Starting a Community Land Trust

ORGANIZATIONAL AND OPERATIONAL CHOICES

Funding

CLTs make use of a variety of funding sources in supporting both their projects and their operations. The most common and lucrative of these sources are described in the present chapter, followed by a consideration of issues peculiar to CLTs with regard to project funding and operational funding.

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This is one chapter of an introductory manual, *Starting a Community Land Trust: Organizational and Operational Choices,* prepared by John Emmeus Davis, a Partner in Burlington Associates. The full manual is available on-line at the ***Burlington Associates CLT Resource Center:*** www.burlingtonassociates.com.

SOURCES OF CLT PROJECT FUNDING

The project funding required by a community land trust does not differ in size or kind from that required by any other nonprofit developer of affordable housing. Funds are needed, both as equity and debt, to pay for:

- land acquisition;
- pre-development feasibility;
- architectural design;
- site preparation;
- infrastructure development;
- construction of residential (or commercial) structures;
- rehabilitation of residential (or commercial) structures;
- downpayment assistance for first-time homebuyers; and
- permanent financing for first-time homebuyers or for the nonprofit (or for-profit) buyers of residential or commercial structures on leased land.

Such project funding has come from a host of sources, public and private. Those that have proven to be the most beneficial and the most reliable for CLTs around the country are described below.

CDBG & HOME

Any federal funds that are offered to nonprofit 501(c)(3) corporations for the construction of affordable housing or the redevelopment of low-income neighborhoods can be used – and have been used – by CLTs. The two federal programs from which CLTs have received the greatest project support over the past decade have been the Community Development Block Grant Program (CDBG) and HOME. Under the latter program, it should be noted that many CLTs have been designated "Community Housing Development Organizations" (CHDOs) by their Participating Jurisdictions. In 1992, Congress amended the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. 12773) to allow even start-up CLTs to qualify for CHDO status (see Appendix A). Unlike other nonprofit housing developers seeking CHDO designation, a CLT can be awarded CHDO status without having "a demonstrated capacity for carrying out HOME activities" and without a "history of serving the local community within which the HOME-assisted housing is to be located." A CPD circular, published soon after the 1992 amendments, notified HUD's field offices of this special CHDO exemption for CLTs and the eligibility of CLTs to receive HOME funding for both their projects and their operations.1 CLTs are also eligible to receive HUD-funded technical assistance for organizational development and project development.

[1] See also: U.S. Department of Housing and Urban Development. 1999. ***Homeownership Options Under the HOME Program: A Model for Publicly Held Properties and Land Trusts.*** Washington, DC: Office of Affordable Housing Programs, Community Planning and Development.

Federal Tax Credits

Although most CLTs concentrate on homeownership, a few also develop and manage rental housing. These CLTs have made extensive use of federal Low Income Housing Tax Credits and Historic Preservation Tax Credits to bring substantial equity into their affordable housing projects. (Since land is not included in the basis for the calculation of tax credits, the typical CLT tax credit deal involves the CLT's ownership of the underlying land, with ownership of the building(s) by a limited partnership.)

Other HUD-sponsored Production Programs

CLTs have developed housing and community facilities on leased land using several other HUD-funded programs, including: Urban Development Action Grant paybacks, HOPWA, Section 108, Enterprise Community and Empowerment Community funds, and Shelter Plus Care.

Federal Home Loan Bank

FHLB's Affordable Housing Program has been a rich source of funding and financing for a number of projects developed by CLTs around the country. The CLT's ability to bring homeownership within the reach of lower-income households, combined with the enforceability of the CLT's long-term protection of affordability, has enabled CLTs to score well in regional competitions for FHLB awards.

Private Financial Institutions

Throughout the United States, private lenders are financing residential and commercial projects on land that is leased from a CLT and writing mortgages for resale-restricted homes that are located on leased land. While some of these mortgages are held in portfolio, the expanding use of a model CLT ground lease prepared by the Institute for Community Economics and a standardized rider approved by Fannie Mae have opened the secondary market to CLT mortgages. CLTs in several communities have also received REO properties from local lenders, either at a below-market price or as an outright donation. Other CLTs have had the benefit of special funds for affordable housing set aside by local, regional, or national banks under negotiated CRA agreements.

State Housing Finance Agencies

Permanent financing for CLT homes has been made available, in a growing number of states, through programs underwritten by State Housing Finance Agencies. SHFA financing for CLT-housing has been forthcoming, for example, in Colorado, Massachusetts, Michigan, Minnesota, New Hampshire, North Carolina, Oregon, Vermont, Washington, Wisconsin, and Wyoming. In Delaware, the State Housing Authority has taken the lead, along with the Delaware Housing Coalition, in helping to create a CLT that will act as the steward of affordability for resale-restricted, owner-occupied housing throughout the state.

ICE's Revolving Loan Fund

Since 1979, the Institute for Community Economics (ICE) has financed projects of community land trusts around the country through its own a revolving loan fund. The fund provided low-interest loans for the acquisition of land, the construction of affordable housing, and the development of community facilities on leased land. The future of this fund is presently unknown. ICE has begun negotiations with several national intermediaries – including the National CLT Network – hoping that one of them will eventually assume responsibility for this fund and administer it on behalf of the CLT movement.

Housing Trust Funds

At both the state and municipal level, housing trust funds have provided considerable support for projects developed on CLT land. The ability of the CLT to retain and recycle public subsidies and to perpetuate the affordability of any housing created through such subsidies have made CLTs, in several cities and states, preferred recipients of project funds distributed through Housing Trust Funds.

Tax Increment Financing

Tax Increment Financing for housing on leased land has been used or proposed as a significant part of the funding for projects developed by three CLTs: First Homes (Rochester, MN); Bahama Conch Community Land Trust (Key West, FL); and the Portland Community Land Trust (Portland, OR).

Municipal Real Estate

Public support for a CLT project has sometimes come to a CLT not only in the form of money but in the form of real estate. In several cities, "surplus" lands and buildings owned by the municipal government have been conveyed to a CLT at no cost – or at a below-market price – for the development of affordable housing. (See: "Donations," under Special Topics.)

Municipally Mandated "Donations" by Private Developers

In several cities, including Chapel Hill, North Carolina, Burlington, Vermont, and Boulder, Colorado, CLTs have received "donations" of land and housing from private developers as a result of municipal intervention. Developers have provided such property either in exchange for concessions, approvals, or density bonuses granted by city government or in compliance with a municipal ordinance like inclusionary zoning or housing replacement. In some cases, the CLT has paid nothing. In others, the CLT has paid a price significantly below the property's market value.

Pension Funds

To date, there is only one pension fund that has made an investment in affordable housing through a CLT. The Burlington Employee Retirement System (BERS), the pension fund for municipal employees of Burlington, Vermont, has made a pair of million-dollar investments in projects developed by the Burlington Community Land Trust (now the Champlain Housing Trust).

Private Foundations

The CLT movement has benefited from several program-related investments provided to the Institute for Community Economics by national foundations and from a handful of operating grants provided to individual CLTs. Grants for land acquisition or project development have tended to come from foundations with a more local or regional focus. The largest to date has come from the Rochester Area Foundation in Rochester, MN, which is using a $7 million gift from the Mayo Clinic and $6 million from other donors to acquire land and to build affordable housing through its First Homes initiative. A majority of the units funded through this initiative are being placed under the stewardship of a CLT.

Private Land Donations

Other CLTs have benefited from the donation – or bargain sale – of real estate owned by private individuals, religious orders, and private corporations. (See: "Donations" in the next chapter.)

Development Fees

Although no CLT in the country has been able to fund its next project entirely out of the proceeds from its last project, there are a few CLTs that have regularly (or occasionally) put significant equity into new housing being developed on leased land, where the source of that equity was development fees earned by the CLT on earlier projects.

Lease Fees

To date, only a few CLTs have managed to build a portfolio that is sizeable enough to derive significant income from its own lease fees. This revenue tends to be used as operating support rather than project support. There is one case, however, of a CLT in a more prosperous community turning its lease fees into equity for new projects. In a manner analogous to the transformation of mortgage cash flows into mortgage-backed securities, the Jackson Hole Community Land Trust (Jackson, WY) was able to securitize its future stream of ground lease fees, raising significant equity from private investors for use in its future projects. CLTs that serve a poorer clientele and work in lower-income communities must charge lower lease fees than those charged by the Jackson Hole CLT, making the securitization of this income stream unprofitable and unlikely. Most CLTs rely on lease fees, moreover, for a portion of their operating support. Nevertheless, any CLT that is able to fund its operations from other sources and is able to charge lease fees of $50 - $100 per month, without unduly undermining the affordability of the housing located thereon, may be able to do what JHCLT has done.

SOURCES OF CLT OPERATIONAL FUNDING

Community land trusts across the United States tap many sources of support for their operations. The mix of operational funding varies greatly, state by state, city by city, and CLT by CLT. Described below are the most common sources of operating support that CLTs are currently using.

CDBG & HOME

Many CLTs have received operating support from two federal sources – the Community Development Block Grant program and the HOME program – discretionary funds that are received by a city or state and are then distributed to grantees at the local level. When CDBG is awarded to a CLT, such funds are typically tied to a performance contract whereby the CLT is committed to produce a particular number of housing units or to provide a particular mix of housing services during the fiscal year. Under the HOME program, capacity grants are made available for "Community Housing Development Organizations," a designation received by many CLTs.[2]

[2] Unlike other nonprofit housing developers seeking CHDO designation, a CLT can be awarded CHDO status without having "a demonstrated capacity for carrying out HOME activities" and without a "history of serving the local community within which the HOME-assisted housing is to be located." This has meant that start-up CLTs have been able to receive CHDO status, HOME-funded capacity grants, and HOME-funded technical assistance.

Private Institutions

CLTs have often received annual operating funds from businesses, banks, foundations, churches, or the United Way. At the high end, a few CLTs are receiving $100,000 - $300,000 from private institutions like these. The average for CLTs around the country is probably closer to $60,000 per year.

Individual Donors

Some CLTs have made fundraising from a broad base of members and donors a major part of their political strategy for winning legitimacy and removing NIMBY opposition to their projects, as well as a major part of their financial strategy for sustaining their own operations.

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Grassroots Fundraising

Operating income derived from raffles, house tours, dances, concerts, and other special events provides significant operating funds for a few CLTs, which annually raise anywhere from $10,000 - $50,000 in this way. Most CLTs, especially those in low-income neighborhoods, raise much less from grassroots fundraising.

Development Fees, Rental Income, & Lease Fees

Some CLTs receive almost all of their annual operating support from these three sources of income. Most CLTs receive nearly half. At the high end, a few CLTs receive $150,000 - $250,000 a year in development fees, net management fees for buildings located on CLT land, and lease fees for the use of the CLT's lands. The average amount received by most CLTs is closer to $60,000 per year.

FUNDING ISSUES FOR NEW (AND OLD) CLTS

Project Funding

- **GRANTS FOR LAND ACQUISITION**. The CLT model works best when land is owned debt-free by the CLT, allowing the CLT to remove the entire cost of the underlying land from the selling price of housing and other improvements. (See Appendix C, "Comparison of the CLT Model vs. Conventional Mortgage Subsidy for Low-income Homebuyers.") Most housing subsidy programs, however, especially municipal programs assisting first-time homeowners, are premised on the <u>recapture</u> of subsidies by the municipal agency administering these funds, not on the <u>retention</u> of public subsidies in the housing itself. Under a subsidy recapture regime, the value of scarce subsidies provided to homebuyers is eroded over time due to monetary inflation and real estate appreciation. Under a subsidy retention regime, subsidies are provided to the developer of permanently affordable housing (i.e. the CLT) and actually grow in value over time, keeping a home affordable for a household of modest means.[3] Overlooking the long-term advantage of subsidy retention over subsidy recapture, many municipalities make two mistakes in investing in CLT projects. Rather than granting their funds for the upfront acquisition of a permanent asset (i.e., the land), they insist on making temporary loans. Rather than directing their funds to a single grantee (i.e., the CLT), they insist on loaning their funds to dozens of individual homeowners. Neither approach takes full advantage of the CLT's potential.[4]

- **<u>GRANTS FOR PROJECT DEVELOPMENT</u>**. Quite often, the subsidy required to achieve the desired level of affordability in a housing project (with or without a CLT) will be greater than the cost of the underlying land. If very low-income people are going to be served, therefore, where construction costs are very high, a CLT – like every other for-profit or nonprofit developer – is going to require grants that are sizable enough not only to remove the cost of the land but to subsidize a portion of the building's cost as well. As obvious as this may seem, it is not uncommon for a public funder to assume that buying the land for a CLT will eliminate the need for additional subsidies to develop the housing.

- **<u>LOANS FOR IMPROVEMENTS ON LEASED LAND</u>**. In all cities and states where CLTs have been successful, local financial institutions have been willing to write mortgages for resale-restricted homes on leased land – sometimes with the backing of FHA or Fannie Mae; sometimes without. In several cities, CLTs have persuaded local lenders to pre-qualify low-income homebuyers for mortgages on CLT homes, enabling would-be homebuyers to participate in the CLT's "buyer-initiated" program. Establishing these relationships with local financial institutions takes education, care, and time.

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[3] A longer discussion of subsidy retention versus subsidy recapture can be found in Chapter Four of John Emmeus Davis. 2006. *Shared Equity Homeownership: the Changing Landscape of Resale-Restricted, Owner-Occupied Housing*. A free copy can be downloaded from the website of the National Housing Institute (www.nhi.org) or from the website of Burlington Associates in Community Development (www.burlingtonassociates.com). Also posted on the Burlington Associates website is a flash animation that graphically compares subsidy retention and subsidy recapture.

[4] There is, in fact, a <u>third</u> mistake that some municipalities have made. They run ***parallel*** programs of subsidy retention and subsidy recapture, where the municipality supports the CLT with one hand and undermines it with the other. For example, a city gives funding to a CLT to write down the selling price of resale-restricted homes, so that low-income households can buy them. At the same time, the city provides a similar level of "downpayment assistance" directly to low-income homebuyers, allowing them to buy housing of the same type in the same neighborhood that is not encumbered with resale restrictions.

Operational Funding

- **PROVOKING COMPETITION**. In cities with few public funds and many nonprofits, any request for operating support for a new Community Land Trust is likely to be met with skepticism by city officials and with hostility by pre-existing housing and community development organizations, unless the funding pie is made larger for all.

- **ESCHEWING DEVELOPMENT**. Some CLTs, in order to avoid competition with pre-existing nonprofit housing developers for scarce resources, have made the reasonable decision not to do development themselves. They contract, instead, with nonprofit partners for these services. But in averting conflict they also surrender any claim to development fees, money that CLTs around the country have relied upon to sustain their operations. Eschewing development, a CLT must find other sources of operating support, including fees collected for counseling homebuyers, marketing units, and managing resales.

- **THE CLT AS "SOMETHING NEW."** Start-up CLTs are often beneficiaries of the obsession of many foundations and private donors forever to fund "something new." This is, after all, a model with a rather unique approach to property, governance, stewardship, perpetual affordability, and perpetual responsibility. There is a downside to this obsession, however, for CLTs and for every other housing and community development nonprofit that seeks operational funding from these private sources. While still trying to implement and institutionalize the last "something new," the CLT discovers that its funders have begun looking for the next new thing to support. Some CLTs resist the temptation to further complicate their projects and programs by loading even more innovation onto a model that is already the epitome of "something new." Others do not.

- **STAFFING ADEQUATE TO THE TASK**. The need for operational funding is a function of the level of staffing a CLT finds necessary to carry out the roles it has chosen and the goals it has set. Some CLTs manage quite well with a staff of three. Other CLTs need a staff of a dozen (or more) to carry out all of the projects and programs that it has underway. The primary issue for a new (or old) CLT, therefore, when it comes to operational funding, is deciding how <u>much</u> staff and what <u>kind</u> of staff will be needed to do an effective and efficient job of doing the CLT's work.

- **SUSTAINING STEWARDSHIP** At a minimum, the "CLT's work" is the long-term stewardship of any lands and buildings brought into its protected domain of perpetual affordability. A CLT may stop doing development for long stretches of time, awaiting the arrival of new opportunities and funds. But a CLT cannot stop managing its lands, monitoring its leases, or enforcing the durable contractual controls over occupancy and resale that encumber those buildings that are located on its lands. CLTs that have built a large portfolio of land and housing can come close to covering their stewardship costs through revenues that are internally generated: lease fees, service fees, membership fees, and "lease re-issuance fees" that are collected every time a resale-restricted homes changes hands. A newer CLT, holding a smaller portfolio, should plan for the day when it can pay for stewardship out of its own revenues, but until that day the CLT will need to secure sources of operating support outside of itself.

- **FUNDING FOR A THREE-YEAR START-UP**. Experience has shown that it takes about three years for a new CLT to establish itself solidly within a community. The most successful start-ups, in recent years, have been those with at least three years of operational funding firmly in hand before they are launched – or, alternatively, at least three-years of staffing and support from a nonprofit sponsor.

