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Community Land Trusts:

Permanently Affordable, Resident-Controlled Housing

by Fred Stocking

Since 1997 Maine has enjoyed one of the highest levels of homeownership in the country. This is great news for most of Maine's citizens. As Fred Stocking points out, homeownership contributes to community stability and provides a sense of security to families. Yet not all of Maine families are able to achieve their dream of homeownership. 🏡 Community Land Trusts (CLTs) represent an attempt to build community and solve an affordable housing problem for Maine's low-income residents. CLTs are non-profit organizations that require the joint involvement of residents and non-residents in the housing development and management, and resale price restrictions that keep the housing affordable indefinitely. In this article Stocking outlines the history of the Community Land Trusts in Maine and provides several examples of successful CLTs in communities such as Bangor, Augusta, and Isleboro. Stocking argues that CLTs make wise use of scarce housing subsidy dollars, encourage residents and community members to work together, and offer an alternative to reliance on broad-based programs administered by the federal government.

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INTRODUCTION

The 1990s have been marked by a lament for community lost. Sunday magazine articles abound on the search for community in the midst of our increasing isolation, brought about by precisely those technological breakthroughs that make the world smaller: television, automobiles and, increasingly, computers and the Internet. As I write, the first study hinting that Internet use is linked to depression has been picked up by the press.

The search for community is a search for real connections with the people we live among. For some this means reaching out to a church or to a school group with which to volunteer. For others it means making personal connections with those who need help in the community so that they will receive neighborly assistance, and not simply impersonal government help. The common thread in many of these efforts is to get away from impersonal, bureaucratized solutions to community problems, and to instead look for solutions which recognize and reflect the dignity and unique strengths of individuals and families.

The community land trust is an attempt to build community and to solve an affordable housing problem by creating a unique blend of public and private housing. The attributes of the community land trust are joint involvement of residents and non-residents in housing development and management, a large degree of resident control, and resale price restrictions that keep the housing affordable indefinitely. Community land trusts use scarce public subsidy dollars efficiently by keeping the subsidy in the unit, which will remain in the community, rather than with the family occupying the unit. The community land trust has been used in Maine to solve a variety of specific community housing problems.

COMMUNITY LAND TRUSTS: A BASIC DESCRIPTION

A community land trust is a non-profit tax-exempt 501(c)(3) corporation. It is governed by a board of directors made up of residents, interested community members and people with helpful expertise. Residents typically are limited to one-third of the board positions.

The housing developed by the community land trust varies with the needs of the community. In Maine there are community land trust projects using scattered-site, single-family homeownership, small subdivisions of single-family housing (the most common form in Maine), a mobile home park controlled by an association of the residents, and apartment buildings owned by cooperatives of consumers of mental health services.

Typically, the housing will be developed using public money made available to affordable housing projects. When the homes are built (or the apartment buildings rehabilitated) and residents are ready to move in, the buildings are then sold to the resident family, association or cooperative. This purchase is generally financed by local banks, often supplemented, guaranteed, or both, with public money.

The price of housing may be reduced by use of volunteer labor, self-help labor by the family, and by shared resources, such as septic systems and wells. These strategies require cooperation between the family and the community and/or other families benefitting from the housing. After development of the project, there may well be ongoing issues requiring further cooperation, such as plowing, road maintenance, and septic/well maintenance.

The community land trust retains ownership of the land under the buildings and leases the land to the resident family with a lifetime ground lease. Ground leases are common in the commercial world for terms up to ninety-nine years, but rare in residential sales. The reason that a ground lease is used in the community land trust model is that it provides a way for the community land trust to maintain a certain level of control over the premises to make sure that the objectives of the project will be honored forever. The particular kinds of control will vary somewhat depending on the type of project, but the goal is to avoid interference with the everyday lives of the families while maintaining the long-term integrity of the project. Examples of restrictions on families' use of leased land include conservation restrictions on woodcutting or additional development on portions of the property, and restrictions on resales to new families based on income and other eligibility criteria (such as being a mental health consumer). These sorts of restrictions require some level of monitoring by the

community land trust. For example, if one family cuts wood where cutting is prohibited, the community land trust is responsible for making sure this cutting stops and that damage is repaired or compensation is arranged. These issues can be difficult when the families involved have few resources.

EQUITY LIMITATIONS: ASSURING PERMANENT AFFORDABILITY

In all community land trusts there are pricing restrictions on housing. In order to keep the unit affordable for the next family, these restrictions limit the sale price of the residence when the family leaves the home. Generally, the mechanism to enforce these restrictions is a preemptive right of the community land trust to repurchase the home at a price determined by a resale formula that is underscored in the ground lease. A typical resale restriction limits the resale price to the amount the family paid for the housing from its own resources, plus the value of improvements made to the premises during the family's ownership, plus an allowance for increases in median income over the period of ownership. If the family helped to build the home, a credit for "sweat equity" is often added to the resale formula.

Since the price the family originally paid for the home was not based on the fair market value, the resale formula will nearly always set a resale price that is less than the fair market value of the home. The original price was artificially lowered by the application of public or charitable subsidy money. The resale price is also lower than fair market value because a home in Maine typically increases in value faster than median income due to periodic increases in the value of land during development booms, particularly on islands and along the coast.

Equity limitations are designed to fairly balance both the family's and community's investment in the home. The community's investment, in terms of charitable contributions, public money, favorable loan terms, and the value of volunteer labor, stays in the home and cannot be "cashed out" by the homeowner. For the family, the obvious drawback to this arrangement comes at the time of resale: The family does not receive the portion of the resale equity that was created by the action of market forces on the home's value. Whereas most homeowners acquire a nest egg of savings through the increasing equity in their home. Community land trust families do so only with respect to resources that they put into the property. The fact that, in most cases, the amount of subsidy invested by the

community is greater than the investment by the family justifies the community retaining the bulk of the equity in the home on resale. Note that as long as the family members remain in the home, they are "better off," in the sense that they are living in a home that they could not afford based solely on family income. This benefit is lost if the family moves. This can encourage stability among community land trust families. However, if the family moves, the community has not lost its affordable housing investment. It maintains its investment by retaining permanently affordable housing to be resold to another community family in need at a figure which continues to reflect the original subsidies invested in the home, as the following example shows:

- A community land trust on MaineIsland builds a home for an actual developed cost of \$65,000. This includes \$23,000 in governmental subsidies and \$2,000 in sweat equity. The Fisher family, a low-income family that cannot afford other homes for sale on MaineIsland, buys the home for \$40,000, with a bank mortgage for the full amount available through an affordable housing program, and leases the land under the home from the MaineIsland community land trust. After six years, the Fisher's decide to relocate. The resale price in their ground lease with MaineIsland community land trust dictates that the family will receive their sweat equity of \$2,000, increased by an inflation factor of 11% (representing the increase in median income in the county during the six years), and the amount of principal they have paid on their mortgage, perhaps \$3,000. The Fishers will receive \$5,220 ($\$2,000 + (11\% \text{ of } \$2,000 = \$220) + \$3,000 = \$5,220$).
- The bank mortgage will be paid off for \$37,000 and the home can be resold for about \$43,000 or \$44,000, allowing for the community land trust's transaction costs. The next family's price is still well below the fair market value of the home and now the sweat equity has been paid off, which means that future price increases on resale will be even smaller. The MaineIsland community will continue to have a home affordable to the next family without the need for any substantial further subsidy. Moreover, the home will almost certainly grow more affordable relative to the housing market over time. The first resale of a community land trust house that

I handled involved a small single-family home on five leased acres in Hancock County. The house was first sold in 1984 for \$25,000. This was a reasonably good figure at the time, particularly for a home on five acres. When the home resold in 1996, the price was \$32,000. The price increase was required because the community land trust had to pay back taxes and make repairs on the home as well as pay the transaction costs of resale. Anyone in Hancock County during the period of large increases in land prices in Maine in the late 1980s and early 1990s will recognize that, even with the price increase, the home had become much more affordable over the nine years between sales. “More affordable” means that a family with a lower income relative to median income can afford to make a mortgage payment to purchase the property. A home and a home mortgage are generally considered to be “affordable” if mortgage, tax and insurance payments on a residence amount to no more than 28% of monthly income.

Limited equity arrangements that continue indefinitely are part of the basic definition of a community land trust but are not used extensively in other affordable housing programs. More common is some sort of equity limitation that is used for a limited period of time. Habitat for Humanity and some government programs use the concept of a self-canceling note, often called a “soft second.” With this mechanism, a mortgage, in an amount based on the amount of subsidy provided, is placed on the property for a term of years, usually ten or twenty. Each year of occupancy by the intended resident or class of residents “cancels” a proportionate share of the debt (sometimes after an initial period in which the debt does not decrease). Other programs limit the incomes of new occupants for the period of the initial loan. The Rural Development Agency (formerly Farmer’s Home Administration) uses a formula for interest recapture to slow down subsidy losses on their 1% interest, low or no downpayment loans.

The limitation of these mechanisms is that they allow, at some point, for value created by social investment—that is, the subsidy that went into the original development—to be turned into a private asset when the restrictions run out. Perhaps because of the short-run nature of political decision-making in this country, this approach is determined to be acceptable. However, experience tells a different story. Earlier in this decade the nation faced the loss of hundreds of thousands of units of public housing, which had been built by

private developers with government subsidized loans in the early 1970s. For twenty years, these units were restricted to affordable housing, after which they could be converted to market housing, such as condominiums, by repayment of the balances left on the original loans. Between 500,000 and 1,400,000 units were affected by these provisions in the 1990s.¹ Units had to be subsidized again at taxpayer expense or they were converted from affordable housing uses to whatever uses the housing market dictated.

It is this attempt to allocate the housing asset between the private (family) investment and the public (governmental and charitable) investment that characterizes the community land trust. Housing can and is produced by volunteer groups such as Habitat for Humanity and the various community efforts that spring up in response to a particular fire or other family tragedy. Such efforts are wonderful, but proceed very slowly because they depend on charitable money and time exclusively, and do not seek access to the larger resources of the government. The community land trust seeks to encourage governmental and charitable investment in affordable housing by maintaining the benefits on that investment indefinitely. Community land trusts believe that government should provide a certain level of subsidy for housing for low-income families, and also that such subsidies will never be adequate to meet those needs at any given time and therefore should be used very efficiently, and preserved indefinitely.

HOMEOWNERSHIP OPPORTUNITIES FOR LOW-INCOME FAMILIES

Homeownership is the preferred housing option in Maine. That preference makes sense, because of Maine’s rural farming and fishing traditions. The Maine State Housing Authority (MSHA) was proud to announce in 1997 that Maine had achieved the highest level of homeownership in the country. Homeownership no doubt contributes to community stability and the sense of security enjoyed by the family. Homeownership is just as desirable for low-income families in Maine as other families, but is much harder to attain. In its 1998 Consolidated Housing and Community Development Plan, MSHA notes that one-third of the households seeking homeownership opportunities make less than 50% of median income, but only 6.3% of MSHA homeownership program participants are from this group.² This statistic is not surprising; it merely reflects the increasing difficulty in “making the numbers work” when the family has less money available with which to meet its housing needs. MSHA correctly concludes that

homeownership programs for people in this income range have to include downpayment assistance, assistance with closing costs, and long-term capital subsidy.

Where programs with those benefits are available, community land trusts in Maine have demonstrated that they can produce housing that extends homeownership opportunities to families who cannot otherwise afford a home. Community land trusts can do this on a scale and with a flexibility that suits local needs. In Maine this often means small scale projects. In most cases, and through efficient use of subsidy dollars, community land trust projects have been able to sell houses to families at or below 60% of median income.

COMMUNITY LAND TRUSTS IN MAINE: IT ALL STARTS AT H.O.M.E.

The history of community land trusts in Maine starts with H.O.M.E. of Orland, in Hancock County. H.O.M.E. is an organization of low-income people which meets many needs in its community. It began as a crafts cooperative, selling the items that people made in their homes at a roadside stand on Route 1. It now runs many educational programs, provides day care, runs several homeless shelters and offers employment to its members in many crafts and trades. Loosely faith-based, H.O.M.E. is committed to meaningful work and the value of the skills and generosity of low-income Maine families. H.O.M.E. is very supportive of community land trusts and formed Covenant Community Land Trust (CCLT) in the late 1970s to concentrate on development of community land trust housing.

H.O.M.E. started building homes on CCLT land with crews of volunteers and low-income employees. Indeed, the *Community Land Trust Handbook*, published by the Institute for Community Economics in 1982 to promote the community land trust model, includes a chapter on H.O.M.E. and Covenant Community Land Trust.³ The H.O.M.E. model calls for a small homestead, generally five to seven acres, to provide room for animals, crops and firewood to encourage self-sufficiency and supplement wage income. H.O.M.E., CCLT and St. Francis Community (a religious community made up of some of H.O.M.E.'s leaders), have created thirty units of community land-trust housing. Statistics available on twenty-six of these units indicate that 96% were sold to current owners with incomes less than 60% of county median income and 61.5% had incomes below 50% of the median.⁴

H.O.M.E. made a major attempt to spread the community land

trust model statewide in the late 1980s and early 1990s, an effort which led to the affordable housing bond issue of 1989. The bond issue generated \$4.5 million for land acquisition for affordable housing purposes. This effort inspired several groups in rural counties to attempt to replicate the H.O.M.E. model. These groups developed about ten units of very affordable housing.

COMMUNITY LAND TRUSTS IN MAINE: DEER RIDGE MOBILE HOME PARK

The impetus for Deer Ridge Association was a failing communal septic system. This privately owned, twelve-unit mobile home park off Route 3 in Augusta was under threat of closure due to its maintenance needs, most notably the need for a new septic system. With assistance from MSHA, the Maine Community Loan Fund and other lenders, the resident families were able to form the Association and purchase their park. St. Francis Community serves as the community land trust for the Association and owns the land under each tenant-owned mobile home. The residents have been able to stay in their homes and upgrade their septic and water systems. The residents are the members of the Association and make all the basic decisions on maintenance, improvements in the park and selection of new residents. St. Francis Community is responsible for ensuring that the property continues to be used as a mobile home park for low-income residents. The ground lease from St. Francis Community requires adherence to these goals and prevents the Association from selling the property for conversion to another use.

COMMUNITY LAND TRUSTS IN MAINE: HOUSING COOPERATIVES FOR MENTAL HEALTH CONSUMERS

In Bangor, the need for stable housing for consumers of mental health services spurred the formation of Together Place Housing, which was sponsored by Together Place—a social club funded by the Department of Mental Health, Mental Retardation and Substance Abuse Services (“MHMR”)—and by its support organization, the Friends of Together Place. Together Place Housing is a housing cooperative of mental health consumers that initially purchased two apartment buildings across the street from each other (five units), which now has expanded to twelve units, scattered at sites throughout Bangor. Residents and committed community members serve on the board of directors of Together Place Housing and make decisions on maintenance, expansion and

Together Place Housing has proved to be a considerable success in terms of providing housing to a population that traditionally has a difficult time maintaining stable housing.

resident selection. Friends of Together Place owns the land under the buildings and ensures that the properties are used for affordable housing purposes by its ground lease to Together Place Housing.

Together Place Housing has proved to be a considerable success in terms of providing housing to a population that traditionally has a difficult time maintaining stable housing. Six years after initial occupancy, 80% of the original occupants are still in their units. A 1996 survey of mental health consumers indicated that stable housing and some sort of homeownership opportunity was the highest priority for this population. As a consequence, MHMR has initiated mental health consumers co-ops in the Saco-Biddeford and Augusta areas. MHMR has committed both mental health housing bond money and a continuing rental subsidy to these projects, which are being developed by the Maine Homestead Land Trust Alliance, a statewide community land trust support organization based in Ellsworth. Friendship Cooperative in Saco has just purchased its first property, a five-unit apartment building.

COMMUNITY LAND TRUSTS IN MAINE: ISLESBORO AFFORDABLE PROPERTY

On the year-round island of Islesboro, the town selectmen decided that young families were being forced off the island by rising land prices, as summer people and retirees competed for available land and housing. Town officials initiated Islesboro Affordable Property, organized as a community land trust, which developed the very attractive Ruthie James Subdivision of eight units utilizing self-help labor from the original resident families. The Islesboro project, like several others, was able to compete successfully for Federal Home Loan Bank subsidy dollars because of its community-involvement, resident-involvement and permanent affordability components.

COMMUNITY LAND TRUSTS IN MAINE: UNITED VOICE

The most recent group to attempt community land trust development is United Voice of Bath. In this case a group of low-income women organized their own community

support. They began with the issue of reliable transportation and initiated affordable housing after several years of work together. The community land trust vision of United Voice involves purchase and rehabilitation of single-family houses scattered throughout the community.

These five initiatives show the different ways that community land trusts can be used to meet a variety of community housing needs in Maine. The type of housing in each case is distinctly different from that in the others, and many of the organizational details are different as well. However, each is characterized by:

- an opportunity for community involvement in the planning, development and long-range monitoring of the project;
- a high degree of resident control of the housing; and
- legal mechanisms providing for preservation of the affordability of the housing itself.

These characteristics are the essence of the community land trust and can be adapted to meet local needs in a manner only limited by the ingenuity of the organizers.

PARTICULAR NEEDS OF COMMUNITY LAND TRUSTS

The community land trust model has several special needs that must be met in order to provide for successful projects over time. These stem from the special relationship between a community land trust and the residents of community land trust housing. That relationship is something of a hybrid between the seller-buyer relationship and the landlord-tenant relationship. The community land trust needs to monitor program objectives with respect to its housing and to manage transfers of ownership. It needs to be available to problem-solve when problems develop, it needs to be able to exercise its preemptive option to repurchase housing that residents need to sell, and it needs to market such property to other income-eligible families and help them to obtain financing.

Maintaining an ongoing organization after completion of development can be very challenging. It is not uncommon for community land trusts to lose much of their community energy at this point. After a period of time, only residents may feel that they have any stake in the project. Residents may be overwhelmed by the organizational burdens placed upon them. Neighbor disputes over common road maintenance or other issues may lead to a reluctance on the part of other residents to get involved. Some families may stop paying fees or performing organizational chores, leaving the remaining families resentful. At this point, the community land trust may have trouble fundraising and find that it does not have the funds to pay for help in solving organizational problems or to market units that become available.

Community land trusts generally charge a small administrative fee to cover some costs, but the small size of most community land trust projects make economies of scale difficult to achieve. A money, time and staff crunch is predictable after the development phase. Some means of consistent organizational support for community land trusts should be developed to support community efforts to maintain affordable housing. Annual grants to community land trusts for ongoing technical assistance on a per-unit basis would be very useful. Community land trusts could use this technical assistance support to obtain assistance with group process around particularly difficult situations, such as the case when one or several families stop making required payments, increasing the burdens on and resentments by those that are meeting all of their obligations. A source of subsidy for resale closing costs would also be very useful. The costs of these subsidies would be very small in relation to the benefits of the continued viability of such volunteer groups. Money for technical assistance needs to be available for the post-development phase of a community land trust project as well as for the development phase.

Community land trust developments are sometimes perceived as being too complex for the number of units and dollars involved. Because it is unusual in affordable housing projects to separate land from buildings, there are often increased transaction costs, as each lender has its attorney look carefully at the arrangements to make sure that its interests are protected. It would be highly desirable for the MSHA to have a community land trust program that could perform the dual functions of reassuring lenders about the soundness of the legal relations, and also give the approval of a quasi-governmental organization to specific forms to be used in community land trust projects.

After the initial development of a project, transfers of ownership may be more complex than in a standard residential mortgage. Restricted resale prices have to be calculated and explained to the parties. In addition, the rights of several lenders or funders may need to be adjusted at each closing. This of course supports the need, already identified by the MSHA, for closing cost assistance as well as assistance with downpayments. MSHA's former Expanded HomeStart Program did a good job with these items, but is no longer available.

Maine housing decision-makers realize the value of providing homeownership opportunities for Maine families. MSHA's Consolidated Housing and Community Development Plan states:

The State of Maine had the highest homeownership rate in the United States in January of 1997. It is the state's goal to maintain that ranking. Homeownership provides a sense of independence and self esteem for the homeowner and cohesion for the community.⁵

There are real problems in providing such opportunities to families with very low incomes. Such opportunities will require capital subsidies, downpayment subsidies and closing cost subsidies. However, if these subsidies are used for the production and purchase of units that will be protected by permanent affordability mechanisms, such as those used by community land trusts, the units will be cost-effective over time. The housing needs of low-income Mainers will not have to be resubsidized every month, as is the case in rental housing, or every twenty or thirty years, as is the case with more limited affordability protections. The fact that the subsidized units will become a permanent asset of the community for low-income housing justifies the initial subsidy investment.

CONCLUSION

By ensuring the permanent affordability of housing created with subsidy money, community land trusts make very efficient use of scarce housing subsidy dollars. Community land trust housing will become steadily more affordable over time, requiring only limited resubsidy in the form of organizational and closing cost assistance. Community land trusts encourage community building by promoting stability in housing and by encouraging residents and community members to work together to develop and look after housing that makes sense for the community. Community land trust projects in Maine will probably

remain small in scale, because that is what most families and communities in rural Maine want. Nevertheless, steady promotion of community land trust housing can make a positive contribution to the well-being of Maine's communities.

It is possible that the information technologies now sweeping our society will come to replace the bureaucracies of the past few decades. This replacement might mean that public money no longer needs to be spent in broad-based programs designed in Washington and administered by bureaucrats. Such a transition would be analogous to the way narrowly focused cable channels are substantially taking viewers away from the formerly monolithic television networks. It may be that information technology will make it possible for local groups to design local solutions to problems like a lack of affordable housing and to access state and federal money to implement these solutions. There might be economies in such a local scale, because programs for the benefit of local communities may be able to take advantage of volunteerism and charitable impulses that are available only when a project has an immediate and visible impact on people known in the community.

The challenge in a transition to such a social system will be one of scale, as local volunteers and organizers would have a hard time meeting mass needs. However, this argues for constant efforts to expand the capacity of the non-profit sector. Maine housing policymakers should be supporting community land trusts for their unique ability to provide homeownership opportunities to low-income and very-low-income Maine families in a variety of forms designed to fill community needs. A community land trust program containing land acquisition subsidies, downpayment and closing cost subsidies and community organizational support is a concrete step that could and should be taken to encourage community-controlled affordable housing. 🐞



After fourteen years with Pine Tree Legal Assistance, Fred Stocking is an attorney in private practice with the firm of Stocking and Crotteau in Lamoine, Maine. He works primarily with conservation, affordable housing and other non-profit community groups. He is the attorney for most of the community land trusts mentioned in this article and a consultant to the Maine Homestead Land Trust Alliance.

ENDNOTES:

1. John Emmeus Davis, ed. 1994. *The Affordable City: Towards a Third Sector Housing Policy*, Temple University Press, p. 9.
2. Maine State Housing Authority. *State of Maine Consolidated Housing and Community Development Plan, Program Year 1998*, pp. 40-41.
3. The Institute for Community Economics, Kirby White, ed. 1982. *The Community Land Trust Handbook*, Rodale Press.
4. I'm indebted to Melody Hovey of H.O.M.E. and Ellie Kastanopolous for compiling these numbers for me and to the Maine Homestead Land Trust Alliance for general help with this article.
5. Maine State Housing Authority. *State of Maine Consolidated Housing and Community Development Plan, Program Year 1998*, p. 38.