HAC

Housing Assistance Council

COMMUNITY
LAND TRUSTS
AND RURAL HOUSING

$4.00
April 1993

Housing Assistance Council
1025 Vermont Avenue, N.W.
Suite 606
Washington, DC 20005
202-842-8600 (voice)
202-347-3441 (fax)
hac@ruralhome.org
http://www.ruralhome.org

ISBN 1-58064-058-3

The Housing Assistance Council (HAC), founded in 1971, is a nonprofit corporation that supports the development of housing for rural, low-income people nationwide. HAC provides technical housing services, seed money loans, housing program and policy analysis, research and demonstration projects, and training and information services to public, nonprofit and private organizations. HAC is an equal opportunity lender.

HAC wrote this document during fiscal year 1992. The Department of Housing and Urban Development funded the work performed under contract #DU-100C900016672. The accuracy of the statements contained in this report is the responsibility of HAC. These statements do not necessarily reflect the views of the Department of Housing and Urban Development.

This paper was prepared by Susan Peck at HAC. The author would like to extend her gratitude to Helen Cohen, Institute for Community Economics, San Francisco, CA and Martin Hahn, Institute for Community Economics, Springfield, MA, for both the materials they provided and their valuable insights; Peter Fisher and Jeannie Beck, OPAL CLT, Orcas Island, WA; Sandy Bishop, Lopez CLT, Lopez Island, WA; Rick DeAngelis, Central Vermont CLT, Montpelier, VT; and John Glasheen and Jordan Ash, Action CLT and South County Community Action Council, Peace Dale, RI, for their generosity of time, information, and spirit. The community land trust concept is the brainchild of the Institute for Community Economics, and their many written materials have been invaluable to this report.

TABLE OF CONTENTS

INTRODUCTION:
COMMUNITY LAND TRUSTS AND RURAL HOUSING

Preservation of land in perpetuity for a specific purpose is not uncommon in the United States. Our national parks and wilderness areas provide obvious examples of such preservation. What is less common and of recent origin is the developing movement toward land preservation in perpetuity to achieve smaller, *community*, rather than national or even state, goals. In just over a decade, the concept of a *community land trust* to preserve land for the development or preservation of housing for low- and very low-income households has grown to the extent of formal recognition not only by its advocates and practitioners, but by governmental entities, lending institutions, and the media. Although never heralded as a panacea for the nation's low-income housing woes, the community land trust offers an alternative to some of the pressing issues surrounding low-income housing development, particularly in rural America.

In many parts of rural America, the competition for decent and affordable housing has heightened. City dwellers are escaping to the "country," often finding more housing for the dollar and certainly housing more affordable than in urban areas. But rural housing and raw land prices are rising in response to the plentiful dollars the transplanted city dwellers bring. Additionally, in many areas of the United States, environmental considerations are restricting housing development, thereby driving up the cost of land suitable for building. Add to this steadily increasing permit fees and other assessments, and the cost of rural housing has risen beyond the reach of most low- and very low-income rural households. As their needs have increased, governmental subsidy programs to reduce housing costs have declined, leaving a substantial gap.

In an attempt to bring down the cost of rural housing financed by the Farmers Home Administration (FmHA), the agency adopted certain cost containment provisions several years ago. Although reducing the size of family living space may reduce development costs somewhat, the real issue of the housing/financing costs versus rural incomes is not addressed.[1] Nor does cost containment address the continuing supply issue, particularly in single-family homeownership. When the home belonging to a low- or very low-income household is sold, anyone may buy it and at whatever price is considered acceptable to the buyer and the seller. What may be currently affordable housing could be lost forever from the low-income housing supply. This has also been the experience in thousands of rural rental housing units financed by the Farmers Home Administration's Section 515 program prior to enactment of restrictions on the prepayment of loans. Mortgage prepayments led to the conversion of these developments into higher income rental housing; the result was displacement of tenants who could no longer afford the rent.

In response to the conditions in which rural America now finds itself emerges the *community land trust* -- CLT. This organizational structure generally operates in a specific community or region. The organization acquires land for the common use of its membership through a lease arrangement. Use of the land is restricted by the covenants of the community land trust, and the sale of any improvements (such as housing) is restricted. The community land trust has a right of first refusal to purchase the improvements and make them available to another purchaser at an affordable price. Most housing appreciation is due to the land itself, not the improvements. Since the community land trust owns the land in perpetuity, there is no land appreciation to pass on to future owners or tenants, thereby holding down purchase or rental costs. And depending on how the property was acquired -- through, for example, a donation, bargain sale, grant of funds, or subsidized loan -- there are varying savings passed on to the CLT homeowner or tenant. This enables lower-income households to obtain the housing in the first place.

The community land trust concept has been modeled by the Institute for Community Economics (ICE), now located in Springfield, Massachusetts. Most of the conceptual thinking, the legal framework, the promotion and the training and technical assistance that surround the community land trust model in this country are the result of ICE staff efforts. For this reason, most of the background information for this report is attributed to ICE staff and, to a large extent, the organization's written materials. ICE has fostered a movement that now reaches not only into neighborhoods and communities, but into government programs and private lending institutions. Some states administer programs specifically targeted to community land trusts, and some financial institutions, most notably Fannie Mae, have designed "products" specifically for community land trust assistance.

The range of people and institutions now interested in community land trusts or actively involved in their implementation is growing. This is largely due to the efforts of ICE. The land trust idea is not spreading like a wildfire in the rural, low-income housing development movement, but it is spreading gradually. This is, in fact, appropriate. Implementation of the CLT concept is complex and the participants need to understand thoroughly what their property rights and responsibilities are. This takes time and the development of trust among the households that comprise their particular community.

This report is not intended to be a primer on the community land trust model; ICE has many publications that serve that purpose.[2] In Section I, the report relates what a community land trust is, in its conceptual and legal structures. Section II discusses financing needs and the resources that exist to address those needs in whole or in part. In Section III, there is a discussion of both the possibilities and the cautions in applying the CLT model to rural, low-income housing development. And, finally, in Section IV, some case histories of developed and planned rural housing CLTs are presented. For the most part, Section I relies on materials prepared by ICE staff and associates and on discussions with their staff. Section IV relies primarily on telephone interviews with community land trust staff and founders.

I. THE COMMUNITY LAND TRUST MODEL

What is it?

The issues of land control, land availability, land use and land costs have reached a critical juncture in rural America. With urbanization, environmental awareness, household mobility, and shrinking governmental budgets, the availability of and costs of securing and developing land suitable for building have risen dramatically during the past decade. At the same time, incomes in much of rural America have remained steady or declined; rarely have they grown to meet the increasing costs of land and housing. As a result, lower-income rural households generally cannot afford to compete in their local housing markets. The choices often are limited: pay an exorbitant amount of income for housing thereby leaving too little for other essentials, combine households thereby causing overcrowding, or move away.

The community land trust (CLT) model, as promoted by its contemporary innovator, the Institute for Community Economics (ICE), addresses the issues of affordability, availability and security of tenure, offering an alternative -- and a positive choice -- for its followers. A community land trust is essentially an organization that owns land and makes it available on a long term basis for specific community use. Ownership of land is separated from ownership of its use or uses. These uses may vary according to local community needs, but in several parts of rural America, the CLT model is being used to provide homeownership for lower-income individuals and families at a price they can afford.

A. BASIC PRINCIPLES

ICE promotes certain basic principles -- for the individual, and for the community at large -- in the implementation of the community land trust model. For the individual, there is *security, earned equity, and a reasonable legacy*.[3] The community land trust model provides the individual with access to decent and affordable housing that probably would not be available otherwise and that will remain permanently affordable. This provides "security" of tenure for both homeowners and renters that is essential to the individual. Land and housing are removed from the speculative market, there is no absentee ownership, and there is a support network to help participants with declining incomes to retain their housing.

For homeowners under the community land trust model, equity may be earned on home improvements, providing some compensation should they need to sell, but the equity is configured so that the next purchaser will also meet the income guidelines established by the CLT membership. This provides economic fairness to the seller and perpetual access to low-income purchasers. Such an arrangement is identified with limited equity cooperatives and with some other homeownership programs, as well.

Finally, the CLT model recognizes that the development of a house and of a home life extends beyond the current generation and that the opportunity for continuity upon the current owner's death is important. A house developed on CLT land may be inherited by a family member and may be retained by that member as long as the house is used for the purposes for which it was built. In most cases this will mean occupancy by the succeeding family member(s), as absentee ownership and rental of ownership housing are not allowed.

For the community, which may be loosely defined as the CLT membership or the community at large, ICE recognizes similar principles, but with more long term ramifications. These are *access, equity, and legacy*. Long term access to the land for the purposes for which it was obtained -- affordable housing, in this instance -- is considered essential to a community's security. Moreover, the CLT must retain the "value" or "equity" it puts into the land (improvements, conservation, maintenance of open space) and the value it helps nurture among its members. Finally, the CLT has an obligation to maintain the environment for future generations. The CLT model creates a land steward for generations to come.

B. ORGANIZATIONAL STRUCTURE

Governing Body

A community land trust, according to ICE, is a nonprofit "organization created to hold land for the benefit of the community and of individuals within the community." It is a democratically controlled organization with an open membership -- participants in a CLT development automatically become members -- and a board of directors that generally adheres to this model:

- one-third trust land residents;
- one-third other community residents; and
- one-third public interest representatives.[4]

Board members are elected by the membership for specific terms, thereby giving the membership active control of the organization. It is the membership that decides the purpose(s) for which the CLT's land will be used. The board composition and the open membership make this an intensely grass roots organization.

Like nonprofit housing development corporations in general, community land trusts come into being in response to unmet community needs, but their conception varies. In some instances, they are the logical offshoot of an ongoing social service organization, such as a community action agency, that creates a legal entity better able to focus specifically on housing development. The CLT becomes the organizational vehicle for achieving certain objectives. In other instances, local people, struggling with their specific land/housing needs and determined to find a communal solution, may arrive at the CLT model as the most appropriate vehicle for maintaining control of what they conclude is their shared destiny. Sometimes, an opportunity -- low cost or donated land -- presents itself, and the locality might seize on the CLT model as the most reasonable way to control development for the benefit of the community.

Some nonprofit housing development corporations (HDCs) may have a board requirement that direct beneficiaries of the organization serve on the board of directors, but many do not. And few nonprofit HDCs are membership organizations. These distinctions are made only to point out the considerable local control by beneficiaries that the community land trust proponents and participants consider its cornerstone. The term "empowerment" has been used frequently in recent years, not always appropriately, but it seems well applied to participants in a community land trust dedicated to low-income housing. The participants decide the purposes for which their organization will strive, reap the benefits (affordable housing) of those decisions, and control their future enjoyment of those benefits through appropriate stewardship of their land/housing resources.

Legal Entity

The CLT nonprofit corporation typically is created under Section 501(c)(3) of the Internal Revenue Code, which enables the corporation to operate without paying federal income tax and, importantly, to receive tax deductible contributions and foundation grants. To maintain good relations with the local community, however, the CLT almost always pays property tax on the land and any improvements that it owns. Homeowners pay property tax on their own homes, minus the land value.

To obtain its 501(c)(3) tax status, a CLT created for housing purposes must prove that it is organized and operated for charitable purposes. Generally, an organization whose activities serve the housing needs of lower-income households would meet the charitable purposes criterion; however, the Internal Revenue Service is closely reviewing organizations claiming these activities. ICE's "Community Land Trust Legal Manual" discusses the extent to which "moderate income" housing might also qualify as charitable. It is critically important that the organization's Articles of Incorporation clearly state the CLT's intended beneficiaries and describe how the organization will be "operated" to provide benefit to them.[5]

C. GROUND LEASE

The overriding purpose of the community land trust is to purchase or otherwise obtain land and even existing housing and make these resources available for the development or preservation of housing affordable to the CLT's members. A benevolent landowner might make a donation of land or otherwise reduce land costs through a bargain sale that provides the owner with tax benefits. Similar donations or reduced cost sales from public entities also might be made. If necessary, the CLT will pay full price for the land/housing resource if sufficient funding exists to keep the cost to their participants affordable. Regardless of the way in which the land/housing resource is obtained, the CLT makes it available for development through a *ground lease* enabling the lessee to use the land for restricted housing purposes over time, often up to 99 years.

The ground lease does several things critical to the long term success of the community land trust. It contains the *resale formula* and the CLT's *preemptive right to purchase the lessee's home* -- or rental property sponsored by another organization on CLT property -- for the price determined by the resale formula. ICE devotes half of its legal manual to the ground lease, providing alternative resale formulae, as this document is the key to preserving the land/housing for low-income use in perpetuity.

Resale Formula

ICE maintains that there are two primary goals in designing a resale formula. These are limiting the resale price to maintain affordability for subsequent lower-income residents, and providing the owner with a fair return on investment. Secondary goals include:

- Encouragement of long-term occupancy and avoidance of incentives for quick resale;
- Promotion of homeowner mobility;
- Incentives for sound maintenance;
- Incentives for useful improvements;
- Ease of comprehension by those affected;
- Ease of implementation;
- Lack of intrusiveness; sense of ownership; and
- Avoidance of disputes.

Several of these goals recognize both the feeling of good will that is important to the long term operation of the CLT and the limited human and financial resources that most CLTs might employ. Complicated and very exact resale formulae may provide the greatest fairness but may be difficult for most people to understand and for a CLT employee or the CLT board to implement. The manual makes the point, too, that it is important that the CLT not invade the privacy of its lessees with constant inspections or prior approvals of improvements or maintenance. On balance, ICE appears to recommend simplicity and clarity over absolute fairness.

Three approaches to developing a resale formula are suggested by ICE: the itemized formula, the appraisal-based formula and the indexed formula. Each has its strengths and weaknesses, which must be weighed by the individual CLT. The itemized formula adjusts the resale price by adding or subtracting specific factors that are perceived as increasing or decreasing the value of the home. These may include certain improvements (not those considered to be "luxury" improvements) as distinguished from repairs or replacements, regular maintenance and some inflation factor, such as the Consumer Price Index. This approach grants the homeowner (or rental housing sponsor) equity for the owner's personal investment, although it also requires someone to make assessments of value that could be very subjective.

The appraisal-based formula provides for a certain percentage of market appreciation of the home, not the land, determined by market appraisals both at the time of purchase and at the time of resale. ICE notes that this may be hard to obtain since it may be difficult to separate the value of the land from the improvements. On the other hand, such a formula is relatively easy to understand and does not require assessments of improvements made, detailed record keeping or any intrusion into the owner's privacy.

The indexed formula adjusts the resale price according to a certain factor, such as median household income. For example, the price might reflect affordability at a certain percentage of median income at the time of resale. If median income has risen a certain percentage from the time of initial purchase to the time of resale, the new purchase price would reflect that percentage increase. ICE does not promote this approach since it finds it contrary to the CLT principle of attempting to allocate equity to its source, but ICE recognizes that some sources of financing may require this method. Although the approach provides a reasonable expectation of equity and it is easy to calculate and understand, it does not take into consideration other factors affecting affordability, such as current interest rates, and may not encourage home maintenance and repairs.
Each approach to designing a resale formula has pluses and minuses that the ICE legal manual clearly reflects. A CLT might choose one over the other or a combination of several. This is a major challenge to the CLT members who must reach a consensus on the resale formula if the community land trust concept is to move forward.

Preemptive Right to Purchase

Along with the resale formula, the ground lease will allow for the community land trust to exercise a preemptive right to purchase the home or rental development should the owner decide to sell (it is important to note that, as a rule, owners are not allowed to move away and rent their home to someone else). This right is commonly known as the right of first refusal and most recently is found in federal housing legislation relating to a nonprofit's right of first refusal to purchase a subsidized housing development at risk of converting to higher income use.[6]

The preemptive right obviously enables the CLT to find a new purchaser who meets the qualifications and purposes for which the CLT is designed. The resale formula limits the price so that a qualified purchaser can afford to purchase and retain the housing. Combined, the resale formula and the preemptive right to purchase achieve important goals of the CLT: they remove the property from the speculative market and make housing affordable into the future.

The ICE legal manual explores in brief the legal history of preemptive rights and raises questions that a CLT may or may not face in its state in designing an acceptable provision. Since the ground lease is a legal document, it is important that legal counsel be fully consulted to assure that the document's provisions, while acceptable to the CLT membership, also will stand up in court.

The manual does suggest, however, that the lease clearly emphasize the public interests of the repurchase right, that it be clearly understood by residents who must sign it, that it also be clear on how the residents may recoup their investment (resale formula) and that the time period in which the preemptive right may be exercised is stated.

D. LEASE FEE

Critical to the operation of the community land trust is the fee that it charges its lessees for the use of its land. This fee generally covers three items, although different CLTs may decide to eliminate one or two of them:

- pass-through costs;
- administrative costs; and
- land use costs.

The pass-through costs are direct expenses of the CLT and may not be eliminated. They include property tax, other assessments and insurance that the CLT must pay. Although assessments and insurance may be easily allocated among the land users, property taxes may be more challenging not only to the community land trust but to the individual owner as well. As the ICE legal manual notes, local practice may vary on whether a separate tax bill will be provided for the land and for the building and other improvements. This may require some negotiation with the tax assessor's office, but, in any case, the CLT will pass through to the residents the property tax it is required to pay.

Charging an administrative fee generally is necessary for the CLT to employ staff to maintain records, collect the lease fee, pay the taxes, insurance and other costs, implement the lease provisions relating to resale as well as monitoring any prohibited uses of the land, maintain communications among the members and help households in trouble. Most CLTs will want to keep this charge low and will often seek outside funding to the extent feasible. CLTs have explored with some success funding sources ranging from foundations to local fundraising events, but most recognize that the residents do need to provide at least a portion of the administrative funding.

A land use charge is more optional than the pass-through and administrative charges, but it should be considered since the CLT may require such a fee to service its own debts for purchasing the land or since it could provide the CLT with a funding cushion for future purchases or for helping out current residents in financial trouble. On the other hand, any additional charges increase the financial burden of the low-income households being served by the community land trust. Where there is actual debt service on the land, such a fee is easily allocated among the lessees, but where the land has been subsidized in its entirety, calculation of land use "value" becomes more complex. The CLT, in this instance, is cautioned to develop some reasonable base for assigning value and, perhaps, consider some limitation on the period in which the land use charge is assessed.

E. HOUSING PURPOSES

Although a CLT can state in its Articles of Incorporation the specific type of housing it intends to assist, there are many alternatives that can be explored depending on the members' needs and the opportunities presented. A community land trust is not limited to providing land on which its members build their own homes, although this is happening in rural and urban areas. A later section will describe one development in Washington State where the CLT is providing the land for future homeowners to mutually build their own homes, using a construction supervisor to oversee the work. In other instances, CLTs provide land for subdivision development or a planned unit development (PUD), buy individual houses for rehabilitation and resale to participants and buy undeveloped land or land with existing housing to lease to a cooperative. CLTs also own housing and rent it to tenant/members or may lease the land for rental housing development by a separate housing sponsor.

[The print version of this publication includes here a chart, provided by the Institute for Community Economics, showing community land trust activity in the United States as of February 1, 1993.]

Permanent rentals (17 percent) and rentals intended for later homeownership conversion (30 percent) comprise 47 percent of all CLT activity.

The possibilities abound, restricted only by the land's capacity, local zoning or other restrictions, the community's needs/desires, and financing. These restrictions are no different than those faced by any other developer. The difference may only be in how the developer's decisions are made.

What distinguishes the community land trust from other housing nonprofits is its express purpose to obtain land and make it available in perpetuity for housing purposes. In several instances in the very recent history of the CLT movement, including one described in a later section, the CLT chose to own both the land and the housing upon it and to rent it to low-income tenants. Many nonprofits do this, but there is no legal restriction, other than those pertaining to their financing, that would bind them to retaining the housing for the targeted income group after the financing restrictions expire. In fact, most nonprofits would be dedicated to providing housing to needy households in perpetuity, but they are not necessarily bound to this outcome.

II. FINANCIAL RESOURCES

The financial needs of community land trusts and of nonprofit housing development corporations are similar. So are many of the financial resources. In some cases, however, there are resources specifically targeted to the community land trust movement, or there are funding sources familiar with nonprofit HDCs which still need to be educated to and become comfortable with the community land trust concept before these sources will begin directing their dollars to CLTs and their members.

For discussion purposes, funding needs will be categorized in four areas, although funding needs and sources of funding may overlap at times. These areas are *getting started, ongoing administration, land purchase*, and *housing finance*.

A. GETTING STARTED

Starting a community land trust for housing is no easy feat. Although ICE reported in 1991 that there were over 100 community land trusts in 23 states, most of these cover localized areas, some as small as a neighborhood, and relied on intense grass roots organizing to get underway. In the preceding section, the model CLT organizational structure, including the ground lease, was explained. To reach agreement on organizational purpose and implementation tools is time consuming, labor intensive and requires some financial expenditures. Since most housing CLTs are created to serve the needs of lower-income households, finding a source of money becomes critical.

Where there is strong local support for the CLT concept and a commitment to addressing low-income housing needs, such as in Burlington, Vermont, local resources may be allocated to the getting-started process. The City of Burlington provided a $200,000 seed money grant to the Burlington CLT to get it underway, and the city employees' pension fund set up a $1 million line of credit. Although Vermont is a primarily rural state, Burlington is its largest city, and it has financial resources that generally would not be available in most rural communities.

In reality, many of the rural housing CLTs have gotten started with contributions of money and time from the CLTs' local supporters, many of whom are low-income. These contributions or membership fees may only pay for minimal staff hours but are evidence of commitment on the part of the community. Some rural housing CLTs have been able to supplement these contributions with foundation grants. In western Marin County, California, a rural CLT has received funding from a local foundation for a feasibility study to determine the market for a new form of shared housing. And one of the CLTs reviewed in Section IV was and is able to draw down a small part of its state housing trust fund grant for housing development to supplement the salary of its one-person staff.

Where staff assistance can be provided by another organization, such as a community action agency or other social service agency, the CLT's organizing costs are reduced. This enabled both the Central Vermont CLT and the Action CLT in Rhode Island to get started and may provide an organizing model for some other communities.

One new funding option emerged in the Cranston-Gonzalez National Affordable Housing Act of 1990. Title II, Subtitle B, Section 231 requires that not less than 15 percent of the housing developed under the HOME program in each participating jurisdiction (an entitlement community or, for non-entitlement communities, the state) must be sponsored or owned by Community Housing Development Organizations (CHDOs). Interestingly, the CHDO definition includes a board of directors requirement very similar to the CLT board structure: residents of low-income neighborhoods (residents of trust land), other low-income community residents (other community residents), and elected representatives of low-income neighborhood organizations (public interest representatives).

The federal Department of Housing and Urban Development (HUD) recently selected "intermediaries" to access $14 million set aside by Congress to provide technical assistance and training to CHDOs and to organizations that may become CHDOs, including pass-through funding for these organizations to cover both organizational and predevelopment costs. Current or prospective CHDOs will need to seek this assistance through a participating HOME jurisdiction, which may be a HOME entitlement community or, more likely for many rural communities, the state housing agency. An amendment to this provision found in the Housing and Community Development Act of 1992 (Section 213) specifically names "CLTs" as potential CHDOs.

B. ONGOING ADMINISTRATION

Once a CLT is formed and has developed housing, there remain considerable administrative duties relating to the collection of fees, payment of taxes, insurance and other assessments, monitoring of the ground lease provisions, overseeing the repurchase of a member's home and the identification of another qualified purchaser, community education and, in many instances, expansion of the CLT's land base for new developments. These are responsible tasks that may require part- to full-time staff.

To cover these costs, many CLTs charge an administrative fee in addition to the fee for taxes, insurance, etc. As mentioned in Section I, CLTs often are hesitant to charge very much as they are concerned with affordability, yet it is important that administrative costs be covered. Generally, to supplement their administrative costs, the CLT will turn to foundations, local fundraising (variations on the "bake sale" theme) and other fees that they might be able to generate. A community land trust that owns and manages a rental housing development will be able to charge a management fee that may cover a reasonable portion of its administrative expenses.

A brief word about foundations, which will be mentioned as a possible source of funding for other needs, is appropriate here. There are about 25,000 foundations in the United States, but most have limited grant making ability. The 5,000 largest control 90 percent of total foundation assets. Many foundations feel comfortable with grants to traditional charitable organizations or the arts, but very few feel comfortable with, let alone make grants for, housing development. Even fewer are familiar with rural America, let alone rural America's housing needs. These current facts of life limit the opportunities for rural housing nonprofits and may limit opportunities for rural housing community land trusts. Yet, what may be appealing to at least some of the foundations is the grass roots, community organizing, social change aspect of the community land trust movement. In exploring funding, it would be useful to focus some attention on those foundations that have shown interest in efforts that seek to empower low-income people, in this case through control over their housing.

C. LAND PURCHASE

There are several ways in which a community land trust can obtain control over property, which may be land only or land with improvements. Some CLTs have received gifts of land, which would be a tax deductible contribution on the part of the donor, or partial gifts when the owner sells the property at a "bargain sale" price. This enables the seller to receive a tax benefit on the difference between the market price and the actual selling price. In Connecticut, under the state's Surplus Property Program, a Department of Transportation property scheduled for demolition was turned over to another state agency, which then made it available to a CLT for rehabilitation and sale to a low-income family. In states where public policy favors the transfer of surplus properties for low-income housing use, such opportunities may occasionally appear.

While donations of land are the ideal, community land trusts often find themselves in the position of having to purchase land. Individual financial contributions may aid in this effort, but generally more formal types of grants and loans are sought. Again, foundations may be a source of grant money, with opportunity for assistance increasing the closer the foundation is to the land/housing development. Community foundations and those that operate in a state or a region probably would be most comfortable in making a grant for a rural housing development.

Another important grant source is the Community Development Block Grant (CDBG) program, in which entitlement cities and counties are directly funded, and smaller communities are funded on a competitive basis through their state government (Small Cities CDBG). These grants may be used for land purchase and certain infrastructure development costs, as well as rehabilitation, for housing developments that primarily benefit low-income households. Three of the community land trusts reviewed in Section IV were able to obtain CDBG funding for land purchase through applications by their local governments to the state agency that administers the Small Cities CDBG program in their respective states.

Several states have created housing programs to enable nonprofits and localities to develop and rehabilitate low-income housing. The Vermont Community Loan Fund was capitalized in 1988 with both public and private funds, including individual and institutional investors, and funding from the Vermont Housing and Conservation Fund (established to aid both housing and environmental land trusts), the Vermont Housing Finance Agency and other state agencies that address the needs of elderly and disabled people. This fund has benefitted several land trust developments, enabling the local CLT to purchase housing units, as well as land, for housing development. The loans are short term in nature, one to five years, but are made at low interest rates ranging from 0 to 6 percent.

The Institute for Community Economics maintains a revolving loan fund that it can make available to CLTs for the purchase of land. There also exists a handful of predevelopment loan funds that could provide funding for the option or purchase of land. The states of Florida and Colorado operate predevelopment loan funds, as does the Rural Community Assistance Corporation (Sacramento, CA) for rural housing developments in 11 western and northwestern states. The Housing Assistance Council (HAC) operates a nationwide loan fund for nonprofits and public agencies, for the development of rural, low-income housing. Options and land purchase are eligible activities under HAC's Rural Housing Loan Fund (RHLF).

In many instances, the take-out financing source for a housing development will also finance the land purchase. However, the borrower must first exercise some control over the land or property for rehabilitation. This is where the predevelopment loan funds are important to enable the community land trust either to option or to actually purchase and control the land prior to development.

D. HOUSING FINANCE

Although the community land trust concept is relatively new and mostly untested in many areas of the United States (it is most prevalent in the Northeast, where ICE got its start), financing agencies are beginning to catch on. ICE has worked with lending institutions including Fannie Mae and the Farmers Home Administration to begin paving the way for CLTs to use these financing sources. More recently, HAC worked with FmHA to overcome some obstacles inhibiting CLT-sponsored developments. A small number of states are actively working with community land trusts, providing seed money, surplus property and financing.

Already mentioned are the Vermont Housing and Conservation Trust Fund, the Vermont Community Loan Fund and the Vermont Housing Finance Agency, which have combined their resources to provide financing for the development of affordable housing on community land trust property. The State of Minnesota authorized this year a $2 million fund to encourage the development of community land trusts by municipalities and county housing authorities. The Washington Housing Trust Fund specifically funded two rural CLTs, including administrative funding for one to further the CLT concept.

State programs are critically important, but often they are only in the position to fill gaps in other financing programs. The Affordable Housing Program (AHP) of the Federal Home Loan Bank system also fills gaps with grants and with commitments to lower the lending rates of participating banks. This program was created as part of savings and loan recovery legislation and requires the applicant to establish a relationship with a lending institution that applies on its behalf. Rating and ranking criteria clearly favor low- and very low-income housing assistance.

The same legislation that created the AHP also strengthened Community Reinvestment Act provisions, thereby encouraging lending institutions to better serve lower-income and minority community needs. Yet these institutions continue to perceive risks in the financing of lower-income housing. The Federal National Mortgage Association (known as Fannie Mae) established in 1991 a program for land trust mortgages that creates a secondary market for such loans by private lenders. The terms and conditions of the program include:

- Fannie Mae will purchase 15-30 year fixed rate mortgages with a loan-to-value ratio up to 95 percent;
- the land must be owned free and clear by the CLT;
- Fannie Mae must approve all ground leases;
- the program is limited to single-family, owner-occupied homes;
- CLT may retain the right of first refusal upon resale, but must exercise that right within 90 days; and
- resale and use restrictions terminate upon foreclosure.[7]

There are issues to be resolved within the Fannie Mae program, but its appearance not only will educate private lending institutions to the existence of the community land trust model, but provide some level of acceptance. Fannie Mae's program will probably only benefit experienced CLTs -- those in areas where community land trusts are locally accepted methods of creating affordable housing and those with two years of experience providing affordable housing. However, this program should help expand upon private lending for the CLT movement.

No federal housing programs are specifically targeted to community land trusts, but several provide opportunities. The HOME program mentioned earlier is still untried, but opportunities do exist for long term financing of community land trust housing development. HOME funds are allocated by the U.S. Department of Housing and Urban Development to certain participating jurisdictions (entitlement jurisdictions, similar to but less plentiful than CDBG entitlement jurisdictions) and to state governments (for non-entitlement jurisdictions). HOME funds are to be made available in the form of loans or grants, interest rate subsidies, equity or other forms of assistance for moderate and substantial rehabilitation, site improvements, acquisition, tenant based rental assistance, financing costs and relocation and new construction. Since the allocation of HOME funds is expected to follow the needs identified in the states' or localities' Comprehensive Housing Affordability Strategy (CHAS), it is important for that document to identify a community land trust as a potential housing developer for low-income housing.

Another program created by the National Affordable Housing Act of 1990 (NAHA) was Homeownership and Opportunity for People Everywhere (HOPE). There are HOPE I, II, and III programs. HOPE III, for single-family homeownership (1-4 units), may provide homeownership opportunities for low-income households through nonprofit, public agency and cooperative association intervention. This is achieved through the acquisition and rehabilitation of certain federal, state and local government-owned, single-family properties, including those owned by the Resolution Trust Corporation, which was created to dispose of properties owned by failed savings and loan institutions.

Implementation grants will allow households to purchase the units at affordable costs. However, it is important to note that any Section 8 rental assistance previously attached to the property ceases when the property is sold under HOPE III. A match of 33 percent of the implementation grant is required under this program.

The Farmers Home Administration (FmHA) provides several opportunities for community land trust developments, although their participation still is in the testing stage. Section 515 rural rental housing assistance is available for multi-family rental housing and for cooperatives. This loan program provides 50-year, one percent loans with rental assistance available to about 75 percent of the tenants. Cooperatives are eligible borrowers, and have an advantage in the Section 515 funding process in that cooperative applicants do not compete with other Section 515 applicants in the agency's rating and ranking system. FmHA will accept a leasehold interest in land as security, which would enable CLT property to be used for the development.

For homeownership, FmHA offers the Section 502 loan program for low- and very low-income households. The interest rate may be subsidized as low as 1 percent over 33 to 38 years, depending on the borrower's repayment ability. A provision of the NAHA legislation also allows FmHA to provide further subsidy in the form of a deferred loan for borrowers who cannot qualify under the regular provisions. FmHA may accept a leasehold interest in land as security and even has a legislative mandate in the 1990 Housing Act prohibiting it from foreclosing and selling Indian trust land to anyone but another tribal member, the tribe, or the tribal housing authority.

FmHA presently is approving Section 502 loans on community land trust property in Washington state -- the agency's first CLT effort -- but under its Section 502 Rural Housing Demonstration Program (Section 506(b)). This provision from 1983 legislation enables the agency to permit housing demonstrations that do not meet existing published standards, rules, regulations or policies to allow for more efficient and less costly types of housing as long as the population's health and safety are not affected. In the instance now being demonstrated, the community land trust model is not the focus of the demonstration, but the provision allowed the Opal Community Land Trust to secure FmHA financing that might not have been possible under the regular Section 502 program.

The Section 502 program requires that upon resale, a portion of the subsidy must be recaptured according to a formula devised by FmHA. Currently, the agency is revising its regulations with regard to "recapture" (the anticipated publication date was April 1992, but it was not met), and it is expected that these new provisions will provide flexibility with regard to community land trust equity provisions.[8] In the meantime, and at HAC's request, FmHA has provided in writing verification that it will review CLT proposals on a case-by-case basis, and this allowed the Orcas Island development on Opal Community Land Trust land to proceed.[9]

Congress also entered this debate with language in the Housing and Community Development Act of 1992 that addresses the recapture issue directly. It requires Farmers Home to determine any appreciation of a dwelling on community land trust land based on any agreement between the borrower and the CLT that limits the sale price or appreciation of the dwelling (Section 702, Eligibility of Homes on Leased Land Owned by Community Land Trusts for Section 502 Loans).

Even with questions to be resolved, the FmHA programs offer deep subsidies for housing developed specifically in rural areas for very low- and low-income households.

III. POSSIBILITIES AND CAUTIONS

A. POSSIBILITIES

The community land trust model is presented in this report because it clearly addresses some critical rural -- and urban -- housing issues. These include long term affordability, security of tenure, land stewardship and involvement of low-income people in controlling their housing. The local and national attention that "at risk" federally subsidized rental projects have received in the past six years highlights the essence of the community land trust model: land and housing are held in low-income use forever. Barring unforeseen circumstances, housing on CLT-owned land will not be sold to the highest bidder and the residents displaced. For this reason alone, the CLT model provides an important "possibility" for rural housing developers.

There also is a growing interest on the part of government and lending institutions in the community land trust model. This is evidenced by state legislation to assist CLTs, local government support in several areas (including applications for CDBG funds to support CLT-sponsored projects), some federal agency financing directed toward CLT applicants and private lenders' gradual awareness and funding of CLT ventures. Fannie Mae's decision to create a secondary market for private lender loans to CLTs should increase private lending in the future.

The CLT model may be used with any type of housing, so it is not limited to any one or a few sources of financing. This enables the CLT members to be creative in designing their housing. Importantly, excellent technical assistance and some funding is available to groups getting started. The Institute for Community Economics (ICE) created the model and is its chief proponent. In addition to considerable written materials, ICE presents the model to workshops and conferences and provides direct technical assistance. Through its efforts, too, a network of CLTs has developed, sharing experiences and ideas. Several of these CLTs are rural, and several are doing housing.

Something should be said, too, for the self-sufficiency of the community land trust movement. Much is said about empowering the poor, but few programs provide a better opportunity than does the community land trust. Its members run the show -- and benefit from their efforts. Moreover, they eventually gain control over their housing, now and into the future. This is true "empowerment."

B. CAUTIONS

Although there are precedents for the community land trust model presented in this report, the current concept has been pursued only since the 1970's and its growth has been mostly within the last decade. There is little experience to relate for many of the model's key provisions: the resale formula and the right of first refusal. Few CLTs have had to deal with these challenges, so it is hard to predict whether what has been designed by each CLT will work when put to the test. Will there be nasty internal disputes? Will there be court cases? It is too early to tell.

There also is little experience with lenders and how they will pursue their security interest should there be a default or foreclosure. Is 90 days a sufficient amount of time for the CLT to locate and assist in the financing of a new purchaser? Will a public entity lender prohibit certain restrictions on resale?

Other issues are unanswered at this time: What really happens when a CLT participant dies and his/her interest is inherited? What taxes are due? What if the heirs do not want to live in the housing or do not meet the income qualifications or dispute the resale formula? Again, it is too early to tell. Also untested is the issue of tax reassessment when a property is transferred. Generally, there is a reassessment at this point. How will this affect affordability for the next purchaser?

Any new concept requires a leap of faith. Section IV tells the story of many people in rural America who have made that leap.

IV. RURAL HOUSING COMMUNITY LAND TRUST CASE HISTORIES

A. CENTRAL VERMONT COMMUNITY LAND TRUST

Background

Rural Vermont offers both the state's wealthier residents and out-of-state residents many opportunities for escape to a pristine landscape. During the 1970's, a state law was enacted (Act 250) to attempt to counteract the rapid proliferation of subdivision development and short term speculation, by heavily penalizing property owners who tried to make a quick dollar on the purchase and sale of Vermont land.[10] Some developers, however, uncovered loopholes in Act 250, and larger developments again emerged during the 1980's.

Central Vermont's housing market heated up during 1987, partly due to a population increase and partly due to second home development. Low-income residents, clients of the Central Vermont Community Action Council, found few housing opportunities still available to them at prices they could afford. It became apparent that land and housing prices would need to be controlled for those households most in need. From this concern emerged the Central Vermont Community Land Trust (CVCLT) with strong support from the community action agency.

Many community action agencies throughout the country have created housing development corporations as a spin-off of the agency. The advantage of a separate corporation is that it is better able to focus exclusively on housing development and rehabilitation. The CVCLT became a spin-off of the community action agency, and its first and only executive director was hired from the Community Action Council. CVCLT was incorporated in 1987 and began operation in 1988.

Organizational Structure/Operation

Like most if not all CLTs, the CVCLT organized as a 501(c)(3) tax-exempt organization. It established its target area as the 30-mile radius around Montpelier, the state's FmHA-eligible capital. CVCLT thus became a regional rather than a local community land trust. Using the ICE prototype, the Trust created a tri-partite board of directors: one-third user members, one-third public members, including public and private agency representatives whose goals relate to the community land trust, and one-third general members, with geographic and skills diversity.

Membership is open to the general public, with lower income persons paying $10 and organizations and businesses paying $25. Residents of CVCLT property automatically become members. Resident participation is strongly encouraged, both on the board of directors and on resident councils in each of the CVCLT's developments.

The CVCLT receives its operating funds from several sources, most prominently the Vermont Housing and Conservation Fund, created in 1987 legislation with a $3 million appropriation for the express purpose of preserving existing affordable housing and existing farmland. The Fund not only capitalizes developments, but also provides capacity grants to encourage the growth of local organizations. The CVCLT is receiving $30,000 per year over a four year period to cover its administrative costs.

In addition to the Housing and Conservation Trust grant, accounting for about one third of the CVCLT's budget, project development fees obtained upon completion are expected to cover another third of the operating budget, and the final third is obtained from management fees on the CVCLT's rental developments. The community land trust also has received some funding from the Central Vermont Community Action Council.

Housing Development

Operating in a region rather than a locality, the Central Vermont Community Land Trust has been called upon to respond to diverse needs and diverse opportunities. Among these are single-family homes financed by the Vermont Housing Finance Agency, a planned development of single-family homes by Habitat for Humanity on CVCLT-owned property, a senior shared housing program on farmland property in which the land trust has a remainder interest, a rental complex acquisition threatened with condominium conversion (but which may eventually become a low-income cooperative) and another acquisition/rehabilitation of rental property threatened with conversion to commercial use.

This latter development located in downtown Montpelier consists of 21 rental units in three buildings, an office now occupied by the CVCLT and a day care center in a small building that is leased to a day care business. Tenants in the buildings include both low-income households and some persons with mental disabilities. Presently, the development is being operated as rental housing, and in addition to the CVCLT's ownership of the land and all of the buildings, it is the managing agent. At first CVCLT intended to turn over management to the Montpelier Housing Authority, but having moved the CLT's office into the complex, staff found that they were responding to many of the tenants' requests and, consequently, decided to expand its management capacity. At some point, CVCLT may consider a spin-off management company.

As the CDBG grantee for this project, the City of Montpelier received $150,000 for acquisition, partial rehabilitation and city construction management and program administration costs. The federal McKinney Act homeless assistance program provided $150,000 for rehabilitation. Another $168,000 for rehabilitation was provided by the Vermont Housing and Conservation Fund, and a local bank provided market rate financing in the amount of $233,000. When acquisition and rehabilitation were complete, the City of Montpelier conveyed the property to the Central Vermont Community Land Trust to retain its use as low-income housing in perpetuity.

Rental subsidies are provided through the Section 8 program, and for persons with mental disabilities, similar subsidies (federal McKinney Act funds) are provided through the Washington County Mental Health Agency. At some point, the CVCLT may consider encouraging the tenants to become a cooperative, but, at this point, their goal is to fully integrate the McKinney Act recipients into the rental complex.

B. ACTION COMMUNITY LAND TRUST, RHODE ISLAND

Background

Like Vermont, Rhode Island -- and particularly its beach communities -- is a favorite vacation spot for out-of-state visitors, many of whom have built second homes near the water. This type of development, in conjunction with population growth in recent years, has increased land and housing costs considerably. South County Community Action Agency (CAA), operating within this environment in Washington County and in the community of West Greenwich in an adjacent county, was attempting to respond to the housing needs of lower income residents through renovations and some new development during the latter 1980's.

The CAA completed five homes for sale in 1989/1990 and began negotiations with the Farmers Home Administration on a right of first refusal to ensure that future buyers would also be lower-income. FmHA denied this right and insisted the two agencies work out an agreement under which the CAA would hold a silent second trust, in the amount of $25,000, payable only upon sale in a positive market (although there has been a decline in housing value in other parts of the state, the CAA's target area has not experienced any decline). FmHA would recapture its subsidy first, then the CAA, then any "profit" remaining would be split among FmHA, the CAA and the borrower. Although this helped protect the CAA's investment, the organization recognized that affordability for its constituents would not be guaranteed upon resale.

Staff began reading ICE materials and exploring possibilities with ICE staff. A decision was made that the CAA would focus on limited equity homeownership developments and would get into the community land trust business in order to preserve affordability. Homeownership, it was concluded, would foster community stability.

Organizational Structure/Operation

The Action CLT is a spin-off of the South County CAA, originating in a subcommittee of the CAA's Board of Directors. On October 1, 1992, the Action CLT will become a fully operational and separate organization with a 12-member board of directors. Following the ICE model, the board will be comprised of four CLT leaseholders, four non-leaseholder CLT members, and four representatives of the public at large. It is likely that the first eight members of the board of directors will be South County CAA board members. The CAA will provide both financial and staff resources to make the CLT operational.

It is planned that the birth of the Action CLT will signal the end for the CAA's housing development effort. All CAA-developed projects will be turned over to the community land trust. South County CAA's current Executive Director will become Action CLT's Executive Director and will be replaced at the community action agency. Presently participating in a nationally known housing development training program, the Executive Director will soon be able to devote full time to housing development, leaving the CAA to devote its time to social service issues.

South County CAA could have become a community land trust without creating a democratically run, separate organization. It chose not to for several reasons, including a desire to encourage membership and activism within the Washington County community and its desire to be affiliated with the Institute for Community Economics whose technical assistance had been critical to developing the CLT focus for South County CAA.

South County CAA has applied to be recognized as the CHDO (see Section II) for Washington County which, if approved, will enable the agency to apply for HOME set-aside funds, including predevelopment monies. Once the transition is complete, the CAA would pass on this designation to the Action CLT.

Advocating for acceptance of the community land trust concept in the county's comprehensive plan and in the state's CHAS was an important priority for the CAA and has already been used to challenge a local negative decision regarding one of its housing developments on property soon to be owned by the CLT.

Action CLT has filed for 501(c)(3) status with the IRS and has filed its Articles of Incorporation with the state. Its by-laws, including the ground lease and right of first refusal, are being developed now.

Housing Development

South County CAA has several projects in various stages of development. One is the "Shannock Hill" development on a six-acre site that was purchased by the CAA (the Community Development Block Grant program reimbursed the CAA for the purchase price and provided an additional $21,000 for site development). Two duplexes are planned for the site. Initially, the CAA approached FmHA for financing under its 502 demonstration program but was rejected on the grounds that the development did not demonstrate anything.

A new financing plan is being developed for the duplexes, with HOME funds, private lending, and support from the Rhode Island Housing and Mortgage Finance Corporation anticipated.

Another 20.9 acre parcel, initially purchased for self-help housing development with funds from the Rhode Island Housing Agency's land bank loan program, will be the site for 20 units, in ten duplexes. This planned unit development (PUD) will be owned as a cooperative. About $1.6 million will be needed to complete the development. Although FmHA funding may be explored, the current thinking is that the financing package will include HOME funds, private lending with the interest rate written down through the Affordable Housing Program (AHP) and syndication proceeds. The CAA already applied for AHP funds but was turned down because a zoning variance had not been obtained. With the zoning variance now in hand, Action CLT will be able to reapply in the fall of 1992.

A large duplex was donated by a business corporation to the South County CAA in the community of Westerly. The duplex was sliced in half, moved to a new site financed with CDBG funds, and reassembled. Construction financing was provided by CDBG and the permanent mortgage is being held by a local bank. Each of the 2000 square foot residences is inhabited by a large family (five children in one, four in the other) under a lease-purchase arrangement. With families saving up to $300 per month from their prior rental arrangements, it is expected that they eventually will be in a position to purchase their units from the CLT.

A triplex, also in Westerly, was purchased with CDBG funds, and renovation of the building is being financed by the Rhode Island Housing and Mortgage Finance Corporation, with permanent financing from a local bank and aa second mortgage from the state agency's cooperative housing program. This unit is located in the community's historic district, and all of the tenants now have project-based Section 8 that may be used in coop housing.

At present, one single-family home is being run as a rental property. It was purchased with CDBG funds and substantial renovation was performed. The current tenant, who has a Section 8 certificate, was in the unit when it was purchased and, thus far, has not chosen to become a member of the Action CLT. Until the tenant becomes a member or moves, the property will remain a rental.

South County CAA has experience in operating housing rehabilitation, but housing development is a newer activity that requires considerable time and focus. In moving its housing development effort to the new community land trust, the CAA will achieve that focus and will fully address the critical issues of affordability and stability for low-income households.

C. OPAL COMMUNITY LAND TRUST, WASHINGTON

Background

In 1984, Peter Fisher, now of remote Waldron Island, and President of OPAL Community Land Trust, read an article on community land trusts and began exploring how this concept might be applied to escalating land and housing costs beginning to affect the San Juan Islands in Washington's Puget Sound. It took four years until "Of People and Land" (OPAL) Community Land Trust was incorporated. Initially intended to serve as a land trust for the San Juan Islands, OPAL is now focusing on Orcas Island only.

During that four-year interval, and continuing at a rapid pace, island land prices skyrocketed, while wages for local residents remained the lowest in the state. In December 1987, a house on five acres of 55-square mile Orcas Island averaged $75,000; this year that same house costs $300,000. For the Orcas Island wage earner, however, average wages are just $14,000, compared to $25,000 for the remainder of the state.

Contributing to land costs was the increase in tourism -- the Islands were becoming a "playground for the rich" -- and an upsurge in demand for retirement housing. At the same time, local government was reducing allowable densities on many properties. This contributed to the decrease in available building sites.[11] Low-income residents of Orcas Island came together on the concepts of local control of housing and permanent housing. OPAL became Washington State's first community land trust.

Organizational Structure/Operation

OPAL CLT held its first organizational meeting in 1988 for 35 interested persons; its current membership is 100. Following the ICE model, the board of directors was elected to provide one-third representation by potential CLT residents, one-third community activists and one-third from the wider community, generally with specialized skills (for example, a contractor, a developer and an architect are among the representatives). The CLT membership decided early on to rely heavily on a consensus procedure, to put strong emphasis on land stewardship, and to provide housing for households whose incomes do not exceed 80 percent of median, with an emphasis on lower incomes.

In addition to the board of directors and general membership, the CLT has created a resident council for the future residents of the land trust's first development. This group now meets twice monthly, but was slow in organizing itself, learning over time about the need for mailing agendas and other details of organizational responsibility. The twice-a-month meeting schedule also is followed by the board of directors, which is intimately involved in the housing development's progress.

OPAL CLT decided at first not to request administrative funding from its grant sources, but relied on community donations and memberships. The state's housing trust fund, now called the Housing Assistance Plan, made a grant commitment of $300,000 toward housing development and eventually allowed the CLT to draw down $100 a month, for six months, for administrative expenses. This has helped keep the CLT's executive director on board during the critical application phase. Foundation grant applications have been submitted in recent months to supplement local contributions and membership fees, and a fundraiser is planned for later this year. Once the housing is developed, OPAL CLT will charge a lease fee to cover property tax, insurance and operating expenses.

As applications are completed for FmHA Section 502 financing, each future land trust resident is required to sign a contract with OPAL CLT that mandates meeting attendance, 10 hours of service to the CLT, and a financial payment to the CLT equalling three times the estimated mortgage payment. This payment can be made in installments so that it does not cause undue hardship on the family. The payment is placed in escrow until either the family's 502 application is rejected, when the payment is returned, or it is refunded when the loan is closed. The payment was devised to make clear the seriousness of the family's commitment, and was recommended by other more experienced CLTs. Two families decided that their intentions were not sufficiently serious and they declined participation.

Housing Development

Eighteen single-family, one- and two-story Victorian-style farmhouses will be built in four clusters on a 7.5 acre site located one mile from East Town, but within its urban boundaries.
The CLT reported that when it first looked at property in a more rural area of the Island, some local residents protested and the CLT decided it would be better to prove the feasibility of the project than to antagonize these residents. Then the land trust got lucky. The property OPAL CLT will own has appropriate zoning and available water, and the owner wanted to sell to the CLT rather than other potential buyers. The selling price was $75,000.

This development has benefitted from considerable community, state, and federal support. In making its grant commitment, the Washington Housing Assistance Plan required evidence of financing to complete the project. The issue of "recapture" delayed FmHA's commitment, threatening the loss of the state's commitment. When correspondence referred to in Section II arrived, the state's commitment was solidified but, in the meantime, the CLT did not have the funds to exercise its option on the land. The state stepped in and purchased the land itself and is holding it until FmHA's financing is closed.

OPAL CLT's development will be financed under FmHA's Section 502 demonstration program, which will enable the CLT to build houses ranging from zero to four bedrooms, 800 to 1250 square feet. Loan funds up to $1,250,000 will be reserved for the CLT, and the loan will be recast as individual mortgages upon occupancy. The state's grant of $300,000 will be used to write down the mortgage amounts for very low-income residents. Although there have been delays in obtaining appraisals, groundbreaking still is scheduled for September/October of 1992.

OPAL's staff spent time "laying the groundwork" with FmHA staff, educating them about what to expect with regard to applicants' work histories (e.g., many islanders work three or four seasonal jobs each year). OPAL also ran credit checks prior to submitting applications in order to work out any credit problems before they became an issue with FmHA. The application procedure was also a "transforming" event for many of the families, making them keenly aware of their own budget and what they will need in the future to sustain their new housing.

OPAL Community Land Trust has been a pioneer in many respects: the first CLT in its state, and the first FmHA-financed CLT housing development. OPAL also has encouraged the development of neighboring community land trusts that are pursuing their housing needs in different ways.

D. LOPEZ COMMUNITY LAND TRUST, WASHINGTON

Background

A Puget Sound neighbor of Orcas Island, Lopez Island is the first ferry stop among the San Juan Islands, yet it remains more rural and decidedly more agricultural than its larger neighbor. The 1,800 year round inhabitants of Lopez had reached a crisis during the summer of 1989. Housing prices had skyrocketed from about $67,000 to $204,000, and local residents were trying to decide whether they could afford to stay on the Island.

Several factors contributed to this considerable increase. The San Juan County building department was cracking down on owner-built housing, claiming that builders were not following the permit procedure, rental housing was being taken over by tourists for seasonal use, and people were buying up property for second home development.

A group of year-round residents met and decided that they wanted to stay on the Island, but that several steps were needed. One, they needed to buy and preserve land together. Two, they needed to change state law to once again allow for an owner-builder code in San Juan County, which they accomplished. Three, whatever they did needed to have a permanent effect. When an ICE staff member was scheduled to speak on Orcas Island, the group from Lopez Island attended and decided that a land trust would give them the security they needed.

Organizational Structure/Operation

The Lopez Community Land Trust incorporated in 1989 as a decidedly "grass roots" organization. ICE's basic organizational structure was followed, with an open membership that pays a minimum $10 fee, and a tri-partite board, representing future homeowners, the general membership, and the community at large. Early on, the membership decided on owner-built housing with the minimum of code rules and regulations and financing restrictions. The CLT did not have to worry much about financing restrictions, as they soon learned that neither public nor private lending entities were interested in their type of development.

To enable the CLT to operate, grants were requested and received from the Campaign for Human Development, which provided the one-person staff with $80 per week, from other church-affiliated funders, and from the Needmor Foundation in Colorado. A lease fee has been designed to cover taxes and administrative expenses, but no land use costs since the property was purchased with grant funds and the CLT wants to pass on this savings to its participants.

The CLT's development has been organized as a cooperative -- at the request of the private lending source that did not want to have to deal with seven different mortgages -- and its financing is being amortized over 40 years. Each participant's payment is based on the family's percentage of median income, which then figures into the equity the family accumulates. Additionally, the resale price may also include some improvements, with dollar limitations during specified time periods (for example, no more than $3,000 in improvements are recognized in the first five years of occupancy; $1,500 is recognized for every three-year period after the first five years).

Although the CLT will retain ownership of the property, its use will be governed by the cooperative, which will also provide maintenance. When a coop member decides to sell, the CLT does have a right of first refusal, but will exercise it only if the cooperative cannot find a qualified buyer. The coop members will pay a coop fee for maintenance and other coop expenses.

Housing Development

The Lopez CLT, like its mentor, the OPAL CLT, found it necessary to purchase land in more densely zoned Lopez Village, rather than in areas zoned for rural development. At times, the CLT felt like the "most hated group" on the Island, coming up against the "NIMBY" syndrome when it looked at land particularly close to that of some of the newcomers. Through considerable public outreach and with support from the county commissioner representing the Island, the CLT was finally able to locate and purchase slightly more than one acre of land for seven small, detached homes, ranging from studios of 500 square feet to two-bedroom units of 850 square feet. The CLT membership decided that it wanted to build higher quality, small units now, with the option to add on later.

The development is being constructed by the participating families in a fashion similar to the FmHA Self-Help program, where the families help build each others' homes under the direction of a construction supervisor. No one moves in until all homes are completed. There has been volunteer help as well, but each family devotes 24-30 hours each week to the development's progress.

Construction began in May 1992, and the families are hoping to move in by Thanksgiving 1992. Some tools have been donated, but other materials offered were turned down since the development is not proceeding under the owner-builder code after all and the materials did not meet the required building code standards.

The "sweat equity" contribution is valued at about $40,000, thereby reducing the development cost to about $457,000. Financing includes $172,000 from the state's housing trust fund, $135,000 for land purchase and site development from the Small Cities CDBG program through San Juan County government, a $30,000 grant from the Affordable Housing Program of the Federal Home Loan Bank of Seattle, a $100,000 construction loan to the CLT from the Washington Mutual bank, which will roll over into individual mortgages once the homes are completed, and $10,000 in down payments from the seven families.

In the process of developing their housing, the Lopez CLT compromised on some of their initial requirements, but the end result will be affordable housing in perpetuity and built by the participant families. The CLT's director and an early organizer of the CLT commented on the "spirit" of the CLT -- how it has brought the community together, given people access to something previously denied -- decent, affordable housing -- and forced people to work cooperatively.

BIBLIOGRAPHY

The following documents, all but one written and published by the Institute for Community Economics, were extremely helpful in developing information and analyses for this report:

COMMUNITY ECONOMICS, Summer 1990

COMMUNITY LAND TRUSTS IN THE NEWS (no date)

GETTING ORGANIZED: A MODEL DEVELOPMENT PLAN FOR COMMUNITY LAND TRUSTS (no date)

THE COMMUNITY LAND TRUST HANDBOOK, Rodale Press, 1982

THE COMMUNITY LAND TRUST LEGAL MANUAL, 1991

THE COMMUNITY LAND TRUST MODEL: QUESTIONS AND ANSWERS

Another useful document is the following:

COMMUNITY LAND TRUSTS: A CREATIVE RESPONSE TO VERMONT'S AFFORDABLE HOUSING CRISIS, Burlington Community Land Trust, 1988

CONTACTS

Institute for Community Economics
57 School Street
Springfield, MA 01105-1371
(413) 746-8660

Julie Gould
Fannie Mae
3900 Wisconsin Avenue, NW
Washington, D. C. 20016-2899
(202) 752-7473

Housing Assistance Council
1025 Vermont Avenue, NW, Ste. 606
Washington, D. C. 20005
(202) 842-8600

Action Community Land Trust
c/o South County Community Action Agency
P.O. Box 3738
Peace Dale, RI 02883
(401) 789-3016

Central Vermont Community Land Trust
39 Barre Street
Montpelier, VT 05602
(802) 223-0188

Lopez Community Land Trust
Box 25
Lopez Island, WA 98261
(206) 468-3723

OPAL Community Land Trust
P.O. Box 1133
Eastsound, WA 98245
(206) 376-3191

ENDNOTES

1. The Farmers Home Administration has the authority to extend the repayment period for homeownership loans from 33 to 38 years, thereby lowering monthly payments for borrowers who otherwise could not afford a loan at 1% interest. FmHA also has the authority to defer repayment of up to 25% of the loan amount in order to reduce the borrower's payment burden, also reducing the amount of income needed to participate in the loan program.

2. See "Bibliography" section.

3. This discussion is presented in the Institute for Community Economics' "The Community Land Trust Handbook"; see Bibliography.

4. This definition is similar to the Community Housing Development Organization (CHDO) definition of the Cranston-Gonzalez National Affordable Housing Act of 1990; see Section II for discussion.

5. A discussion of this issue is presented in the Institute for Community Economics' "The Community Land Trust Legal Manual"; see Bibliography. Legal counsel should still be employed on this and other issues relating to organizational structure and purpose.

6. Title VI of the Cranston-Gonzalez National Affordable Housing Act of 1990, and Title II of the Housing and Community Development Act of 1987.

7. Memorandum from Martin Hahn, ICE, to Community Land Trusts, "Fannie Mae's Lending Product for CLTs," February 26, 1992.

8. FmHA recapture regulations, 1951-I.

9. Memorandum from Art Collings, HAC, to Frances Calhoun and Larry Hammond, FmHA, "FmHA Section 502 Loans and Land Trusts," July 3, 1990; Letter from Ronnie O. Tharrington, Assistant Administrator, Housing, FmHA, to Mr. Collings, HAC, August 16, 1990; Letter from Arthur Collings, HAC, to Frances Calhoun, FmHA, August 14, 1991; Letter from Frances B. Calhoun, Director, Serving and Property Management Division, Single Family Housing, FmHA, to Arthur Collings, September 20, 1991.

10. Considerable information on Vermont's programs is found in the ICE publication, "Community Economics," Summer 1990.

11. The State of Washington passed growth management legislation that will require local governments to define areas in which affordable housing will be located, which may require changes in zoning.