

Community Land Trusts and Commercial Properties

A Social Justice Committee Report for the Urban Land
Institute Technical Assistance Program for Atlanta Land
Trust Collaborative

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APPENDIX 1: Survey of Community Land Trusts Involved with Commercial Properties

Introduction

In order to inform the Urban Land Institute's Technical Assistance Program Committee for the Atlanta Land Trust Collaborative, the Social Justice Committee at the Georgia Institute of Technology's School of City and Regional Planning has prepared the following report. It includes a national survey of the Community Land Trusts (CLTs) that are most active in commercial property ownership and leasing, along with a review of their best practices and most pressing issues. It also includes a review of the best strategies for CLTs engaged in commercial property ownership, including financial and legal strategies. Finally, there is a discussion of the current trends and theorizing around the issue of CLTs, and a few recommendations that the research group had for the Committee. The appendices offer further reading, including 3 case studies and more information about different strategies for CLTs interested in implementing a commercial strategy.

Best Practices Survey

Community Land Trust	Location	Year Founded
Anchorage Community Land Trust	AK	2003
Windham Housing Trust	VT	1987
Champlain Housing Trust	VT	1984
Pottstown: Mosaic Community Land Trust	PA	2011
Sawmill Community Land Trust	NM	1997
Dudley Street Neighborhood Initiative	MA	1984
Worcester Common Ground Community Development Corporation	MA	1988
Durham Community Land Trustees	NC	1987
Crescent City Community Land Trust	LA	2011
Japantown Community Land Trust	CA	
North Missoula Community Development Corporation	MN	1996
Evergreen Cooperatives	OH	2008

Listed above are the thought leaders and most active participants in the commercial side of CLTs. It should be noted that the Japantown Community Land Trust is in the process of forming, and that the Evergreen Cooperative is an organization based in economic

development rather than property development. These organizations were included because the processes they are working through inform the practice of CLTs owning commercial property. The research group did not focus their attention on these organizations, but recommends that Committee members are aware of their existence. The complete survey can be found in Appendix 1. This section references that survey.

Of the CLTs surveyed, a few key trends emerge. Those CLTs that started more than 10 years ago are primarily residential focused, and when they engage commercial properties, it is mainly in support of residential properties. As Brenda Torphy explains in the 2011 article, "CLTs Go Commercial," written by Miriam Axel-Lute. "We do commercial really as a support to that residential such as dealing with a blighted property in a neighborhood, or keeping retail under downtown housing." CLTs that are more recently formed, such as the new Pottstown Mosaic CLT in Pottstown, Pennsylvania, and the North Missoula CDC in Minnesota are more holistic in their view of community improvement. They have actively sought out commercial opportunities since their inceptions. Furthermore, there is a type of CLT that primarily deals with commercial properties, such as the Anchorage Community Land Trust.

Organizations that have planned for commercial ownership tend to engage the community in planning for the types of uses that will be encouraged or sought out. They have held planning charrettes and done surveys to determine what area residents would prefer. Organizations that entered into commercial ownership through necessity were less likely to consult the surrounding community regarding the uses, focusing on filling vacancies rather than specific programming. It is recommended that a CLT that focuses specifically on commercial ownership work with the surrounding area to identify the preferred types of usage. The results may be surprising. Sawmill CLT in New Mexico engaged in a community surveying exercise to determine the types of businesses they desired in their community. The least desired businesses were, predictably, liquor, adult entertainment and big box or franchise stores. However, they also vetoed a private school that was interested in moving into the neighborhood.

One issue that emerges when discussing commercial properties held by community land trusts is the impact that market forces have in the commercial market. Commercial properties are assessed based on income generation potential. Charging below-market rent on a long-term basis can affect surrounding businesses and property owners. This can also give unfair advantages to your tenants. Alternatively, to charge market rate for rental properties can be perceived by some community members as a conflict of interest for "non-profit" organizations. In a white paper on CLTs in Britain, authors Joseph Acton and Catherine Hand discuss ways that a CLT could access value, while also providing a solution to the quandary of whether or not to charge market-rate rent. They suggest that retail businesses be granted leases with low rents to enable start-ups to develop, but recommend that scheduled rent reviews take place, which can provide for increases at suitable moments, profit sharing arrangements, and turnover rent. Moreover, when long leases are granted to developers who are able to dispose of them, organizations should build clawbacks and profit sharing into the lease agreement.

However, due to the downturn in the economy, and the subsequent availability of many commercial properties, concern over market-rate rent is not as pertinent. In a phone interview, Connie Snow, executive director of Windham Housing Trust in Brattleboro, Vermont, explained that she was careful to set rents in some downtown retail at a market rate for political reasons prior to the recession. However, in the current economic climate, all the property owners began to decrease their rent, making it less of an issue. Ultimately, the issue of rent seems to be site specific, as well as highly influenced by fluctuation markets.

Another issue is that commercial properties are encumbered by circumstances that do not apply to residential housing. Tenants may need specific retrofits to a property that can jeopardize the CLT's ability to sell it in the future. Furthermore, the lifespan of commercial properties is much less, meaning that their value may not hold as well as a residential investment. Brenda Torpy of CHT recommends working with lenders who are familiar with commercial properties, and adjusting the typical buy back agreements that are used in residential markets. She is quoted in "CLTs Go Commercial" recommending, "You might want to say, 'Whatever it sells for then, we'll share it.' But don't promise an increase. ... Make sure you've figured out an exit that doesn't hurt someone on the way out."

The typical model of leasing land to the owners of structures is also problematic for CLTs working with commercial property. In a phone interview, Stewart Brannan, of Anchorage Community Land Trust (ACLT) explained that businesses do not care as much as residential clients about owning the deed to the property. His organization does not currently utilize land leases, but sees a possibility of using this structure if they develop a parcel of vacant land for civic uses.

Financial and Legal Strategies

Identification of effective community land trust commercial ownership strategies is challenging because commercial ownership is an emerging field for many CLTs. Legal and financial strategies differ because the goals of CLTs who engage in commercial ownership differ. The mission of the organization will determine which financial and legal strategies are used. For example, a CLT such as Anchorage Community Land Trust focuses on the economic revitalization of a commercial corridor because residential housing needs are addressed by several other organizations in their area. Contrast the ACLT model with North Missoula Community Development Corporation (NMCDC), who takes a holistic approach to community development and has addressed issues of housing, economic development, and transportation. ACLT's financial partners include banks and local foundations, and they have utilized the New Market Tax Credit to redevelop properties for sale and for rent. NMCDC has taken a broader view of community development, and has partnered with various groups such as historic preservation groups, the Montana Health Department, and a cooperatively-owned consumer food co-op in order to create projects

such as the Burns Street Community Center, which houses the co-op, a commercial kitchen and a restaurant.

At the 2011 National CLT Network Conference, nationally renowned expert Michael Brown gave a presentation entitled, “Beyond Housing II: Commercial Development.” In this presentation, he emphasized the importance of determining the type of commercial activity your CLT will engage in. He stressed the fact that just because a CLT excels at residential development, does not mean that they will perform equally well in commercial development. Commercial is much riskier, and is influenced more by market forces and location.

Financial Strategies

According to Brown, the first step in determining the type of commercial activity that your CLT will engage in is to consider the question of why the CLT wants to move in this direction. If economic development is part of the mission of your organization, commercial activity makes sense. If your organization is primarily focused on residential, you may want to reconsider. Determine if other agencies in the area are already fulfilling the need, and understand how your mission will complement them.

The next step is to choose a commercial strategy. Here, a determination of the size of your area should be made. Will your organization concentrate on a commercial corridor or business district, or will it focus on one building? Consider the purpose of your efforts. Will the commercial properties be used for purposes that require additional programming, such as job creation or office space? Is the organization trying to use commercial property as a source of revenue?

The next decision is to determine if the CLT will develop the property or if the CLT will only be the steward of the property. Stewardship can be less costly to the organization. It involves acquiring a property, then leasing the land out to a private developer who then builds or refurbishes the buildings that sit on it. Stewardship also encompasses the leasing of buildings to private or non-profit entities, as well as instituting programming for job creation and office or incubator space. It is important to note that with increased programming, operational costs will increase, but revenue will not necessarily increase.

Whichever form is used, stewardship is the core of the CLT model. However, making the choice to acquire properties and develop them is another decision for CLTs to make. Development of properties is risky. It requires that large amounts of money be expended on a property prior to receiving any revenue from that property. It also requires partnering with other groups, such as municipalities and foundations.

There are several forms in which commercial land trusts fund their operations. The primary form of funding is through rents and fees. The remaining factors are sourced to public funds and a small amount through private donations. In the early stages of

development, a greater emphasis is placed on funding through grants and public sources. A few potential sources of grants include the Ford Foundation, Charles Stewart Mott Foundation and the Economic Development Authority of the United States Department of Commerce.

One of the primary roles of a CLT can take in development is to fill in the gap where private investors are unwilling to purchase land or properties in blighted areas. Most of these properties would prove to be a negative return on their investment and therefore remain on the market while they devalue theirs and surrounding properties. Using CLTs as an intermediary in this process tends to promote the standards they would like for their neighborhood but can come at a cost of high regulation and potentially heavy startup time and costs.

Legal Strategies

A question that is posed in much of the literature regarding commercial ownership in CLTs is, "Given the risks, should commercial stewardship and development be managed from a separate but equal entity?" To take this suggestion one step further, it is worthwhile to ask whether that should be a for-profit entity. In their review of laws regarding British CLTs, Acton and Hand found that for-profit entities may have more freedom of action. They propose that for-profit entities would be able to dispose of land at less than market value in circumstances where a charity might have difficulty doing so. A for-profit entity could also raise capital from private interests, and if successful, could be scaled up to create an investment opportunity. Additionally, there is also an increased interest in public-private partnerships for revitalization. There may be a benefit for a CLT to be represented by a private entity in these types of negotiations.

One structure in particular that may be suitable for CLTs considering a for-profit arm is a Low-profit Limited Liability Company (L3C). This type of entity is a for profit venture that under its state charter must have a primary goal of performing a socially beneficial purpose not earning money. The legislation was specifically written to dovetail with the federal IRS regulations relevant to Program Related Investments (PRIs) by foundations. This makes L3Cs able to facilitate layered investing, thereby taking much of the risk out of the venture for other investors at more secure levels. L3C status is not yet available in Georgia, but legislation has been introduced that would create these entities.

Incorporating a for-profit arm as an L3C can afford CLTs the type of freedom that Acton and Hand reference. For-profit entities are able to operate businesses and franchises, which could benefit a CLT doing economic development programming. For example, an L3C could be formed to rehab an old theatre building complete with complementary businesses such as a restaurant and parking garage, and use some of the revenue to fund productions. Stewart Brannan at the Anchorage Community Land Trust indicated his group's interest in establishing a for-profit arm, citing the benefit that they could gain from having the ability to open a franchise through which to train workers in their area.

Current Information and Thinking

A 2011 interview John Emmeus Davis, a leader in the CLT field, sites four trends he has witnessed in the CLT movement. The first trend is immense growth, resulting in 240 CLTs in operation presently, up from just a few dozen in the 1980s. The second trend is diversification. CLTs are working with different types and tenures of housing and they are also branching out into urban agriculture, neighborhood parks, transit oriented development, job creation, office space, or service facilities for inner-city neighborhoods. They are also diversifying their partnerships, working more with churches, CDCs, and the environmentalist movement. The third trend is regionalization, or working over larger areas. The fourth trend is municipalization; an increasing number of community land trusts are initiated by or supported by city or county governments.

Davis also discusses how a growing municipal interest in transit-oriented development (TOD) has drawn a new set of public officials to the community land trust model. He argues that the only way to preserve a mix of uses and incomes in a redeveloped area surrounding a new transit stop is to have long-term controls on the land and the buildings. Without these controls, only the highest uses and highest incomes will survive the spike in property values. Davis makes the case that CLTs are a perfect complement to TOD; as the city makes an investment in smart growth, they can also make a commitment to social equity, ensuring that those who will benefit most from public transit have access to it.

Recommendations

Using theory and case study research, our group believes a possible solution to combat the competitive advantages of lower rate commercial space, while simultaneously promoting entrepreneurship and community engagement is through a “Neighborhood Business Incubator”. Most business incubators provide a few key services including free business consulting services and space available for lower than market rate. According to the National Business Incubator Association (NBIA), “The most common goals of incubation programs are creating jobs in a community, enhancing a community’s entrepreneurial climate, retaining businesses in a community, building or accelerating growth in a local industry, and diversifying local economies.”

Business Incubators have proven success in terms of business vitality upon graduation as the national average shows after 4 years, only 44% stay in business while business incubator graduates have 87% remain in business after 10 years. What separates the concept of a “Neighborhood Business Incubator” from a standard business incubator is the concept of localizing each neighborhood economy. Every neighborhood in Atlanta (or

those within a CLT) could possess an incubator created from an abandoned or blighted piece of commercial property. In addition to all standard business incubator services, these “Neighborhood Business Incubators” will also serve as a retail center in which client companies can sell their products to the public, which further highlights and markets new products that will become available to the community. Of course, incubators will require increased programming costs, but the research group feels that the Atlanta Land Trust Collaborative (ALTC) should take advantage of their prime position to encourage small business development through a commercial property program.

Another issue that the ALTC could use a commercial property program to influence would be the presence of grocery stores in underserved neighborhoods. Every neighborhood should have a small form of a grocery store with all of the necessary basics within walking distance of a majority of neighborhood homes. Grocery stores should be given priority when seeking businesses to fill commercial space. As a “central server” type CLT, the ALTC can use its influence to negotiate with large grocery store chains, especially to encourage smaller-format stores designed for the urban context. An example of this would be Wal-Mart’s new Express stores, which have a smaller footprint and more targeted product line.

The Anchorage Community Land Trust is located in Anchorage, Alaska. It was founded in 2003 with the goal of developing healthy and prosperous communities in Anchorage by acquiring, developing and planning for the land and projects necessary to bring about sustainable neighborhood revitalization and economic development. They are focused on the Mountain View neighborhood, an inner-ring suburb of Anchorage that experienced disinvestment throughout the 70s and 80s, leading to high crime and low property values.

Mountain View is one of the most diverse neighborhoods in Anchorage. Here, 70 percent of people identify their ethnicity as an ethnicity other than Caucasian, with a significant representation of American Indian/Alaska Native, Hispanic, Black, Pacific Islander, and Asian residents. Most people who live here earn a low income. One of every four people in Mountain View lives in poverty

Anchorage Community Land Trust (ACLT) was launched in 2003 with a seed grant from the Rasmuson Foundation. The organization's mission is to develop healthy and prosperous communities in Anchorage by acquiring, developing and planning for the land and projects necessary to bring about sustainable neighborhood revitalization and economic development. As a "hybrid" organization, ACLT works both as a land trust and as a community development organization. The organization leverages public and private resources to acquire and develop properties that are strategic to redevelopment efforts. ACLT provides services related to their work as a community land trust, like acquiring and developing real estate, providing rental space for area businesses and nonprofits, and land-holding for community benefit.

Anchorage is blessed with several strong organizations that provide housing for low-income populations. Therefore, ACLT focuses on commercial properties, especially along the aging commercial corridor of Mountainview Drive. Community input has been important to the creation of ACLT's vision. When the organization formed, there was a lot of interest in creating an Arts & Culture District in Mountain View. With community input through a planning and visioning process, the vision for revitalization has grown from arts and culture into a broader view of a sustainable, healthy neighborhood. According to Stewart Brannan, the Business Development and Real Estate Manager, the organization had to take a "back to basics" approach. Basic service providers, such as banks, needed to be in place before the district could become a thriving cultural district. However, this goal still exists, and two well-known Alaskan artists have their studios in the area.

ACLT have not used the traditional community land trust formula of separating the ownership of the land and the building. Their approach, as stated by Mr. Brannan, is to purchase blighted properties, then demolish or repair them. Mr. Brannan stated that the organization found it necessary to take the "do-it-yourself" approach to development in order to spur future private development. They own several properties, and rent the properties to other entities. They have also sold properties to private interests who would bring a service into the neighborhood.

One of the first properties they revitalized that is still owned by the organization is the Mountain View Service Center. This is a 53,298 square foot former furniture warehouse that has been repurposed to serve as office space for several non-profits. The purchase and revitalization required complex funding mechanisms. A New Market Tax Credit was used, along with a HUD 108 Loan. The New Market Tax Credit enables public and private entities to invest in a project. This generates investment, but can be very complex. Additionally, city and state funds were also incorporated. The project has been successful, and is currently 99% occupied.

Near the Mountain View Service Center is another ACLT property, known as the Chanlyut Mountain View Diner. This 2,584 square foot restaurant is run by Native American men “seeking a path out of substance abuse, crime or homelessness,” according to Cook Inlet Tribal Council, which operates the enterprise. The diner is a project of the Chanlyut Program of the Cook Inlet Tribal Council, a non-profit tribal group.

The most notable of the properties ACLT has revitalized and sold is the site of the present Credit Union 1 bank. This property was formerly a gas station. ACLT paid for the property, and the site remediation, and sold the property to Credit Union 1. This is an important addition to the neighborhood, because it brings a needed service that was not available in the past. In the future, ACLT will concentrate on attracting these types of services, whether by offering property, or by serving a landlord for commercial interests.

Although ACLT has not used a land lease in the past, they are considering this model for vacant property that they currently own. Mr. Brannan suggested that a civic building might be interested in this type of arrangement, but that lease titles were not as important to businesses. He also specified that franchises might be a good fit for this type of lease. To encourage future development, as well as economic activity, ACLT is considering spinning off a for-profit LLC that would purchase a franchise to act as a service provider, and employment trainer.

Sawmill Case Study

The Sawmill CLT, located in Albuquerque, New Mexico, was founded in 1997 for the purpose of bringing affordable housing and economic activities to a low-income neighborhood. They understood that gentrification could worsen the lifestyles of the current residents and rather than allow development to force them out of their neighborhoods, the low income residents engaged to make decisions and benefit from the redevelopment in the neighborhood.

To engage the economic portion of their purpose, Sawmill hired Michael Brown with Burlington Associates to develop a strategy. Throughout a multi-step plan, Michael outlined the requirements, professional suggestions, community values to be retained, risks, and finally a community survey to find which commercial uses were most and least likely desired.

Requirements of every commercial property to be located in the Sawmill CLT included: Comply with existing zoning requirements or be able to persuade the City to grant a variance for a non-conforming use, meet with City of Albuquerque, fit on the existing site, demonstrate market demand for proposed commercial use, secure debt and equity financing for project development and to operate successfully on a month-to-month and year-to-year basis. Each commercial entity is required to follow each of these guidelines and all are equally as important.

Brown reached out to professionals in the economic development field to find suggestions specifically for this locality to diversify and grow their economy. One suggestion followed a similar style to what is implemented in Asheville, NC. This strategy focused on a strong set of locally hand-made and unique items to be sold. This line of New Mexico-made products would become a brand and eventually highly sought after. Another suggestion made was to establish small live/work spaces, which promote a highly walkable neighborhood. The third and final suggestion was to offer incubator-style space in which small businesses could start and run their operations at a lower cost of rent.

The Sawmill CLT knew it was important and especially vital early on to have the public involved in the decisions of their community. Together, they outlined community values to be protected and promoted which included: compatibility with existing neighborhood culture and environment, non-residential/commercial uses that improve rather than detract from the quality of life, inclusion of goods and services of interest and benefit to local residents, sustainability, and job creation – including jobs for local/neighborhood residents. Using these values as a guideline through implementation of the Commercial CLT is a necessary tool to maintaining community support and ideals.

Knowing potential risks can be just as important as knowing ideals of the community. Throughout the charrette, Burlington Associates reminded the residents that commercial is risky from a social and political point of view, as well as financially. Equity and debt financing for commercial development and for commercial business operations is

tight, especially in current economic conditions. A further complication is that Sawmill CLT technically needs to pay City for land on which nonresidential or commercial uses will be built. Sawmill CLT does not have deep pockets; therefore, these costs will need to be borne by commercial business owner. Furthermore, residents expressed serious concern about negative impacts including increased traffic and the impact on the child-friendly, pedestrian-friendly, and bike-friendly character of the neighborhood as well as increases in light, noise, air and sight pollution.

Finally, through a survey sent to both Sawmill CLT employees and stakeholders of the project the calculated the most and least desired properties. Among the most desired commercial options was a marketing space, a common space where farmers, artists or other retail products can be sold. The least desired businesses were those that sold liquor, adult entertainment and big box or franchise stores.

