



Special Attention of:

All Regional Administrators
All Field Office Managers
All Regional Directors for CPD
All CPD Division Directors
All HOME Coordinators
All HOME Participating Jurisdictions

Notice:

Issued:
Expires:

Cross Reference:

SUBJECT: COMMUNITY LAND TRUSTS AND THE HOME PROGRAM

1. **PURPOSE:** The purpose of this Notice is to provide guidance on the potential use of HOME funds by Community Land Trusts (CLT) when participating jurisdictions (PJ) are interested in providing assistance to first-time homebuyers.
2. **BACKGROUND:** The Housing and Community Development Act of 1992 provided an avenue for "Community Land Trusts" to become eligible for HOME funds by integrating them into the Statute as a Community Housing and Development Corporations (CHDOs). In essence, CLTs are considered CHDOs for the purpose of the HOME program and are eligible for the same opportunities afforded to CHDOs. The Act makes it clear that HOME funds may be used by CLTs. CLTs may also receive HOME funds for administrative and technical assistance for operating assistance and organizational support. In addition, it allows for the provision of technical assistance funds to intermediaries who work with PJs or PJ-designated nonprofits for the establishment of new CLTs.

Community Land Trusts are, perhaps, one of the most effective means of ensuring permanent affordability of resident ownership simply because the trust maintains ownership of the land. The objective of a CLT is to acquire land and make it available to individual families, cooperatives and others through long-term leases up to 99 years. While the leaseholders do not hold title to the land, they may own the buildings or housing units/structures on the land.

3. DEFINITION

A Community Land Trust (CLT) as defined in 92.302(c)(6) is a community housing development organization that:

- (a) Is established, and undertakes activities to:
 - (1) acquire parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;

CGHP: Distribution: W-3-1, W-2, R-1, R-1-3 (Adm), R-6, R-9, Special (CPD Regional and Field Office Directors)

- (2) transfer ownership of any structural improvements located on such leased parcels to the lessees; and
 - (3) retain a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low- and moderate-income families in perpetuity;
- (b) is not sponsored by a for-profit organization;
 - (c) Has a corporate membership open to any adult resident of a particular geographic area specified in the bylaws of the organization;
 - (d) Has a board of directors which includes a majority of members who are elected by the corporate membership and is composed of equal numbers of (1) lessees, (2) corporate members who are not lessees, and (3) any other category of persons described in the bylaws of the organization; and
 - (e) is not required to have a demonstrated capacity for carrying out HOME activities or a history of serving the local community within which HOME-assisted housing is to be located.

4. THE ROLE OF A COMMUNITY LAND TRUST IN THE HOME PROGRAM

The role of a Community Land Trust in the HOME Program is basically that of a CHDO or community-based nonprofit developer of affordable housing.

CLTs, acting as CHDOs or community-based nonprofit developers, have certain advantages in that they can be a means for the PJ to:

- (a) provide greater local control over land and housing ownership,
- (b) protect affordability for future residents by controlling the sale of buildings and other improvements on their land,
- (c) protect the community's long-term interest by continuing to own land while conveying the long term use of the land to individuals, cooperatives or other entities,
- (d) carryout an ongoing acquisition and development program that meets diverse community needs, and

- (e) be flexible by not only promoting resident ownership and management but by creating and preserving such critical resources as affordable housing, neighborhood businesses, and social services.

CLTs see their role as working to support and complement existing efforts in a community. For example, nonprofit organizations planning to develop affordable housing in a community, could develop the housing on land owned by a CLT while the trust focuses its efforts on organizing grassroots support and obtaining prospective leaseholders/homeowners. In addition, they are a means of developing and supporting limited equity housing cooperatives and insuring that cooperatives continue to serve targeted income groups.

Unlike the past, when they were started in communities with little or no support from local governments, it is now common for CLTs to work in cooperation with local governments to meet present and future needs of a community. In turn, State and local governments are providing financial assistance to CLT projects.

CLTs can also play a major role in structuring a PJ's first-time homebuyer programs using HOME funds. The CLT program design approach not only insures affordability for persons unable to compete in the market (i.e. very-low income persons), but it also insures affordability to subsequent owners as well.

As a means of insuring continued affordability in first-time homebuyer projects, the CLT develops resale restrictions (in accordance with Section 215(b) of the HCDA of 1992) that specifically outline the criteria to be met when the resale of a HOME-funded property takes place. The restrictions established by PJs shall be developed so as to:

- (f) Allow for subsequent purchase of the property only if it is the principal residence of an owner whose family is low-income at the time of purchase and at a price which will--
1. Provide the owner with a fair return on investment, and
 2. Ensure that the housing will remain affordable to a reasonable range of low-income homebuyers; or
- (g) Recapture the HOME subsidy provided in order to assist other persons in accordance with the requirements of this subsection, except where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of the assistance.

CLTs can structure the resale/recapture provisions along a continuum from limited equity cooperatives to options where it is possible for a first-time homebuyer to eventually walk away with equity to purchase property at a conventional rate.

Although there are a number of options that can be used when developing these provisions, the CLT must, in each situation, take into consideration the characteristics of each jurisdiction, i.e., market conditions, population trends, types of single-family housing, etc., and the jurisdiction's CHAS. Then, all other criteria can be factored in. (References on how CLTs structure resale restrictions are included in this Notice for your use.)

5. ELIGIBLE HOME ACTIVITIES

Because CLTs are considered CHDOs by definition, they are also eligible to receive certain percentages of HOME funds for use in carrying out various HOME activities. First, CLTs are eligible to receive funds from the 15% set-aside for investment in housing to be developed, sponsored, or owned by CHDOs. Secondly, since CLTs are not required to have demonstrated capacity for carrying out HOME activities or a history of serving the local community within which HOME-assisted housing is to be located, up to 20% of the 15% set-aside can be used to develop CLT capacity. This amount, however, is limited to \$150,000 which must be committed within 24 months of the PJ receiving its first HOME allocation. An additional amount up to 10% of the CHDO set-aside may be used for project-specific assistance.

The following are examples of technical and organizational activities that can be carried out by CLTs using HOME funds:

Project-specific Assistance

CHDO set-aside funds may be used to provide technical assistance and site control loans in the early stages of site development. Also, a loan in this category may be provided to cover project expenses necessary to determine project feasibility (including the initial feasibility study), consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, engagement of a development team, site control and title clearance. (General operational expenses are not allowable expenses under this category.)

Technical Assistance Funds

HOME technical assistance funds are provided primarily through intermediaries. For example, an intermediary can use these funds to

start up a new CLT or to administer pass-through funds to a CLT to carryout various HOME activities.

CLTs interested in receiving assistance of this nature should contact their PJ to discuss whether intermediary assistance is available in their local area.

Operating Expenses

The Interim Rule allows up to 5% of a PJs allocation to be used for CHDO operating expenses. Examples of activities that fall within these guidelines are:

- o Preparation of organizational documents,
- o Developing resale formulas and ground leases;
- o The provision of operating support as it relates to the preparation of financial management systems, developing and marketing CLT housing; training for board members, technical and legal assistance in completing projects and arranging for the sale of homes on CLT land; educating and counselling of prospective homeowners; and other eligible activities set forth in Section 92.206(g) of the HOME Program Interim Rule.

6. AVAILABLE RESOURCES

The following documents are available for CLTs that wish to pursue HOME funds to establish affordable housing:

- o First-Time Homebuyers and the Home Program (Model)--HUD-1369-CPD, HOME Information Center, P. O. Box 7189, Galthersburg, MD 20898-7189, 1-800-898-8899 or TTY/TTD 1-800-343-3442
- o Designing Resale Formulas For Homeownership Programs -- Institute for Community Economics, 57 School Street, Springfield, MA 01105, (413) 746-8660
- o Community Land Trusts and Rural Housing -- Housing Assistance Council, 1025 Vermont Ave. NW, Washington, DC 20005, ((202) 842-8600

For further information regarding CLTs, interested parties may contact the following:

The Institute for Community Economics
57 School Street
Springfield, MA 01105-1331
(413) 746-8660
Contact Person: Martin Hahn

ACORN
739 8th Street, S.E.
Washington, DC 20003
(202) 547-9292
Contact Person: Stewart Pittman

Center for Community Change
570 Shepard Street
San Pedro, CA 90731
(213) 833-4239
Contact Person: Mary Brooks