

## **BRIEFING PAPER**

# **Community Land Trust: An Affordable Housing Method**

***Prepared for: Workforce Housing Task Force***

### **Background:**

According to the Institute for Community Economics (ICE), a community land trust is “one of several subsidy retention mechanisms that provide a middle ground where both the individual families and the community at large share in the long-term wealth of creation that result from investment of public money in privately owned housing.”

The Community Land Trust (CLT) concept emerged in the 1960s to encourage affordable housing ownership and to locally control the land. ICE has promoted public understanding of this concept for over three decades and has helped local groups establish CLTs in both rural and urban communities in addition to providing technical assistance and financing.

The first CLT in the United States was established in 1968 in rural Georgia and the founders were concerned with the displacement of black farmers. Now there are more than 120 CLTs in the country in rural and urban areas providing 5,000 units of affordable housing. Seventy-nine percent of those who own homes have incomes below 50 percent of their region's income.

Community land trusts create affordable housing and are not to be confused with conservation land trusts which preserve land and protect it from development.

CLTs are nonprofit 501c3s and are created to benefit the community and locally hold the land “in-trust” for future generations. Nonprofits can purchase the land and provide long-term renewable ground leases to homeowners located on CLT land.

Those with lower incomes are given the opportunity for homeownership while preserving the affordability of these homes for future residents. CLTs provide affordable rental housing and mobile home parks; create housing co-ops; develop community facilities and preserve open space and work with other community groups to promote economic opportunities.

### **How it works:**

CLTs can build or rehabilitate homes and sell to low or moderate income families and still have the title of the land. CLT homebuyers agree in advance to limit the price at which they will sell their home to insure that it remains affordable to future low or moderate income families.

CLTs have a distinctive approach to ownership. Sometimes CLTs receive vacant land and arrange for development and other times CLTs acquire both land and buildings. In

the case of only land ownership, the land is owned permanently by a land trust, a 501c3, that will always benefit the community.

CLTs may serve different individuals but seeks to primarily help people own homes who could not otherwise afford them. When CLT homes are sold, it leases the underlying land to the homeowners through a long-term (usually a 99-year) renewable lease, which gives residence and their descendants the right to use the land for as long as they wish to live there.

When residents are ready to sell, each land trust decides what resale formulas to use and the most common is the appraisal based formulas. The formulas set the price as the sum of what the seller paid for the home plus a certain percentage of any increase in market value. Most groups spend a good deal of time examining the various possibilities before deciding on a formula.

When CLT homeowners sell these homes, the land lease requires that the home be sold back to the CLT or to another lower income household at an affordable price. CLT homes can be inherited if any of these qualifications are met: if they are children of the deceased owner, have already lived in the home for a period of time or qualify as low or moderate income households. The lease explains the limitations and subleasing is permitted for a limited time.

Residents pay property taxes on their homes if they own them. CLTs usually pay taxes on their landholdings with the cost usually covered by lease fees from those using the land. (CLTs and their residents can request reduced property tax assessments based on the resale value of the home as determined by the CLT's resale formula rather than what would otherwise be the market value of the property.

CLTs have been able to negotiate mortgage agreements that address the basic concerns of lenders while protecting the CLT's long-term interest in the property. These agreements typically allow the CLT to take action, if necessary to prevent foreclosure and the sale of the property on the open market. Such mortgages give the lender a claim on the borrower's house and "leasehold interest" The CLT's "fee interest" in the land is not mortgages. These "leasehold mortgages" can be and have been insured by FHA and have been purchased by Fannie Mae and a number of state housing finance agencies as well as banks. CLT homebuyers have also received mortgage loans through the Rural Housing Services program of the federal Department of Agriculture.

### **How to create your own land trust organization:**

CLTs are designed as membership organizations. A board of directors is elected by two groups of voting members. One being CLT home owners and the second group is comprised of neighbors of CLT residents, people who are simply interested, and those who would like to purchase a CLT home in the future.

The board of directors represents each of the three kinds of interested parties.

Groups that have started CLTs include neighborhood associations, religious coalitions, community development coalitions, local governments and concerned citizens. It is common for CLTs to additionally work in cooperation with local governments in meeting present and future community needs. A growing number of public officials

recognize that CLTs can play an important role as stewards of community resources and that property and funds allocated to a CLT can benefit not only present community residents but future residents as well.

It is important to familiarize the groups and develop grassroots support.

Also, contacting ICE can help launch a CLT. They have developed the concept and legal documents that serve as the template for most CLTs across the country. ICE has a technical assistance program funded in part by the U.S. Department of Housing and Urban Development, which assists communities attempting to launch new land trusts. Their assistance helps walking the new CLT board through key choices in developing CLT bylaws, a resale formula, and ground lease appropriate to local conditions.

Financial Assistance for funding CLTs come from the 1992 Housing and Community Development Act which makes specific provisions for CLT funding under the federal HOME program (provides block grants to municipalities and states to be used for affordable housing programs in their jurisdictions.)

### **Features:**

According to the CLT model designed by the ICE, CLTs feature:

1. Qualification for 501c3 status through the Internal Revenue Service.
2. Nonprofits own the land and the individual homeowner owns the improvements on the land.
3. Homeowners own the building through a renewable ground lease (usually 99 years) that give them the right to use the land.
4. The lease gives the CLT a right of refusal and the resale price limited by a formula designed to give current owners some return on their investment while providing another lower-income household access to ownership otherwise known as perpetual affordability.
5. The CLT plays a monitoring role with a continuing interest in the property and community in which it exists. The lease allows for CLTs to force repairs, cure defaults, and monitor resales.
6. The CLT works in a defined geographic area like a neighborhood, city, and region, etc.
7. CLTs have a tripartite government that is composed of equal number of seats for CLT homeowners, community members, and public stakeholders.
8. CLTs focus on bringing new units into stewardship through expansionist acquisition.
9. The development is flexible. Households can be mobile homes, apartments, cooperatives, condominiums, and single family homes which are the most common.

### **Strengths:**

*Homeowner support:* CLTs maintain a relationship with and often continue to provide direct support to homeowners. The CLT often provides the support for first time homeowners in order to keep the homeowners from defaulting on their loans or letting their house fall into disrepair. Additionally, when a CLT owner chooses to sell, the CLT frequently identifies a buyer, educates the buyer about the requirements of the program and manages the process of selling the unit.

*Community Control:* CLTs can be used as a tool to control homeownership development. If a community experiences gentrification pressures, CLTs can help stabilize these sorts of neighborhoods by taking significant numbers of homes off the market, preserving them as permanently affordable.

*Administrative Structure:* A CLT that has a continuous paid staff can provide support for permanently affordable units. CLTs charge a ground lease fee to help pay for their administrative and support costs. This ongoing relationship with buyers makes it likely that a CLT will be award of lease violations when they do happen.

*Enforcement:* Because CLTs are the legal holders to title in the land they are usually in a strong legal position to defend the affordability restrictions (as well as other provisions in the ground lease requiring continued owner-occupancy and maintenance of CLT units). Federal law provides very strong protections for the owners of real property and in many cases is designed to limit the ability of third parties to restrict the use of property. As the owner of the land, a CLT has a very clear legal right to control what happens on that land.

### **Weaknesses:**

*Unfamiliar approach to ownership:* Separation of land and buildings and resale price limits are generally unfamiliar concepts to most people. CLTs have to invest significant time and energy in educating potential homebuyers, lenders, public officials, and other stakeholders, about how the model works. One of the best ways to gain community acceptance and cultivate a pool of potential CLT homebuyers is to involve a broad spectrum of community members from the start and over a number of years.

Places like Albuquerque have used the organization of CLTs as a way to provide the whole community with an education in how land trusts work, but this process took several years.

*Politics of Representation:* While the open democratic structure of the traditional CLT is the source of many of the mode's strengths, it can also be a significant challenge. Potential homeowners must be able to place their full trust in the CLT organization if they are going to allow it to own the land beneath their homes. A CLT cannot risk being perceived as controlled by one group of people, one ethnic group, or one political block. Some communities many conclude that the effort required to build and sustain such support for a single nonprofit organization is too great.

*Balancing Community Participation and Production:* For the model to work, a CLT needs to preserve enough resources for organizing an effectively governed organization that achieves community participation goals, but must develop enough housing to make a noticeable impact in the community.

### **Success**

CLTs have flourished in more than 120 organizations in cities such as Durham, North Carolina; Albuquerque, New Mexico; and Syracuse, New York.

Communities choose CLTs for different reasons. Some communities are concerned with absentee homeownership like low income communities such as west central Durham whose primary goal is to sustain owner-occupancy and prevent absentee ownership. Other communities have rising property values like Albuquerque and Burlington. The idea here is limiting resale prices so homes will continue to be affordable.

Many CLTs have chosen to place a nonprofit or community facilities as well as neighborhood-serving commercial properties on CLT land. In Burlington, Vermont the CLT owns facilities for a food pantry, a legal office, and a community technology center. It also provides office space for a number of social services organizations. Here is another example:

#### Northern California Land Trust-Berkely, CA

Northern California Land Trust (NCLT) started in 1973 and the organization was initially established to hold title to a parcel of donated farmland in the Central Valley. For more than 10 years, NCLT simply acted as a steward over that parcel. Then, as the housing market in the San Francisco Bay Area rapidly tightened, NCLT decided to expand its work and sought opportunities to develop affordable housing. In 1988, it began acquiring residential property in Berkeley for rehabilitation and every year since it has acquired more properties. NCLT became a significant contributor to the development of affordable housing in 1992 when it began receiving funding from the City of Berkely. Since then, NCLT has acquired, rehabilitated, and developed limited equity condominiums, and rental apartments. Many of its first projects were small scale (6to10 unit) limited equity housing cooperatives. By owning the land under these small projects, NCLT is able to provide additional support to these small organizations. To date, NCLT has developed 84 units of housing for low or very low income families. Most of their projects are in Berkeley, but they also own properties in Oakland, Richmond, and San Francisco.

#### Sources:

Permanently Affordable Home Ownership, a study by Rick Jacobus and Amy Cohen  
[www.burlingtonassociates.com](http://www.burlingtonassociates.com)

The Institute for Community Economics  
<http://www.iceclt.org>