Community Land Trusts: A Primer for Local Assessors

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 provides access to homeownership for people who might otherwise be priced out of the housing market and helps stabilize communities facing gentrification or high foreclosure rates. The guidelines and restrictions that apply to property located in a CLT change the way that property is assessed for property tax purposes. The following primer provides information for local assessors as to considerations that may change the taxable valuation of properties located in a CLT.

I. Issues for Consideration

A. Assessing CLT Property

A CLT residence typically consists of a building on leased land. Under Michigan law, the improvements and the underlying land are each assessed as real property, and should be assessed separately to the respective owners.

The long term lease that is the central feature of the CLT structure affects the True Cash Value of both the underlying land and the improvements. It is well established under Michigan case law that significant restrictions on the transferability of property, and therefore on its marketability, may reduce the assessable value of that property. *Menard, Inc. v. City of Escanaba*, No. 325718, 2016 WL 3022785 (Mich. Ct. App. 2016). In *Helin v. Grosse Pointe Twp.*, 329 Mich. 396, 407–408; 45 NW2d 338 (1950), our Supreme Court recognized that deed restrictions in property that prohibited its use for an "apartment house, multiple residence, or institutional purposes" would have an effect on the value of the property. Accordingly, it would be error to fail to consider "deed restrictions in establishing assessments [.]" *Kensington Hills Dev. v. Milford*, 10 Mich. App 368, 372; 159 NW2d 330 (1967). This Court emphasized further in *Lochmoor Club v. Grosse Pointe Woods*, 10 Mich. App 394, 397–398; 159 NW2d 756 (1968), that all factors, including "restrictions imposed" on property must be considered in determining a property's TCV.".

B. Assessment of Land

The underlying land owned by the CLT is burdened with a lease that typically has a term of 89 years. Under the terms of the lease, the CLT will receive an amount of rent that is not set at the market rate but at a minimal rate consistent with a reduced housing cost for the benefit of the low-income or moderate-income homeowner. A purchaser of the land would not pay market price for property that is subject to a permanent commitment of this type. The assessment of the land should accordingly reflect the reduction in value resulting from the existence of the long-term lease.

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C. Assessment of Improvements

The CLT homeowner owns the improvements, including the structure, out buildings, and any site improvements, in fee simple. However, the CLT homeowner is also a party to the CLT ground lease. This fact has two major implications for the assessment of the homeowner's property.

First, because the homeowner does not own the underlying land, sale prices of comparable properties in which the land is included are not reliable indicators of the value of the homeowner's property. Second, and more importantly, because the ground lease restricts the price at which the homeowner may resell the improvements, the market value (and therefore, likely, the assessable value) of the improvements is likewise restricted.

Once the CLT is established, it is a condition precedent to the purchase of the improvements by a potential CLT homeowner that he or she enter into the ground lease. This is not optional. Having purchased the improvements (meaning the house/structures) at a discount to the price that would otherwise apply to a residence that included the land, the CLT homeowner is required by the ground lease, if he or she intends to resell the improvements, to first offer them for resale to the CLT at a formula-set price. The formula permits the CLT homeowner to recover his or her investment in the improvements plus a predetermined but limited percentage of their appreciation in value.

This contractual obligation has the effect of fixing the market value of the improvements at the formula price –the owner cannot sell it for more, and a potential purchaser has no incentive to pay more. It follows that the assessable value of the improvements, even if uncapped as a result of a sale, cannot logically or legally exceed the formula price.

D. Homestead Issues

A CLT homeowner is required by the ground lease to reside in the property. As a result, the homeowner is entitled to claim the improvements as his or her personal residence for purposes of the homestead exemption.

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