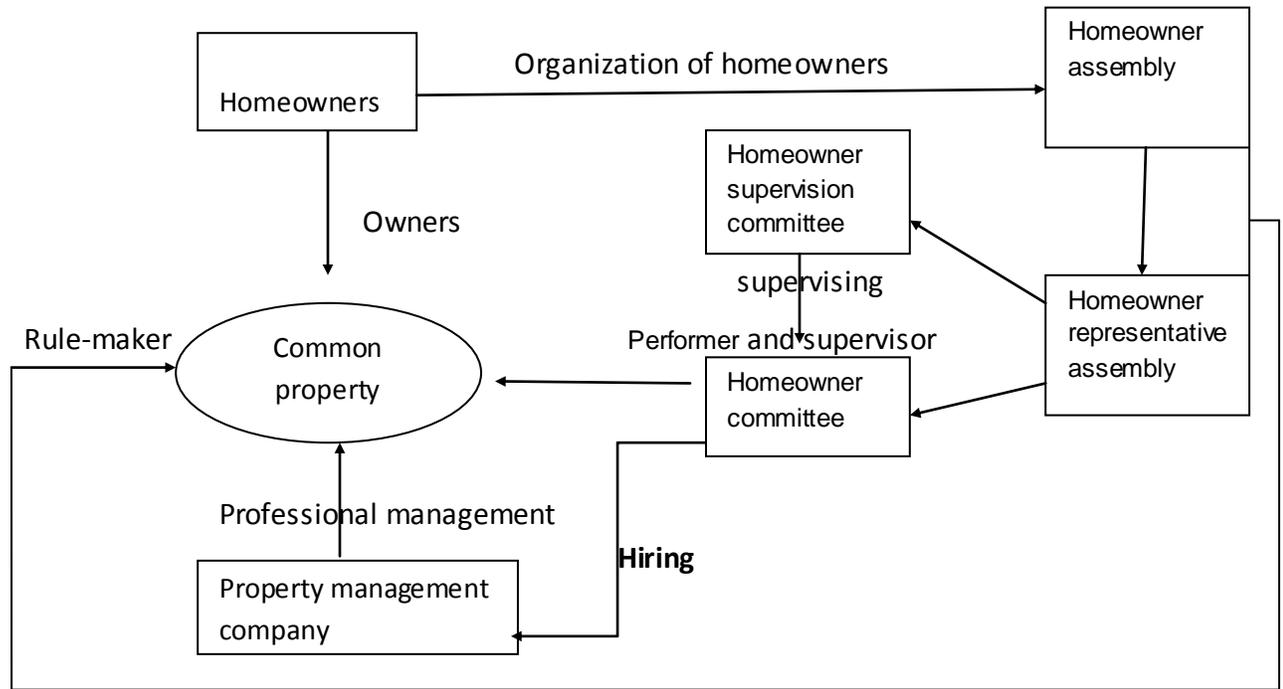
² Institutions include hospitals, schools, association and something like that.

property governance. According to the survey, the high-income homeowners attend collective activities more actively, and they usually have bigger apartment units in communities. Education has no direct connection with enthusiasm for participation in collective action. Homeowners' participation in common property governance includes setting up and participating in homeowner committees, enacting and obeying rules and participating in collective action of protecting the property when it is invaded by the real estate developer or the property management company.

3. Actors and Rule Making

In the six communities studied, they can be divided into two kinds of communities. Three communities (A1、A2、A3) set up formal homeowner associations, and the other three communities (B1、B2、B3) have no formal homeowner associations. I will take community A1 and community B1 as examples to present a comparative analysis about how homeowner association makes a great difference in making rules. There are three levels of rules: operational rules, collective-choice rules and constitutional rules. All rules are nested in another set of rules that define how the first set of rules can be changed. (E. Ostrom 2005) I will pay more attention to operational rules and collective-choice rules.

(1)Actors in community A1 and rule making



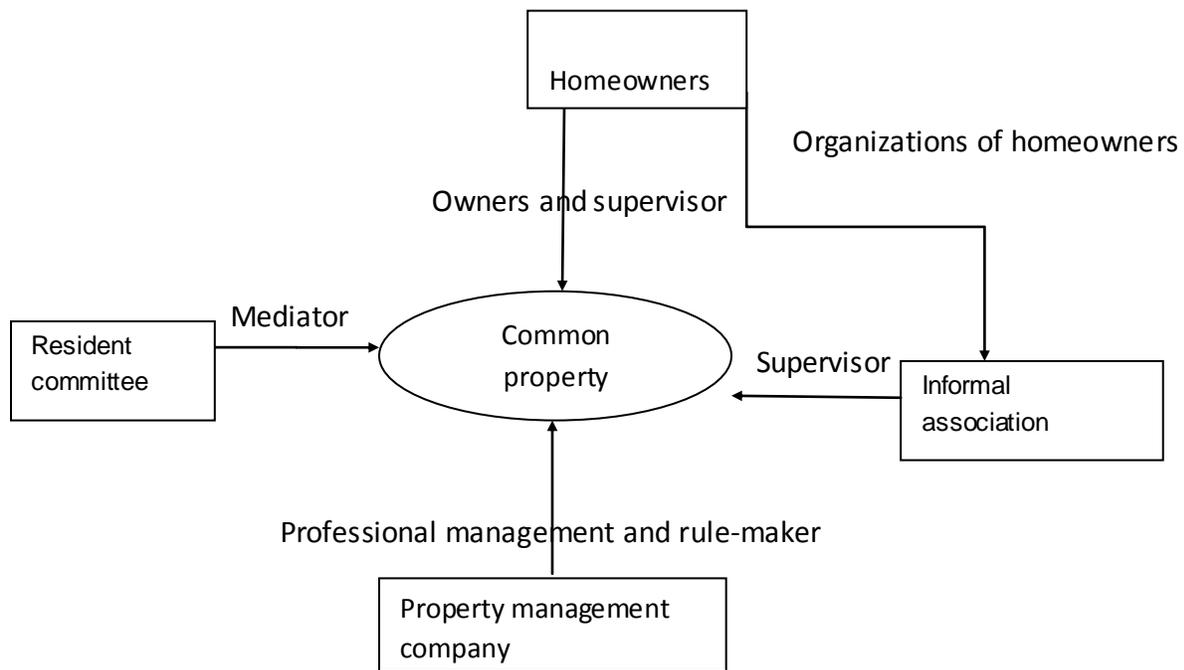
Graph 1. Actors in community A1

There are a couple of important actors in common property governance in community A1. Homeowners are the co-owners of the common property, and they are the core actors in communities. Homeowner assembly consists of all homeowners, which is the rule-maker and decision-maker of important issues, such as hiring a property management company and important maintenance on common facilities. Homeowner representative assembly is a regular institution of homeowner assembly. According to Regulations on Property Management and Real Right Law of the People's Republic of China³, the homeowner assembly is the rule-maker in the residential community which is composed of all homeowners. A rule can be passed by more than 2/3 of the homeowners. But holding an efficient meeting of a homeowner assembly is

³ Adopted at the 5th session of the Tenth National People's Congress on March 16, 2007

very difficult. Community A1 set up the homeowner representative assembly composed of 39 homeowner representatives who are elected by homeowners. Most operational rules are made by the homeowner representative assembly rather than the homeowner assembly. The homeowner representative assembly establishes two committees which are the homeowner committee and homeowner supervision committee. The responsibilities of the homeowner committee include finding out the demands of actors, making decisions, monitoring all actors' behavior, detecting all rule violations, and holding the meetings of the homeowner representative assembly. China's emerging homeowner groups are used as testing grounds for exploring variation in three criteria of performance: self-organization, participation, and the exercising of power (Benjamin L. 2008). The homeowner supervision committee is responsible for supervising the homeowner committee. The property management company provides full-service management to residential communities including maintenance and management of common property resources.

(2)Actors in Community B1



Graph 1. Actors in community B1

In community B1, homeowners have no formal associations, such as homeowner committee and homeowner assembly, but they have community website and organize some informal associations, such as clubs⁴. These associations often organize activities through community website. They also exchange ideas and get information online about the situation of common property in community. The property management company was appointed by the real estate developer before most homeowners took up residence. Moreover the company is an independent legal entity which was set up by the real estate developer. Since there is no formal homeowner association, the property management company becomes the rule-maker and rule-performer. The resident committee often plays the role of mediator when conflicts arise among actors. The resident committee is subsidized by local government, and usually the local government agencies assign many jobs to it. Meanwhile, it provides residents with a range of services and public-benefit activities. Usually a resident committee serves a couple of communities. Because community B1 is a big community of 6932 households and about 20,000 residents, a special resident community serves it.

4. Monitoring, Sanctioning and Changing of Rules

Monitoring

In common property governance, it's difficult for most participants to follow rules if some actors don't obey the rules. With the relative difficulty of exclusion, common property belongs to all homeowners. All homeowners will benefit even if only some

⁴ Such as car club, billiard ball club, mountain climbing club.

homeowners invest. It's very important to encourage as many homeowners as possible to join in common property governance. In view of the decreased individual costs, cooperation is a good way to defend homeowners' interests. So it is logically consistent to hypothesize that most homeowners would like to cooperate. However, some want to free-ride other people, which is harmful to cooperation.

In community A1, monitoring is more institutional, and the homeowner committee takes the responsibility of sanctioning. When participants find rules being broken, they will report to the homeowner committee. If it is individual behavior, members of the homeowner committee will deal with it personally. If it is a common problem, the homeowner committee will call a meeting of the homeowner representative assembly to talk about it. But if the members of the homeowner committees seek their own interests, who will monitor the homeowner committees? Community A1 set up a supervisory committee which includes three members. The supervisory committee monitors the homeowner committee members' behavior and performance. Members of a supervisory committee are voluntary and submit the monitoring report to the homeowner representative assembly. The homeowner representative assembly holds a meeting every month and has the right of recalling an incompetent member of the homeowner committee.

In community B1, the way of monitoring is spontaneous. The outcome of monitoring is connected with modifying rules. In the beginning, the rules concerning common property are made by the property management company, and homeowners monitor the implementation of rules individually. At one time, the common property company began to change the usage of some grass land and set up parking lots for rental, which

was not discussed by the homeowners. When the homeowners found out about the action, some homeowners spread the information by means of the community website, and some homeowners put up protest notices. Then more and more homeowners knew about it and appealed to the government and media for help. The pressure of public opinion was formed and transmitted to the local government. Local government organized a mediating meeting and stopped the behavior of the property management company. Moreover participants of meeting reached an agreement that any important decision about common property must be discussed with representatives of the homeowners. In community B1, 47% of respondents believe media is the most effective way of monitoring, and 32% believe the government is most effective. When I asked why the homeowners did not negotiate with the property management company, a homeowner said: "I'm very busy, and other people don't do that. It's useless if I do that only by myself. You know, I am not satisfied with the property management company. I even told the workers of the company when I found some problems, but they didn't pay much attention to my suggestion." (Interview, December 16, 2007). Compared with a homeowner committee's monitoring, an individual supervisor has to bear all cost. Cost of homeowner committee's monitoring can be shared by all homeowners.

Sanctioning

Commonly, participants break rules in two ways. One is free-riding, and another is seeking benefits by invading common property. A property management company's service to maintain common property is paid for by all homeowners. Some homeowners' refusal to pay for the service of property management companies is the

salient behavior of free-riding. Therefore sanctioning is necessary to make participants believe they have no chance to be free riders. Compared with rewards, it is more efficient and cheaper to rely on punishment because anticipation replaces implementation (Elster 1989).

There are two kinds of punishments. One is the self-punishment of guilty feelings which is impressed by public opinion. Announcing the actions or even the violators' name in the community is the usual way to affect public opinion. In community B1, some households owned pet dogs and the dog's droppings are often seen on the grass or roads. According to a *homeowner provisional convention*,⁵ owners of pets should remove the droppings. Homeowners expressed strong dissatisfaction on the community website or personally to owners of dogs. Some homeowners asked for help from the property management company. Then the property management company put up a notice to condemn indecent acts. The other form of punishment is retaliatory punishment. For example, property management companies may sue the homeowners who refuse to pay for their service.

Changing

There are two ways to change rules. First, rules are changed by participants themselves. Second, rules are changed by external authorities. In community A1, responsibilities of all actors are definite. The homeowner representative assembly, homeowner committee, homeowners and property management company take the

⁵ Every community has *homeowner provisional convention* or *homeowner convention*. *Homeowner provisional convention* is drawn up by real estate developer or property management company. When homeowner assembly is set up, and will lay down *homeowner convention* to replace *homeowner provisional conventio* .

responsibility of changing rules together. The rules are made and changed according to homeowners' demand. When an actor finds the need to change rules, he will report the information to the homeowner committee. If the homeowner committee thinks the suggestion is reasonable, the members will organize a meeting of the homeowner representative assembly to talk about changing the rules.

In community B1, resident committees and the local government play an important role in mediating conflicts and making rules. In community B1, changing rules is connected with defending homeowners' interests, and the resident committee plays an important role in changing rules. In common property governance, the property management company is not only the rule-maker but also rule enforcer, and made a lot of rules about management of common property. Homeowners faced a lot of difficulties in changing the rules even if most homeowners were not satisfied. As a result, more and more homeowners went to the resident committee for help. The resident committee often organized a meeting, and participants included representatives of the homeowners, representatives of the property management company, and members of the resident committee. They modified some rules together which were previously enacted by the property management company before. In this process of changing rules, the participants are beyond the scope of community. And it is not as efficient as community A1.

Conclusion

This paper has analyzed the physical attributes of community common property, and described how the attributes of community and the differences of self-governing associations affect common property governance. The physical attributes of community

common property make actors' cooperation in collective action necessary. Homeowners of high income attend activities of community governance more actively. In the community of no formal self-governing association, homeowners look for more help from government and media in rule-making, monitoring and sanctioning. In the community in which formal self-governing association exists, participants solve the problems in community governance by themselves, and homeowners' participation in rule-making, monitoring and sanctioning is more institutional. As co-owners of common property governance, homeowners are the most important actors in a residential community. Homeowners' self-governing organizations are necessary to improve their ability to make and implement rules. According to *Regulations on Property Management and Real Right Law of the People's Republic of China*, the homeowner assembly is a rule-maker, and the homeowner committee is rule-supervisor. Institutional innovation is necessary to make these associations work effectively. Community A1 developed the homeowner representative assembly and homeowner supervisor committee, which contribute to making and implementing rules effectively.

Notes:

In this paper, I mentioned six communities (A1, A2, A3; B1, B2, B3), which are distribute throughout three districts. Communities (A1, A2, A3) have set up formal homeowner associations, and communities(B1, B2, B3) have no formal homeowner associations. The full names of the communities follow.

| code | Name of communities | code | Name of communities |
|------|----------------------|------|---------------------|
| A1 | Shangdixili | B1 | Cuicheng |
| A2 | Dangdaichenshijiyuan | B2 | Zhongtiejiayuan |
| A3 | Jiaheyuan | B3 | Chongxingjiayuan |

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