

COMMUNITY LAND TRUSTS & HOME OWNERSHIP

an introduction

Key Stakeholder Outreach
March 27 – April 7, 2023



2022 HAMILTON Co. HOUSING STUDY

Greenstreet Ltd. for
Hamilton Co. Housing
Collaborative

SELECT DATA & FINDINGS

- 52% of all the jobs in the county have annual wages of < \$40k.
- Half of families earning less than median income (approx. \$80k for HH-4) are “housing cost burdened”
- Housing values are increasing 5x faster than incomes in the U.S.
- New home prices in Hamilton Co. have increased by more than 65% since 2010, and existing home by nearly 90% since then.
- A family earning \$98k (120% AMI) can afford to buy 28% of new & 2% of resale homes in the county; for a family earning \$65k (80% AMI), those numbers fall to 2% and 0% respectively.
- Single-family detached homes make up 77% of the existing housing stock & account for 74% of new residential construction permits.
- Local land cost & dev'l regulations can account for 20-50% of a new home's final sales price.

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CONCLUSIONS

- Hamilton County housing is becoming **less affordable to more people**.
- Existing & new construction **housing lacks diversity** and unlikely to meet affordability needs of a majority of the county's workforce.
- **Land costs & development regulations** further significantly **restrict** ability of the market to create housing attainable by the county's lower- & middle-income families.

PRIORITY LONG-TERM INITIATIVES

- ❖ CREATION OF A COMMUNITY LAND TRUST (CLT);
- ❖ ESTABLISHING A HOUSING TRUST FUND (HTF);
- ❖ BUILDING PUBLIC-PRIVATE-PHILANTHROPIC PARTNERSHIPS; AND
- ❖ MODIFYING/REVISING CURRENT LAND USE & DEVELOPMENT REGULATIONS

WHAT IS A COMMUNITY LAND TRUST ?

- CLTs have been around since the late 1960's
- 300± CLTs in the US today
- But only one relatively new (quasi-) CLT operating in Indiana

“.... A COMMUNITY-BASED NOT-FOR-PROFIT THAT ACQUIRES, OWNS, AND STEWARDS LAND PERMANENTLY FOR THE PUBLIC GOOD.”

- The **separation of ownership of land & improvements** is at the core of the land trust concept.
 - CLT owns land in perpetuity, provides long-term leasehold interest to the owner of the improvements.
 - Removes the land from private market influence & speculation, allows for its use to deliver benefit(s) to the collective community that the market isn't or can't.
- “**Community**” and “**stewardship**” are two other constants across all CLTs.
- But beyond that, **CLTs exhibit great variety** in purpose, geography, clientele, programming, funding, governance, etc., each reflecting and adapted to the specific needs, resources, and priorities of the community they serve.

HOUSING & THE PUBLIC GOOD

CLTs use their land in a variety of ways, to deliver a variety of community benefits in the areas of:

- Affordable Housing
- Retail & Business Development
- Social Enterprises
- Community Facilities & Amenities
- Farming & Agriculture
- and more

- Housing, and particularly home ownership, is the area in which nearly all CLTs work, delivering many and varied community benefits:
 - ✓ Increasing the affordability of housing in the market;
 - ✓ Diversifying the housing products/types available;
 - ✓ Assembling & preparing land to enable/catalyze housing development;
 - ✓ Increasing housing stability, creating a pathway to ownership, offering a wealth-building opportunity for certain socio-economic groups;
 - ✓ Preventing gentrification & displacement; and
 - ✓ Retaining the public's investment in housing.

CLT SERVICE AREAS

- CLTs exist in all types of communities & locales -- urban, suburban & rural – and have service areas that vary greatly in size, from a single neighborhood to entire cities, counties, even regions.
- A smaller service area is more effective when **place-based change** is the intent i.e. improving quality of housing stock, increasing home ownership, preventing displacement.
 - ✓ Allows for more direct connection to the community, more focused programming, and easier management of projects & portfolio
- A larger service area is more appropriate when the CLT's purpose is to effect broader **marketplace change**. i.e. increasing affordability, social/economic mobility, wealth-building opportunities, introducing new housing typologies/products
 - ✓ Can achieve economies of scale, offers more property acquisition & project opportunities, greater diversity of programming, increased potential partnerships..
- ➔ The trend over time has been towards greater geographic scale, and it is very common now for a CLT to have and be working across a larger formal service area, while at the same time engaging in more targeted initiatives w/ more geographically localized partners .

WHO DO CLTs SERVE ?

By their nature, intent, and circumstances, CLT housing programs serve predominantly, although not exclusively, **low/moderate-income** (LMI) individuals & families.

- Vast majority of CLTs are organized as **501(c)(3) corporations** and serving LMI households (<80% AMI) meets the charitable purpose of *"providing relief to the poor, distressed, and underprivileged"*.
 - IRS "Safe Harbor" guidelines allow up to 25% non-LMI units and consider circumstances such as a community-based Board, a lack of affordability at higher income levels, and use of affordability covenants & restrictions, when meeting this charitable purpose.
 - Thus, CLTs working in "hot" or high-priced housing markets, where affordability is an issue for more of the population, include **middle-income households** (80-120% AMI) in their clientele.
- CLTs in targeted geographies, meeting instead the *"combating community deterioration"* charitable purpose, have full latitude in income levels served.
 - However, the area must be demonstrably distressed (poor housing quality, limited supply, relatively lower incomes) and the programming directly related to the "combatting" purpose
 - In practice, CLTs working in lower-income areas are still predominantly serving a LMI population.
- The largest, most accessible, most common sources of CLT **project/ program funding** also require or prioritize serving LMI households
 - i.e. HOME CDBG, LIHTC, AHP, philanthropic funding, private donations, etc.

THE CLT ORGANIZATION

TRADITIONAL CLT GOVERNANCE MODEL

- Community-controlled, **membership organization** open to individuals, businesses & organizations that:
 - Reside on or lease CLT land;⁽¹⁾
 - Live, are located or own property in the CLT service area;⁽²⁾ or
 - Otherwise wish to who wishes to support the CLT & its work.

- **Tri-partite Board**, elected by membership, representing:
 - The “Direct Beneficiaries” of the CLT; ^(1 above)
 - The “Indirect Beneficiaries” of the CLT and its work; ^(2 above) and
 - The broader public interest(s) served by the CLT and its work.
i.e gov’t officials, funders, policy experts, housing professionals, social services agencies

- ➔ This traditional model is almost always modified/adapted to suit the CLTs community context, needs, priorities, funding & work.

THE CLT ORGANIZATION

NOT-FOR-PROFIT AFFILIATION

- Many CLTs are started by, or spun-off from, an existing NFP with whom the CLT maintains an operational affiliation, particularly in its early years.
 - The NFP might provide the CLT with financial resources, administrative support, program capacity, productivity, reputational credibility
- Legal control by the NFP, thru appointment of a majority of Directors, can provide the CLT with statutory & regulatory benefit
 - The CLT can essentially “inherit” the NFP’s 501(c)(3) charitable purpose, its CHDO & CBDO designations, its status as a community development corporation
- ➔ Any formal relationship between CLT and NFP must consider each respective organizations’:
 - Mission, service area, constituencies, governance
 - Clientele, programmatic priorities & activities
 - Political & reputational baggage, if any

GOVERNMENT & GOVERNANCE

- Local units of government are important CLT partners and almost always have a formal “**seat at the table**” in terms of organizational governance.
 - Board appointments, *ex officio* Director seats etc
 - FYI: CHDO & CBDO designations prohibit >33% of Board being public officials or appointees
- A desire for full **legal control** is understandable when significant public-sector commitments (\$) are made to support it, but presents challenges:
 - Loss of public support & credibility
 - Subject to electoral politics & partisanship
 - Ineligible/less attractive for philanthropic funding, private donations
 - Limited capacity, expertise in the business of housing & real estate development
 - Operationally & programmatically more cumbersome due to statutory requirements on local government and gov’t entities.

THE CLT ORGANIZATION

Also to note in terms of “Who is Served” and “How it’s Governed”....

- A new Hamilton Co. CLT could qualify as a **Community Dev’l Corporation** under Indiana law (IC 4-4-28-2, IC 36-7-14-22.2 and IC 6-1.1-24-6.7)
 - Allows for the transfer of public property outside the normal statutory restrictions on value, offering & bidding, etc.
 - Requires community-based Board and a principal purpose “that primarily benefits low income individuals and communities”.

- A new CLT could also become a HUD-designated **CHDO** and **CBDO** (related to federal HOME & CDBG programs)
 - These designations provide for:
 - project/program funding eligibility, funding set-asides increased grant awards/caps;
 - receipt of technical assistance & general operating funding; and
 - greater flexibility in use of funds, retention of project proceeds & program income.
 - But also require
 - corporate purposes & activities serving low-income individuals and areas; and
 - a community-based Board that includes low-income representation, and limits government officials and/or gov’t appointments on the Board.

AFFORDABILITY THRU DOWN PAYMENT ASSISTANCE PROGRAM

- LMI Buyer finds a home on the open market and receives \$110,000 in down payment assistance (DPA) to make the home affordable
 - DPA is 0% interest loan, no installment pmts, forgiven after 10 years
- After 10 years, the DPA is forgiven, the Buyer/Owner sells property on the open market at its FMV, and pockets \$278,000 in equity.
- Then either:
 - Another \$163,000 public investment is made to help a new LMI Buyer purchase the home, or
 - There is one less affordable ownership opportunity in the community.

➤ *Alternatively, the DPA can structured as a deferred loan, rather than a forgivable one. Buyer/ Owner's gain would be less, but still excessive, and the need for add'l public investment would be reduced, but not eliminated.*

	Initial Sale	Resale at YR 10
Fair Market Value of Home	\$ 325,000	\$ 463,000
Sale Price	325,000	463,000
What LMI Buyer Can Afford	215,000	300,000
Req'd Subsidy - DPA to Buyer #1	\$ 110,000	
Buyer/Owner Equity		\$ 278,500
Add'l Subsidy - DPA to Buyer #2		\$ 163,000

• HH-4 @ 80% AMI

• 3% annual increase in AMI, FMV, Taxes & Insurance

AFFORDABILITY THRU COMMUNITY LAND TRUST

- CLT secures \$110,000 project subsidy, writes down sale price to affordable level.
- Buyer gets mortgage & purchases improvements, CLT provides a 99-yr lease on the land
 - Lease includes a Resale Formula for Owner's share equity & CLT Option to Purchase.
- After 10 years, Owner/Buyer wants to move on, so CLT repurchases the improvements, and original Buyer/Owner walks away with \$72,600 in "Shared Equity"
 - Down payment + principle pmts + 50% "affordable" appreciation
- CLT resells the improvements to another LMI Buyer at "affordable" below-market price.... with NO additional public investment required.
 - ➔ Alternatively, CLT could forego its shared equity and resell at a further reduced price, making home affordable at even lower AMI level

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Fair Market Value of Home	\$ 325,000	\$ 463,000
Sale Price	215,000	300,000
What LMI Buyer Can Afford	215,000	300,000
Req'd Subsidy - project funding to CLT	\$ 110,000	
Orig Buyer/Owner's "Shared Equity"		\$ 72,600
CLT's "Shared Equity" <i>- gain from repurchase & resale, excl expenses</i>		\$ 42,500
Add'l Subsidy - to retain as affordable		\$ -0-

- HH-4 @ 80% AMI
- 3% annual increase in AMI, FMV, Taxes & Insurance

STEWARDSHIP

The principle and practice of “Stewardship” distinguishes CLTs from other types of affordable home ownership programs.

- CLTs are the stewards of the **housing**, of the **homeowners**, and of the **public’s investment**.
- CLT stewardship is a combination of monitoring, education, support & assistance (when necessary), legal restrictions, and approvals, ensuring:
 - The physical maintenance & upkeep, code compliance, and continued owner-occupancy of the property;
 - The mortgage & property taxes are paid, the property is insured, and “predatory” refinancing does not occur;
 - The homeowner’s financial stability and long-term wealth-building;
 - Resale of the home complies with all guidelines and requirements related to affordability and buyer eligibility; and
 - The public’s dollars invested are retained with the property, in perpetuity.
- ➔ Stewardship is not inexpensive.
 - CLTs rely on lease fees, transfer fees, and shared equity (at resale) to support stewardship efforts.
 - Can take 150-200 ownership units in its portfolio for stewardship to be self-supporting.

CLT HOUSING OPERATIONS

CLTs acquire properties & build portfolios through variety of means & channels

- CLTs acquire a variety of types of properties: individual lots, large parcels & acreage, vacant land and land already w/ housing improvements
- CLTs acquire property on the **Open Market**...
 - Look for & buy property just like anyone else; not cost-effective means of building portfolio
 - Work out hybrid purchase/donation acquisition with owner
 - More and more examples of (Home) “Buyer Initiated Acquisitions”
- Through **Donation** of privately-owned property...
 - Traditional donation for tax deduction purposes
 - Could also be required, “incentivized” donation of land, lots by developer; inclusionary housing policy, planning approvals
- ...and from **Local Government**
 - Tax sales, sale of surplus properties
 - One-off direct transfers; scattered sites, surplus/excess property from public works project
 - Direct transfer from LUG; increasingly common are CLT partnerships/collaborations with Land Bank programs

CLT HOUSING OPERATIONS

How does CLT housing get built and what role(s) do CLTs have in the development & ownership?

- Housing Development
 - CLTs acquire vacant lots/land and new housing is built on it
 - CLTs also acquire properties with substandard housing, and the housing either rehabbed or demolished and rebuilt
 - Through “Buyer Initiated Acquisitions” & Inclusionary Housing arrangements w/ builders/ developers properties come to the CLT with occupancy-ready housing already in place
- CLT Roles
 - **Just the owner of the** (build-ready) **underlying property**
 - **Assemble land** & do site prep (infrastructure) to get build-ready sites/property
 - Engage in **Pre-development** activities for larger projects; conceptualize & structure, seek private developer partner
 - Act as **the developer**, particularly w/ smaller scale & SF projects, co-developer on larger scale
 - Also be the **owners & operators** of the rental housing (single- or multi-family) on CLT land
 - ➔ Regardless of the above, there is always a CLT role securing subsidy, and with home ownership, always a stewardship role

CLT FUNDING

By their very nature, all CLT housing projects require subsidies

PROJECT FUNDING

- ➔ Subsidies to fill a development gap and/or an affordability gap; funding for acquisition, site work, construction, or to allow write down of sales price or reduction in rents
- The list of CLT project funding & subsidy sources looks a lot like that of a **typical affordable housing** organization:
 - Grant Programs – i.e. HOME & CDBG, AHP (Fed Home Loan Bank)
 - Tax Credits – LIHTC, CICT
 - Philanthropic funding, private donations – i.e. “community” & bank foundations, united way
- Almost always one or more “intentional” local mechanisms / sources
 - One-time, often v. large “affordable housing” appropriations – bond issuance, ARPA,
 - Housing Trust Fund
 - Portions of TIF bond proceeds or Inclusionary Housing funds from private developers in relation to private residential development

CLT FUNDING

GENERAL OPERATING FUNDING

- Local government, community foundations, and bank grant-making programs are the most common sources **CLT start-up funding**, to support CLT operations for 2-3 year period as projects come online and the portfolio is established.
- **Private philanthropy** is rarely a source of on-going operating funding for CLTs
- **Membership fees, fundraising**, and grant programs like **CDBG & HOME** can provide a modest (nominal?) level of annual revenue to support general ops.
- Long-term financial sustainability comes from generating **earned income**.
 - Monthly **ground lease**/administrative fees for land in the CLT portfolio (typically \$25-50/unit; MF & commercial projects generate significant revenues w/ reduced stewardship responsibilities)
 - **Transfer fees** charged or CLT's **shared equity** realized, when CLT homes are resold (fees can be a few thousand dollars, shared equity could be in the tens of thousands of dollars)
 - **Developer fees**, rental revenues (if the CLT acts as its own developer, or retains ownership of the improvements)
 - Revenues & fees from **other programs & services** (i.e brokerage, counseling, home repair program)

STRATEGIES FOR SUSTAINABLE GROWTH

A 2019 joint study by the Harvard Center for Housing Studies & NeighborWorks America identified five (5) key strategies that most contributed to the long-term sustainable growth of CLTs.

1. Securing the Support of Public Officials

- Public engagement, alignment w/ city goals, occupying a niche in the market

2. Collective Advocacy

- CLT advocacy in the local community, as well as housing (& CLT) advocacy more broadly as part of the local community development “ecosystem”

3. Leveraging Partnerships

- Support & affiliation w/ other organization(s), cross-sector partners such as builders, developers, bankers, non-housing agencies

4. Reducing Reliance on Grants, Philanthropy

- Building earned income thru monthly admin/lease fees, resale transaction fees or shared equity, membership fees, rental income, developer fees

5. Use of Mixed Portfolios & Programs

- Mixed housing types, tenure types, mixed income clientele, sites/projects over a broad geography, varied avenues of acquisition, new construction & acq-rehab, involvement in other housing programming, non-residential developments/tenants

MORTGAGE LENDING

- No regulations that expressly prohibit home mortgage lending when separate ownership of land & improvements
 - Can be problematic from a mortgage industry business model standpoint; lenders either portfolio or sell on secondary market.
- FNMA & FHLMC (who securitize & guarantee 60% of new mortgages) have robust, well-established CLT-specific loan programs
 - Guidelines, procedures, documents, electronic underwriting in place.
 - Requirements re: ground lease, appraisal, title insurance, affordability & foreclosure, but nothing prohibitive.
 - Requirements re: buyer income, loan-to-value, down payment, credit score all consistent with other Fannie or Freddie programs.
 - Most all large regional lenders, and many local community banks, already originate Fannie or Freddie loans.
- ➔ Challenge in developing CLT lending partners will be comfort & familiarity, not regulatory barriers.

PROPERTY TAXES & CLTs

Property taxation policies & procedures vary jurisdiction-to-jurisdiction, but there are basic assumptions & circumstances common across nearly all CLTs.

- CLT properties are **not** removed from the tax roles.
 - The land may be exempt due to NFP ownership, but the privately-owned improvements should be subject to taxation.
- With virtually all CLTs, the **lessee-homeowner is responsible for property taxes.**
 - Tax liability for the improvements is always the homeowner's, assigned thru the ground lease
 - Liability for the land may be retained by the CLT or transferred to homeowner, either thru lease or thru an increase in the monthly lease/admin fee
- Tax Assessment should recognize that the **market value** of a CLT property is **permanently restricted.**
 - Sometimes accomplished statutorily thru existing or new State law, other times as a matter policy by the local Assessor.
 - Methodologies for doing so vary: 1) flat percentage, 2) initial restricted price adjusted by market appreciation, 3) initial sale price then resale formula in lease.
- ➔ Because the CLT model is new in Indiana, it will be necessary to clarify – even codify – property status & treatment of CLT properties with regard to administrative management, assessment, and exemptions.

PUBLIC-SECTOR SUPPORT

CLTs were once often started as bulwarks against deleterious public policies & plans.

But now, CLTs & local government are more regularly partners ~ allies rather than antagonists.

LOCAL GOVERNMENT PLAYS AN IMPORTANT ROLE IN THE CREATION AND EARLY OPERATIONS OF A CLT BY:

- ✓ Endorsing the concept & lending credibility;
- ✓ Convening stakeholders, and actively participating in business planning process;
- ✓ Providing technical assistance funding for the legal, financial, and other professional services necessary for planning & creation of the CLT;
- ✓ Kick-starting programmatic operations with a commitment of project funding and/or donation of public land; and.
- ✓ Providing general operating support in the early years, as the CLT is building its portfolio and completing its first projects.

PUBLIC-SECTOR SUPPORT

THERE ARE A NUMBER OF WAYS IN WHICH LOCAL GOVERNMENT CAN HELP ENSURE THE CLT'S LONG-TERM SUCCESS AND SUSTAINABILITY:

- ✓ Prioritizing & discounting disposition of public properties to the CLT
- ✓ Setting aside a portion of annual CDBG/HOME entitlement for CLT housing
- ✓ Collaborating with the CLT & partners to collectively pursue other housing project-specific grant funding & subsidies
- ✓ Redirecting a fractional portion of TIF bond proceeds for CLT use
- ✓ Creating a Housing Trust Fund or other dedicated funding mechanism
- ✓ Adopting planning policies that incentive/require developers contribute to creation of LMMI housing thru donation of land, funds, or units to the CLT
- ✓ Reducing permitting fees, eliminating administrative barriers for CLT housing

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REMAINING PHASE 1 TIMETABLE

- ❖ Mid-April
 - wrap up initial key stakeholder meetings
- ❖ May
 - create the **basic framework** of a proposed Hamilton County Community Land Trust
- ❖ Early to mid-June
 - come back and present the **Community Land Bank proposal** to key stakeholders
 - ask for support for moving ahead with business planning & creation (Phase 2)
- By mid-July
 - have **Advisory Board** in place that will guide Phase 2 work
- **Phase 2: expected to take 6-7 months, with a CLT starting operations by Q2-2024.**