

Community Land Trusts In New York City



Studio Members:

Sean Ansanelli
Lola Feiger
Pete Harrison
Lauren Hoogkamer
Meg MacIver
Jaime Shedletsky
Baiyue Tian
Qiwen Wu

Advised by: Jeffrey Lowe and Peter Marcuse
Teaching Assistant: Judy Chang

May 2012

Table of Contents

1. Executive Summary	2
2. What is a CLT?	4
3. NYC Housing Context	7
4. Roadmap	12
5. Capital Resources	22
6. Case Study	25
7. Policy Recommendations	33

Appendix 1: CLT Informational Brochure

Appendix 2: CLT Informational PowerPoint Presentation

Appendix 3: CLT Bylaws Template

Appendix 4: CLT Ground Lease

Bibliography

1. Executive Summary

Foreclosures continue to destabilize and stress communities nationwide. The Center for Responsible Lending estimates approximately 6 million families lost homes to foreclosure, and various projections indicate another 12 to 15 million families could lose homes before the crisis ends, with communities of color being hit the hardest. Nationally, about 8 percent of African-American and Latino families have lost their homes, compared to 4.5 percent of white families, exacerbating wealth disparities and increasing poverty. In New York City (NYC) over 50 percent of all foreclosures are located in just 9 percent of community districts in Brooklyn and Queens, heavily populated with communities of color. Finding a long-term solution to the foreclosure crisis that provides relief to families under threat of losing their homes, while establishing permanent affordability, has never been so important.

The Neighborhood Economic Development Advocacy Project has approached Columbia University with the hope of addressing the foreclosure crisis with a long-term affordability and stabilization solution. The Mortgage Foreclosures & Community Land Trust Studio is looking to determine whether the community land trust (CLT) model is a viable option for advancing fundamental change in NYC. CLTs remove speculation from the housing market, help to provide permanent affordability, and protect communities from displacement by separating ownership of the land from that of the home.

Although successful urban CLTs exist such as the Champlain Housing Trust in Burlington, Vermont, and Dudley Neighbors, Incorporated Boston, Massachusetts, among many other areas in the United States, it remains to be seen whether that model of permanent affordability can be achieved amidst the unique political and economic environment of NYC. While such a solution may seem alluring, the joint crises of foreclosures and affordable housing remain staggeringly complex whether approaching it nationally or directly in neighborhoods. Over the course of the semester, the studio has studied the legal, financial, and community factors that have made CLTs successful in other urban places while attempting to understand their potential role in NYC.

In this report, the studio will show that while a CLT is possible in the current topography of housing in NYC, there are considerable challenges and limitations that would potentially undermine the feasibility of a community-led CLT project. However, far from dismissing CLTs as intractable, this report will outline policy recommendations for NEDAP to advocate for greater support and awareness of the model that would not only make a CLT feasible, but would also make it highly attractive to tenants, property owners, banks, other non-profit organizations, and elected officials.

The report will begin by giving an overview of what a community land trust can achieve both in terms of providing affordable housing and providing comprehensive community services. Next, it will provide a general overview of the NYC housing market and give evidence as to why a CLT would make sense here socially, politically, and financially - while acknowledging the practical barriers that must be overcome.

The report will continue with examining the roadmap to starting a CLT in NYC. This is a document that NEDAP can provide a community organization with in order to go through the nuts and bolts of how to create and maintain a CLT within NYC's current framework. This document will go through the various points of intervention depending on the goals of the interested community as well as illustrating the policies and groups that exist currently in order to provide the necessary initial support. In addition, it will highlight some of the challenges and limitations that a group will face at each step of the process.

After detailing the roadmap, a general case study focused in East New York will demonstrate the functions of the roadmap in order to show that the document can be tailored to meet a wide range of groups and points of intervention while also demonstrating some of the difficult questions that must be answered at each step of the process.

Finally, the report will provide NEDAP with a list of policy recommendations intended to address the current lack of awareness and support of CLTs in NYC and the State of New York. These recommendations are intended to complement the roadmap and are based on areas where there are gaps in city and state policy that would provide crucial and logical support for the CLT model.

2. What is a Community Land Trust?

At its core, a community land trust (CLT) is a tool for removing land from the speculative market and placing it in the hands of a community-controlled nonprofit corporation. The separation of the land from the house means that the value of both are maintained at affordable levels for as long as they are in the trust. The board of this nonprofit is in part elected directly by its membership, which is open to anyone who lives in the targeted geographical area. The board is also balanced with representation from the surrounding community, residents who live within the CLT, and others interested in the goals of the CLT (elected officials, clergy, etc.) - an arrangement generally equating to equal thirds of governance.

The CLT is organized as a non-profit corporation under Sec 501c3 of the IRS. It owns the land, but leases the property to individual homeowners on a long-term basis. In addition to removing the cost of land upon purchase, CLT leases also stipulate resale restrictions in order to help ensure permanent affordability. It is important to note that while there is a limit on resale value, and thus a limit on the potential of equity gains, the homes can appreciate in value if the homeowner puts money into rehabilitation projects and that homeowner is entitled to that added equity (as per arrangement with the resale scheme.)

Goals of a CLT

The goals of a CLT extend far beyond ensuring affordability. In fact, CLTs strive to serve as a mechanism for building solidarity and strong communities overall.

Among the goals of **Empowerment and Equity**, CLTs promote:

- Resident over Absentee Ownership
- Access to housing and land for people in the community badly served by the market
- The creation of both community assets and individual assets while finding an equitable and sustainable balance between them
- And, helping lower-income people stabilize their lives, build equity, and deepen their connection to community

For fostering **Stability and Stewardship**, CLTs strive to:

- Create and preserve a legacy of diverse, vital communities far into the future
- Retain the value of public investment for long-term community benefit and become self-sustaining in the long run
- Prevent displacement and restrict gentrification
- And promote responsible planning and land stewardship given their long term focus

Cultivating Community Leadership

The ‘community’ aspect of a CLT is one of the key features that distinguishes it from other forms of limited equity tenure that exist in NYC. As stringent as legal restrictions might be, the maintenance of permanent affordability requires social commitment and understanding. This means strong community involvement and leadership based around the membership.

Several recent examples have shown that without such community commitment, based on top-down programs, CLTs become difficult to maintain. Chicago’s city-wide CLT, as an example, was set up by the City of Chicago with the idea of converting dispersed city-owned properties and even public housing units into a CLT. Without community leadership as the core of its base, the CLT has not performed in any meaningful way because it lacks any public commitment. In order to build the ‘community’ around a CLT, it is crucial to have not only education and outreach, but active training and empowerment of community members as leaders of the CLT.

City Life/Vida Urbana in Boston provides an excellent example of how such a diffuse leadership structure can take shape. One of the most successful grassroots groups in the nation to organize around the foreclosure crises, City Life/Vida Urbana's membership is comprised largely of formerly foreclosed homeowners, who now help organize others in their neighborhood facing crises. Participants often remark how transformative the experience is for them, and this is evident to any observer of their weekly meetings and regular actions. Adopting this kind of community organization to NYC on the face of it is difficult, given that the foreclosure process in Massachusetts is auction based and takes place at the foreclosed property; unlike New York, where the auction occurs in a courtroom, making it more challenging to gain public awareness of activism. However, there are already several groups helping foreclosed families organize and other activist organizations that are disrupting judicial proceedings of foreclosures in the city. Therefore, there exists an opportunity to coordinate with these types of groups to rally around not only disrupting foreclosures, but having that activism as a means to a larger end of permanent affordability. This takes an incredible amount of work, places a significant responsibility on communities to organize, and requires a lot of initial support from existing organizations, which NEDAP can play a lead role.

Developing Capacity

CLTs also require thoughtful and appropriate growth strategies. As a housing developer, a CLT must balance the tensions of wanting to reach as many units as possible, and remaining rooted in the community. The recent history of community development in U.S. cities provides ample examples of nonprofit housing development becoming very disconnected from the community they were originally meant to serve. Economic growth can potentially come to dominate social equity and community development considerations.

Ideally, these objectives (economic growth, social equity and community development) can go hand-in-hand. In Burlington, Vermont, for example, the evolution of strategies and services has been based upon carefully targeted interventions and capacity development. Starting with local knowledge to stabilize key neighborhood properties, the CLT has since established itself as a community anchor - and also the second largest landowner in the city - managing approximately 2,000 units including rentals, cooperatives, and condominiums. As it has gained financial clout, the CLT's capacity has grown because financial institutions trust the system to function securely and reliably and residents trust the organization to provide assistance and development assistance as needed.

Creating Diverse Community Benefits

Closely related to this idea of targeted stabilization is having a greater voice over community development decisions more generally. In Boston, the Dudley Neighbors, Incorporated (DNI), a CLT, now gets to review all new development proposals in their neighborhood. Perhaps most importantly, DNI was given the power of eminent domain as a way to acquire abandoned properties. Though this has rarely been used, the fact that their organization has access to it has provided the necessary leverage for many landowners of abandoned properties, be it banks or absentee owners, to sell the land. These factors have given the community the ability not only to engage in regular visioning sessions to decide what kind of place they want to create, but the power to deliver on them.

Through such control, the community not only gains much needed political power, but the goals of affordability can be more effectively linked to a broad range of community goals - such as cultural preservation, natural conservation, and resisting displacement caused by gentrification - overall, providing a more effective link between equity and smart growth strategies.

3. The New York City Context

1. Housing

The prevalence of multiple forms of shared-equity homeownership is unique to New York City, where condominiums and cooperatives, both market rate and subsidized, constitute 75% of the multi-family housing stock. CLTs, as guardians of permanent affordability, are an important supplement to existing affordable housing programs, extending the familiar structure of shared-equity to include legal agreements toward decommodification. The fact that so many models already exist in NYC should make it easier to educate communities on the specific elements of CLTs that could prove to be more attractive than other models.

The graphic below from the Furman Center highlights how the housing market here differs significantly from the rest of the country, and importantly, from the other cities and municipalities where community land trusts have been established.



Figure 1: The Housing Market in NYC

The following is a helpful typology of the diverse models of rental and homeownership, both market rate and subsidized, currently housing New York City residents:

Occupied Rental Units

- Subsidized Privately-Owned Properties

 - HUD Financing or Insurance Program

- HUD Project-based Rental Assistance
- Mitchell-Lama Rental Housing
- Low Income Housing Tax Credit (LIHTC)
- Other Programs that Provide Affordable Housing
 - Public Housing
 - Tenant Based Section 8 Vouchers
- Rent Control/Rent Stabilization
- Market Rate and Other Subsidized Rentals
- Occupied Ownership Units
 - Fee Simple Ownership
 - Market Rate Cooperatives
 - Market Rate Condominiums
 - Mitchell-Lama Cooperatives
 - Other Limited Equity Ownership Models

2. Politics

Limited-equity tenure occupies uneasy territory. All non-market forms of housing tenure, but particularly limited-equity ownership models, fight for funding, lender cooperation, and a politically sustainable position within conditions of a fluctuating economy and dominant cultural narrative of fee simple homeownership. Community land trusts are challenged paradoxically both by widespread lack of familiarity, and uncertainty when familiarity exists. The genre suffers from misconceptions about land leases and resale-restricted tenure, as well as a hokey-sounding name. Despite evidence that community land trusts use public subsidies more effectively than any other low-income housing program, political attention and public funding have historically been directed towards lowering barriers to owning a home – whether affordable or not – with little attention to sustainability of ownership and community thereafter. While the housing crisis called into question many of the financial mechanisms responsible, the structure of tenure more broadly has gone unchallenged.

Recent programs and legislation, inspired by the ongoing foreclosure crisis and devastation of communities, however, call for innovation within the affordable housing field, and provide a possible legal and political framework with which to establish a CLT. A few of the recent federal, state and city initiatives most pertinent to the formation of a community land trust include HUD’s Neighborhood Stabilization Program (NSP), the New York State 2011 Land Bank Act, the NYC New Housing Marketplace Plan, and lastly the political sentiment expressed in Manhattan Borough President Scott Stringer’s 2012 State of the Borough Address.

Among its many accomplishments, the NSP established critical financing mechanisms for the purchase and redevelopment of foreclosed and abandoned properties by credible non-profit

developers. It also orchestrated the provision of shared-equity loans for low- and moderate-income homebuyers. NSP funds remain crucial to ongoing rehabilitation and redevelopment efforts throughout the city, and as we argue later, could provide an important source of revenue for the formation of a CLT.

The New York State 2011 Land Bank Act provides local governments with additional tools to combat foreclosed upon and vacant properties, as well as to condemn larger tracts of land with which to possibly form a CLT. Land banks can legally clear titles, forgive back taxes, and combine lots, which expedites the process of bringing properties in New York back to market and makes redevelopment more feasible for non-profit developers. By vesting control to smaller governmental units, the Act thus allows for site-specific interventions and strategies in support of the local community.

Funded through 2013, the New York City New Housing Marketplace Plan is the largest municipal affordable housing initiative in US history. The plan formally acknowledges the need to preserve government-subsidized units and emphasizes the need for new strategies in land acquisition and development. Community land trusts can address most all of the Plan's goals.

In his 2012 State of the Borough Address, Manhattan Borough President Scott Stringer delivered an emphatic mandate to link the city's surplus of foreclosures and dearth of affordable housing, and to devote public money to the development of *resale-restricted* homes. His address can be found in its entirety on the Borough President's website, but the most illuminating portion, in which he all but mentions CLTs by name, is reprinted below:

But the best way to ensure that hardworking people can put down roots in this city, raise a family and build a career is to make HOUSING more affordable.

Home ownership has now become a distant dream for far too many New Yorkers. As I've said before, and I will say it again, the price of admission to our city cannot be a \$1 million condo.

Estimates suggest there are more than 110,000 units of housing in the City that are in foreclosure or on the brink of it, a sad reminder of the pain and suffering endured by so many. We can turn this crisis into an opportunity to preserve the next generation of affordable housing!

Tonight, I am proposing that the City create a \$250 million fund – that's a five-fold increase over current efforts -- to rescue these foreclosed homes and buildings. As the city's New Housing Marketplace Initiative comes to an end and frees up existing dollars, we should direct some of that money to this new effort. Under this proposal, the city would offer a mixture of loans and grants to non-profit developers and others to renovate buildings and units that are in foreclosure. Developers would

then put them back on the market. But we would limit the rent or re-sale value to protect a new generation of affordable housing for working people.

3. Benefits of a Community Land Trust in New York City

So far, 2012 has been a banner year for New York City's real estate market, which posted the highest Manhattan rents, sales prices and lowest vacancy rates in over a decade.

Rising rents ebb further at the affordable rental and homeownership options across the city and continue to displace residents. Vacancy decontrol, and opt-outs out of Mitchell-Lama housing and other subsidized properties, speed the attrition of affordable housing, while predatory equity, cases when private equity investors acquire and substantially over-leverage rent restricted housing for the explicit purpose of removing regulation, raising rents, and displacing low and moderate income families, has meanwhile forced many formerly subsidized properties into foreclosure and serious disrepair. Rising rents not only displace residents, but they also push some renters not yet financially stable enough to buy a home into the risks and uncertainties of homeownership, and the inevitability of financial trouble later on.

Vacancy decontrol and predatory equity, however, do not tell the full story about the ongoing losses in affordable units across the city. The conventional practice of assisting low-income buyers into market-rate homes with public money and then allowing 100% of the appreciation value of the home, as well as the initial subsidy, to leave the property upon its resale rarely receives scrutiny. The loss of affordable housing in this manner is common with inclusionary zoning practices or regulatory incentives that do not place truly long-term controls over their resale.

Even with traditional programs of subsidy recapture, the subsidy can be quickly eroded in a rising market, and lost completely in a declining market. In a rising market, products like Adjustable Rate Mortgages are particularly challenging to low-income owners, while rising property taxes and insurance rates add to this financial burden for everyone. With a rising market, traditional formats of affordable housing require a similarly rising per-unit cost of subsidizing homeownership. Policy makers rarely acknowledge the fragility of the homeownership opportunities that government resources have made possible.

Limited equity homeownership models broach this chasm between initial attainability and sustainability. Community land trusts are structured to maintain their affordability even in conditions of an appreciating market. An effective stewardship regime ensures contractual controls, buyer eligibility and that the process of property transfer remains intact in spite financial incentives. Conversely, community land trusts mitigate the *risks* of homeownership when the market bottoms-out: Trust organization provides front-end guidance to help

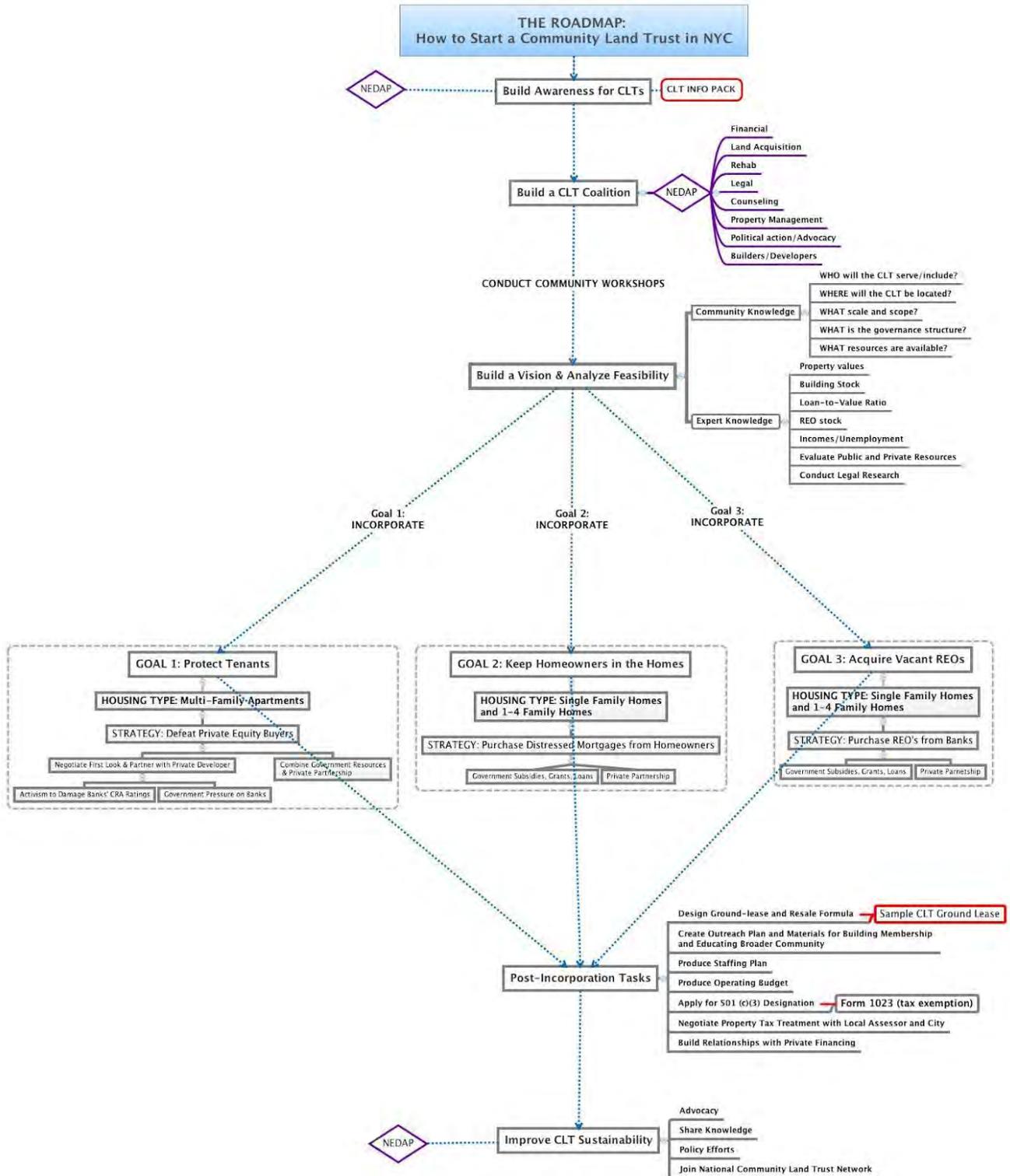
homebuyers acquire safe loans and support for homeowners struggling to pay their mortgages. At the close of 2010, just under 0.5% of CLT loans faced foreclosure, compared with almost 5 percent of loans on the open market: Market-rate owners are ten times more likely to face foreclosure proceedings than owners in community land trusts.¹

While it must be acknowledged that the CLT model is not loss-proof. However, the evidence suggests that CLTs experience significantly less frequency of failure than experienced through market-oriented programs. Thus, even if the affordability of CLT homes experiences some erosion – a possibility at the height of the cycle should a resale formula not anticipate the escalating difference between housing prices and household income – these resale restricted homes are still more affordable than their market-rate counterparts.

¹ https://www.lincolnst.edu/pubs/download.asp?doc_id=1154&pub_id=1846

4. The Roadmap

Figure 1: The Roadmap (in its entirety)



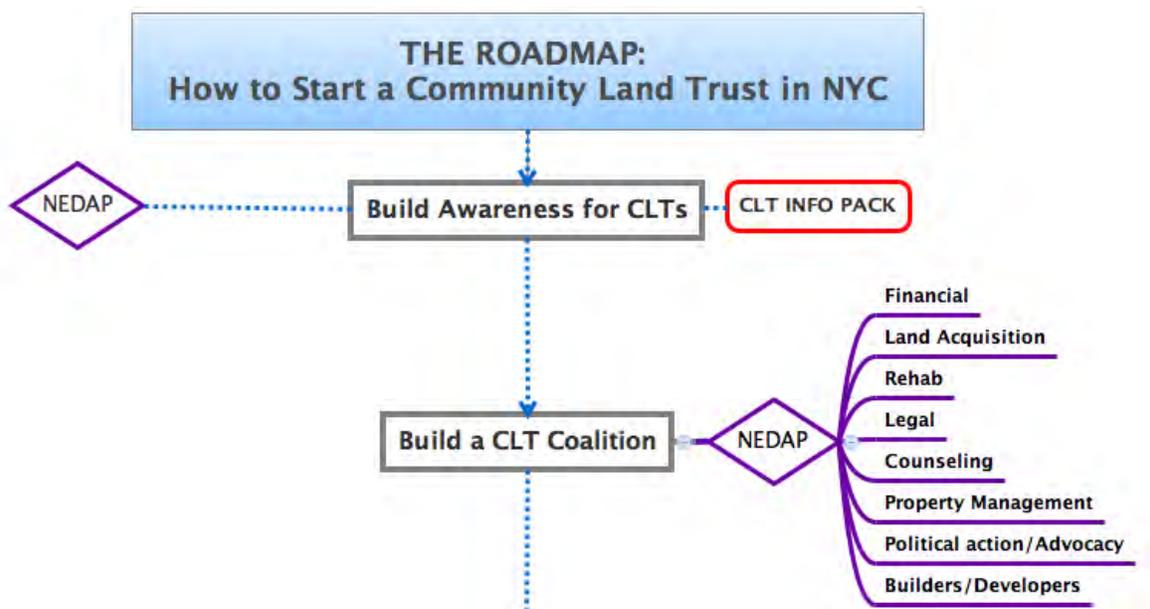
The following section is an explanation of the roadmap (Figure 1) which details courses of action community actors could take to establish a community land trust in NYC today. Furthermore, it describes a way to navigate current constraints. In later sections of the report, the challenges and policy changes that could help scale up this process are discussed in detail.

The intention of the roadmap is to outline the process that could be applied to any neighborhood where a CLT might emerge. The foundation of the process is a community-driven, value-based effort to make a positive change in a neighborhood. Without this overarching vision, goal, and motivation, the CLT cannot live up to its fullest potential. In fact, it is the community-led aspect of the CLT model that sets it apart from other affordable housing options.

NEDAP is a key actor in this process given its unique position as a point of contact and support for many organizations and people necessary to form a CLT coalition.

This roadmap references the creation of several tools that we have prepared to facilitate your efforts at raising awareness and acceptance of the viability of a CLT in New York City. (These documents can be found in the appendix.)

Figure 2: Steps 1 and 2 - How to Start a CLT



Step 1: NEDAP and Community Groups Build Awareness for CLTs

The Community Land Trust model is not well known. Even among affordable housing advocates in NYC, this form of land tenure may be unfamiliar. Significant resources and attention must be dedicated not only to reaching out to active community organizations but also to introducing the CLT model to those struggling with foreclosure through a grassroots organizing effort.

Unlike other affordable housing forms which can be successful even if they are imposed from above (state or city level, for example), the CLT simply cannot get off the ground or have any hope of lasting unless it is driven and supported by a community-led movement of tenants and homeowners. The most successful CLTs have been powered by dedicated grassroots movements. This is particularly important in a New York City context where development pressures can seem insurmountable.

NEDAP should play a central role in the initial step of building awareness of CLTs. As an advocacy organization which tailors its programs and advocacy work to meet the needs of the many community organizations who come to them for help, NEDAP is uniquely situated as the central hub in a network of key actors.

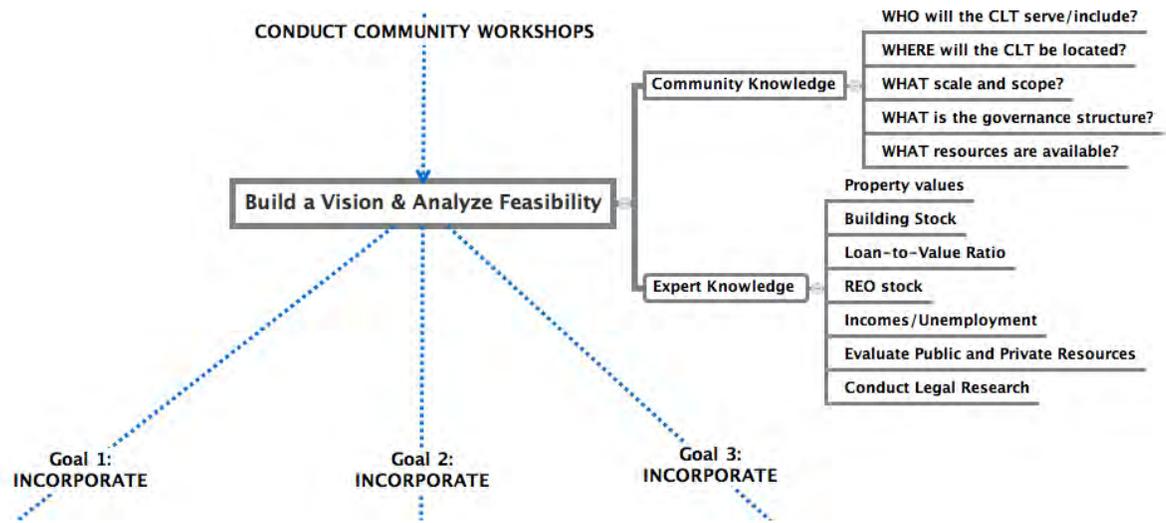
Step 2: Build a CLT Coalition of Local Non-Profits

The second step sets the stage for the CLT to catalyze neighborhood wide-change. After raising awareness about CLTs, NEDAP will help bring together many local non-profits and key actors into a coalition. **This coalition will form the basis of the CLT organization that will eventually be able to become the owner of delinquent mortgages and apply for funding through the state.**

This step must be tailored to consider the needs and strengths of the neighborhood in which the CLT is being established. NEDAP likely already is aware of the organizations in each neighborhood which are concerned with affordable housing goals and organizations should be recruited to the coalition based on the unique capacities they bring to eventually forming a CLT, including rehabilitation, counseling, property management, and the ability to raise capital and subsidies necessary to get delinquent mortgages and/or land.

It is important to be creative in considering the range of actors who might join the CLT coalition. The CLT should of course seek to include powerful religious organizations in the area but should consider wealthy individuals or companies who might have an attachment to the area and reach out to them to become or contribute to the CLT. Local businesses or others interested in the goals of neighborhood stabilization should be encouraged to join forces with the CLT.

Figure 3: Steps 3 and 4 - Build a Neighborhood Vision and Analyze Feasibility



The CLT model is a way to catalyze neighborhood-wide change and a way to produce valuable synergies among many social service organizations. The exercise of bringing many key actors together in a workshop in order to build a vision for the future of the neighborhood will pay huge dividends, not only for the establishment of the CLT but for the community as a whole. People who care about their neighborhood can connect to each other and nurture the relationships that build stronger communities.

Step 3: Conduct Feasibility Workshops

The Coalition Conducts Community Workshops: Community Knowledge

The coalition, once formed, should be responsible for conducting and facilitating community workshops that will bring together local community members with experts in order to build a long-term feasible vision for the CLT and for the future of their neighborhood.

The guiding principle for this step is that the community is the expert and that the people who might benefit from the CLT, the people who have lived there perhaps for decades, know best what their neighborhood needs. This knowledge and the aspirations and vision that result from that knowledge must be complemented by expert knowledge. *This step of building a context-sensitive vision is crucial because this community-driven process is what sets a CLT apart from other land trust entities.*

The coalition will coordinate multiple day long workshops focused on building a vision for their community and making key decisions about where to focus their efforts. These workshops should be centered on seeking to identify the best places in the community as well as the places most in need of improvement.

The coalition should locate a place (perhaps in a church or other building which welcomes public functions) at a central location in the neighborhood where the workshops can be held. Also consider serving breakfast and lunch is a good way to bring people together and encourage network-building.

The coalition might choose to facilitate an activity that would allow the neighborhood to take stock of areas of opportunity in their neighborhood. To do so, participants in the workshop could be organized into small groups of 5 or 6 participants and assigned to visit a specific place in the area. They would be asked to observe certain blocks and note where there are areas where people gather. Where are there areas where they feel vulnerable or unwelcome? Are there areas people in the neighborhood avoid? Are there blocks where vacant properties are dominant? Once participants come back to the room, they plot their impressions of the area on large pieces of paper. Facilitators might also consider providing enlarged maps of the area on which participants can draw or add stickers indicating the areas of promise or danger. The simple process of visiting familiar areas in person to consider ways to improve the neighborhood can help produce a plan of action for the community.

Then, each group presents a summary of their findings to the larger group. After all groups have presented, there should be a discussion of the neighborhood's shortcomings and possible solutions.

The workshops should also include a chance for the community members to discuss the vision for the CLT and the values it should seek to embody. What organizations are most active in the area? What values should the CLT support?

Who is in greatest need? What is the geographic area of greatest need? What is the vision for the neighborhood in 5, 10, 99 years? How can a CLT support this vision?

Conduct Community Workshops: Expert Knowledge

Next, this local community knowledge will be married up with expert knowledge. For example, if a community identifies a dilapidated block as an area of opportunity, experts can identify the status of those properties and suggest a path forward.

The word "expert" can be used to point to anyone with a degree of specialized or technical knowledge about the area in question. Planning students could be retained to perform this analysis.

The workshops should have produced a consensus about the areas most in need of a CLT. The next step is to gather as much information as possible about these areas. What are the average

property values? Who owns the properties that the community has identified as vacant or in distress?

Based on this combined insight, the coalition and community leadership can decide on one or more paths forward.

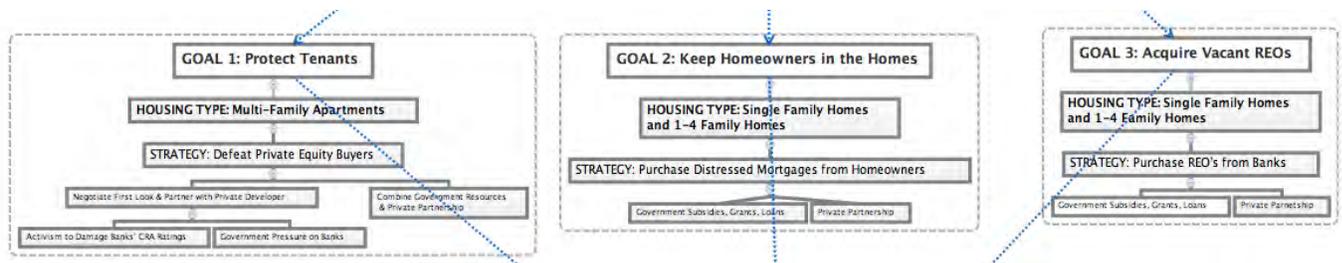
The vision produced by the community should eventually become part of the founding documents and mission statement of the CLT.

Step 4: Select an Intervention Goal

Based on the already-developed vision, the coalition must determine their overarching goals, which inform their land acquisition and financing strategies. This report has identified 3 different goals, shown below, that the coalition might aim to achieve through a CLT:

1. Protect tenants
2. Keep homeowners in their present homes
3. Find new homeownership opportunities in previously vacant homes for low-income families (both for renting and homeownership).

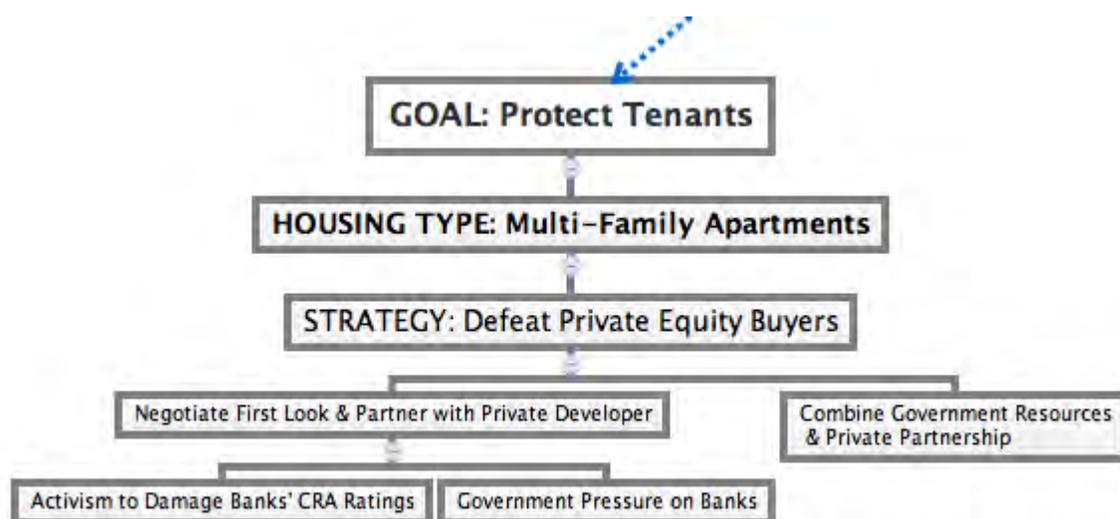
Figure 4: Three Possible Goals in the Roadmap



Goal 1: Protect Tenants

Should the coalition chose, as its goal, to protect tenants, the roadmap guides them to acquire multi-family apartment buildings. This would be achieved primarily by replacing the “slum landlord” in foreclosure by purchasing the property from the bank holding its mortgage, and assuming ownership of the building. This purchase would occur before the property becomes a Real Estate Owned (REO) property, which is a foreclosed property that is now owned by the bank that held the distressed mortgage on the property after an unsuccessful auction. Unlike lower-density forms of housing in NYC, foreclosed multi-family apartments do not become REO properties, as they are typically purchased by private equity firms before they reach that stage in the foreclosure process.

Figure 5: Goal 1 in Roadmap



This highlights the greatest challenge to acquiring multi-family apartments in NYC - that is, competing with much wealthier, more established buyers with better access to, and existing relationships with, banks holding REO properties. As a consequence of this challenge, the coalition must rely on less traditional mechanisms to acquire multi-family apartment buildings from banks. Specifically, a coalition seeking to acquire multi-family apartment buildings should organize tenant activism, including protests and boardroom visits, to put pressure on the banks and attract negative press. In doing so, this coalition could damage a bank's performance rating, which is important to a bank's successful operation in the market. As a result, and with this power of reputational damage over the banks, the coalition could bridge the gap between their below-market offer and the highest bidder.

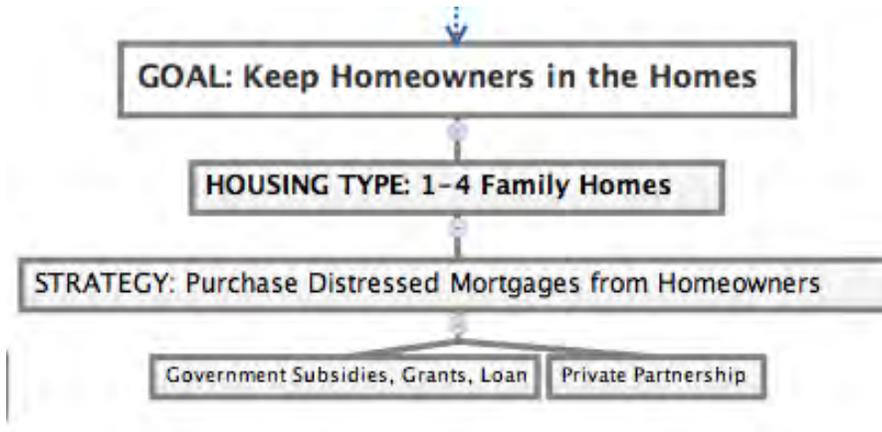
Strong activism and efforts to damage a bank's reputation might prove important to getting banks to the negotiation table and to persuade them to sell their properties at below-market prices, but without access to capital, a coalition's negotiating efforts are futile. In accord, the coalition needs government funding and/or private partnership support to be successful in acquiring foreclosed multi-family apartment buildings from banks in NYC (*refer to section on 'Capital Resources'*).

Goal 2: Keep homeowners in their present homes

As a further goal, the coalition might look to keep 'under water' homeowners in their present homes. In this case, the roadmap guides the coalition to acquire targeted one-to-four family homes by purchasing the respective households' distressed mortgages from the appropriate banks. This would occur before the homes are foreclosed by the bank, and thus, is quite different than when properties are purchased at auction or at the REO stage. At this stage, the intervention is preventative in that its goal is to avert any further household default on their mortgage.

Essentially, the coalition offers the distressed household a more affordable homeownership opportunity to prevent foreclosure *and* displacement.

Figure 6: Goal 2 in Roadmap



This strategy requires similar financial support through the government and/or private partnerships as in the first option outlined above (*refer to section on 'Capital Resources'*).

Goal 3: Acquire vacant REO's for new low-income Shelter/Tenure opportunities

If the coalition chooses to house new low-income households in vacant homes, the roadmap advises that they acquire one-to-four family homes by purchasing REO properties from the appropriate banks. In this case, the intervention could be for housing both renters and homeowners. As compared to multi-family apartment buildings (discussed in Goal 1), purchasing REO properties is feasible because foreclosed one-to-four family homes reach the REO stage where they can be purchased from the bank on the market. Although the REO property prices are lower than their initial value at the earlier auction stage, they still impose a heavy monetary cost on a coalition, and thus require similar government funding and/or private partnership as previously mentioned (*refer to section on 'Capital Resources'*).

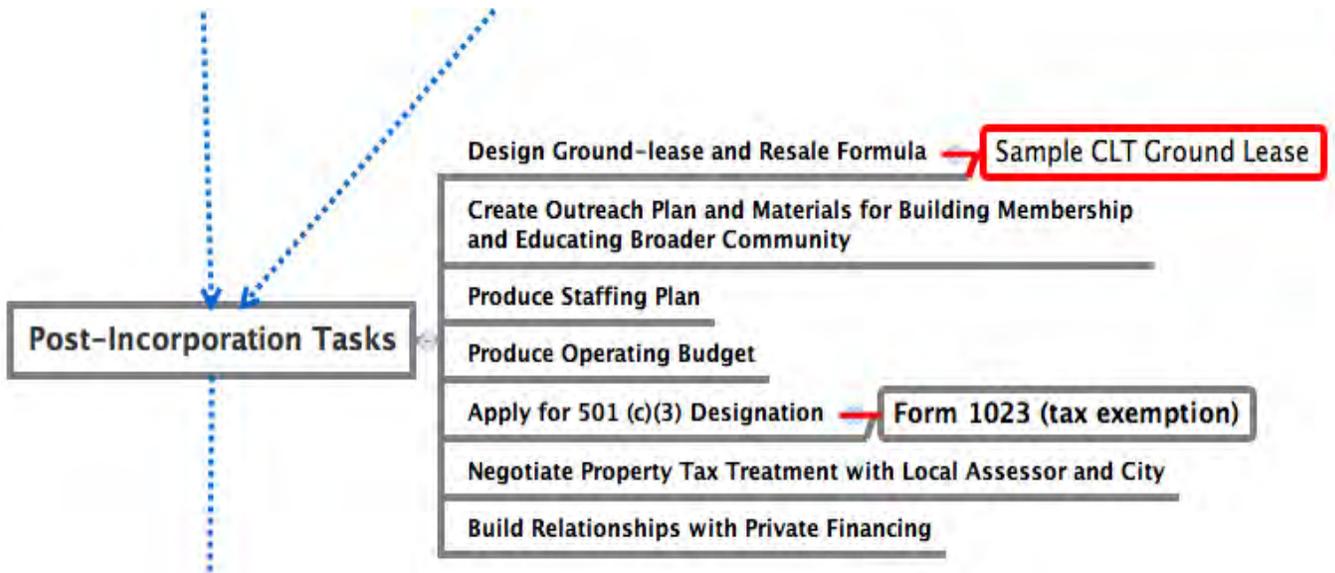
Figure 7: Goal 3 of Roadmap



Step 5: Tasks After Securing Funding and Land

Once the CLT has secured its funding and land, there are a series of tasks, outlined below, that must be completed before it can successfully begin its affordable housing mission. These tasks primarily include, but are not limited to the following:

Figure 8: Overview of Post-incorporation Tasks in the Roadmap



Step 6: Improving and Growing the CLT

Lastly, a CLT should continuously engage in advocacy, knowledge sharing and policy efforts to not only expand but to also improve its efficiency and sustainability. Specific policy recommendations to achieve these goals will be presented later in the report (*refer to 'Policy Recommendations' section*).

Figure 9: Final Steps in the Roadmap



5. Capital Resources

The coalition can rely on a variety of sources for financing and land to establish its CLT. In New York City, there are a number of government resources, as well as private partnership opportunities and strategies to acquire land from banks. The following section will provide a brief overview of three options, with a particular focus on government programming.

1. Existing Government Resources

The following section identifies a wide variety of government programs that can be useful for a Coalition establishing a CLT for land acquisition and funding. These programs are *not* CLT-specific, as they are targeted to more traditional forms of affordable housing. For this reason, these programs might require that the CLT organization modify its operations to meet the conditions attached to their assistance. As a consequence, some CLT values and/or goals might be lost in an effort to secure government assistance. These programs are an appropriate place for the coalition to commence its land acquisition and funding efforts. They offer some resources to begin a CLT before any advocacy efforts to levy the government to establish new CLT-specific affordable housing programs and legislation materialize.

Programs for Acquiring Government-Owned Land²:

- Asset Control Area Program
- Cornerstone Program
- Nehemiah Program - HPD provides land at nominal cost
- HomeWorks - City conveys small, vacant buildings at nominal price
- New Homes Program - contributes vacant land and low-cost financing

Programs for Acquiring Private Properties (Vacant, Foreclosed, Distressed)³:

- Third Party Transfer Program/Neighborhood Restore - help to plan for rehab of foreclosed properties
- Housing Asset Renewal Program - funding to convert unsold condos, market-rate rentals and stalled construction into affordable housing
- Low-Income Housing Trust Fund Program - grants, also for converting underutilized property into low-income residences - grants to convert vacant or underutilized property to residential use
- New Housing Opportunities - below-market mortgages

Financial Assistance for Land Acquisition, Building, and Rehabilitation⁴:

²Furman Center. "Directory of New York City Affordable Housing Programs"
<http://furmancenter.org/institute/directory/>

³ *ibid*

⁴ Furman Center. "Directory of New York City Affordable Housing Programs"
<http://furmancenter.org/institute/directory/>

- Home Investment Partnership Program - federal grants
- The New York City Acquisition Loan Fund - early financial resources
- All Affordable Housing Program - preserve/rehab existing affordable housing & new construction financing
- Community Development Block Grant - federal grant
- East Brooklyn Congregations Program (Nehemiah Program) - HPD provides below-market second mortgages New Homes Program - contributes vacant land and low-cost financing
- HomeWorks - City subsidy in the form of 0% non-amortizing loans
- House-NY Fund - zero-interest loans
- Housing Development Fund - revolving interest-free loan fund
- Low-Income Affordable Marketplace Program - low-cost financing
- Participation Loan Program for New Construction and Preservation - low-interest loan

Programs to Incentivize Private Partnerships in Affordable Housing⁵:

- New York Low-Income Housing Tax Credit Program
 - Dollar-for-dollar reduction in income taxes for investors in low-income housing project
- Inclusionary Housing Program
 - Zoning bonus for increased floor area
 - Inclusionary Homeownership Option - restricted appreciation rate of sales price of units and maximum price cap for permanently affordable homeownership
- Tax Abatement Programs:
 - 421-a Affordable Housing Program
 - 420-c
 - Urban Development Action Area Project Tax Incentive (UDAAP) areas
 - Article XI - complete or partial exemption from real-estate taxes for up to 40 years
 - J-51 Program - partial property tax exemptions and abatement benefits

2. Private Partnership Opportunities

Although not presently explored, NYC’s Inclusionary Housing program offers a great opportunity for developers to finance and/or supply land for a CLT in NYC. CLTs have already been included in inclusionary housing programs across the country. In Irvine, most future inclusionary housing units constructed are planned to be placed in their CLT’s portfolio. Similarly, in Petaluma, developers meet their inclusionary requirements by conveying homes to the Trust⁶.

This opportunity is especially promising because it offers developers a simple way to meet inclusionary housing requirements without having to manage the units themselves. Moreover,

⁵ NY Department of Housing Preservation and Development. “Inclusionary Housing Program Overview” <http://www.nyc.gov/html/hpd/html/developers/inclusionary.shtml>

⁶ National Housing Institute. “City Hall Steps In”. <http://www.nhi.org/online/issues/149/cityhall.html>

this is particularly appealing to condominium developers, as they do not have to worry about issues like ensuring that the households occupying the below-market units pay their condominium fees. Instead, all of these tasks would fall under the responsibility of the CLT, thus removing any burden on the developer beyond conveying these below-market units to the CLT. Even the conveyance itself is a simple process - the below-market units would be conveyed to the CLT while the home is sold to the CLT-selected household simultaneously. This process can reduce the number of land and home transfers, as the home and land are split at the time of the transfer, which reduces legal fees and time.

3. Acquiring Land from Banks

As it is uncommon for banks to offer to sell their properties at below-market prices, it is critical to identify best practices from other organizing efforts. The Urban Homesteading Assistance Board (UHAB), led a successful 4 year, targeted advocacy campaign to persuade a particular bank to sell their foreclosed properties to them at below-market prices. Their experience offers us two valuable lessons:

- The importance of organizing tenants activism to put pressure on the bank and attract negative press
- The importance of hitting banks where it hurts them most - in this case, their Community Reinvestment Act (CRA) Performance Ratings.

The Community Reinvestment Act Performance Rating is intended to encourage depository institutions to help meet the credit needs of the communities in which they operate, including low- and moderate-income neighborhoods, consistent with safe and sound operations⁷. Through organized tenant activism, UHAB was eventually able to downgrade the bank's CRA rating from 'Outstanding' to 'Satisfactory', effectively pressuring the bank to sell 4 of its distressed mortgages below-market. In this way, UHAB essentially monetized the reputational damage inflicted on the bank through its efforts, which enabled them to bridge the gap between their below-market offer and the highest bidder.

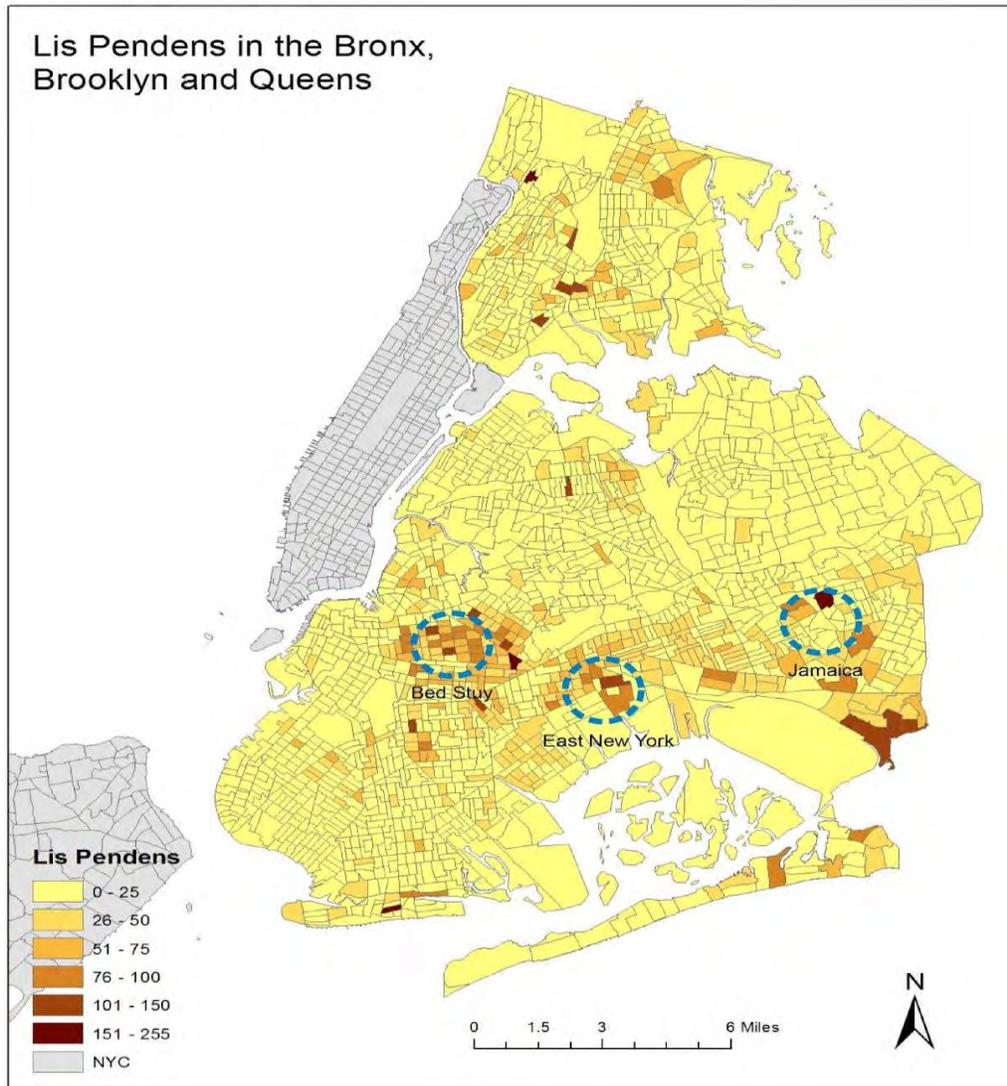
Banks should also be reminded that a relatively small investment of capital is required to start a CLT and they could undertake a very powerful public relations campaign which could be positioned as an attempt to atone for excessive bonuses and other reckless behaviors.

⁷ The Federal Reserve. "Community Reinvestment Act".
http://www.federalreserve.gov/communitydev/cra_about.htm

6. Case Study: East New York

The roadmap recommends many potential paths to intervention. However, this case study will demonstrate one possible point of intervention at one possible type of housing. It begins with an analysis of lis pendens filings—the official notification of a home entering foreclosure—in NYC. Based on information from the Furman Center, foreclosures in NYC disproportionately strike community districts with high concentrations of communities of color. Subsequently, the search for a case study focused on three neighborhoods severely impacted by foreclosures in NYC. As delineated below, in Figure 10, the three neighborhoods were located in Brooklyn and Queens: Bedford-Stuyvesant, East New York and Jamaica.

Figure 10: Foreclosure Concentration by Census Tract in NYC



Source: Furman Center

1. Targeting a Neighborhood

Though in practice, a group looking to form a CLT will already be located in a specific area, this report explored several neighborhoods in which to intervene before narrowing it down to Bedford-Stuyvesant, East New York and Jamaica. Still, each of these neighborhoods offered advantages and disadvantages in applying a CLT.

Bedford-Stuyvesant appeared as an attractive model because, given the pressures on the market, a CLT could begin exploring a way of protecting the existing neighborhood from gentrification and displacement. On the other hand, because prices were rising, it would have taken a significantly larger amount of capital to make an initial impact and many properties don't become available through REO or other transaction strategies.

Next, Jamaica was a potentially interesting model because it had a significantly high rate of foreclosures and the prices were lower than other neighborhoods, making acquisitions more feasible. However, a large part of the neighborhood is made up of single-family homes, which is not indicative enough of the overall NYC housing market to give a fair representation of the model in NYC.

Eventually, studio members reached consensus, deciding on East New York. East New York was chosen for three major reasons:

- It is a community of color that was disproportionately affected by the foreclosure crisis. The neighborhood has a population of 90,000, over 50% of which are black/African-American with a low median household income.
- The housing prices in East New York are also lower than Bedford-Stuyvesant and Jamaica, which makes it more feasible for intervention and land acquisition.
- There are several community-based organizations, advocacy groups, and other local institutions (churches, community centers, etc.) that would all serve as key constituents when forming a CLT.

Most promisingly, there have recently been several organizing efforts in response to the foreclosure crises, including petitions, eviction blockades, and other direct action techniques. These efforts could complement those of the CLT, and many community organizers in the area have expressed strong interest in developing a CLT.

In addition, the goals of developing a CLT overlap with a number of local nonprofit organizations – working in foreclosure prevention, financial advocacy, rehabilitation and development. Rather than competing or producing redundant functions, the CLT would work to leverage the efforts of these existing groups, and even develop new networks to complement the work of these organizations.

2. Targeting an Intervention Goal

After choosing East New York, choosing the kind of housing for the roadmap to target was the next major question to answer. As described in the roadmap, the choice is between tenants or homeowners. The case study examined single-family detached homes that are in REO for three main reasons:

- The aim, given the foreclosure crisis, should be keeping existing homeowners in their current homes as our initial intervention point. The model can be shown to work with previous owners to put them back in their homes and prove its sustainability. By choosing REOs, accessing the transaction record is possible in order to contact the previous homeowners. It is not an ideal scenario for keeping homeowners in their homes as it obviously does not technically achieve this aim, but for initial capacity constraints, this method is the best option available.
- Acquiring these single-family REO properties is financially more feasible than other intervention strategies given the initial capacity limits. After an unsuccessful foreclosure auction, those REO properties are typically sold at a discount of 20-30 percent below a comparable home in the same neighborhood.⁸ Based on this general assumption, it is more practical to form the starter-coalition based with this strategy in mind in order to take advantage of the operational capacity of existing organizations as well as accessing existing housing-related funding options.
- This strategy would be a good public relations tool and would capitalize on public and political support, helping to raise awareness and funding. Based on the success of City Life/ Vida Urbana in Boston, the power of the threat to homeowners as a means of organizing groups has significant political and social traction. Having existing homeowners who have lost homes fighting to get back through the CLT is a powerful image and one that would likely gather a lot of public and political support through a well-targeted media campaign.

3. Property Acquisition Strategy

Now that the area and type of housing have been chosen, the case study will run through one specific acquisition to demonstrate some of the issues that will apprise from this option. It is necessary here to stress, again, that that is a hypothetical scenario and that the financial calculations are speculative to a large degree. What is important when reviewing this case study is to understand that it is intended to highlight one specific path and to demonstrate the challenges and opportunities of that given path. This scenario might not play out as described, nor does this particular intervention strategy have higher value than others proposed in the roadmap.

Using RealtyTrak, seven single-family homes that are in REO in a specific area of East New York have been identified. After acquiring this initial property, the ideal would be to repeat this

⁸ Inside Mortgage Finance Survey, November 2012. Inside Mortgage Finance Publications, Inc. Bethesda, Maryland.

acquisition strategy on a larger scale to reduce overall costs for the entire project. For the purpose of this case study, any potential cost reductions based on scale have not been estimated.

Figure 11: 740 Vermont Street



As depicted above in Figure 11, 740 Vermont Street is a single family home built in 1920 and is 966 square feet on a lot that is 1583 square feet. As of late April, it has an estimated market value of \$196,627 and has been in REO since Feb of this year.

Based on the result of the November Inside Mortgage Financial Survey, REO status will negatively impact the value of a property between 7%-20% compared to similar homes in the surrounding area. Significantly, damaged REO properties have experienced discounting of values at 58% nationally.⁹ It is unclear how damaged 740 Vermont Street is, but given its age and the amount of time it has been in REO, assuming that there is a sizeable amount of damage is still prudent. For the sake of this case study, the 58% discount was incorporated to the financial analysis, though, admittedly, it is also unclear if this number is on target. Based on this figure, the adjusted value of 740 Vermont Street property is determined and the overall purchase price paid by the homebuyers and potential one time subsidy needed under our CLT structure follows in Figure 10.

⁹ Source: Inside Mortgage Finance Survey, November 2012. Inside Mortgage Finance Publications, Inc. Bethesda, Maryland.

Figure 12: Potential Cost of 740 Vermont Street

740 Vermont St Property	
Project Outline	
Unit Type	Single Family
Average Size(sqft)	966
Number of Units Acquired	8 units
Development Costs	
Initial Market Value	\$197,000
Adjusted Value (REO)	\$82,740
Rehab Cost/Unit(\$100/sqft)	\$48,300
Construction Management Fee(%)	4%
Construction Management Fee/Unit	\$9,812
Insurance/Unit	\$10,000
CLT Marketing Fee(%of final BMR price)	7%
CLT Marketing Fee/Unit	\$7,945
Other Soft Costs(as % of Construction Costs)	6%
Other Soft Costs/Unit	\$2,898
Total Development Cost/Unit	\$161,695
Sales Prices & Subsidy Needed	
Total Cost	\$161,695
Subsidized Price (50% AMI -County)	\$113,503
Subsidy Needed/Unit(50% AMI -County)	\$48,192

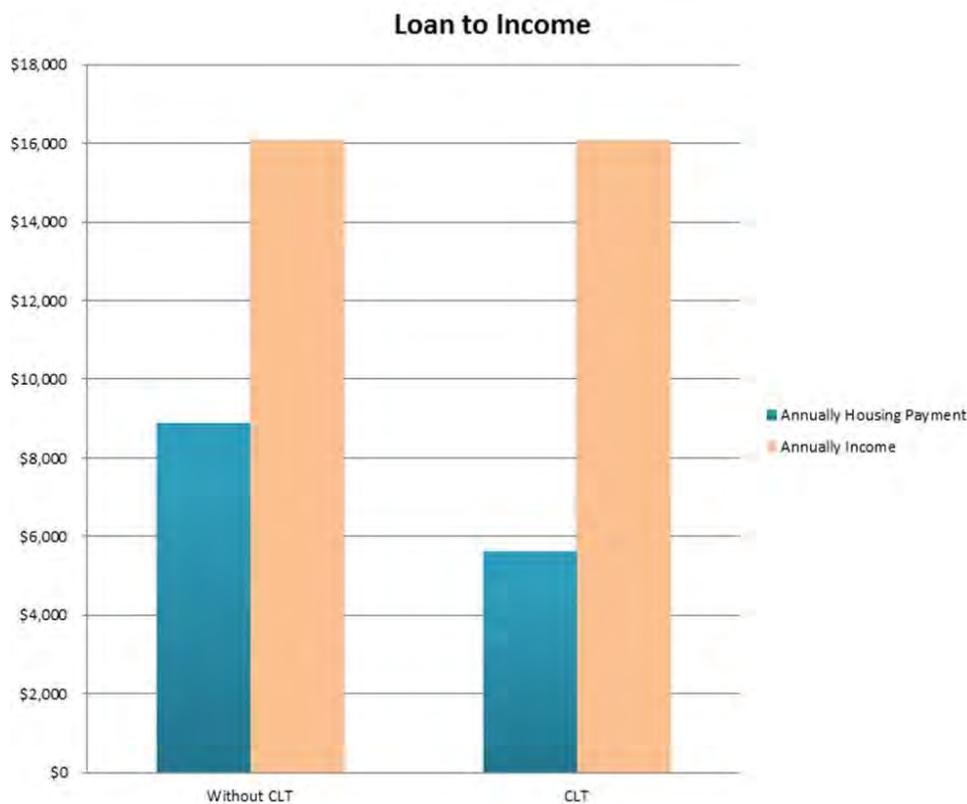
4. Funding

Funding the acquisition strategy is the greatest challenge under any scenario and any attempt here to describe such a process is based on speculation as much as precedence as there are no cases of a CLT acquiring property in NYC specifically. Existing funding sources that could be incorporated have been listed in the roadmap and could include allocating both state and federal housing program funding, coordinating existing non-profit funding, and seeking private grant money. In addition to incorporating these funds, another key point is that the CLT coalition would be able to capitalize on existing funds as well as the crossover capacity of organizations within the coalition such as building groups and property management to cover some of the initial costs.

Further policy recommendations to centralize and simplify the funding process for a CLT in the future will be outlined in the next section, but as the system currently works, it is difficult to say with confidence that funding this project, even on a limited scale in East New York would succeed without significant political support behind it. In all likelihood, it would take a significant amount of effort to secure funding pledges and arrangements for capacity provisions within the coalition before any property acquisitions could be conceived. It is entirely likely that without this background structure in place, attempting to acquire 740 Vermont Street would stretch out over a long period of time, opening up the possibility that the property will be sold before the coalition can close the deal. The lesson here is how important it is to have the coalition in place before attempting to acquire property. Having the initial capacity is the only way to move with the type of speed and flexibility that the CLT will need in order to get started.

5. Finding a Homeowner

Figure 11: Loan to Income Graph



The graph in Figure 11 uses the loan to income ratio to measure housing affordability and to demonstrate the significant cost-saving that owning a home within the CLT passes on to the homeowner and any subsequent homeowner. Without CLT, a low-income family in East New

York will pay 55% of its annual income on housing, if they want to own 740 Vermont Street property that is leased from the CLT, however, their annually housing cost is reduced to 35%.

Figure 12: Loan to Income Ratio

Loan To Income Ratio		
	Without CLT	CLT
Annually Housing Payment	\$8,902	\$5,624
Annually Income	\$16,068	\$16,068
Percentage	55%	35%

After establishing the property in the CLT, the coalition would then attempt, first, to try to work with the previous homeowner to get them back in the house because we have their information from RealtyTrak. Again, this is not as simple as keeping an existing homeowner in their home, but for the initial properties this is the best case scenario. If a deal can not work out with the previous homeowner, it would then be necessary to find another family to move in based on similar economic benchmarks.

6. Building Capacity

After acquiring the initial property, there are several steps that will require further action:

First, setting up the internal structure and leadership of the CLT as explained in the roadmap. Once the coalition has shown that it can work through the initial acquisitions, a board consisting of $\frac{1}{3}$ residents, $\frac{1}{3}$ members of coalition organizations, and $\frac{1}{3}$ local elected leaders or members of the clergy in East New York should be set up. Once a preliminary board is in place, they can draft the by-laws and legal structures to establish the framework for the CLT.

Second, plan a growth strategy for East New York that is consistent with the growing capacity of the CLT. This could follow the roadmap's section on tenants, homeowners or combination of both. As the CLT gains more capacity and credibility, its scope will expand naturally and it can begin to provide other community functions for residents and non-residents.

Third, seek out other similar CLTs through the National Community Land Trust Network in order to share ideas and address problems. For example, there is the National Community Land Trust conference this September in Burlington, Vermont, and NEDAP should inform and encourage interested organizations about attending this event.

This case study was included to demonstrate the many logistical challenges that even a small intervention would pose for a CLT to get off the ground. The main issues are where to intervene, what type of housing to focus on, and where to find the funding and capacity. However, these are secondary details compared to the central task that must happen for a community group to build a CLT, whether in East New York or elsewhere - building a strong coalition. Much of the initial work of any community group interested in forming a CLT is to establish strong relationships with other groups that have access to funding and capacity provision in order to make an impact and become self-sustaining.

These are not simple, linear challenges, as many organizations might balk at the idea of limiting their control over a given project or over sharing a small pool of available funding. It is also centrally important for any group to have a clear mission and strategy of growth. Having its own internal mission as a community group will be vital to building the coalition and growing it into a self-sustaining CLT by having everyone working towards the same goals. To underestimate the time and effort it takes to do this successfully would seriously undermine the chance of success before the project even talks to homeowners or tenants.

7. Policy Recommendations

Even though community land trusts focus on the benefits of community and housing affordability, property rights are a legal matter, thus CLTs also involve legal agreements between the members, the administrators and local government. CLTs should be created in consultation with lawyers that understand real estate, property, and land use law to ensure that both the CLT and its members are protected and in accordance with the law. As recommended in the roadmap, the CLT coalition should include members (individuals or organizations) that specialize in political activism/advocacy and legal services. These entities should advise the coalition on lobbying and campaign strategies, as well as the process of obtaining professional legal representation.

This report will now outline a set of policy recommendations based around the legal and political challenges that CLTs face in New York City that are intended to remove those barriers and ensure that CLTs receive government support that is not subject to regime changes. This section also addresses the legal and zoning mechanisms that can affect the creation and maintenance of a CLT in NYC.

1. Immediate Policy Recommendations

In addition to distributing this report among NYC community groups and organizations, NEDAP, in its role as an advocate, should assist the local CLT Coalition and broader city-wide CLT supporters in lobbying for the following policy changes.

Currently, CLTs are not recognized in state or city laws, even though nonprofits, land banks, and some forms of trusts are.¹⁰ The coalition should advocate at both levels to create a statute recognizing CLTs as a legal entity with a set structure and set of rights that allow it to function under a broad mandate, rather than simply as an affordable housing program.¹¹

The new statute(s) should allow CLTs to have:

- Standing as a 501(c)(3) nonprofit organization.
- The ability to provide community services and amenities, such as maintenance services, schools, stores, parks, etc.

¹⁰ Parker, David. "Land Trusts in New York are for Tree Huggers." <http://www.slideshare.net/davidparkeresq/land-trusts-in-new-york-are-for-tree-huggers>

¹¹ New York City Charter and Administrative Code; Rules of the City of New York; Laws of New York State

- The ability similar to that of a community development corporation to buy, sell and develop CLT property, including but not limited to affordable housing¹².
- The opportunity to qualify for federal and state funding otherwise closed off to affordable housing entities.
- The opportunity to merge with smart growth programs, historic preservation, conservation, economic development, and other similar programs, as the CLT sees fit. The CLT should also be eligible for incentives under these programs.

After gaining initial legal recognition, NEDAP and the CLT coalition should lobby for policy changes at the city and state levels that would assist CLTs in acquiring property and funding and maintaining long term affordable housing options.

A. City Level Recommendations

- Retool program and funding requirements for rehabilitation and land acquisition programs to apply to CLTs. Currently, programs and grants for rehabbing or acquiring distressed property have strict guidelines concerning what type of organizations and functions can receive assistance. CLTs are not traditional affordable housing entities and are often not eligible under these restrictive requirements.
- Assessed property values should be below the value assessed for comparable properties not subject to CLT restrictions, therefore, property taxes should be lower than on comparable units outside of the CLT. In New York City, real estate taxes may also be abated by a vote of the City Council.¹³
- Create policy that requires the city and banks to give long abandoned/unused property to the CLT for management; eminent domain may be applied in some cases, however, donating these properties will significantly reduce the burden on cities. This is helpful for banks and cities since maintaining, selling, and pursuing foreclosure is an expensive and lengthy process. Many banks have already been donating large amounts of property to local land banks or demolishing REO property. This would also help banks gain positive press and atone for their role in the national foreclosure crisis.¹⁴

¹² LISC New York. "Community Development Corporations."

¹³ Marcuse, Peter. Personal Interview May 7, 2012

¹⁴ Picture the Homeless. "Community Land Trusts." <http://picturethehomeless.org/CLT.html>; Wiggin, Teke, "Bank of America Donating Foreclosed Homes." Aol Real Estate, July 29, 2011.

<http://realestate.aol.com/blog/2011/07/29/bank-of-america-donating-foreclosed-homes/>; Dennis, Brady, "Banks Turn to Demolition of Foreclosed Properties to Ease Housing-Marketing Pressures." The Washington Post,

- City commitment to building the trust’s portfolio, including the conveyance of public land, public housing units and properties acquired through tax foreclosures or blighted properties purchased for redevelopment. The city could also sell properties at a discount, including surplus properties acquired in anticipation of highway extensions or school expansions that never happened, decommissioned airports, fire houses and other outdated facilities.

B. State Level Recommendations

- Pressure regulators to lower bank's CRA Rating for mismanagement of distressed property so that they will have incentive to sell properties at below-market prices to CLTs.
- Change policy to allow multi-family buildings to be purchased without displacing the tenants. Currently, purchasing a building with tenants still residing inside triggers the Tenant Protection Act and prevents affordable housing programs from keeping these tenants in their apartments.
- The government should provide insurance to private lenders so that banks will lend to CLTs. Currently, banks are hesitant to finance projects with resale restrictions and little collateral.
- Redirect New York's share of the \$25 million Federal Foreclosure Settlement towards the funding of CLTs. Five major banks agreed to the settlement to end investigations into abusive foreclosure practices. \$17 million of the settlement is allocated for “ mortgage debt forgiveness, forbearance, short sales and other assistance to homeowners.”¹⁵
- Create a comprehensive principal reduction program based on the total amount leveraged as opposed to individual mortgages in cases where there are multiple mortgages on a single property. Principal reductions are not useful if only one of the mortgages is reduced.

2. Long Term Policy Recommendations

In order to create a community land trust it is important to understand that zoning changes are not necessary or relevant to all situations. However, since CLTs can address broader community

October 12, 2011.http://www.washingtonpost.com/business/economy/banks-turn-to-demolition-of-foreclosed-properties-to-ease-housing-market-pressures/2011/10/06/gIQAWigIgL_story.html

¹⁵ McLaughlin David and Schoenberg, Tom, “Foreclosure Settlement with Banks Filed in Federal Court.”

Bloomberg, March 12, 2012<http://www.bloomberg.com/news/2012-03-12/u-s-mortgage-foreclosure-settlement-with-banks-filed-in-federal-court.html>

concerns and take on various shapes, sizes and structures, some CLTs may want to consider the following mechanisms:

- Inclusionary Zoning - The combination of CLTs and inclusionary zoning would accomplish many of the goals that the Pratt Institute Center for Community and Environmental Development identified in its report on inclusionary zoning, such as mixed income housing developments, community preservation, lasting affordability, and stretching public dollars.¹⁶ If a CLT can apply inclusionary zoning this can work in a few ways:
 - It can be voluntary where monetary bonuses for creating affordable housing go towards CLT funding
 - It can be mandatory where, in exchange for density bonuses, developers are required to allot funds toward the CLT pool, instead of creating mixed income housing in their developments.
 - It can follow a more traditional model where developers could set aside units in their developments to be donated to the CLT.¹⁷
- District Creation - If a CLT has a special character it wants to maintain, it may seek ‘district status’ similar to special districts, historic districts and/or business improvement districts, as is relevant, so that it can have some regulatory and design control.¹⁸ Like a business improvement district, a CLT may also want to provide its own services such as landscaping or trash cleanup in order to better serve its community and alleviate some of the City’s financial burden.¹⁹
- Zoning Changes - In order to meet community needs, a CLT may request zoning changes if, for example, the CLT wants to open schools, stores, or farms in areas not zoned for these uses-this may require variances, zoning amendment or special permits.²⁰ This would also allow CLTs to acquire industrial land and turn it into residential or mixed-use. Especially useful here could be historic preservation and adaptive reuse of old warehouses. Furthermore, the rezoning of industrial land to include residential or

¹⁶ Policy Link and Pratt Institute Center for Community and Environmental Development, “Increased Housing Opportunity in New York City: A Case for Inclusionary Zoning.” 2004
<http://prattcenter.net/sites/default/files/users/pdf/Inclusionary%20Zoning%20Full%20Report.pdf>

¹⁷ Community Frameworks, “CLTs and Inclusionary Zoning.” 2006
http://www.communityframeworks.org/technical/toolbox/clts_web/clts_inclusionaryzoning.html

¹⁸ New York City Department of City Planning, “Zoning Districts.”
http://www.nyc.gov/html/dcp/html/zone/zh_special_purp_dist.shtml

¹⁹ New York City Small Business Services, “Help for Neighborhoods: Business Improvement Districts.”
<http://www.nyc.gov/html/sbs/html/neighborhood/bid.shtml>

²⁰ New York City Department of City Planning, *Zoning Handbook: Zoning Today*. Chapter 2.
http://www.tenant.net/Other_Laws/zoning/zonch02.html

commercial mixed-use could further the goal of creating live-work-play neighborhoods by fostering developments that comprise facilities for light manufacturing, stores to sell the products, and places for workers to live. This also promotes locally produced goods and local industry, as well as reduces the need for long commutes of workers.

Appendix 1:

CLT Informational Brochure



CLT Benefits

CLTs Benefit Homeowners and the Broader Community

- Security of homeownership
- Opportunity to build equity
- Greater discretionary spending power as less income is spent on housing
- A permanent stock of affordable housing through long term lease controls and resale restrictions
- CLT homes are less likely to undergo foreclosure
- More discretionary spending to support the local economy
- While most CLTs require initial subsidies, they only need minimal external support thereafter to operate independently



What is a Community Land Trust?

A CLT is a non-profit corporation that acquires and manages land on behalf of a community. CLT members have exclusive use of individual parcels of land through long-term ground leases.

Through its unique tenure, which removes the cost of land from the housing price, a CLT can provide homeownership opportunities to low- and middle- income households. While residents own any structures and structural improvements on the land, the non-profit holds the land beneath the structures in trust. Gains from the appreciation of land value at resale are limited, while the socially produced land value is captured by the individual leasee.

Community Land Trust (CLT)



Exploring the Community Land Trust Model in NYC

Informational Package for Local Community Organizations

Other Information Resources

- National Community Land Trust Network:
 - <http://www.cltnetwork.org/index.php?fuseaction=Blog.dspBlogPost&postID=38>
- NYC Department of Housing Preservation & Development
 - <http://www.nyc.gov/html/hpd/html/developers/inclusionary.shtml>
- The Furman Center
 - <http://furmancenter.org/institute/directory/>
- The Lincoln Institute
 - <https://www.lincolnst.edu/pubs>

CLT Goals

- 1) Remove land from the speculative market, thereby focusing on the use-value of land instead of its exchange value
- 2) Empowers lower-income communities
- 3) Stabilizes neighborhoods through stewardship
- 4) Preserves neighborhood investments

Precedents

Cooper Square, Manhattan
Irvine CLT, Irvine
Dudley Square Neighborhood Initiative, Boston
Chicago CLT, Chicago
Champlain Housing Trust, Burlington

Appendix 2:

CLT Informational PowerPoint Presentation

A white silhouette of a house with a gabled roof and a chimney on the left side, set against a black background. The house shape is centered and contains the text.

Community Land Trust (CLT)

Informational Package for Local
Community Organizations

What Is a CLT?

- A CLT is a non-profit corporation that acquires and manages land on behalf of a community
- CLT members have exclusive use of individual parcels through long-term ground leases

The CLT's Unique Tenure

- A CLT can provide homeownership opportunities to low- and middle- income households through its *unique tenure*, which removes the cost of land from the housing price
- Distinguishes between land as a natural resource and the human improvements on the land
 - Leasers own structures and any structural improvements on land while the non-profit holds the land in trust
 - Gains from the appreciation of land value at re-sale are limited, while the socially produced land value is captured by the individual leaser

Governance

- Community-controlled nonprofit corporation holds land in trust
- The Board is elected directly by the membership, which is open to anyone who lives in the target geographical area
- The Board is balanced with representation from residents in service area, homeowners who live on the CLT land, and others interested in the goals of the CLT

Goals of a CLT

- Removes land from the speculative market, thereby focusing on the use-value of land instead of its exchange value
- Empower lower-income communities by giving them control of land
- Stabilize neighborhoods through stewardship
- Preserve neighborhood investments

Benefits of a CLT

- To the Homeowner:
 - Security of homeownership
 - Opportunity to build equity
 - Portion of the appreciated value of the home
 - Greater discretionary spending power as less income is spent on housing

Benefits of a CLT

- To the Community:
 - Permanent stock of affordable housing
 - Through long term lease controls and resale restrictions
 - No need for additional subsidies to preserve affordability
 - CLT homes are less likely to undergo foreclosure
 - less vacant properties → less crime
 - Lower income spent on housing allows for more discretionary spending to support the local economy

CLT as a Viable Affordable Housing Option

- CLTs only require initial support
- CLTs keep the property affordable in perpetuity by imposing resale restrictions
- CLTs offer residents the opportunity to accumulate wealth
- CLTs remove land from the speculative market, restricting gentrification
- CLTs are less vulnerable to regime changes
- CLTs preserve/stabilize neighborhood diversity

Some CLT Precedents

- Champlain Housing Trust, Burlington, VT
- Cooper Square CLT, Manhattan, NY
- Dudley Neighbors, Incorporated, Boston, MA
- Chicago CLT, Chicago, IL
- Irvine CLT, Irvine, CA

How Do You Establish a CLT?

- Refer to the proposed “Roadmap: How to Establish a CLT in NYC”

Other Important Resources

- Sample set of by-laws for a CLT
- Sample ground lease for a CLT
- National Community Land Trust Network:
 - <http://www.cltnetwork.org/index.php?fuseaction=Blog.dspBlogPost&postID=38>
- NYC Department of Housing Preservation & Development
 - <http://www.nyc.gov/html/hpd/html/developers/inclusionary.shtml>
- The Furman Center
 - <http://furmancenter.org/institute/directory/>
- The Lincoln Institute
 - <https://www.lincolnst.edu/pubs>

Appendix 3:

CLT Bylaws Template

(Source: The Community Land Trust Project, Community Legal Sources, Detroit, Michigan.
Accessed at: <http://clronline.org/resources/ct>)

BYLAWS OF _____

ARTICLE 1: Name and Purpose

- 1.1 *Name.* The name of this organization is _____ (the “corporation”).
- 1.2 *Purposes.* The purposes for which the corporation is organized are:
- (a) To receive and administer funds and to operate exclusively for charitable and educational purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986, or comparable provisions of subsequent legislation (the “Code”), and in particular:
- (1) To provide opportunities for low-income [or low- and moderate-income] people to secure housing that is decent and affordable.
- (2) To preserve the quality and affordability of housing for future low-income [or low- and moderate-income] residents of the community.
- (3) To combat community deterioration in economically disadvantaged neighborhoods by promoting the development, rehabilitation, and maintenance of decent housing in these neighborhoods; by promoting economic opportunities for low-income residents of these neighborhoods; by making land available for projects and activities that improve the quality of life in these neighborhoods; and by assisting residents of these neighborhoods in improving the safety and well-being of their community.
- (4) To protect the natural environment and to promote the ecologically sound use of land and natural resources and the long-term health and safety of the community.
- (5) To serve the public welfare through engaging in the activities identified above, by promoting housing opportunities for low-income [or low- and moderate-income] people generally, and by educating individuals and the general public concerning housing for low-income [or low- and moderate-income] people.
- (b) To acquire, own, dispose of and deal with real and personal property and interests therein and to apply gifts, grants, bequests and devises and their proceeds in furtherance of the purposes of the corporation.
- (c) To do such things and to perform such acts to accomplish its purposes as the Board of Directors may determine to be appropriate and as are not forbidden by section 501(c)(3) of the Code, with all the power conferred on nonprofit corporations under the laws of the State of Michigan.

ARTICLE 2: Membership

2.1 *Voting Membership.* Subsequent to the first annual meeting, the Voting Members of the corporation shall have full voting rights and be comprised of two classes:

(a) The Lessee Members. All persons who lease land or housing from the corporation or who lease or own housing that is located on land leased by another entity from the corporation are entitled to be Lessee Members. However, only one person (eighteen years of age or older) per lessee household will serve as a Lessee Member at any time. Until such time as there are at least ***[insert minimum number]*** actual Lessee Members, the Board of Directors may appoint other persons to serve as Lessee Members, and in so doing shall select persons who can reasonably be expected to represent the interests of Lessee Members. Such Board-appointed Lessee Members shall remain Lessee Members until the earlier of their resignation from membership or such time as there are at least ***[insert minimum number]*** actual Lessee Members. ***[The minimum number of actual Lessee Members necessary to dispense with Board-appointed Lessee Members will vary from organization to organization.]***

(b) The General Members, who shall be those persons who (i) are not Lessee Members or members of their household, (ii) are eighteen years of age or older, and (iii) have complied with the following requirements:

(1) Either appointment as an initial member in the Actions of Incorporators or submission of a membership application, including a signed statement of support for the purposes of the corporation, in a form to be determined by the Board of Directors; and

(2) Payment of dues as established by the Board for the current calendar year (or qualification for a waiver of dues).

2.2 *Requirements for Continuing Voting Membership.* To maintain Voting Membership beyond a person's first year of Voting Membership, a person must either be a Lessee Member (either actual or Board-appointed) or have paid dues established for the current calendar year (or qualified for a waiver of dues).

2.3 *Membership Dues.* Annual membership dues shall be assessed for each calendar year by the Board at a meeting preceding that year. If no such action is taken to assess dues for a given year, the dues for that year shall be as established for the previous year. The Board may waive the payment of annual dues or establish reduced dues for low-income individuals.

2.4 *Rights of Voting Members.* Every Voting Member shall have the right to participate in meetings of the membership, to cast one vote on all matters properly put before the membership (or the class of membership to which the Voting Member belongs) as provided in these bylaws, to nominate and participate in the election of the Board of Directors as provided by these bylaws, to serve on the Board of Directors or on committees if chosen, and to receive notices and minutes of membership meetings and annual reports of the corporation.

Appendix 4:

CLT Ground Lease

(Source: Chapter 12: The Revised Community Land Trust Ground Lease, in *Community Land Trust Legal Manual*, Washington, DC: Institute for Community Economic, 2010. Accessed at: <http://www.cltnetwork.org/index.php?fuseaction=Blog.dspBlogPost&postID=1613>)

Chapter

12

The Revised Model Community Land Trust Ground Lease

Introductory "Whereas" Clauses

Article 1: Letters of Stipulation and Acknowledgment

Article 2: Demise of Leased Premises

Article 3: Duration of Lease

Article 4: Use of Leased Premises

Article 5: Ground Lease Fee

Article 6: Taxes and Assessments

Article 7: Improvements

Article 8: Financing

Article 9: Liability, Insurance, Damage and Destruction, Eminent Domain

Article 10: Transfer, Sale, or Disposition of Improvements

Article 11: Assignment and Sublease

Article 12: Default

Article 13: Arbitration

Article 14: General Provisions

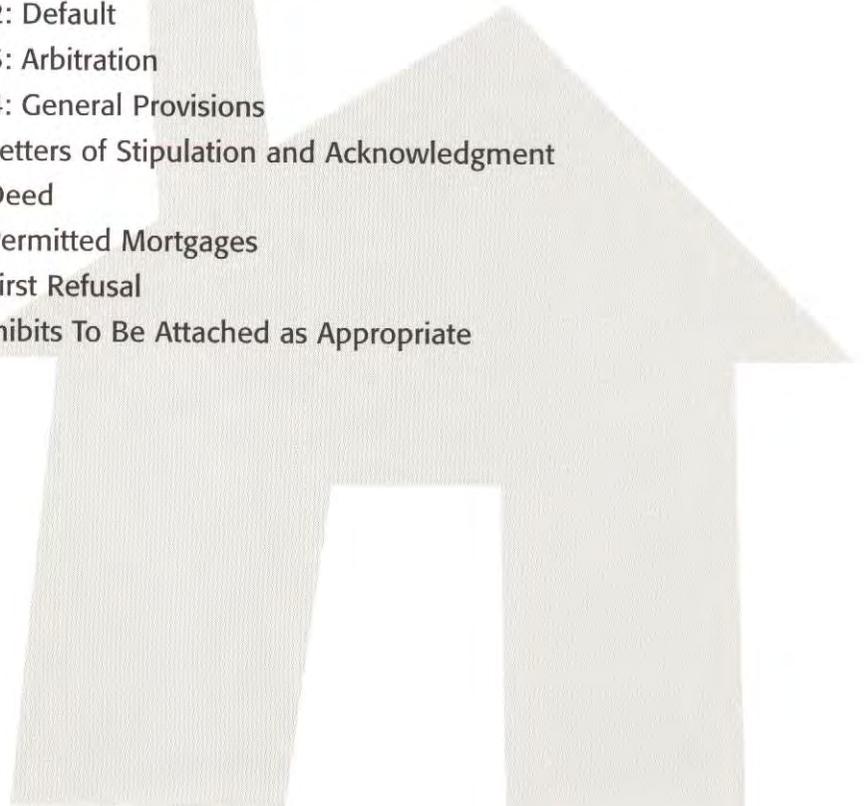
Exhibit: Letters of Stipulation and Acknowledgment

Exhibit: Deed

Exhibit: Permitted Mortgages

Exhibit: First Refusal

Other Exhibits To Be Attached as Appropriate



■ Introductory “Whereas” Clauses

THIS LEASE (“this Lease” or “the Lease”) made and entered into this _____ day of _____, 20____, by and between _____ COMMUNITY LAND TRUST (“the CLT” or “Lessor” or “the Lessor”) and _____ “Lessee” or “the Lessee”).

WHEREAS, the CLT is organized exclusively for charitable purposes, including: the development and preservation of decent, affordable housing and the creation of homeownership opportunities for low- and moderate-income people who otherwise would be denied such opportunities because of limited financial resources; and

WHEREAS, a goal of the CLT is to stimulate the conveyance of decent, affordable housing among low- and moderate-income people by providing access to housing for such persons at affordable prices through the long-term leasing of land under said housing; and

WHEREAS, the Leased Premises described in this Lease have been acquired and are being leased by the CLT in furtherance of these charitable purposes; and

WHEREAS, the Lessee shares the purposes and goals of the CLT and has agreed to enter into this Lease not only to obtain those benefits to which the Lessee is entitled under this Lease, but also to further the charitable purposes of the Lessor; and

WHEREAS, Lessor and Lessee recognize the special nature of the terms and conditions of this Lease, and each of them, with the independent and informed advice of legal counsel, freely accepts these terms and conditions, including those terms and conditions that may affect the marketing and resale price of any Improvements on the Leased Premises; and

WHEREAS, it is mutually understood and accepted by Lessor and Lessee that the terms and conditions of this Lease further their shared goals over an extended period of time and through a succession of owners;

NOW THEREFORE, in consideration of the foregoing recitals, of mutual promises of Lessor and Lessee, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:



ARTICLE 1: Letters of Stipulation and Acknowledgment

Attached as the exhibit LETTERS OF STIPULATION AND ACKNOWLEDGMENT and made part of this Lease by reference are (a) a Letter of Stipulation of Lessee, and (b) a Letter of Acknowledgment of legal counsel of Lessee, setting forth their respective review and understanding of this Lease (in particular, Article 10, regarding the transfer, sale, or disposition of the Improvements) and related documents for this transaction.

ARTICLE 2: Demise of Leased Premises

2.1 PREMISES: The Lessör, in consideration of the rents reserved and the terms and conditions of this Lease, does hereby demise and leave unto Lessee, and Lessee does hereby take and hire from Lessor, the property (referred to in this Lease as the "Leased Premises") described in the attached exhibit PREMISES. Lessor has furnished to Lessee a copy of the most current, if any, title report previously obtained by Lessor for the Premises, and Lessee accepts title to the Leased Premises in their condition "as is" as of the execution of this Lease.

2.2 RESERVATION OF MINERAL RIGHTS: Lessor reserves to itself all the minerals and other extractive resources of the Leased Premises. This reservation shall not diminish the right of the Lessee under this Lease to occupy and freely use the Leased Premises. Any eventual extraction by the Lessor of minerals or other extractive resources shall be carried out with as little disruption to the Lessee as is reasonably possible. In instances requiring a material disruption of the Lessee's right of use and occupancy of the Leased Premises, the Lessor shall not make such extraction without the consent of the Lessee.

ARTICLE 3: Duration of Lease

3.1 PRINCIPAL TERM: The term of this Lease shall be 99 years, commencing on the ___ day of _____, 20___, and terminating on the _____ day of _____, 20___, unless terminated sooner or extended as provided below.

3.2 LESSEE'S OPTION TO EXTEND: Lessee may extend the principal term of this Lease for one (1) additional period of 99 years, subject to all the provisions of this Lease; provided that Lessor may make changes to the terms of the Lease for the renewal period prior to the beginning of such renewal period but only if these changes do not materially and adversely impair Lessee's rights under the Lease. Not more than 365 nor less than 180 days before the last day of the current term, Lessor shall give Lessee written notice, stating the date of expiration of the Lease, describing any changes that Lessor intends to make to the terms of the Lease as permitted above, and reiterating the conditions for renewal as set forth immediately below ("the Expiration Notice").

Lessee's right to exercise the option to extend is subject to the following conditions: (a) within sixty (60) days of receipt of the Expiration Notice, Lessee shall give Lessor written notice, irrevocably exercising the option to extend ("the Extension Notice"); (b) this Lease shall be in effect at the time the Extension Notice is given and on the last day of the term, and (c) there shall not be an Event of Default by Lessee under this Lease or under any loan documents between Lessee and any Permitted Mortgagee at the time the Extension Notice is given and on the last day of the term.

When Lessee has rightfully exercised the option to extend, each party shall execute a memorandum, in mutually agreeable recordable form, acknowledging the fact that the option has been exercised and otherwise complying with the requirements of law for an effective memorandum or notice of lease, and such memorandum or notice of lease shall be recorded in accordance with the requirements of law on or promptly after the commencement of such renewal period of the Lease.

3.3 CHANGE OF LESSOR; LESSEE'S RIGHT TO PURCHASE: In the event that ownership of the land comprising the Leased Premises ("the Land") is conveyed or transferred (whether voluntarily or involuntarily) by Lessor to any other person or entity, this Lease shall not cease, but shall remain binding and unaffected. However, in the event Lessor desires or attempts to convey the Land to any person or entity other than a nonprofit corporation, charitable trust, governmental agency or other similar entity sharing the goals described in the Recitals above (or as security for a mortgage loan), the Lessee shall have a right of first refusal to purchase the Land. This right shall be as specified in the attached exhibit FIRST REFUSAL. Any sale or other transfer contrary to this section 3.3 shall be null and void.

ARTICLE 4: Use of Leased Premises

4.1 RESIDENTIAL USE ONLY: Lessee shall use, and shall cause all occupants to use, the Leased Premises and Improvements only for residential purposes and any incidental activities related to residential use that are currently permitted by applicable zoning law as indicated in the attached exhibit ZONING. [In addition, use of the Leased Premises shall be further limited by the restrictions set forth in the attached exhibit RESTRICTIONS.]

4.2 RESPONSIBLE USE AND COMPLIANCE WITH LAW: Lessee shall use the Leased Premises in a manner so as not to cause actual harm to others or create any nuisances, public or private; and shall dispose of any and all waste in a safe and sanitary manner. Lessee shall maintain the Leased Premises and Improvements in good, safe, and habitable condition in all respects, except for normal wear and tear, in full compliance with all applicable laws and regulations, and in such condition as is required to maintain the insurance coverage required by section 9.4 of this Lease.



4.3 RESPONSIBLE FOR OTHERS: Lessee shall be responsible for the use of the Leased Premises by all residents and their families, friends and visitors and anyone else using the Leased Premises with their consent and shall make all such people aware of the spirit, intent and appropriate terms of this Lease.

4.4 OCCUPANCY: Lessee shall occupy the Leased Premises for at least _____ months of each year of this Lease, unless otherwise agreed by Lessor. Occupancy by children or other immediate family members or dependents of Lessee shall be considered occupancy by Lessee.

4.5 INSPECTION: Lessor may inspect any portion of the Leased Premises except the interior(s) of Lessee's Improvements, at any reasonable time, but not more than _____ times in a single calendar year, and in any reasonable manner, upon at least _____ hours' oral notice to Lessee. In the event of emergency, Lessor may inspect any portion of the Leased Premises except the interior(s) of Lessee's Improvements without notice provided the Lessor shall have made reasonable efforts to give advance notice to Lessee.

4.6 LESSEE'S RIGHT TO PEACEFUL ENJOYMENT: Lessee has the right to undisturbed enjoyment of the Leased Premises, and Lessor has no desire or intention to interfere with the personal lives, associations, expressions, or actions of Lessee, subject to the provisions of this Lease.

ARTICLE 5: Ground Lease Fee

5.1 GROUND LEASE FEE: In consideration of the possession, continued use, and occupancy of the Leased Premises, Lessee shall pay to Lessor a monthly ground lease fee ("the Ground Lease Fee") of _____ dollars (\$_____).

5.2 PAYMENT OF GROUND LEASE FEE: The Ground Lease Fee shall be payable to Lessor, at the address specified in this Lease as Lessor's address, on the first day of each month for as long as this Lease remains in effect, unless, with Lessor's consent, the Ground Lease Fee is to be escrowed by a Permitted Mortgagee, in which case payment shall be made as specified by that Mortgagee. If the Lease commences on a day other than the first of the month, a pro-rata portion of the Ground Lease Fee shall be paid for the balance of the month at the time the Lease is executed.

In the event that any amount of payable Ground Lease Fee remains unpaid when the Improvements are sold and the Lease is terminated or assigned to another party, the amount of payable Ground Lease Fee shall be paid to Lessor out of any proceeds from the sale of the Improvements otherwise due to Lessee at the time of such sale.

5.3 CALCULATION OF GROUND LEASE FEE: The Ground Lease Fee specified in section 5.1 above has been calculated as follows. First, an amount approximating the monthly fair rental value of the Leased Premises has been established, current as of the commencement of the lease term, recognizing that use of the Leased Premises is restricted by some of the provisions of the Lease. Then the affordability of this

monthly amount for the Lessee has been analyzed and, if necessary, the amount has been reduced to yield the amount stated in section 5.1 above, which has been determined to be affordable for Lessee.

5.4 REDUCTION, DELAY OR WAIVER OF GROUND LEASE FEE: Lessor may reduce, delay or waive entirely the Ground Lease Fee at any time and from time to time for the purpose of ensuring affordable monthly housing costs for the Lessee. Any such reduction, delay, or waiver must be in writing and signed by Lessor before being effective.

5.5 ADJUSTMENT OF GROUND LEASE FEE: The Ground Lease Fee stated in section 5.1 above, as adjusted in the way provided below, shall be applicable during the term of this Lease. However, in the event that, for any reason, the provisions of Article 10 or Article 11 regarding transfers of the Improvements or section 4.4 regarding occupancy are suspended or invalidated for any period of time, then during that time, the Ground Lease Fee shall be increased to an amount calculated by Lessor to equal the fair rental value of the Leased Premises for use not restricted by the provisions of the suspended portions of the Lease, but initially an amount not to exceed \$_____. In such event, Lessor shall notify Lessee of the amount calculated in this way, and the Ground Lease Fee shall then be this amount.

In order to keep the Ground Lease Fee reasonably current, the amount specified in section 5.1 (and the maximum amount specified in the preceding paragraph) shall be recalculated every ____th year during the term of the Lease. At such intervals, the amount shall be recalculated through such reasonable process as the Lessor shall choose, based upon the standards set forth in section 5.3 above. Lessor shall notify Lessee promptly upon recalculation of the new Ground Lease Fee amount, and if Lessee does not state objections to the recalculated amount within thirty (30) days after receipt of this notice, the Ground Lease Fee shall then be as stated by Lessor in the notice. If Lessee does state objections to the recalculated Ground Lease Fee, and Lessor and Lessee are then unable to agree on a recalculated Ground Lease Fee within fifteen (15) days of Lessor's receipt of Lessee's objection, the dispute shall be resolved according to the arbitration process set forth in Article 13 below, except that the arbitrators chosen by each party shall be ones with experience in the valuation of real estate. Upon the final determination of the recalculated Ground Lease Fee in accordance with the terms of this section, Lessor shall maintain in its file a notarized certification of the amount of such recalculated Ground Lease Fee and the process by which it was determined.

ARTICLE 6: Taxes and Assessments

6.1 TAXES AND ASSESSMENTS: Lessee shall be responsible for payment of all taxes and governmental assessments that relate to the Improvements and the Leased Premises. Lessee shall also pay directly, when due, all other service bills, utility charges, or other governmental assessments charged against the Leased Premises.



6.2 TAXES ON LEASED PREMISES: In the event that the local taxing authority bills Lessor for the taxes on the Leased Premises, Lessor shall pass the responsibility for this expense to Lessee and Lessee shall promptly pay this bill.

6.3 LESSEE'S RIGHT TO CONTEST: Lessee shall have the right to contest the amount or validity of any taxes relating to the Improvements and Leased Premises. Lessor shall, upon written request by Lessee, join in any such proceedings if Lessee reasonably determines that it is necessary or convenient for Lessor to do so. All other costs and expenses of such proceedings shall be paid by Lessee.

6.4 PAYMENTS IN EVENT OF DELINQUENCY: In the event that Lessee fails to pay the taxes or other charges specified in section 6.1 above, Lessor may increase, but shall not be obligated to increase, Lessee's Ground Lease Fee in an amount that will offset the cost of any delinquent and current taxes or other charges relating to the Improvements and Leased Premises. Upon collecting any such amount, Lessor shall pay the amount collected to the taxing authority in a timely manner.

6.5 PROOF OF COMPLIANCE: Concurrently with the payment of any taxes, assessments, and charges required or permitted by the provisions of this Lease, each party shall furnish evidence satisfactory to the other documenting the payment. A photocopy of a receipt for such charges showing payment prior to the due date shall be the usual method of furnishing such evidence.

ARTICLE 7: Improvements

7.1 OWNERSHIP: It is agreed that all buildings, structures, fixtures, and other Improvements purchased by the Lessee or constructed or placed by the Lessee on any part of the Leased Premises at any time during the term of this Lease ("the Improvements") shall be property of the Lessee. Title to such Improvements shall be and remain vested in the Lessee. However, Lessee's exercise of the rights of ownership is subject to the provisions of this Lease, including but not limited to provisions regarding the disposition of Improvements by the Lessee and the Lessor's option to purchase the Improvements. In addition, Lessee shall not sever or move the Improvements from the Land.

7.2 PURCHASE OF IMPROVEMENTS BY LESSEE: Lessee is simultaneously purchasing the Improvements now located on the Leased Premises and described in the Deed, the form of which is annexed to this Lease as the exhibit DEED.

7.3 CONSTRUCTION AND ALTERATION: Any construction in connection with an existing or new Improvement is subject to the following conditions: (a) all costs shall be borne and paid for by the Lessee; (b) all construction shall be performed in a workerlike manner and shall comply with all applicable laws and regulations; (c) all construction shall be consistent with the permitted uses set forth in Article 4; (d) the exterior (including height) of such Improvements shall not be increased or expanded and new Improvements shall not be constructed without the prior written consent of Lessor,

who, however, shall not unreasonably withhold such consent; and (e) Lessee shall furnish to Lessor a copy of any plans and all building permits for such construction prior to commencing construction.

7.4 PROHIBITION OF LIENS: No lien of any type shall attach to the Lessor's title to the Land or to Lessor's interest in the Leased Premises or to any other property owned by the Lessor. Lessee shall not permit any statutory or similar lien to be filed against the Premises, the Improvements, or any interest of Lessor or Lessee that remains more than sixty (60) days after it has been filed. Lessee shall cause any such lien to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction, or as otherwise permitted by law. If Lessee fails to cause such lien to be discharged within the 60-day period, then, in addition to any other right or remedy, Lessor may, but shall not be obligated to, discharge the lien by paying the amount in question. Lessee may, at Lessee's expense, contest the validity of any such asserted lien, provided Lessee has furnished a bond in an amount sufficient to release the Leased Premises from such lien. Any amounts paid by Lessor to discharge such liens shall be deemed to be an additional Ground Lease Fee payable by Lessee upon demand.

7.5 MAINTENANCE AND SERVICES: Lessee shall, at Lessee's sole expense, maintain the Leased Premises and all Improvements as required by section 4.2 above. Lessor shall not be required to furnish any services or facilities, including but not limited to heat, electricity, air conditioning, or water, or to make any repairs to the Leased Premises or Improvements, and Lessee hereby assumes the sole responsibility for furnishing all services or facilities.

7.6 DISPOSITION OF IMPROVEMENTS UPON EXPIRATION OF LEASE TERM: Upon the expiration of the term of this Lease as such term may be extended or sooner terminated in accordance with this Lease, Lessee shall surrender the Improvements together with the Leased Premises to the Lessor. Ownership of the Improvements shall thereupon revert to Lessor, provided, however, that Lessor shall promptly pay to Lessee as consideration for the Improvements an amount equal to Lessor's Purchase Option Price calculated in accordance with Article 10 below, as of the time of reversion of ownership, less the total amount of any unpaid Ground Lease Fee including any charges that may have been added to the Ground Lease Fee in accordance with this Lease.

ARTICLE 8: Financing

8.1 PERMITTED MORTGAGE: Lessee may mortgage the Leased Premises only with the written consent of Lessor. Not less than thirty (30) days prior to the date on which Lessee (or a prospective Lessee who has contracted to purchase the Improvements) requests Lessor's consent to a mortgage to be effective, Lessee (or prospective Lessee) shall furnish to Lessor copies of every document to be executed in connection



with the transaction represented by such mortgage. Lessor may choose to consent to any mortgage, and in so doing shall designate such mortgage as a "Permitted Mortgage." However, Lessor shall be required to consent to a mortgage only if (a) at the time such copies of documents are submitted and at the time proposed by Lessee (or prospective Lessee) for the execution of such documents, no default is then outstanding; and (b) the mortgage so submitted is a Standard Permitted Mortgage as defined in the attached exhibit PERMITTED MORTGAGES. Lessee shall pay to Lessor at Lessor's option, as additional Ground Lease Fee, all fees, costs, and expenses, including, without limitation, reasonable attorneys' fees, incurred by Lessor in connection with any Permitted Mortgage.

8.2 RIGHTS OF PERMITTED MORTGAGEE: Any holder of a Permitted Mortgage ("Permitted Mortgagee") shall without requirement of consent by the Lessor have the rights identified and defined in the attached exhibit PERMITTED MORTGAGES.

8.3 REMOVAL OF CERTAIN PROVISIONS PURSUANT TO FORECLOSURE: In the event of foreclosure sale by a Permitted Mortgagee or the delivery of a deed to a Permitted Mortgagee in lieu of foreclosure in accordance with the provisions of the Lease, at the election of the Permitted Mortgagee the provisions of Article 10, sections 10.1 through 10.11 shall be deleted and thereupon shall be of no further force or effect as to only so much of the Security so foreclosed upon or transferred.

8.4 LESSOR'S RIGHT TO PROCEEDS IN EXCESS OF PURCHASE OPTION PRICE: The parties recognize that it would be contrary to the fundamental concept of this agreement and an incentive to abuse Lessee's authorization to encumber its leasehold interest with a Permitted Mortgage if Lessee could realize more than the Purchase Option Price as the result of any foreclosure of any mortgage. Accordingly, Lessee hereby irrevocably assigns to Lessor any and all net proceeds of sale of the Improvements remaining after payment of costs of foreclosure and satisfaction of the lien of any Permitted Mortgagee which would otherwise have been payable to Lessee, to the extent such net proceeds exceed the net proceeds that Lessee would have received had the property been sold for the Purchase Option Price established in Article 10 of this Lease, and authorizes and instructs the Permitted Mortgagee or any party conducting any sale to pay the amount of said excess proceeds directly to Lessor. In the event that, for any reason, such excess proceeds are paid to Lessee, Lessee hereby agrees to promptly pay the amount of such excess proceeds to Lessor.

8.5 AMENDMENTS SUBJECT TO APPROVAL BY PERMITTED MORTGAGEE: Any amendments to this Lease shall be subject to the written approval of Permitted Mortgagee, which approval shall not be unreasonably withheld or delayed. The passage of thirty (30) days after submittal to Permitted Mortgagee of a proposed amendment without approval or disapproval by Permitted Mortgagee shall be deemed approval thereof.

ARTICLE 9: Liability, Insurance, Damage and Destruction, Eminent Domain

9.1 LESSEE'S LIABILITY: Lessee assumes sole responsibility and liability to all persons and authorities related to its possession, occupancy, and use of the Leased Premises.

9.2 INDEMNIFICATION OF LESSOR: Lessee shall defend, indemnify, and hold Lessor harmless against all liability and claims of liability for injury or damage to person or property from any cause on or about the Leased Premises. Lessee waives all claims against Lessor for such injury or damage. However, Lessor shall remain liable (and Lessee shall not indemnify and defend Lessor against such liability or waive such claims of liability) for injury or damage due to the grossly negligent or intentional acts or omissions of Lessor or Lessor's agents or employees.

9.3 PAYMENT BY LESSOR: In the event the Lessor shall be required to pay any sum that is the Lessee's responsibility or liability, the Lessee shall reimburse the Lessor for such payment and for reasonable expenses caused thereby.

9.4 INSURANCE: Lessee shall, at Lessee's sole expense, keep all Improvements continuously insured against loss or damage by fire and the extended coverage hazards for the full replacement value of such Improvements.

Lessee shall, at Lessee's sole expense, maintain continuously in effect liability insurance covering the Leased Premises and Improvements in the amounts of not less than _____ dollars (\$_____) for injury to or death of any one person; and _____ dollars (\$_____) for injury to or death of any number of persons in one occurrence; and _____ dollars (\$_____) for property damage. The dollar amounts of this coverage shall be adjusted at two-year intervals, beginning on the date this Lease is signed, or upon Lessor's demand given not more often than annually, upon 30 days' notice to Lessee. This adjustment shall be equal to the percentage of change (positive or negative), over the period in question, of the Consumer Price Index for urban wage earners and clerical workers for the urban area in which the Leased Premises are located, or, if none, for urban areas the size of _____, or such other index as reasonably measures adjustments in coverage amounts for the applicable type of insurance. Such index is maintained by the Office of Prices and Living Conditions of the Bureau of Labor Statistics, of the U.S. Department of Labor. Such insurance shall specifically insure Lessee against all liability assumed under this Lease, as well as all liability imposed by law, and shall also insure Lessor as an additional insured so as to create the same liability on the part of insurer as though separate policies had been written for Lessor and Lessee.

Lessee shall provide Lessor with copies of all policies and renewals of policies. All policies shall also contain endorsements providing that they shall not be cancelled, reduced in amount or coverage or otherwise modified by the insurance carrier involved without at least thirty (30) days' prior written notice to Lessor. Lessor shall be entitled to participate in the settlement or adjustment of any losses covered by such policies of insurance.



9.5 DAMAGE OR DESTRUCTION: Except as provided below, in the event of fire or other damage to the Improvements, Lessee shall take all steps necessary to ensure the repair of such damage and the restoration of the Improvements to their condition immediately prior to the damage. All such repairs and restoration shall be completed as promptly as possible. Lessee shall also promptly take all steps necessary to ensure that the Leased Premises are safe and that the damaged Improvements do not constitute a danger to persons or property.

If Lessee, using reasonable judgment and relying on professional estimates, determines either (a) that full repair and restoration is physically impossible, or (b) that the available insurance proceeds will pay for less than eighty percent (80%) of the cost of repair and restoration (provided Lessee has fulfilled all the hazard insurance requirements set forth in section 9.4 above), then Lessee may terminate this Lease by written notice to Lessor given not later than sixty (60) days after the event that caused the damage. However, such termination shall not be effective until forty-five (45) days after the date upon which the notice is received by Lessor. During this 45-day period Lessor may seek an adjustment from the insurer so as to increase the available insurance proceeds to an amount covering at least 80 percent of the cost of repair and restoration. If successful in securing such adjustment, Lessor may render Lessee's termination notice null and void by written notice to Lessee within such 45-day period. If Lessor fails to nullify the termination notice in this way, then this Lease shall terminate at the expiration of the 45-day period, and any insurance proceeds payable to Lessee on account of such damage shall be paid as provided below.

The insurance proceeds shall be paid first to cover any expenses of collecting the proceeds. Remaining proceeds shall be paid to the Lessee (or its Permitted Mortgagee to the extent required by the Permitted Mortgage) up to the then applicable Lessor's Purchase Option Price (as of immediately prior to the damage) calculated according to the provisions of Article 10 below. The balance of such proceeds, if any, shall be paid to Lessor.

9.6 EMINENT DOMAIN AND PUBLIC DEDICATION: In the event of a taking of the Leased Premises, either in its entirety or to such extent that the Improvements are lost or damaged beyond repair, by reason of eminent domain or other action of public authority prior to the expiration of this Lease, the Lease shall terminate as of the date Lessee is required to give up possession of the Leased Premises or Improvements, and the entire amount of any award(s) paid shall be allocated in the way described in section 9.5 above for insurance proceeds.

In the event of a taking of a portion of the Leased Premises that does not result in damage to the Improvements or substantial reduction in the usefulness or desirability of the Improvements for residential purposes, then any monetary compensation for such taking shall be allocated entirely to Lessor.

In the event of a taking of a portion of the Leased Premises that results in damage to the Improvements only to such an extent that the Improvements can reasonably be restored to a residential use consistent with this Lease, the Lessor may in its discretion allocate some or all the monetary compensation to enable Lessee to accomplish such a restoration. Any balance remaining after or in the absence of such allocation shall be allocated as provided above for a taking of the entire Leased Premises.

Any and all proceedings brought by a party in connection with any damages as a result of any taking referred to in this section shall be conducted at the sole expense of such party. If any provision of law requires that such proceedings be brought by or in the name of any owner or lessee of the premises, such party shall join in such proceedings or permit the same to be brought in its name. Each party agrees to do all acts and to execute all documents that may be required to enable the other to maintain such proceedings. If the party required to join in the proceedings incurs any cost or expense in doing so, such party shall be entitled to reasonable reimbursement and this entitlement shall constitute a first charge against any award.

9.7 REASSESSMENT OF RENTAL VALUE: In the event of any taking that reduces the size of the Leased Premises but does not result in the termination of the Lease, Lessor shall reassess the fair rental value of the remaining Premises and shall adjust the Ground Lease Fee if necessary to ensure that the monthly fee does not exceed the monthly fair rental value of the premises for use as restricted by the Lease.

9.8 RELOCATION OF LESSEE: In the event of a termination of this Lease as a result of damage, destruction or taking, Lessor shall take reasonable steps to grant Lessee a leasehold interest, similar to the interest created by this Lease, in another tract that it owns, if such other tract can reasonably be made available. In accepting such a leasehold interest, Lessee agrees to contribute any proceeds or award received by Lessee to purchase or develop Improvements on such tract. Lessor's failure to supply such a leasehold interest shall not give rise to any cause of action by Lessee against Lessor.

ARTICLE 10: Transfer, Sale, or Disposition of Improvements

10.1 INTENT: It is the understanding of the parties that the terms of this Lease, and in particular of this Article 10, are intended to preserve the affordability of the Improvements for lower-income households and expand access to homeownership opportunities for such households.

10.2 TRANSFERS TO INCOME-QUALIFIED PERSONS: Lessee may transfer its interest in the Leased Premises or the Improvements only to Lessor or an Income-qualified Person as defined below or otherwise only as explicitly permitted by the provisions of this Article 10. All such transfers shall be subject to Lessor's review and purchase option rights set forth in this Article 10. Any purported transfer done without following the procedures set forth below, except in the case of a transfer to a Permitted Mortgagee in lieu of foreclosure, shall be null and void.



“Income-qualified Person” shall mean a person or group of persons whose household income does not exceed _____ percent (___%) of the median household income for the applicable Standard Metropolitan Statistical Area or County as calculated and adjusted for household size from time to time by the U.S. Department of Housing and Urban Development (HUD) or any successor.

10.3 TRANSFER TO LESSEE'S HEIRS: Upon receipt of notice from the executor of the decedent's estate given within ninety (90) days of the death of Lessee (or the last surviving co-owner of the Improvements) Lessor shall, unless for good cause shown, consent to a transfer of the Improvements and an assumption of this Lease to and by one or more of the possible heirs of Lessee listed below as “a,” “b,” or “c,” provided that a Letter of Stipulation and a Letter of Acknowledgment of legal counsel (similar to those described in Article 1 of this Lease), setting forth the heirs' review, understanding and acceptance of the terms of the Lease, are submitted to Lessor to be attached to the Lease when it is transferred to the heirs.

- a. the spouse of the Lessee; or
- b. the child or children of the Lessee; or
- c. member(s) of the Lessee's household who have resided upon the Premises for at least one year immediately prior to Lessee's death.

Any other heirs, legatees or devisees of Lessee must, in addition to submitting Letters of Stipulation and Acknowledgment as provided above, demonstrate to Lessor's reasonable satisfaction that they are Income-qualified Persons as defined above, or, if unable to do so, shall not be entitled to possession of the Leased Premises but must transfer the Leased Premises in accordance with the provisions of this Article 10.

10.4 LESSEE'S NOTICE OF INTENT TO SELL: In the event that Lessee wishes to assign its interest in the Leased Premises and sell the Improvements, Lessee shall notify Lessor, in writing, of such wish (“the Intent-To-Sell Notice”). Such Notice shall include a statement as to whether Lessee wishes to recommend a prospective buyer as of the date of the Notice.

10.5 APPRAISAL: No later than ten (10) days after Lessor's receipt of Lessee's Intent-To-Sell Notice, a market valuation of the Leased Premises and the Improvements (“the Appraisal”) shall be commissioned to be performed by a mutually acceptable and duly licensed appraiser. Lessor shall commission and pay the cost of such Appraisal. The Appraisal shall be conducted by analysis and comparison of comparable properties as though title to Land and Improvements were held in fee simple absolute, disregarding the restrictions of this Lease on the use of the Land and the transfer of the Improvements. The Appraisal shall state the values contributed by the Land and by the Improvements as separate amounts. Copies of the Appraisal are to be provided to both Lessor and Lessee.

10.6 LESSOR'S PURCHASE OPTION. Upon receipt of an Intent to Sell Notice from Lessee, Lessor shall have the option to purchase the Improvements ("the Purchase Option") at the Purchase Option Price calculated as set forth below.

The Purchase Option is designed to further the purpose of preserving the affordability of the Improvements for succeeding Income-qualified Persons while taking fair account of the investment by the Lessee.

If Lessor elects to purchase the Improvements, Lessor shall exercise the Purchase Option by notifying Lessee, in writing, of such election ("the Notice of Exercise of Option") within forty-five (45) days of the receipt of the Appraisal, or the Option shall expire. Having given such notice, Lessor may either proceed to exercise the Purchase Option directly by purchasing the Improvements, or may assign the Purchase Option to an Income-qualified Person.

The purchase (by Lessor or Lessor's assignee) must be completed within sixty (60) days of Lessor's Notice of Exercise of Option, or Lessee may sell the Improvements as provided in section 10.7 below. The time permitted for the completion of the purchase may be extended by mutual agreement of Lessor and Lessee.

Lessee may recommend to Lessor a prospective buyer who is an Income-qualified Person and is prepared to submit Letters of Stipulation and Acknowledgment indicating informed acceptance of the terms of this Lease. Lessor shall make reasonable efforts to arrange for the assignment of the Purchase Option to such person, unless Lessor determines that its charitable mission is better served by retention of the Improvements for another purpose or transfer of the Improvements to another party.

10.7 IF PURCHASE OPTION EXPIRES: If the Purchase Option has expired or if Lessor has failed to complete the purchase within the 60-day period allowed by section 10.6 above, Lessee may sell the Improvements and assign the Lease to any Income-qualified Person, for not more than the then applicable Purchase Option Price. If, six months after the expiration of the Purchase Option or the expiration of said 60-day period, the Improvements still have not been sold, Lessee may sell the Improvements and assign the Lease, for not more than the then applicable Purchase Option Price, to any party regardless of whether that party is an Income-qualified Person.

10.8 LESSOR'S POWER OF ATTORNEY TO CONDUCT SALE: In the event Lessor does not exercise its option and complete the purchase of the Improvements as set forth above, and Lessee (a) is not then residing in the Improvements and (b) continues to hold the Improvements out for sale but is unable to locate a buyer and execute a binding purchase and sale agreement within one (1) year of the giving of the Intent to Sell Notice, Lessee does hereby appoint Lessor its attorney in fact to seek a buyer, negotiate a reasonable price that furthers the goals set forth in this Lease, sell the property, and distribute proceeds of sale, minus Lessor's costs of sale and reletting and any other sums owed Lessor by Lessee.



10.9 PURCHASE OPTION PRICE: In no event may the Improvements be sold for a price that exceeds the Purchase Option Price. The Purchase Option Price shall be the lesser of (a) the value of the Improvements as determined by the Appraisal commissioned and conducted as provided in 10.5 above or (b) the price calculated in accordance with the formula described below (“the Formula Price”).

10.10 CALCULATION OF THE FORMULA PRICE: The Formula Price shall be equal to Lessee’s Purchase Price, as stated below, plus 25% of the increase in market value of the Improvements, if any, calculated in the way described below.

- *Lessee’s Purchase Price:* The parties agree that the Lessee’s Purchase Price for the Improvements existing on the Leased Premises as of the commencement of the term of this Lease is \$_____.
- *Initial Appraised Value:* The parties agree that the appraised value of the Improvements at the time of Lessee’s purchase (the Initial Appraised Value) is \$_____, as documented by the appraiser’s report attached to this Lease as the exhibit INITIAL APPRAISAL.
- *Increase in Market Value:* The increase in market value of the Improvements equals the appraised value of the Improvements at time of sale, calculated according to section 10.5 above, minus the Initial Appraised Value.
- *Lessee’s Share of Increase in Market Value:* Lessee’s share of the increase in the market value of the Improvements equals twenty-five percent (25%) of the increase in market value as calculated above.
- *Summary of Formula Price:* The Formula Price equals Lessee’s Purchase Price plus Lessee’s Share of Increase in Market Value.

10.11 QUALIFIED PURCHASER’S CHOICE OF NEW LEASE OR ASSIGNMENT OF EXISTING LEASE: An Income-qualified Person who purchases the Improvements in accordance with the provisions of this Article 10 shall have the option of receiving either an assignment of this Lease from the seller, with the approval of Lessor, or a new Lease from Lessor, which new Lease shall be substantially the same as this Lease in the rights, benefits and obligations assigned to Lessee and Lessor.

ARTICLE 11: Assignment and Sublease

Except as otherwise provided in Article 8 (including the exhibit PERMITTED MORTGAGES) and Article 10, Lessee shall not assign, sublease, sell, or otherwise convey any of Lessee’s rights under this Lease without the prior written consent of the Lessor. Lessee agrees that Lessor shall have broad and full discretion to withhold such consent in order to further the mutual purposes and goals set forth in this Lease. If permission is granted, any assignment or sublease shall be subject to the following conditions.

Any such assignment or sublease shall be subject to all the terms of this Lease.

In the case of a sublease, the rental or occupancy fee charged the sublessee shall not be more than that amount charged the Lessee by the Lessor, plus an amount approved by Lessor to cover costs to Lessee for the Improvements.

In the case of an assignment, the total consideration for such assignment and the related sale or transfer of the Improvements shall not exceed the Purchase Option Price as calculated in accordance with Article 10 above.

ARTICLE 12: Default

12.1 MONETARY DEFAULT BY LESSEE: It shall be an event of default if Lessee fails to pay the Ground Lease Fee or other charges required by the terms of this Lease and such failure is not cured by Lessee or a Permitted Mortgagee within thirty (30) days after notice of such failure is given by Lessor to Lessee and Permitted Mortgagee. However, if Lessee shall make a good faith partial payment of at least two thirds (2/3) of the amount owed during such initial 30-day period, then such period shall be extended one additional 30-day period.

12.2 NONMONETARY DEFAULT BY LESSEE: It shall be an event of default if Lessee fails to abide by any other material term or condition in this Lease, and such failure is not cured by Lessee or a Permitted Mortgagee within sixty (60) days after notice of such failure is given by Lessor to Lessee and Permitted Mortgagee. However, in the case where the Lessee or Permitted Mortgagee has commenced to cure such default within such 60-day period and is continuing such cure with all due diligence but cannot by the exercise of due diligence cure such default within such period, such period shall be extended for such additional period as may be reasonably required under the circumstances to complete such cure.

12.3 DEFAULT BY LESSEE RESULTING FROM JUDICIAL PROCESS: It shall be an event of default if the estate hereby created is taken on execution or by other process of law, or if Lessee is judicially declared bankrupt or insolvent according to law, or if any assignment is made of the property of Lessee for the benefit of creditors, or if a receiver, trustee in involuntary bankruptcy or other similar officer is appointed to take charge of any substantial part of Lessee's property by a court of competent jurisdiction, or if a petition is filed for the reorganization of Lessee under any provisions of the Bankruptcy Act now or hereafter enacted, or if Lessee files a petition for such reorganization, or for arrangements under any provision of the Bankruptcy Act now or hereafter enacted and providing a plan for a debtor to settle, satisfy or extend the time for payment of debts.

12.4 TERMINATION: In the case of any of the events of default described above, Lessor may terminate this Lease and initiate summary proceedings against Lessee. Pursuant to such proceedings, without demand or notice, Lessor may enter any part of the Leased Premises and repossess the entire Leased Premises, and expel Lessee



and those claiming rights through Lessee and remove their effects without being guilty of any manner of trespass, and without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant. If this Lease is terminated by Lessor, or if Lessor reenters the Leased Premises pursuant to an Event of Default, the Lessee agrees to pay and be liable for any unpaid Ground Lease Fee, damages which may be due or sustained prior to or in connection with such termination or reentry, and all reasonable costs, fees and expenses (including, without limitation, reasonable attorneys' fees) incurred by Lessor in pursuit of its remedies under this Lease.

If Lessor elects to terminate the Lease, then the Permitted Mortgagee shall have the right (subject to Article 8 above) to postpone and extend the specified date for the termination of the Lease for a period sufficient to enable the Permitted Mortgagee or its designee to acquire Lessee's interest in the Leased Premises by foreclosure of its mortgage or otherwise.

12.5 DEFAULT BY LESSOR: Lessor shall in no event be in default in the performance of any of its obligations under the Lease unless and until Lessor has failed to perform such obligations within sixty (60) days, or such additional time as is reasonably required to correct any default, after notice by Lessee to Lessor properly specifying Lessor's failure to perform any such obligation.

ARTICLE 13: Arbitration

13.1 ARBITRATION PROCESS: Should any grievance or dispute arise between Lessor and Lessee concerning the terms of this Lease that cannot be resolved by normal interaction, the following arbitration procedure shall be used.

Lessor or Lessee shall give written notice to the other of its selection of a disinterested arbitrator. Within fifteen (15) days of the receipt of this written notice, the other party may give written notice to the first party appointing a disinterested arbitrator of its own choice. These two arbitrators shall select a third arbitrator. If the other party fails to name an arbitrator within 15 days of receiving the notice from the first party, the arbitrator selected by the first party shall be the sole arbitrator.

The arbitrator or arbitrators shall hold a hearing within thirty (30) days after the initial written notice by the initiator of the arbitration process. At the hearing Lessor and Lessee shall have an opportunity to present evidence and question witnesses in the presence of each other. As soon as reasonably possible, and in no event later than fifteen (15) days after the hearing, the arbitration panel shall make a written report to the Lessor and Lessee of its findings and decisions, including a personal statement by each arbitrator of his/her decision and the reasons for it. The arbitrators shall decide the dispute or claim in accordance with the substantive law of the jurisdiction and what is just and equitable under the circumstances. The decisions and awards of the majority of the arbitration panel shall be binding and final.

ARTICLE 14: General Provisions

14.1 LESSEE'S MEMBERSHIP IN CLT: The Lessee under this Lease shall automatically be a regular voting member of the CLT.

14.2 NOTICES: Whenever this Lease requires either party to give notice to the other, the notice shall be given in writing and delivered in person or mailed, by certified or registered mail, return receipt requested, to the party at the address set forth below, or such other address designated by like written notice:

If to Lessor: _____ (name of CLT)

with a copy to: _____ (CLT's attorney)

If to Lessee: _____ (name of Lessee)

All notices, demands and requests shall be effective upon being deposited in the United States Mail or, in the case of personal delivery, upon actual receipt.

14.3 NO BROKERAGE: Lessee warrants that it has not dealt with any broker other than _____ in connection with the consummation of this Lease, and in the event any claim is made against Lessor relative to dealings with brokers other than _____, Lessee shall defend the claim against Lessor with counsel of Lessor's selection and save harmless and indemnify Lessor on account of loss, cost or damage which may arise by reason of any such claim.

14.4 SEVERABILITY AND DURATION OF: If any part of this Lease is unenforceable or invalid, such material shall be read out of this Lease and shall not affect the validity of any other part of this Lease or give rise to any cause of action of Lessee or Lessor against the other, and the remainder of this Lease shall be valid and enforced to the fullest extent permitted by law. It is the intention of the parties that their respective options to purchase and all other rights under this Lease shall continue in effect for the full term of this Lease and any renewal thereof, and such options and other rights shall be considered to be coupled with an interest. In the event any such option or right shall be construed to be subject to any rule of law limiting the duration of such option or right, the time period for the exercising of such option or right shall be construed to expire twenty (20) years after the death of the last survivor of the following persons:

Note. List an identifiable group of small children, e.g., the children living as of the date of this Lease of any of the directors or employees of a specified corporation.

14.5 RIGHT OF FIRST REFUSAL IN LIEU OF OPTION: If the provisions of the purchase option set forth in Article 10 of this Lease shall, for any reason, become unenforceable, Lessor shall nevertheless have a right of first refusal to purchase the Improvements at the highest documented bona fide purchase price offer made to Lessee.

Such right shall be as specified in the exhibit FIRST REFUSAL. Any sale or transfer contrary to this section, when applicable, shall be null and void.

14.6 WAIVER: The waiver by Lessor at any given time of any term or condition of this Lease, or the failure of Lessor to take action with respect to any breach of any such term or condition, shall not be deemed to be a waiver of such term or condition with regard to any subsequent breach of such term or condition, or of any other term or condition of the Lease. Lessor may grant waivers in the terms of this Lease, but such waivers must be in writing and signed by Lessor before being effective.

The subsequent acceptance of Ground Lease Fee payments by Lessor shall not be deemed to be a waiver of any preceding breach by Lessee of any term or condition of this Lease, other than the failure of the Lessee to pay the particular Ground Lease Fee so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such Ground Lease Fee payment.

14.7 LESSOR'S RIGHT TO PROSECUTE OR DEFEND: Lessor shall have the right, but shall be under no obligation, to prosecute or defend, in its own or the Lessee's name, any actions or proceedings appropriate to the protection of its title to, and Lessee's interest in, the Leased Premises. Whenever requested by Lessor, Lessee shall give Lessor all reasonable aid in any such action or proceeding.

14.8 CONSTRUCTION: Whenever in this Lease a pronoun is used it shall be construed to represent either the singular or the plural, masculine or feminine, as the case shall demand.

14.9 CAPTIONS AND TABLE OF CONTENTS: The captions and table of contents appearing in this Lease are for convenience only, and are not a part of this Lease and do not in any way limit or amplify the terms or conditions of this Lease.

14.10 PARTIES BOUND: This Lease sets forth the entire agreement between Lessor and Lessee with respect to the leasing of the Land; it is binding upon and inures to the benefit of these parties and, in accordance with the provisions of this Lease, their respective successors in interest. This Lease may be altered or amended only by written notice executed by Lessor and Lessee or their legal representatives or, in accordance with the provisions of this Lease, their successors in interest.

14.11 GOVERNING LAW: This Lease shall be interpreted in accordance with and governed by the laws of _____ [name of state]. The language in all parts of this Lease shall be, in all cases, construed according to its fair meaning and not strictly for or against Lessor or Lessee.

14.12 RECORDING: The parties agree, as an alternative to the recordation of this Lease, to execute a so-called Notice of Lease or Short Form Lease in form record-able and complying with applicable law and reasonably satisfactory to Lessor's attorneys. In no event shall such document set forth the rent or other charges payable by Lessee under this Lease; and any such document shall expressly state that it is executed

pursuant to the provisions contained in this Lease, and is not intended to vary the terms and conditions of this Lease.

IN WITNESS WHEREOF, the parties have executed this lease at _____ on the day and year first above written.

_____ (CLT)

Witness

By: _____

Its duly authorized agent

Witness

Lessee: _____

[Notarize signatures.]

■ Exhibit: LETTERS OF STIPULATION AND ACKNOWLEDGMENT

LETTER OF STIPULATION

To: _____ Community Land Trust (“the CLT”)

Date: _____

This letter is given to the CLT to become an exhibit to a Lease between the CLT and me. I will be leasing a parcel of land from the CLT and will be buying the home that sits on that parcel of land. I will therefore become what is described here as a “CLT homeowner.”

My legal counsel, _____, has explained to me the terms and conditions of the Lease and other legal documents that are part of this transaction. I understand the way these terms and conditions will affect my rights as a CLT homeowner, now and in the future.

In particular I understand and agree with the following points.

- One of the goals of the CLT is to keep CLT homes affordable for lower-income households from one CLT homeowner to the next. I support this goal as a CLT homeowner and as a member of the CLT.
- The terms and conditions of my Lease will keep my home affordable for future “income-qualified persons” (as defined in the lease). If and when I want to sell my home, the lease requires that I sell it either to the CLT or to another income-qualified person. The terms and conditions of the lease also limit the price for which I can sell the home, in order to keep it affordable for such income-qualified persons.
- It is also a goal of the CLT to promote resident ownership of CLT homes. For this reason, my Lease requires that if I and my family move out of our home permanently, we must sell it. We cannot continue to own it as absentee owners.
- I understand that I can leave my home to my child or children or other members of my household and that, after my death, they can own the home for as long as they want to live in it and abide by the terms of the Lease, or they can sell it on the terms permitted by the Lease.
- As a CLT homeowner and a member of the CLT, it is my desire to see the terms of the Lease and related documents honored. I consider these terms fair to me and others.

Sincerely,

LETTER OF ACKNOWLEDGMENT

I, _____, have been independently employed by _____ (hereinafter “the Client”) who intends to purchase a house and other improvements on land to be leased from Community Land Trust (“the CLT”). The house and land are located at _____.

In connection with the contemplated purchase of the house and other improvements and leasing of the land, I reviewed with the Client the following documents relating to the transaction:

- a. this Letter of Acknowledgment and a Letter of Stipulation from the Client
- b. a proposed Deed conveying the house and other improvements to the Client
- c. a proposed Ground Lease conveying the “Leased Premises” to the Client
- d. other written materials provided by the CLT.

The Client has received full and complete information and advice regarding this conveyance and the foregoing documents. My advice and review has been given to reasonably inform the Client of the present and foreseeable risks and legal consequences of the contemplated transaction.

The Client is entering the aforesaid transaction in reliance on her own judgment and upon her investigation of the facts. The full and complete advice and information provided by me was an integral element of such investigation.

Name _____

Date _____

Title _____

Firm/Address _____

■ Exhibit: DEED

WARRANTY DEED

Between

COMMUNITY LAND TRUST ("the CLT"), a not-for-profit corporation having its principal offices at 00 Main Street, Hometown, New York, and

MARY DOE, residing at 0000 Main Street, Hometown, New York.

Witnesseth

That the CLT, in consideration of one dollar and other good and valuable consideration paid by Mary Doe, does hereby grant and release unto Mary Doe, her heirs, or successors and assigns forever,

THE BUILDINGS AND IMPROVEMENTS ONLY, as presently erected on the premises described in Schedule "A" attached hereto and made a part hereof.

It is the intention of the parties that the real property underlying the buildings and improvements conveyed herein remain vested in the CLT and that this warranty deed convey only such buildings and improvements as are presently erected upon the subject premises.

In witness whereof, as authorized agent of the CLT, I hereunto set my hand this _____ day of _____, A.D. 20__.

Signature

[Notarize signature.]

■ Exhibit: PERMITTED MORTGAGES

The provisions set forth in this Exhibit shall be understood to be provisions of Article 8 of the Lease to which the Exhibit is attached and in which the Exhibit is referenced. All terminology used in this Exhibit shall have the meaning assigned to it in the Lease.

A. STANDARD PERMITTED MORTGAGE: A “Standard Permitted Mortgage,” as identified in section 8.1 of the Lease to which this Exhibit is attached, shall be a mortgage that meets the following requirements.

1. Such Mortgage shall run in favor of either (a) a so-called institutional lender such as, but not limited to, a federal, state, or local housing finance agency, a bank (including savings and loan association or insured credit union), an insurance company, a pension and/or profit-sharing fund or trust, or any combination of the foregoing, the policies and procedures of which institutional lender are subject to direct governmental supervision, or (b) a “community development financial institution” as certified by the U.S. Department of the Treasury, or similar nonprofit lender to housing projects for low- and moderate-income persons.
2. Such Mortgage shall be a first lien on all or any of the Improvements and the Lessee’s interest in the Leased Premises (the “Security”).
3. Such Mortgage and related documentation shall provide, among other things, that in the event of a default in any of the mortgagor’s obligations thereunder, the holder of such Mortgage shall notify Lessor of such fact and Lessor shall have the right (but shall not have the obligation) within 120 days after its receipt of such notice, to cure such default in the mortgagor’s name and on mortgagor’s behalf, provided that current payments due the holder during such 120-day period (or such lesser time period as may have been required to cure such default) are made to the holder, and shall further provide that said holder shall not have the right, unless such default shall not have been cured within such time, to accelerate the note secured by such Mortgage or to commence to foreclose under the Mortgage on account of such default.
4. Such Mortgage and related documentation shall provide, among other things, that if after such cure period the holder intends to accelerate the note secured by such Mortgage or initiate foreclosure proceedings under the Mortgage, in accordance with the provisions of this Lease, the holder shall first notify Lessor of its intention to do so and Lessor shall have the right, but not the obligation, upon notifying the holder within thirty (30) days of receipt of said notice from said holder, to pay off the indebtedness secured by such Mortgage and to acquire such Mortgage.



5. Such Mortgage and related documentation shall provide, among other things, that, in the event of foreclosure sale by a Permitted Mortgagee or the delivery of a deed to a Permitted Mortgagee in lieu of foreclosure, upon acquisition of title to the Improvements and the Lessee's interest in the Leased Premises by the Permitted Mortgagee, the Permitted Mortgagee shall give the Lessor written notice of such acquisition and the Lessor shall have an option to purchase the Improvements and acquire the Lessee's interest in the Leased Premises from the Permitted Mortgagee for the full amount owing to the Permitted Mortgagee under the Permitted Mortgage; provided, however, that the Lessor gives written notice to the Permitted Mortgagee of the Lessor's intent to purchase the Improvements and acquire the Lessee's interest in the Leased Premises within thirty (30) days following the Lessor's receipt of the Permitted Mortgagee's notice of such acquisition of the Improvements and Lessee's interest; further provided that Lessor shall complete the purchase of the Improvements and acquisition of Lessee's interest in the Leased Premises within sixty (60) days of having given written notice of its intent to purchase; and provided that, if the Lessor does not complete the purchase within such period, the Permitted Mortgagee shall be free to sell the Improvements and transfer the Lessee's interest in the Leased Premises to another person;
6. Such Mortgage and related documentation shall not contain any provisions other than provisions generally contained in mortgages used for similar transactions in the _____ area by institutional mortgagees.
7. Such Mortgage and related documentation shall not contain any provisions which could be construed as rendering Lessor or any subsequent holder of the Lessor's interest in and to this Lease, or their respective heirs, executors, successors or assigns, personally liable for the payment of the debt evidenced by such note and such Mortgage or any part thereof.
8. Such Mortgage and related documentation shall contain provisions to the effect that the holder of such Mortgage shall not look to Lessor or Lessor's interest in the Leased Premises, but will look solely to Lessee, Lessee's interest in the Leased Premises, the Improvements, or such other buildings and improvements which may from time to time exist on the Leased Premises, for the payment of the debt secured thereby or any part thereof (It is the intention of the parties hereto that Lessor's consent to such Mortgage shall be without any liability on the part of Lessor for any deficiency judgment).
9. Such Mortgage and related documentation shall provide that in the event any part of the Security is taken in condemnation or by right of eminent domain, the proceeds of the award shall be paid over to the holder of the Mortgage in accordance with the provisions of Article 9 hereof.

10. Such Mortgage and related documentation shall contain nothing that obligates Lessor to execute an assignment of the Ground Lease Fee or other rent payable by Lessee under the terms of this Lease.

B. RIGHTS OF PERMITTED MORTGAGEE: The rights of a holder of a Permitted Mortgage (“Permitted Mortgagee”) as referenced under section 8.2 of the Lease to which this Exhibit is attached shall be as set forth below.

1. Permitted Mortgagee shall without requirement of consent by the Lessor have the right, but not the obligation, to:
 - a. cure any default under this Lease, and perform any obligation required under this Lease, such cure or performance by a Permitted Mortgagee being effective as if it had been undertaken and performed by Lessee;
 - b. acquire and convey, assign, transfer, and exercise any right, remedy or privilege granted to Lessee by this Lease or otherwise by law, subject to the provisions, if any, in said Permitted Mortgage, which may limit any exercise of any such right, remedy or privilege; and
 - c. rely upon and enforce any provisions of the Lease to the extent that such provisions are for the benefit of Permitted Mortgagee.
2. Permitted Mortgagee shall not, as a condition to the exercise of its rights under the Lease, be required to assume personal liability for the payment and performance of the obligations of the Lessee under the Lease. Any such payment or performance or other act by Permitted Mortgagee under the Lease shall not be construed as an agreement by Permitted Mortgagee to assume such personal liability except to the extent Permitted Mortgagee actually takes possession of the Security and the premises. In the event Permitted Mortgagee does take possession of the Security and thereupon transfers the Security, any such transferee shall be required to enter into a written agreement assuming such personal liability and upon any such assumption the Permitted Mortgagee shall automatically be released from personal liability under the Lease.
3. In the event that title to the estates of both Lessor and Lessee shall be acquired at any time by the same person or persons, no merger of these estates shall occur without the prior written declaration of merger by Permitted Mortgagee, so long as Permitted Mortgagee owns any interest in the Security or in a Permitted Mortgage. In the event that the estate of Lessor is owned at any time by Lessee (regardless of a merger), or by any person in which Lessee has a direct or indirect interest, Permitted Mortgagee shall not be obligated to cure any default of Lessee under the Lease as condition to the forbearance by Lessor in the exercise of Lessor’s remedies as provided in the Lease.



4. If the Lease is terminated for any reason, or in the event of the rejection or disaffirmance of the Lease pursuant to bankruptcy law or other law affecting creditors' rights, Lessor shall enter into a new lease of the Leased Premises with the Permitted Mortgagee (or with any party designated by the Permitted Mortgagee, subject to Lessor's approval, which approval shall not be unreasonably withheld), not more than thirty (30) days after the request of the Permitted Mortgagee. Such lease shall be for the remainder of the term of the Lease, effective as of the date of such termination, rejection, or disaffirmance, and upon all the terms and provisions contained in the Lease. However, the Permitted Mortgagee shall make a written request to Lessor for such new lease within sixty (60) days after the effective date of such termination, rejection, or disaffirmance, as the case may be. Such written request shall be accompanied by a copy of such new lease, duly executed and acknowledged by the Permitted Mortgagee or the party designated by the Permitted Mortgagee to be the Lessee thereunder, and the Permitted Mortgagee shall have cured all defaults under the Lease which can be cured by the payment of money. Any new lease made pursuant to this section shall have the same priority with respect to other interests in the Premises as the Lease. The provisions of this section shall survive the termination, rejection, or disaffirmance of the Lease and shall continue in full effect thereafter to the same extent as if this section were independent and an independent contract made by Lessor, Lessee, and the Permitted Mortgagee.
5. The Lessor shall have no right to terminate the Lease during such time as the Permitted Mortgagee has commenced foreclosure in accordance with the provisions of the Lease and is diligently pursuing the same.
6. In the event that Lessor sends a notice of default under the Lease to Lessee, Lessor shall also send a notice of Lessee's default to Permitted Mortgagee. Such notice shall be given in the manner set forth in section 14.2 of the Lease to the Permitted Mortgagee at the address that has been given by the Permitted Mortgagee to Lessor by a written notice to Lessor sent in the manner set forth in said section 14.2 of the Lease.

■ Exhibit: FIRST REFUSAL

Whenever any party under the Ground Lease shall have a right of first refusal as to certain property, the following procedures shall apply. If the owner of the property offering it for sale (“Offering Party”) shall within the term of the Ground Lease receive a bona fide, third-party offer to purchase the property that such Offering Party is willing to accept, the holder of the right of first refusal (the “Holder”) shall have the following rights:

- a. Offering Party shall give written notice of such offer (“the Notice of Offer”) to Holder setting forth (a) the name and address of the prospective purchaser of the property, (b) the purchase price offered by the prospective purchaser and (c) all other terms and conditions of the sale. Holder shall have a period of forty-five (45) days after the receipt of the Notice of Offer (“the Election Period”) within which to exercise the right of first refusal by giving notice of intent to purchase the property (“the Notice of Intent to Purchase”) for the same price and on the same terms and conditions set forth in the Notice of Offer. Such Notice of Intent to Purchase shall be given in writing to the Offering Party within the Election Period.
- b. If Holder exercises the right to purchase the property, such purchase shall be completed within sixty (60) days after the Notice of Intent to Purchase is given by Holder (or if the Notice of Offer shall specify a later date for closing, such date) by performance of the terms and conditions of the Notice of Offer, including payment of the purchase price provided therein.
- c. Should Holder fail to exercise the right of first refusal within the Election Period, then the Offering Party shall have the right (subject to any other applicable restrictions in the Ground Lease) to go forward with the sale which the Offering Party desires to accept, and to sell the property within one (1) year following the expiration of the Election Period on terms and conditions which are not materially more favorable to the purchaser than those set forth in the Notice. If the sale is not consummated within such one-year period, the Offering Party’s right so to sell shall end, and all the foregoing provisions of this section shall be applied again to any future offer, all as aforesaid. If a sale is consummated within such one-year period, the purchaser shall purchase subject to a renewed right of first refusal in said property.

■ Other Exhibits To Be Attached as Appropriate

PREMISES

Correct legal description of area of Leased Premises and appurtenant title rights and obligations

ZONING

Setting forth applicable zoning restrictions as of the commencement of the Lease

RESTRICTIONS

To be attached when necessary to stipulate use restrictions not included under Zoning

INITIAL APPRAISAL

To be attached if Lease contains an "appraisal-based" resale formula

2.5 *Nonvoting Members.* The Board may by resolution adopt policies and procedures for nonvoting members, who may include (but need not be limited to) persons who have paid the annual dues established for the current calendar year, but who do not wish to be Voting Members. Nonvoting members shall have no right to vote on any matter, including their status as members.

2.6 *Membership Meetings*

(a) *Notice of Meetings.* Written notice of every membership meeting shall be given to all Voting Members and shall include a proposed agenda for the meeting. Notice shall be sent at least ten and not more than 60 days prior to a meeting.

(b) *Annual Meetings.* Subsequent to the first annual meeting, each annual meeting of the members (for reports to the membership by the Board of Directors and officers, the election of directors, and the transaction of other business) shall be held in the fourth quarter of each year. The location and specific time of the annual meeting shall be determined by the Board of Directors. Notice of the annual meeting shall include a list of those persons nominated for the Board of Directors as provided in Article 3 of these bylaws.

(c) *Regular Meetings.* Regular meetings may be scheduled by the Voting Membership at such times and places as they shall establish at any duly-called meeting.

(d) *Special Meetings.* Special membership meetings may be called by the Board of Directors and shall be called by the President of the corporation at the written request, addressed to the President, of at least one-tenth of the Voting Members. At a special meeting, only those matters stated on the agenda, as included in the notice of the meeting, may be acted upon by the membership.

(e) *Minutes.* Minutes of all membership meetings shall be recorded by the Secretary of the corporation or by another person designated by the Board of Directors. Minutes for every meeting shall be approved by the Voting Members at the next membership meeting.

(f) *Quorum and Voting.* Except as otherwise required by law, the Articles of Incorporation, or these bylaws, a quorum at any meeting of the members shall consist of those Voting Members present in person or by proxy at the meeting. Members may vote at any duly-called meeting in person or by proxy. ***[Some organizations may wish to impose specific quorum requirements for Members' meetings—for example, requiring that a quorum requires the presence of at least 20% of the Voting Members.]***

ARTICLE 3: Board of Directors

3.1 *Number of Directors; Voting.* Except for the initial Board named in the Actions of Incorporators, the Board of Directors shall consist of twelve directors. Each director shall have one vote on all matters that come before the Board unless these bylaws specify that voting on a matter shall be by category of director.

3.2 *Composition of the Board.* There shall be three categories of directors, each consisting of four directors, or one-third of the total Board. The three categories shall be Lessee Directors, General Directors, and Public Directors.

3.3 *Nomination of Directors.* For all regular elections subsequent to the first annual meeting of the membership, directors shall be nominated as follows:

(a) *Lessee Directors*

(1) Lessee Members may nominate Lessee Directors to the Board from among themselves. These nominations must either be submitted in writing to the Secretary of the corporation at least 30 days prior to the annual membership meeting or be made from the floor at the meeting.

(2) If the number of nominations for Lessee Director received under paragraph (1) above is less than the number of Lessee Director seats to be filled, the Board of Directors may nominate enough candidates so that the total number of candidates is sufficient to fill the number of seats to be filled. In making nominations, the Board shall select actual Lessee Members to the extent they are available to serve on the Board of Directors. If there are not enough Lessee Members available to serve, the Board may select persons who can reasonably be expected to represent the interests of Lessee Members.

(b) *General Directors*

(1) General Members may nominate General Directors to the Board from among themselves. These nominations must either be submitted in writing to the Secretary of the corporation at least 30 days prior to the annual membership meeting or be made from the floor at the meeting.

(2) If the number of nominations for General Director received under paragraph (1) above is less than the number of General Director seats to be filled, the Board of Directors may nominate enough candidates so that the total number of candidates is sufficient to fill the number of seats to be filled.

(c) *Public Directors.* At least 30 days prior to the annual meeting of the membership, the Board of Directors shall elect Public Directors to the Board.

(d) *Notice of Nominations and of Election of Public Directors.* A list of all persons nominated for Lessee Director and for General Director, and a list of the persons elected by the Board as Public Directors, shall be included with the notice of the annual meeting of the members.

3.4 *Election of Lessee Directors and General Directors.* Lessee Directors and General Directors shall be elected in accordance with the following procedures.

(a) *Voting by Class.* At the annual meeting of members, separate votes shall be taken for the Lessee Directors and for the General Directors. If a person has been nominated in more than one category and is then elected in one category, that person's name shall be removed from the list of nominees in the remaining category. Only Lessee Members may vote to elect Lessee Directors, and each Lessee Member may vote for as many nominees in this category as there are Lessee Director seats to be filled. Similarly, only General Members may vote to elect General Directors, and each General Member may vote for as many nominees in this category as there are General Director seats to be filled.

(b) *Election by Plurality Vote.* In each of the two categories, positions shall be filled by those candidates receiving the largest numbers of votes in the category, though such numbers may constitute less than a majority of the total votes cast in the category.

3.5 *Vacancies*

(a) *Appointment to Fill Vacancies.* If any director vacates his or her term or is removed from the Board, the remaining directors in that category may appoint a person to fill the vacancy or decide to leave the position vacant until the next annual meeting (of the membership or the Board, as the case may be), provided the Board still includes at least three directors in each category. Appointments to fill vacancies shall be by a majority of the directors remaining in the applicable category.

(b) *Qualifications of Replacements.* Any person appointed to fill a vacancy on the Board of Directors must be one who can be reasonably expected to represent the interests of the constituents in the category (Lessee, General, or Public) in which the vacancy occurs.

(c) *Term of Replacements.* A replacement director appointed by the Board shall serve out the remaining term of the person who has vacated the position.

3.6 *Low-Income Representation.* In their actions regarding the nomination and election of directors and appointment of people to fill vacancies on the Board of Directors, the membership and the Board shall at all times assure that at least one third of the Board is maintained for residents of low-income neighborhoods, other low-income community residents, or elected representatives of low-income neighborhood organizations. **[Optional; use for an organization that wishes to qualify as a CHODO.]**

3.7 *Terms of Directors*

(a) *Terms of First Elected Directors.* After the election of Lessee Directors and General Directors at the first annual meetings of the membership and the Board, each director (including the Public Directors) shall be assigned, by mutual agreement or by lot, to a one-year or two-year term. In each of the three categories of directors, two directors shall be assigned a one-year term and two shall be assigned a two-year term.

(b) *Terms of Successor Directors.* Except as otherwise provided in these bylaws, each director shall serve a full term of two years.

(c) *Commencement of Terms.* The term of office of a regularly elected Lessee Director or General Director shall commence at the adjournment of the annual membership meeting at which the director is elected. Similarly, the term of office of a Public Director shall commence at the adjournment of the annual membership meeting following the Board meeting at which the Public Director was elected. The term of office of a director appointed by the Board to fill a vacancy shall begin at the time of the appointment.

(d) *Reelection.* No person shall serve as a director for more than three full consecutive terms. After a year's absence from the Board, however, a person who has served three full consecutive terms may return to the Board.

3.8 *Resignation.* Any director may resign at any time by giving written notice to the President. Unless otherwise specified in the notice, such resignation shall be effective upon the receipt of notice by the President.

3.9 *Removal*

(a) *Lessee Directors and General Directors.* A Lessee Director or General Director may be removed with or without cause:

(1) at any meeting of the members, by the affirmative vote (in person or by proxy) of a majority of all members in the class that elected the director, or

(2) at any meeting of the Board of Directors, by (i) the majority vote of the class of directors to which the director belongs and (ii) the majority vote of either remaining class of directors.

(b) *Public Directors.* A Public Director may be removed with or without cause by a two-thirds vote of the full Board of Directors, at any meeting of the Board.

3.10 *Meetings of the Board of Directors*

(a) *Notice of Meetings.* Except as provided below for emergency meetings, written notice of a Board meeting shall be sent to all directors at least five days prior to the meeting. The Board may by resolution adopt policies and procedures for delivery of written notice by electronic means, which may include delivery by electronic mail or facsimile transmission.

(b) *Waiver of Notice.* Any director may waive any notice required by these bylaws, either before or after the meeting. Any director who was not sent notice of a Board meeting but attends the meeting shall be considered to have waived notice of the meeting, unless the director objects at the beginning of the meeting that the meeting was not duly called.

(c) *Annual Meeting.* The annual meeting of the Board of Directors may be held immediately following the annual membership meeting and must be held no later than six weeks following the annual membership meeting.

(d) *Voting Meetings.* The Board of Directors shall meet no less often than quarterly, at such times and places as the Board may establish.

(e) *Special Meetings and Emergency Meetings.* Special meetings of the Board may be called by the President, and shall be called by the President at the written request of any three directors or at least one-tenth of the Voting Members. Notice must be given as provided in paragraph (a) above, unless any three directors determine in writing that the matter at hand constitutes an emergency. When so determined, an emergency meeting may be called on one day's notice. Notice of emergency meetings, including an announcement of the agenda, shall be given by telephone or in person to all directors. At any special or emergency meeting of the Board, only those matters included in the announced agenda may be acted upon unless all the directors are present at the meeting and unanimously agree to take action on other matters.

3.11 *Procedures for Meetings of the Board of Directors*

(a) *Attendance at Meetings by Third Parties; Executive Sessions.* The Board may by resolution adopt policies and procedures for attendance by third parties at Board meetings and for the Board's going into executive session.

(b) *Quorum and Voting Requirements.* A majority of the directors then in office and a majority of any committee appointed by the Board constitutes a quorum for the transaction of business. The vote of a majority of the directors or committee members present at any meeting at which there is a quorum shall be the act of the Board or the committee (provided that, as to Board meetings, at least one director from each of the three categories of directors is present), except as a different or larger vote may be required by law, the Articles of Incorporation, or these bylaws. A member of the Board or of a committee may participate in a meeting by conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear one another. Participation in a meeting in this manner constitutes presence in person at the meeting.

(c) *Minutes.* Minutes of all Board meetings shall be recorded by the Secretary or by such other person as the Board may designate and shall be approved by the Board at a subsequent meeting. All minutes of Board meetings shall be kept on permanent record by the corporation and shall be open for inspection by any member of the corporation.

3.12 *Action without a Meeting.* Any action required or permitted at any meeting of the Board of Directors or a committee thereof may be taken without a meeting, without prior notice and without a vote, if all of the directors or committee members entitled to vote thereon consent in writing. The written consents shall be filed with the minutes of the proceedings and shall have the same effect as a vote for all purposes.

3.13 *Duties of the Board of Directors.* The Board of Directors shall carry out the purposes of the corporation, implement the decisions of the Voting Membership, and be responsible for the general management of the affairs of the corporation in accordance with these bylaws.

3.14 *Compensation.* Directors shall not receive anything of more than nominal value from the corporation for serving as a director other than reasonable per diem compensation and reimbursement for actual, reasonable, and necessary expenses incurred by the director in his or her capacity as a director. Notwithstanding the foregoing, the corporation may purchase insurance as provided in section 8.5 and provide reasonable compensation to a director for services which are beyond the scope of the director's duties as a director.

ARTICLE 4: Officers

4.1 *Designation.* The officers of the corporation shall be President, Secretary, and Treasurer. The Board also may appoint a Vice President and establish such additional offices as it deems necessary or desirable.

4.2 *Appointment.* The officers of the corporation shall be appointed at the annual meeting of the Board. A vacancy occurring in any office shall be filled by the Board for the unexpired term.

4.3 *Term.* The officers shall hold office until the next annual meeting of the Board after their election, unless, before such time, they resign or are removed from office.

4.4 *Removal from Office.* The officers shall serve at the pleasure of the Board of Directors and may be removed at any time by the affirmative vote of a majority of the full Board.

4.5 *President.* The President shall be the chief executive officer of the corporation, and, as such, under the direction of the Board of Directors shall have power, on behalf of the Board, to perform all acts, execute and deliver all documents and take all steps that the President may deem necessary or desirable in order to effectuate the actions and policies of the Board.

4.6 *Vice President.* In the absence or disability of the President, the Vice President (if one is appointed) shall perform the duties and exercise the powers of the President and shall perform such other duties as the Board of Directors shall prescribe.

4.7 *Secretary.* The Secretary (or, in the Secretary's absence or incapacity, an Assistant Secretary) shall send or cause to be sent all required notices of meetings of the Board of Directors, shall receive and attend to all correspondence of the Board of Directors, shall have custody of all documents belonging to the corporation (except as otherwise provided in these bylaws or by resolution of the Board) and of the corporate seal (if any), and shall perform such other duties as usually pertain to the office or as shall be determined from time to time by the Board of Directors.

4.8 *Treasurer.* The Treasurer (or, in the Treasurer's absence or incapacity, an Assistant Treasurer) shall see that an accounting system is maintained that will give a true and accurate accounting of the financial transactions of the corporation; shall render reports from time to time as requested by the Board of Directors of the Treasurer's activities and the financial condition of the corporation, and shall perform such other duties as usually pertain to the office or as shall be determined from time to time by the Board of Directors.

ARTICLE 5: Stewardship of Land

5.1 *Principles of Land Use.* The Board of Directors shall oversee the use of land owned by the corporation and shall convey the right to use such land so as to facilitate access to affordable housing by low-income [or low- and moderate-income] people. In so doing, the Board shall seek to assure that the use of land owned by the corporation is consistent with the corporation's purposes.

5.2 *Sale of Land.* Land owned by the corporation may be sold only pursuant to a resolution adopted by the vote of at least two-thirds of the full Board of Directors at a duly-called meeting. The Board shall by resolution adopt additional policies and procedures governing the sale of land owned by the corporation to assure that any such sale is consistent with the corporation's purposes.

ARTICLE 6: Ownership of Improvements and Limitations on Resale

6.1 *Ownership of Housing and Improvements; Preservation of Affordability.* The Board shall adopt policies intended to promote and preserve the ownership and affordability of housing and other improvements for low-income [or low- and moderate-income] people.

6.2 *Restrictions on Resale to Preserve Affordability.* Whenever its purpose is to preserve affordability, the corporation shall restrict the price that ground lessees may receive when they sell housing and other improvements located on the land that is leased to them by the corporation. A policy establishing such restriction, which may include the use of a resale formula, shall be adopted by (and subsequently may be amended or rescinded only by) the affirmative vote of two-thirds of the full Board of Directors.

ARTICLE 7: Amendment of Articles of Incorporation and Bylaws

7.1 The articles of incorporation may be amended only by the affirmative vote of both classes of Voting Members present at any duly-called membership meeting, provided that (a) the written notice of the meeting set forth the text of or a summary of the proposed amendment, and (b) at least one-third of each class of Voting Members is in attendance at the meeting in person or by proxy.

7.2 These bylaws may be amended only as follows:

(a) For all bylaw provisions other than sections 3.9, 7.1, and 7.2 (which may be amended only by the Voting Members), by the affirmative vote of two-thirds of the full Board of Directors, provided that (1) the written notice of the meeting set forth the text of or a summary of the proposed amendment, and (2) at least one-half of each class of directors voted in the affirmative, or

(b) For all bylaw provisions, by the affirmative vote of both classes of Voting Members present at any duly-called membership meeting, provided that (1) the written notice of the meeting set forth the text of or a summary of the proposed amendment, and (2) at least one-third of each class of Voting Members is in attendance at the meeting in person or by proxy.

ARTICLE 8: Miscellaneous Provisions

8.1 *Fiscal Year.* The fiscal year of the corporation shall be the calendar year.

8.2 *Checks, etc.* All checks, drafts, endorsements, notes and evidences of indebtedness of the corporation shall be signed by such officers or agents of the corporation and in such manner as the Board of Directors from time to time may determine. Endorsements for deposits to the credit of the corporation shall be made in such manner as the Board may from time to time determine.

8.3 *Loans by the Corporation.* No loans or advances shall be contracted on behalf of the corporation, and no note or other evidence of indebtedness shall be issued in its name, except as authorized by the Board of Directors. Any such authorization shall relate to specific transactions.

8.4 *Contracts and Borrowings by the Corporation.* The Board shall adopt policies and procedures governing the execution of contracts entered into by the corporation and borrowings made by the corporation.

8.5 *Indemnification.* Each person who is or was a director, officer, or member of a committee of the corporation and each person who serves or has served at the request of the corporation as a director, officer, partner, employee or agent of any other corporation, partnership, joint venture, trust or other enterprise shall be indemnified by the corporation to the fullest extent permitted by the laws of the State of Michigan as they may be in effect from time to time. The corporation may, to the extent authorized from time to time by the Board, grant rights to indemnification to any employee, non-director volunteer, or agent of the corporation to the fullest extent provided under the laws of the State of Michigan as they may be in effect from time to time. The corporation may purchase and maintain insurance on behalf of any such person against any liability asserted against and incurred by such person in any such capacity or arising out of his status



220 Bagley Ave., Ste. 900
Detroit, MI 48226
313-964-4130
(fax) 313-964-1192
www.clronline.org/clt



as such, whether or not the corporation would have power to indemnify such person against such liability under the preceding sentences.

*This sample document is a product of the Community Legal Resources Community Land Trust Project. **Please check the CLR CLT Project website for updates to this document:** www.clronline.org/clt.*

This publication is intended to provide general information, and is not a substitute for legal advice. If you have additional questions about this issue, contact Community Legal Resources at 313/964-4130.

The CLR CLT Project was made possible through the generous support of the Michigan State Housing Development Authority.

Printing of the CLR CLT Project publications was made possible through the generous support of MASCO Corporation.

© 2005 Community Legal Resources

Bibliography

LISC New York City
New York City Charter and Administrative Code
Rules of the City of New York
Laws of New York State
The Law Office of David Parker Esq.
Picture the Homeless
AOL Real Estate
The Washington Post
Bloomberg
Pratt Institute Center for Community and Environmental Development
New York City Department of City Planning
New York City Department of Housing Preservation and Development
New York City Small Business Services
Furman Center, New York University
The National Community Land Trust Network
The Lincoln Institute of Land Policy
The Urban Homesteading Assistance Board (UHAB)