

Development on CLT Land: Options & Issues

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The development of residential, commercial, and other structural improvements on the CLT's land may involve either the construction of new buildings or the acquisition, rehabilitation, and resale of existing structures. There is nothing about the model that makes the development process for a CLT any different than the process that any other nonprofit or for-profit developer must follow in planning and building a residential or commercial project. Even the financing of a CLT project, during the development phase, introduces nothing new. The options for a new CLT to consider when it comes to development revolve mostly around the *method* of development – i.e., how the land gets into the CLT's hands; how the structural improvements get built; and who takes the initiative in making this happen.

CLT-initiated Development

The CLT – using its own staff and outside contractors hired through an RFP process – initiates and supervises the development of residential or commercial structures on its own land. These improvements are owned by the CLT until the end of the construction period. They are then sold off to individual homeowners, commercial investors, or to a nonprofit or for-profit corporation. Most CLTs become active developers, playing the lead role in planning projects, preparing pro formas, packaging financing, securing approvals, hiring architects and builders, and overseeing construction.

Buyer-initiated Acquisition

Prospective homebuyers attend homebuyer education classes and a CLT orientation session to learn about the provisions and restrictions contained in the CLT ground lease. Each homebuyer, if eligible, is pre-qualified for grants and other types of assistance available through the CLT. Each homebuyer, if creditworthy, is pre-qualified through a private lender for a mortgage of a maximum amount. The would-be homebuyer then searches the market for an existing house that (1) fits his/her own preferences, finances, and needs and (2) fits parameters for location, condition, size, and price set by the CLT. At closing, the CLT purchases the land and house from the seller, sells the house to the homebuyer, and executes a ground lease with the homebuyer, conveying use of the land beneath the house.

Developer-initiated Projects

Even for CLTs that are actively engaged in doing development themselves, projects are often brought to them by any number of nonprofit or for-profit developers, who propose to construct housing or other improvements on land that is either already owned by the CLT or will eventually be owned by the CLT, once the project is completed. It is the developer, not the CLT, that initiates the project and takes most (if not all) of the risk during the project's construction. Development agreements for such projects are negotiated on a case-by-case basis.

Partnership Projects

In several communities, CLTs have decided from the start not to be developers themselves, preferring to concentrate instead on the model's stewardship function: assembling land, leasing land, and preserving the affordability of any buildings located thereon. Development is left in the hands of one or more nonprofit partners, often the same nonprofit that sponsored the CLT's creation in the first place. The CLT prioritizes certain types of projects and certain neighborhoods, adopting an internal set of investment criteria. Then, in consultation with its nonprofit partner(s), the CLT acquires specific parcels of land that meet those priorities and makes those parcels available to its partner(s) for development.

Municipally-initiated Projects

In a number of places, a municipal agency has conveyed city-owned land to a CLT with the understanding that the CLT will not only oversee development of a particular project which the city wants to see on the site (usually affordable housing), but will also ensure the project's long-term affordability. Municipalities have also made use of inclusionary zoning, housing replacement, and density bonus ordinances to direct land and buildings into the hands of CLTs.

PHA-divested Property

Should a PHA divest itself of property that is suitable for homeownership, the land underneath these units could be conveyed to the CLT, whose responsibility it would be to ensure the continuing affordability of these units upon resale and the continuing security of the first-time homeowners who purchase them.

Development Issues

In deciding which method(s) of development a new CLT should pursue, the CLT's organizers, sponsors, and funders must address questions like the following:

CLT-initiated Development

- ❖ Should the CLT be an active developer of housing and commercial facilities on leased land – or is that a role better left to others, freeing the CLT to concentrate on stewardship?
- ❖ Does the CLT have the in-house capacity to plan, package, and oversee the construction of projects on leased land?
- ❖ Does the CLT have marketing materials and a marketing plan firmly in hand before breaking ground or, at a minimum, before the project is half-way built?

Buyer-initiated Acquisition

- ❖ Will the municipality (or other public funders) provide a pool of per-unit subsidies sufficient to allow the CLT to purchase the land under houses selected by low-income homebuyers?

- ❖ Will local lenders be willing to pre-qualify would-be homebuyers before a house has actually been identified?
- ❖ Will a would-be homebuyer be able to hunt for a house in any neighborhood or will some neighborhoods be targeted over others?
- ❖ What parameters of price, size, condition, and/or type of housing will the CLT establish for its buyer-initiated program?
- ❖ What role should the CLT – or other nonprofit housing development organizations – play in inspecting, repairing, rehabilitating, and/or weatherizing houses selected by would-be homebuyers?

Developer-initiated Projects

- ❖ What criteria and what process should the CLT follow in evaluating projects proposed by other developers?
- ❖ What sort of development agreement will best protect the CLT's interests – and those of its future leaseholders – in partnering with a nonprofit or for-profit developer?

Partnership Projects

- ❖ How will the CLT be capitalized so it can play a land acquisition, land assembly, and land-banking role for its development partner(s)?
- ❖ If the CLT is not doing development itself – and, as a result of this decision, is denying itself significant fees from development – how will the CLT fund and staff its own operations?
- ❖ What sort of criteria and what sort of process should be developed for deciding which parcels of land should be acquired by the CLT?
- ❖ If the CLT "banks" land for future development, how are the costs of holding that land and managing that land to be met?
- ❖ What role should the CLT play in deciding what is actually built by its nonprofit partner(s) on land that is owned by the CLT?
- ❖ Is the CLT's development partner committed wholeheartedly to the CLT model, or will the partner continue producing and marketing types and tenures of housing that compete with the limited-equity, leased-land housing available through the CLT?
- ❖ What sort of multi-year contract should be executed between the partners, defining the roles and responsibilities of each?

Municipally-initiated Projects

- ❖ What level of staffing will provide the CLT with enough stability and competency to oversee the buying and selling – at an affordable price – of whatever housing is placed in the CLT's care by the municipality?
- ❖ Should the CLT be given responsibility for guaranteeing the affordability of condominiums, developed, subsidized, or extracted by the city, if the condominiums are not on land that is leased from the CLT?
- ❖ If the CLT is the beneficiary of municipally-mandated units, extracted from for-profit developers, what fee may the CLT be allowed to realize in marketing those units and keeping them affordable, one resale after another?

PHA-divested Property

- ❖ If a Public Housing Authority were to divest itself of any of the much-needed rental housing that it currently owns and operates, what role should a CLT play in either (a) preserving some of these homes as rental, or (b) making homeowners of the current residents?
- ❖ What sort of protections and services should be put in place to help former PHA tenants to maintain and retain their housing units **after** they have become CLT homeowners?
- ❖ Should PHA lands be conveyed to a CLT at a market price, at a below-market price, or without any payment at all?