



The Homebuyer's Guide to Community Land Trusts

THIS GUIDE IS AN AID TO UNDERSTANDING THE RELATIONSHIP BETWEEN A COMMUNITY LAND TRUST AND A HOMEBUYER. THIS GUIDE IS NOT A LEGALLY BINDING DOCUMENT. PROSPECTIVE HOMEBUYERS SHOULD CAREFULLY REVIEW THE GROUND LEASE, THE PURCHASE AGREEMENT, AND THE OTHER LEGAL DOCUMENTS WHICH ESTABLISH THE RIGHTS AND OBLIGATIONS OF THE HOMEBUYER AND THE COMMUNITY LAND TRUST.

I. What is a Community Land Trust?

A community land trust (CLT) is a private, nonprofit corporation created to provide secure affordable access to land and housing for the benefit of the community. The CLT enables people who would otherwise be priced out of the housing market to own a home.

CLTs are unique in that they separate ownership of land and homes. CLTs permanently own the land on which homes and other structures or facilities are built, while individuals own the home (or other structure/facility) on the land pursuant to a long-term (usually 89-year) renewable ground lease.

The ground lease entered into by every CLT homeowner requires that owners live in their homes as their primary residences. CLT homeowners and their descendants have a right to occupy and use the leased land for as long as they wish, provided that they abide by the terms of the ground lease. In exchange for an initial subsidy from the CLT that is built into the price of the home, the terms of the ground lease place some limitations on the resale of the home - preventing resale to a household that does not qualify as low- or moderate-income, and limiting the sales price to keep it affordable. The lease lays out a "resale formula" that determines the maximum allowable price that may be charged upon resale of the home. Each CLT designs its own resale formula to give homeowners a fair return for their investment, while keeping the price affordable for subsequent lower income buyers. In addition, the CLT has the right to buy back each home for an amount limited by the CLT's resale formula.

Typically, CLTs are used in neighborhoods that are experiencing or are expected to experience gentrification. In many communities today, population growth and economic investment are driving up real estate prices so that fewer low- and moderate-income workers are able to afford to buy homes or rent in the communities where they work. Limited public funds are available to subsidize housing costs for lower income households. And the gap between the amount of subsidy needed and the amount of subsidy available for affordable housing continues to widen as housing costs soar.

According to the U.S. Census, from 1990 to 2000 the median value of owner-occupied homes increased by 97% in the State of Michigan. While housing prices have escalated, government funding for affordable housing has decreased and private funders are unable to subsidize these



The Homebuyer's Guide to Community Land Trusts

projects at the level previously supported by the government. While CLTs do not build equity for low-income communities as fast as conventional homeownership would, CLTs are designed to serve a population that otherwise would not have homeownership opportunities in the current conventional market. In addition, the initial investment in the affordability of the housing is preserved for future owners, thereby maximizing the utility of that investment.

CLTs are being developed in a growing number of communities - in expanding metropolitan areas from Cleveland, Ohio to Portland, Oregon; in university communities from State College, Pennsylvania, to Boulder, Colorado; and in expensive resort communities from the Florida Keys to the

San Juan Islands of Washington State. In Michigan, CLTs have been formed in Traverse City, Boyne City, and Oceana County, among others.

II. The "Basics" of a CLT Deal

The deal that a CLT homeowner makes with the Community Land Trust is the ability to purchase an affordable house now in exchange for giving up a portion of the future appreciation of the home when the CLT homeowner sells the home later. Here is a brief outline of the typical terms of a CLT purchase:

- The homeowner purchases the house but not the land (which results in a lower purchase price).
- The homeowner leases the land from the CLT.
- The term of the lease is usually 89 years; the lease can be renewed once for another 89 years.
- When the homeowner sells his/her house, a portion of the appreciated value stays with the land under the ground lease, so the home price is affordable for the next buyer.
- The CLT home can be inherited by immediate family members.

III. CLT Homeownership

CLT homeowners have exclusive ownership of their home and enter into a ground lease with the CLT for the exclusive right to occupy the land on which their home is situated. CLT homeowners are responsible for the maintenance and upkeep of their home and its land consistent with the terms of the ground lease. Upon resale, a CLT homeowner will not receive 100% of the increase in



The Homebuyer's Guide to Community Land Trusts

the home's value since purchase. Under the terms of the ground lease, the CLT homeowner will receive only some portion of the CLT home's increase in value since purchase.

A. The Home Purchase

CLT homeowners purchase their homes in a traditional manner.

1. The Offer to Purchase

An offer to purchase is a legal document describing the CLT homebuyer's wish to purchase a CLT home. The main difference between a typical offer to purchase and a CLT offer is that the CLT homebuyer is buying the house but not the land.

2. Financing

CLT homeowners, although purchasing the CLT home at a reduced/affordable price, will almost always need to seek a loan from a commercial lender in order to buy the CLT home. CLTs make an effort to work with and educate local lenders regarding the nature of CLTs so financing will be available to potential CLT homebuyers.

3. The Closing

The closing is where the buyer pays the purchase price and the buyer and seller sign all the papers that ensure that the buyer legally and officially owns the house. A CLT closing is similar to other home purchase closings in many respects. The main difference is that in addition to all the loan documents and deeds, a CLT closing involves signing the CLT Ground Lease.

Upon completion of the purchase of a CLT home, the CLT homebuyer will receive and record a deed and/or bill of sale conveying the "improvements" (including, among other things, the CLT house) from the CLT to the CLT homebuyer.

B. The Ground Lease

At the same time that the CLT homeowner purchases the home/improvements, the CLT homeowner will enter into a ground lease between the CLT (as landlord) and the CLT homeowner (as tenant). The ground lease will typically be for a term of 89 years and be renewed by the tenant. The purpose of the ground lease is to retain the CLT's right to constrain the resale price of the CLT home.



The Homebuyer's Guide to Community Land Trusts

An outline of a standard Community Land Trust Ground Lease is provided elsewhere in this Community Land Trusts Guide. Although each local CLT may modify the standard CLT Ground Lease to meet its needs and to best serve the local community and the CLT homebuyers, the basic components of the CLT Ground Lease remain the same.

Why is the CLT Ground Lease so many pages? Eighty-nine years (the period of the lease) is a long time, so the CLT Ground Lease tries to address all the possible contingencies that could happen in that time.

IV. Resale of a CLT Home

The applicable terms for resale or inheritance of a CLT home will be found in the Ground Lease. The basic element of a Community Land Trust's mechanism for preserving the affordability of a CLT home is the Resale Formula. Typically, the Resale Formula limits the CLT homeowner to some percent of the gain in value of the CLT home. When the CLT homeowner wants to sell their home s/he is limited by the Resale Formula in their Ground Lease which determines the Purchase Option Price. The Resale Formula typically provides that the Purchase Option Price is equal to:

(a) What the CLT homeowner paid for the CLT home when s/he first bought it; plus:

(b) The discounted cost of certain improvements the homeowner made to the home through licensed contractors at the homeowner's expense that will benefit the future owner. For example, if ten years before the date of the sale the homeowner installed a new roof with a 40 year warranty, the homeowner may recover 75% of the cost of installing the roof: and/or

(c) Some percentage (usually between 20 - 35%, but varying widely based on community need) of the appreciation in value of the CLT home. Appreciation is determined by subtracting the appraised value when the CLT homeowner originally purchased the CLT home from the current appraised value of the CLT home at the time the CLT homeowner seeks to resell.

EXAMPLE (Assuming CLT homeowner retains 25% of the appreciation in value of the CLT home):

- CLT homeowner paid CLT \$90,000 when it purchased the CLT home.
- At the time of purchase the CLT home was appraised at \$105,000.
- At the time CLT homeowner seeks to resell the CLT home, the appraised value is \$125,000 -an appreciation in value of \$20,000.



The Homebuyer's Guide to Community Land Trusts

- Twenty-five percent (25%) of \$20,000 is \$5,000.
- The homeowner spent \$10,000 on qualified improvements and is entitled to a \$5,000 credit for the remaining value of those improvements.
- The Purchase Option Price equals what the CLT homeowner originally paid (\$90,000) plus the remaining value of qualified improvements (\$5,000) plus twenty-five percent of the appreciation in value (\$5,000).

Therefore, in this example, the CLT homeowner can resell the CLT home (to either the CLT or another low-income purchaser) for the Purchase Option Price of \$100,000.

V. Consulting with an Attorney

The CLT Ground Lease typically requires the CLT homebuyer to consult with an attorney. The attorney is required to go over the ground lease with the CLT homebuyer to make sure that the CLT homebuyer is entering into the agreement with a complete understanding of the terms of the CLT Ground Lease.

VI. The Community Land Trust

The Community Land Trust (a nonprofit 501(c)(3) corporation) has an interest in the long-term preservation of the CLT home - both its physical structure and its affordability. The CLT is governed by a board of directors. The CLT operates consistently with its articles of incorporation (filed with the State of Michigan) and its bylaws (adopted by the CLT's members or board of directors). A CLT homeowner (or prospective CLT homebuyer) can request a copy of the CLT's bylaws.

Typically, a CLT is a membership organization where all CLT homeowners are members. In addition, members of the community are often members. The structure of the CLT will be described in the CLT's bylaws.

Meetings of the CLT board of directors are meetings of a private entity, and not subject to the Open Meetings Act, which requires government agencies to allow public attendance at meetings.

VII. Frequently Asked Questions

How much control do I give up by not owning the land beneath my house?



The Homebuyer's Guide to Community Land Trusts

Ground tenants - homeowners, farm owners, or business owners - retain most of the rights and responsibilities that go with ownership. CLT control is generally limited to areas where the CLT has a long-term interest. For example, it is vital to the CLT to preserve affordability of housing units. Most leases also prohibit absentee ownership of housing because it is generally not in the community interest. Also, CLTs want to protect the condition of the land and buildings which would be left at the end of the lease term.

Will banks and other financial institutions make loans for homes on leased land?

Yes. There are dozens of banks, housing finance agencies, and other mortgage lenders who lend to CLT homeowners. When first approached, lenders may be concerned that a CLT will inhibit their ability to foreclose in the event of a default and make it difficult to remarket the property in a timely manner. CLTs have been able to negotiate mortgage agreements that address the legitimate concerns of lenders and also protect the CLT's long-term interest in the property by allowing the CLT to step in and cure a default, when necessary, to prevent the property from being sold on the open market.

Do CLTs pay property taxes?

Yes. Residents pay taxes on their homes as they own them and the CLT pays property taxes on the land. CLTs can qualify for exemption from federal and state income taxes, but they usually pay local real estate taxes on the land they own. The cost of these taxes is covered by lease fees paid to the CLT by those using the land. (In some cases CLTs and the homeowner may request an assessment based on the resale value of the home as determined by the CLT's resale formula rather than the market value of the property.)

What happens if a lessee wants to move away from the CLT?

After giving the CLT adequate notice, a lessee may sell the improvements to an eligible buyer, transfer the lease, and move away. Since CLTs commonly retain an option to buy all improvements on CLT land, a homeowner who wishes to leave may sell his/her house to the CLT. The CLT will, in turn, sell this house and lease the land to a new person.

How is the resale price of a home determined?

Each CLT has a formula that will determine the maximum amount to be paid when a homeowner sells his or her home. The formula may take into account some of the value of certain types of improvements made by the homeowner, and it may allow the price to be adjusted for inflation. Gen-



The Homebuyer's Guide to Community Land Trusts

erally, the aim is to give the homeowner a fair return while limiting the price to insure the home will be affordable for the next low-income owner.

Isn't a mixed ownership arrangement of this sort - with buildings owned by one party and the land by another -- pretty rare?

Not as rare as you may think. The separation of land and buildings and the leasing of land to the owner of the buildings is an old, established and widely-used mechanism. Many substantial commercial buildings are on leased land, perhaps the most famous of these being Rockefeller Center in New York City. There are large areas where people own homes on leased land: Baltimore, Maryland; Davis County, California; and many other regions. It is now becoming more common for developers to establish residential projects on leased land.

Does the CLT ever sell its land?

Very rarely. Once the CLT has acquired a parcel of land, its intent is to hold it indefinitely -- never again allowing the land to be bought and sold as a commodity. Most CLTs structure their bylaws to require the consent of all affected leaseholders and a supermajority of the board and membership for the corporation ever to sell any of its land. There have been situations, however, when CLTs have found it necessary or prudent to sell a parcel of land - for example, exchanging land that is not appropriate for the CLT's purposes for land that is, or selling off some land to avoid losing the rest.

What happens to the CLT's land and lease arrangements if the CLT is dissolved?

If a CLT is dissolved and ownership of the land is transferred, the new owner is obligated to honor the long-term lease agreements between the CLT and its leaseholders. Should the land ever be offered to a non-charitable buyer, the resident has the right of first refusal to buy the land.

How does CLT home ownership compare with other home ownership?

Land trust homeownership is essentially the same as other homeownership except that the land that CLT homes are located on is owned by the CLT, which is usually a membership organization.

The Same

- The homeowner secures a loan from a lender.
- The homeowner accumulates equity.
- The homeowner may will the home to heirs (both the home and the lease may be inherited).



The Homebuyer's Guide to Community Land Trusts

- The homeowner may make alterations and improvements at the homeowner's own expense.
- The homeowner receives federal mortgage tax deduction.
- The homeowner may enjoy the types of rights that renters are frequently precluded from having: pets, planting a garden, repainting the house, etc.
- The homeowner repairs and maintains the home.

Different

- The homeowner (and all subsequent buyers) must meet income qualifications at the time of purchase.
- The purchase price is lower, usually 20-30% below the market rate, because the land is not included.
- The homeowner will accumulate a restricted amount of equity from ownership of the home.
- The CLT owns the land, and the homeowner leases the land from the CLT for a nominal fee, plus real estate taxes on the land.
- The homeowner agrees to live in the home as a primary residence most of the time.
- The homeowner will sell the CLT home at an affordable price, helping the next family of modest means to become homeowners.

How are CLTs different from conservation land trusts?

They are similar in many ways. Both CLTs and conservation land trusts control land use for the benefit of people in the future as well as the present, but they tend to be concerned with different types and uses of land. Conservation trusts are primarily concerned with controlling rights to undeveloped land in order to preserve open space, ecologically fragile or unique environments, wilderness, or productive forest or agricultural land. CLTs, on the other hand, are primarily concerned with acquiring developed or developable land for specific community uses - particularly residential use. These concerns are not mutually exclusive, and some land trusts combine these purposes, preserving some land in a natural state while leasing other land for development. All land trusts have an ethic of land stewardship; they try to assure that land will be developed and used to benefit stated community goals.



The Homebuyer's Guide to Community Land Trusts

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