

Promoting Community Land Trusts for Permanently Affordable Housing in Massachusetts

**Policy Strategies Memo
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This memo outlines rationale and strategies for the Commonwealth of Massachusetts and its cities and towns to support and promote community land trusts (CLTs) for permanently affordable housing. CLTs are a flexible and adaptable tool with a proven record of sustaining permanently affordable housing. The public sector can help support the spread and effective use of this tool in a variety of ways to help further the state's affordable housing goals, including preventing displacement due to gentrification.

Background

A CLT is a democratically governed community nonprofit that owns land in perpetuity for public benefit. The CLT keeps community ownership of land but issues long-term (99 year) leases with affordability requirements to private homeowners (or businesses, farms, other uses). This ownership arrangement effectively separates the value of land from that of the homes, thus protecting against real estate speculation. In essence, the CLT keeps the value generated by public and collective investments in the hands of the community. In a hot market like Boston, CLTs can stem the skyrocketing increase in land prices, which according to a November 2015 article in the [Boston Globe](#), “has surged about 40 percent since the mid-2000s.”

CLTs have many advantages:

- Support *permanent affordability*, which means preventing displacement in hot markets.
- *Preserve public subsidies*, which means that government only has to invest once in affordability.
- *Stabilize neighborhoods and buffers against foreclosure* in down markets. A 2011 study found that CLT homeowners were 10 times less likely to be in foreclosure proceedings as conventional market owners (0.46 vs 4.63%).
- Promote *community engagement*, which helps strengthen bonds between neighbors.
- Contribute to *economic development* by giving low income individuals and families access to homeownership and the wealth associated with property. In addition to maintaining permanent affordability, CLTs have the added benefit of sometimes acting as a stepping stone to market rate homes for residents.

CLTs Across the US and in Massachusetts

Since the 1960s, almost 250 CLTs have been established in both urban and rural areas in 46 states. A [2011 survey](#) of 96 CLTs found that they host almost 10,000 units of housing. Massachusetts has been one of the “birthplaces” of CLTs, with the Institute for Community Economics, which was an early pioneer of the model and based in western Massachusetts. There are at least 18 [CLTs in Massachusetts](#), including Dudley Neighbors, Inc. (Roxbury), Chinatown CLT (Boston), Worcester Common Ground, Arise (Springfield), Berkshire CLT, Amherst CLT, Holyoke CLT, Andover CLT, Bread & Roses Housing (Lawrence).

The Dudley Street Neighborhood Initiative formed their land trust Dudley Neighbors, Inc. in the late 1980s. As residents came together to fight disinvestment and build a vision for their neighborhood, DNI became a vehicle to help them realize their vision for community development. Today, DNI owns more than 30 acres of land in the heart of the neighborhood.

They have 226 units of affordable housing (homeowner units, cooperatives, and rental units). The land trust also boasts an urban farm, a greenhouse, charter school, several parks, and a town common. In the most recent foreclosure crisis, they didn't lose a single home to foreclosure.

Some other accomplishments of CLTs across the country include:

- **Champlain Housing Trust** (Vermont). This is the largest CLT in the country with more than 2000 units of housing. They have achieved a scale that can sustain long-term stewardship and services for their housing. They have a several decade track record of families coming in and out of their homes, showing [how CLTs can help families build wealth](#). Of the more than 233 families who have left the CLT, the median tenure was over 5 years and the median sale generated \$17,000 in equity. Almost 70% went on to market rate homes.
- **Sawmill CLT** (Albuquerque, NM). This CLT took over a former brownfield site, working with the city to obtain 34 acres. The city also provides the CLT with \$200,000 from Community Development Block Grant funds each year for their operations.
- **Chicago CLT** (Illinois) and **Irvine CLT** (California). These CLTs received staffing, funding, and political support from their host cities. Municipalities created CLTs to steward the permanent affordability of housing built through their inclusionary development policies.

Rhode Island has incorporated CLTs into its statewide housing policies and programs through the [Community Housing Land Trust of Rhode Island](#) (CHLT). This is a statewide land trust created by the [Housing Network of Rhode Island](#), the state's association of community development corporations. Rhode Island has built CLTs into its statewide housing policies and programs in a number of ways. For example, federal [HOME Investment Partnerships Program](#) (HOME) funding is leveraged to fund housing with long-term ground leases. The state's Housing Acquisition and Rehabilitation Program (SHARP) is administered by the land trust network. In 2010, the state initiated a \$1 million grant pool for this program. CHLT also administers a Community Development Block Grant (CDBG) revolving fund for property acquisition and has negotiated agreements with many Rhode Island municipalities to meet fair housing requirements.

What can state and local government do?

The Commonwealth of Massachusetts and its municipalities can help promote permanent affordability through CLTs in a number of ways. The strategies outlined below address the challenges facing CLTs, which include:

- Lack of knowledge and awareness of the model
- Startup costs and building capacity to scale
- Land acquisition and developing housing
- Sustaining long term stewardship

Education & Awareness Building

Although CLTs offer many advantages, it presents a model of ownership that is still not widely understood. CLTs are a hybrid between private and public ownership and are a form of

public-private partnership between a private community nonprofit and government. Communities need to understand the obligations and commitment necessary to form and sustain CLTs. Government and private sector partners must understand the model in order to develop appropriate policy and financing mechanisms. In Portland, OR, Burlington, VT, and Chicago, government agencies organized local forums and issued reports to introduce CLTs to local officials and nonprofits.

Massachusetts can:

- Commission study of opportunities for CLTs to advance housing, community development, agricultural, and other state goals across the state by region. Study could focus on rural and urban areas, and explore opportunities in both hot and cool real estate markets. It can analyze the opportunity for CLTs to provide stewardship for all kinds of permanently affordable units (not just ones developed on CLT land).
- Convene learning sessions with stakeholders, including existing CLTs, municipalities, neighborhood groups, CDCs, and affordable housing advocates, financiers, and researchers.
- Convene a state inter-agency working group on CLTs to learn more about the model and develop strategies for coordination. Relevant agencies could include those dealing with housing, agriculture, small businesses, and transit-oriented development.
- Draft primer connecting CLTs to the concept of “best and highest use.”
- Consult with local experts such as those practitioners already working at CLTs in MA, and those who have studied them extensively, of whom there are many.

Startup, Capacity-Building, and Technical Assistance

CLTs require an organized community with enough capacity to sustain a nonprofit organization over the long term. There must be an investment in startup costs and support to build capacity. [Cities including](#) Burlington VT, Truckee CA, Sarasota FL, and Chicago have provided planning and startup grants from \$25,000 to \$250,000. Chicago and Delray Beach, FL have allocated city employees to help staff CLTs.

Massachusetts and its municipalities can:

- Develop a CLT seed grant program. This program could provide planning and seed funding for 8-10 community-based organizations through a competitive RFP program. Grants could range from \$25,000 to \$75,000. This program could be administered by Community Economic Development Assistance Corporation (CEDAC).
- Provide technical assistance. This support can help emerging and new CLTs to get off the ground and support existing CLTs to strengthen their capacity. Again, CEDAC could be the provider, given that they already play this role in their affordable housing program.
- Support a statewide CLT network. The state can help existing CLTs network with and learn from each other. This network could identify shared needs and assets and inform state policy and programs.
- Provide staffing, or pay for consultants, to help CLTs over initial administrative hurdles. Offer legal support from state attorneys. This could also be done by municipalities.

- Relieve CLTs from development fees and parking requirements. This has been done in Burlington, VT and Bellingham, WA.
- Allow CLTs to take a percentage of the total project costs as a developer's fee. Madison, WI, for example, allows CLTs to take 15% of total costs as a fee.

Public Land & Land Acquisition

Once a CLT is established, acquiring land is the next challenge. CLTs can acquire land from public land disposition processes at nominal or below-market cost. [For example](#), in Delray Beach CA, Irvine CA, Syracuse NY, Albuquerque NM, and Washington DC, surplus and foreclosed properties were transferred into CLT portfolios. Governments can also develop funds specifically for land acquisition by CLTs.

Massachusetts can:

- Prioritize CLTs and permanently affordable housing uses for state land disposition processes (through DCAMM, MBTA, MassDOT, etc.).
 - "Open for Business" is a new state disposition process that uses the Asset Management Board and provides leases to developers for 99 years.
 - Proposed legislation (i.e. Sen. Forry/Rep. Holmes bill) would allow municipalities to petition state to purchase public land for below-market rates with given public purpose, housing for those $\leq 120\%$ AMI. Boston DND's Public Facilities Assistance Program is a good example, where parcels are sold for \$100 for public benefit uses.
 - Establish a Land Acquisition Fund of \$10 million. This equity pool would be available to CLTs for the acquisition of land, occupied buildings, and other properties.
- Explore the use of eminent domain as a mechanism to acquire land to transfer to CLTs.

Municipalities can:

- Prioritize CLTs and permanently affordable housing uses for land disposition processes. In Boston, both the Department of Neighborhood Development (DND) and Boston Redevelopment Authority (BRA) own land.
 - DND has historically offered low/no cost property for benevolent uses, such as disposition for urban agriculture at \$100/parcel through the Community Facilities Assistance Program. BRA should also explore this pathway for residential as well as commercial land trust uses.
 - The Community Redevelopment Authority of Delray, FL is one example elsewhere in the nation of a public redevelopment agency exercising below-market conveyance of land.
- Establish land banks to hold property until a CLT can be selected to develop and maintain units. Land banking is a tool used for municipalities or regions to acquire, store and convey property for development.
 - In Massachusetts, the strategy has been applied in Nantucket (where it remains active), on Cape Cod (where many communities are no longer actively using land

banking), and to revitalize Fort Devens (where the land bank became part of MassDevelopment).

- [Many land banks](#) across the country, such as the Cuyahoga land bank in Ohio, have targeted low-value or foreclosed property, but the experience in [Nantucket](#) suggests alternate applications are possible. The Nantucket Land Bank, established in 1983, utilizes a real-estate transfer tax to preserve open space in a hot real estate market. Transfer taxes, which can be applied across the board, exempt certain categories, or apply only within a time window from the date of purchase, have also been proposed in urban communities like Somerville as a mechanism to deter housing speculation.
- Link residential CLT developments to agriculture and open space policies and funding, or conversely support agricultural development by smart pairing with housing subsidies.

Affordable Housing Development & Stewardship

CLTs can undertake affordable housing development themselves or partner with CDCs and others. Government affordable housing development programs should be coordinated and aligned with CLT models. [For example](#) Washington DC committed \$10 million to subsidize 1,000 units developed by City First Homes, a district-wide CLT. Highland Park, IL and Burlington, VT both used housing trust funds to channel money to CLTs. Once permanently affordable homes are developed, CLTs can be a vehicle for stewardship, ensuring that affordability restrictions are complied with over the long term. Rhode Island's SHARP program supports stewardship of land trust homes.

Massachusetts can:

- Coordinate its affordable housing programs to ensure accessibility and compatibility with CLTs. Programs include:
 - Affordable Housing Trust Fund
 - Qualified Allocation Plan for Low Income Housing Tax Credits
 - Housing Innovation Fund
 - Housing Stabilization Fund
 - Commercial Area Transit Node Housing Program
 - Massachusetts Housing Partnership
- Explore the use of CLTs in municipalities seeking to meet (or exceed) the 10% affordability requirement stipulated by 40B. CLTs have the potential to fill multiple roles in this process, both pre and post-development and institute a level of local control over development:
 - By issuing ground leases that assure affordability for 99+ years, CLTs fulfill the 30 year affordability requirement outlined in 40B.
 - CLTs can partner with other developers to steward affordable units, fulfilling the requirement that the units be operated and their development monitored by a public agency, nonprofit, or limited dividend organization. CLTs can also take care of the administrative task of filling the units with families making 80% or less of AMI.

- Additionally, by using CLTs to fulfill 40B requirements, it becomes easy to stay within the profit margin caps even in boiling markets (20% in homeowner developments, 10% per year for rental developments). Profits made above these margins (if, for instance the sale of market rate units within the development results in profits over these limits) can be donated to the CLT.
- Finally, CLTs may partner with or include land preservation uses and help balance open space and affordable housing needs.
- Explore ways for Community Preservation Act to be used by municipalities to support CLTs. The [Amherst Community Land Trust](#), for example, leveraged \$95,000 of CPA dollars in 2015 to [fund property acquisition](#) for affordable housing; the land also benefits a [local farm](#).
- Work with CLTs to use Community Investment Tax Credits program to fund operations capacity and stewardship. DSNI has already begun this process.
- Establish a line of credit to assist CLTs in developing, preserving, or rehabilitating affordable housing on community-owned land. The State of Rhode Island, Frederick County, MD, and the municipality of Chapel Hill, NC have each established revolving loan funds used in concert with land trust strategies. A report commissioned by [Barrington, RI](#) recommended the municipality create an additional revolving loan fund, supplemented with CDBG funds.
- Expand the availability of funds for the post-development, post-purchase stewardship of publicly subsidized, privately owned housing encumbered with long-term affordability controls.
- Promote District Improvement Financing (DIF) and Tax Increment Financing (TIF) as tools for CLTs to work with cities to develop affordable housing. As currently constituted, DIF seems easier to apply to CLTs. This is because DIF is used to funnel public funds to neighborhoods targeted for redevelopment while TIF is used to offer tax breaks to the private sector. Since private developers cannot readily maximize profits off of permanently affordable housing, it is unlikely that they would commit to building CLTs, even if they were offered tax breaks through TIF. Both programs make use of tax increments, but according to the [Smart Growth/Smart Energy Toolkit](#) provided by the state, they differ in that by “using DIF, municipalities can pledge all or a portion of tax increments to fund district improvements over time. With TIF, municipalities may grant property tax exemptions to landowners of up to 100% of the tax increment for a fixed period.” Thus, DIF requires tax increments to be used for further improvements and shores up public coffers, while TIF allows developers and private landowners to reap and sow the benefits of the tax breaks as they see fit.
- Establish planning and development review processes that use environmental and health impact assessments to analyze displacement impacts due to gentrification. The [Massachusetts Environmental Policy Act](#) (MEPA) review is one possible vehicle for such analyses. MEPA requires study of land transfer, particularly when the state is providing financial assistance in development projects, and necessitates proposed alternative development as well as mitigation measures.
 - Research examining development in Portland, Oakland, and other US Cities suggests gentrification can contribute to housing overcrowding as prices rise; and exacerbate health disparities between different racial groups and income classes;

disconnect residents from community services and social networks. A [report](#) commissioned by the City of Portland also explicitly recommends planning mechanisms that mitigate gentrification and displacement.

- In commercial/industrial area development, conduct advance planning for middle-income jobs and housing.

Municipalities Can:

- Link Inclusionary Development Policies to local community land trusts. Inclusionary zoning, or IDP, requires real estate developers to provide for a percentage of low- and moderate- income housing. Typically, a portion of such housing is built on-site and additional housing is built in other parts of the same municipality, ideally in the same neighborhood. New York's R10 program and Boston's Inclusionary Development Policy were enacted in 1987 and 2000, respectively, and both have seen subsequent updates.
- Approve Community Preservation Act locally or, if a municipality has already passed the CPA, target funds towards CLTs.
- Target federal CDBG and HOME funds toward land trust projects. Albuquerque, NM has leveraged hundreds of thousands of CDBG dollars while King County, WA has targeted \$30,000 in HOME funding toward Homestead CLT in Seattle. Assess neighborhoods by early, middle, or late-stage gentrification and conduct an equity analysis of which local populations are or are not currently served by housing development. This analysis can then inform targeting of public funds.
- Adopt zoning changes in compliance with chapter 40R. 40R was enacted to encourage mixed use development located near transit oriented sites or other areas of concentrated development. [It requires](#) no less than 20% of new housing units to be designated as affordable for people earning maximum 80% of Area Median Income (AMI). "Upon state review and approval of a local overlay district, communities become eligible for payments from a Smart Growth Housing Trust Fund, as well as other financial incentives." CLTs can be used to fulfill the affordability requirements, thereby making cities eligible for up to \$600,000 in state funds.
- Work with the National Housing Trust to acquire and develop affordable units. Specify in these RFP's that permanent affordability is a core requirement for development.
- Help or encourage developers to negotiate with CLTs to convey land for permanent affordability.
- Enact procedures and policies that allow a city to buy a CLT property if the CLT is for some reason unable to repurchase it. [This has been done in Santa Monica.](#)

Other policy strategies

- Explore role for CLTs in Transit-oriented Development (TOD) policies/programs (like DHCD's CATNHP). Two possible interventions could be targeting funds toward projects with long-term availability or establishing mechanisms for land disposition such as land banking. [Atlanta](#) has used Tax Increment Financing and Affordable Housing Trust Fund dollars to support CLT development in advance of a major transit expansion. Land banking is used to shift vacant property toward CLT and other development. Denver has

a low-interest and exclusive transit oriented development lending line with a multimillion dollar initial investment from the city.

- Establish (state) standards or model for fair valuation and property tax treatment by municipalities. For example, some communities tie the tax valuation of the land under CLTs to the monthly fees collected from the property. This keeps it well below market rate and assures that taxes only go up if fees go up. Also, sale value is calculated using the restrictions on the lease/deed so that taxes do not rise if the surrounding neighborhood appreciates significantly in value.
- Empower renters to acquire the properties they live in during real estate transfer. The [District of Columbia](#), for example, has for decades required “[Right of First Refusal](#),” i.e. landlords must give tenants an opportunity to purchase properties before selling to other parties. Review of DC’s experience suggests that substantial public education for both landlords and tenants is necessary for this policy to work, and the nonprofit sector may play a critical role in tenant education and organizing.
- Explore other opportunities for Live/Work Housing, such as artist housing. Boston has since 2002 [supported stability in housing and workspace for artists](#) by maintaining an artist certification program and supporting the development of affordable as well as market rate live/work housing. Examining other sector- or neighborhood-specific housing or multi-purpose construction could be one creative avenue for additional affordable housing.

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