



Legal Minute

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Community Land Trusts: A New Tool Designed to Keep Communities Together

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What is a Community Land Trust?

A community land trust ("CLT") is a nonprofit corporation created to acquire and hold land for the benefit of a community and provide long-term, affordable access to land and housing for community residents. Although CLTs have been used extensively in the context of land conservation, it is only recently that they have been used as an affordable housing strategy in low-income communities. CLTs are unique in that they treat land and buildings differently. While the houses or other improvements are typically owned by individuals living in the home, the land is held permanently by the land trust so that it will always benefit the community. This is an important distinction, as homeowners will own only the improvements that are constructed on CLT land, not the land itself.

What is the purpose of a Community Land Trust?

CLTs are primarily established to help communities:

- Keep housing affordable for current and future residents
- Provide affordable housing for lower income residents in the community
- Promote resident ownership and control of housing quality
- Gain control over property speculation and reduce absentee ownership

Why choose a Community Land Trust?

In some communities, lower-income residents are often forced out of the neighborhood due to rising real estate prices brought about by increases in population growth or economic investment in the communities. In these areas, CLTs are being developed to place controls on real estate prices in an effort to prevent dislocation of existing low-income residents, keep the communities together, and allow low-income persons to relocate there at an affordable price.

CLTs are also widely used in lower-income communities that are underserved by the marketplace. As such communities age, it is common for absentee owners to purchase properties within the communities at discounted prices, and then charge significant rents without upgrading the properties over time. The rent paid to these absentee owners leaves the community. Even in the event that local residents are able to act together to improve the neighborhood, the economic benefit will run primarily to the absentee owners. A CLT allows the residents to return the value they create to the community at large.

How does a CLT achieve its goals?

First Step: Organization.

Generally speaking, CLTs are organized as non-profit, membership corporations that have boards of directors that are elected by the members. There are traditionally two groups of voting members of the organization, those who live within the community in CLT homes, and those who are interested in the activities carried on by the CLT, such as neighbors and people who may seek to live in the CLT's homes in the future. The board of directors of a CLT is elected by the members and will typically include directors who are CLT residents, directors who are not CLT residents, and directors from the community at large. Creating a board with a diverse membership ensures that the CLT will act in a manner that is beneficial to the community as a whole.

Second Step: Property Acquisition.

CLTs acquire property in a manner that is similar to that of other nonprofit organizations. Ideally, the CLT will receive gifts of property from individuals or corporations, or acquire property from local governments at reduced prices. In most cases, however, a CLT will purchase property in the open market, often with financial assistance provided from public or private sources. CLTs may own any type of property. In some cases, CLTs acquire vacant land and arrange for the development of housing or other structures. In other cases, CLTs will acquire land with improvements that have already been constructed.

Third Step: Sale of Property to Homeowners.

Homes on CLT-owned land are typically sold to low-income families, but may also be rented. Most CLTs will seek to sell the homes to existing or new members of the community in order to promote the advantages of homeownership and establish a more lasting commitment to the community. Where the homes are sold, however, the CLT will be required to educate potential purchasers on the key feature which distinguishes CLTs from other affordable housing initiatives, the separation of the ownership of the CLT land from the improvements. While this separation permits the CLT to price its homes far below what is typically charged in the marketplace, homeowners will not own the land on which their home is situated. CLTs address any concerns that this might create by leasing the underlying land to the homeowner through a long-term, renewable lease that typically lasts for 99 years. The lease provided by the CLT will give the homeowner, as well as their descendants (the land lease may be handed down by will to the homeowner's descendants), the right to use the land for as long as they wish to live there, subject to compliance with the terms of the lease.

Fourth Step: Control of Property and Resale.

CLTs utilize a land lease as a means to retain a limited amount of control over CLT property. When CLT homeowners decide to move out of their homes, they can sell them. However, the land lease requires that the homeowner sell the home to either the CLT or another lower income household, and for an affordable price. The resale price of the home is controlled by a resale formula that the CLT develops when it is established, and incorporates within the land lease. CLT land leases also contain provisions which require the homeowner to maintain certain standards with respect to the upkeep of the home. If the homeowner fails to comply, the CLT will have the option to purchase the home back from the homeowner at the resale price set in the land lease.

How does a CLT's resale formula work?

Each CLT will design a resale formula to accommodate its own goals and the circumstances which exist in the relevant community. The formula will set the maximum price that a homeowner may charge upon the resale of the CLT home, providing a fair return to the seller of their investment in the home, while preserving the affordability of the home for the next buyer. There are many types of resale formulae, but the majority of CLTs use an "appraisal-based" formula. An appraisal-based formula sets the maximum resale price as the sum of what the selling homeowner paid for the home plus a certain percentage of any increase in market value (as measured by appraisals). Determining the resale formula is one of the most important aspects of designing a CLT that is effective for both the community and its residents.

Is my community the right place for a CLT?

If your community is affected by the issues described above, then it may be suitable for a CLT. There are a few additional key considerations to take into account. First, in setting up a CLT, consolidated neighborhood support is critical. If your CLT does not have this, then its growth and success will be stunted. Second, setting up a CLT is feasible only if the land trust already owns property or can afford to purchase several parcels of land in the community. Some low-income communities are already so gentrified that land is no longer affordable. Third, the CLT's target area needs to be small enough to encourage grassroots participation in the CLT's activities. Typically, a CLT is confined to a specific neighborhood.

Who can start a CLT?

CLTs have been established by a variety of local groups, including nonprofit community development corporations, neighborhood associations, religious coalitions, and local governments.

Who do I contact for additional information or assistance with the formation of a CLT?

For more information, and additional resources related to CLTs, please contact Texas C-BAR at (512) 447-7707, ext. 370, or www.texasbar.org. or the Institute for Community Economics at www.iceclt.org.