

Community land trusts: the developer that doesn't go away

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Faced with soaring real-estate prices in some housing markets and collapsing real-estate values in many others, policymakers in the United States have belatedly begun to realize that neither supply-side programs that subsidize the production of affordably priced housing nor demand-side programs that help lower-income homebuyers to finance that housing do enough to prevent the possible loss of these homes down the road.

More attention is being paid, therefore, to housing that is wrapped in the durable garment of stewardship: models of tenure that weave into publicly assisted homeownership some of the same protections that have long been common in publicly assisted rentals. These homes are designed to last. They preserve affordability at the top of the business cycle. They promote sound maintenance at the bottom of the business cycle. They prevent foreclosures, in good times and bad.

Post-purchase stewardship is a defining feature of a family of tenures that are sometimes known as 'shared equity homeownership'. In none of these models does a homeowner go it alone. The rights, responsibilities, risks and rewards of homeownership are *shared* between the individuals who own and occupy the housing, and a nonprofit steward that stays in the picture long after these homes are sold. Shared equity homeownership takes many different forms in the United States, with the largest number of homes found in limited equity cooperatives, in resale-restricted houses and condominiums

with deed covenants lasting many years, and in community land trusts.

The model currently commanding the most attention amidst our current mortgage meltdown is the community land trust. Not only does a community land trust preserve the affordability of publicly assisted homes when markets are hot, it prevents the loss of these homes when markets are cold. At present, over 7% of all residential mortgages in the USA are in default; 3.3% of all mortgages are in foreclosure. Among the country's 200 community land trusts, by contrast, the picture is dramatically different. Despite serving populations that earn much less than median income, community land trusts have a national default rate of 1.4%, while the foreclosure rate among community land trust homeowners is only 0.5%. Such stunning performance in a time of crisis is attracting wider notice and greater governmental support for this unconventional model of homeownership.

What is a community land trust? It is a locally-controlled nonprofit corporation created to serve as the permanent repository for a community's land and as the permanent steward for any residential or commercial buildings that are located upon its land. Lands acquired by a community land trust are never resold, but are held forever in trust for the entire community. A community land trust provides for the development and *use* of its land by leasing out separate parcels to individual homeowners, cooperative housing corporations, nonprofit developers of rental housing, community gardeners



Champlain Housing Trust in Burlington, Vermont, is the largest community land trust in the USA with over 2,000 units of resale-restricted, owner-occupied housing and nonprofit rental housing in its portfolio.

or other nonprofit, governmental or for-profit entities. The ground leases used by a community land trust last for a very long time, typically for 99 years, with the community land trust collecting a modest monthly fee for the use of each leasehold.

The community land trust retains an option to repurchase any buildings lo-



Above and opposite: a large-scale inner-city redevelopment project completed by the Sawmill Community Land Trust in Albuquerque, New Mexico, USA.

cated on its land, should their owners ever choose to sell. The resale price is determined by a formula contained in the ground lease. This formula, which usually yields a resale price that is much lower than the building's market value, is designed to give the seller a fair return for his or her investment, while giving a future buyer fair access to a home or commercial space at an affordable price. By design and by intent, the community land trust is committed to preserving the affordability of housing (and other structures) one owner after another, in perpetuity.

As owner of the underlying land and as owner of an option to re-purchase any buildings located on its land, the community land trust has an abiding interest in what happens to these structures – and to the people who occupy them. The continuing affordability of residential units and the initial eligibility of the low-income or moderate-income people who buy them are only

two of the community land trust's concerns. The ground lease also requires continuous owner-occupancy and responsible use of the premises. Should buildings become a hazard, the ground lease gives the community land trust the right to step in and force repairs. Should property owners default on their mortgages, the ground lease gives the community land trust the right to step in and cure the default, forestalling foreclosure. The community land trust remains a party to the deal, safeguarding the structural integrity of the buildings and the residential security of the occupants.

Most community land trusts in the United States target their resources toward charitable activities like redeveloping blighted neighborhoods or providing homeownership opportunities for persons too poor to enter the conventional homeownership market. There is enormous variability, however, in the types of housing that community land trusts develop (or cause to be developed) on lands that may be sprinkled across a wide geographic area. Some community land trusts focus only on detached, owner-occupied houses. Others are engaged in the development and stewardship of multi-unit townhouses, condominiums, cooperatives or nonprofit rental housing. Community land trusts have also been used for the preservation of manufactured housing communities (mobile home parks) and for the development of homeless shelters, transitional housing and single-room occupancy housing.

Many community land trusts do more than housing, however. They provide affordable retail space for neighbourhood businesses. They develop community facilities and office space for other nonprofit organisations. Their lands are used for community gardens, urban agriculture or commercial

greenhouses. They protect woodlands, wetlands or open space in rural areas and maintain pocket parks in urban neighborhoods. Anything that can be built on land or can be done with land has somewhere been done through a community land trust.

When used specifically to promote homeownership, community land trusts help lower-income households to gain access to assets they would never have been able to acquire without the community land trust. Despite the limit that is placed on their home's resale price, which also limits the amount of money the homeowner will be able to realize on resale, most people who purchase a community land trust home walk away with considerably more wealth than they possessed when they came into the deal. They get back their *downpayment* when they resell. They get back whatever *forced savings* they have accumulated by making monthly payments on a mortgage. They may accumulate *voluntary savings* as well, by having housing costs that are more stable and predictable. Under most resale formulas, moreover, they will recover some (or all) of what they have spent in making *major improvements* and may be able to resell their ownership interest for more than its initial price, realizing a significant *capital gain*. Compared to the renters they were – and the renters they would likely have remained had they not purchased a community land trust home – lower-income households in community land trust housing do much better financially, when they stay and when they go.

They are never forced to go, however. They may stay as long as they want, even if their fortunes improve and their earnings increase after buying a community land trust home. A household must be income-eligible only at the time of purchase. Should the new

homeowner's income later exceed this eligibility threshold, the community land trust will neither pressure the homeowner to move nor raise the homeowner's fee for using the underlying land. Community land trusts are in the business of ensuring permanently affordable housing, not permanently eligible people.

A homeowner may also bequeath his or her property – that is, the home and the right to use the community land trust's land – to his or her children or spouse. These heirs are not required to be income-eligible. They may continue to occupy the home they inherited. The resale restrictions remain in effect, however. Whenever the home is resold, the community land trust will re-purchase it for the formula-determined price and pass it along to another household who is income-eligible.

The organisational structure of the community land trust is as distinctive as its unusual approach to the ownership of real estate. The 'classic' community land trust is a stand-alone, nonprofit corporation with a membership that is open to anyone who leases land from the community land trust and to anyone who resides within the geographic area that is served by the community land trust. That service area may be small or large. Some community land trusts concentrate their holdings and activities within a single neighborhood. Others hold parcels of land that are scattered across an entire city or region.

The governing board of the community land trust is composed of three parts, each containing an equal number of seats. One third of the board is elected by members who are leasing land from the community land trust ('leaseholder representatives'). One third is elected by members residing within the community land trust's service area who are not living on the community land

trust's land ('general representatives'). And the final third is made up of local government officials, nonprofit providers of housing or social services, and other individuals who are presumed to speak for the public interest ('public representatives'). Control of the community land trust's board is diffused and balanced, ensuring that all interests are heard but no single interest is predominant.

Although the 'classic' community land trust is structured this way, there are many organisational variations. In communities where capable nonprofit housing providers already exist, there is often little need to incorporate a new community land trust from scratch. A number of community land trusts have been established as successors, affiliates or internal programs of older nonprofits. Either a pre-existing housing provider has transformed itself into a community land trust or has grafted selected elements of the community land trust model onto its own structure and programs. There are also variations in the way in which community land trusts have defined their membership or selected their governing board, including a few community land trusts where a majority of the board is appointed by a municipality. The community land trust is a dynamic model, one that is easily adapted to meet the priorities and needs of a particular community. Such malleability is part of its strength and appeal.

Its main advantage, however, is the longevity of the community land trust's commitment to stewardship. Because a community land trust never resells its land and because the use and resale controls embedded in its ground lease remain contractually enforceable for 99 years, the community land trust is a durable, dependable presence, standing behind the housing (and other facilities) it has helped

to create. When real estate markets are booming, the community land trust preserves affordability. When markets go bust, the community land trust prevents deferred maintenance and protects against foreclosure. This two-edged prowess is what led me in a recent publication to praise the community land trust and other forms of shared equity homeownership as masterly practitioners of the necessary art of 'counter-cyclical stewardship'. A colleague of mine, who leads a very successful community land trust in Albuquerque, New Mexico, says it better: 'we're the developer that doesn't go away'. ☺

John Davis visited Australia in March 2009 at the invitation of the Urban Research Centre at the University of Western Sydney – he presented a two-day course for UWS, and a seminar for UWS and Shelter NSW on community land trusts. For details on Burlington Associates in Community Development, see: www.burlingtonassociates.com. For information on the fledgling community land trust movement in Australia, email Louise Crabtree, Research Fellow and Research Program Coordinator, Urban Research Centre: l.crabtree@uws.edu.au.

