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Journal of Urban Affairs ›
Volume 28, 2006 - Issue 4

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Original Articles

The Community Land Trust as a Highway Environmental Impact Mitigation Tool

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Pages 399-418 | Published online: 02 Dec 2016

Cite this article https://doi.org/10.1111/j.1467-9906.2006.00302.x

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ABSTRACT:

The proposed Newtown Pike Extension in Lexington, Kentucky, has the potential to cause significant displacement of low-income residents. Following Executive Order 12898, federal agencies have been required to consider environmental justice impacts of their policies and activities. Highway planners in Lexington have crafted a mitigation strategy that includes a community land trust, which is intended to provide permanent protection for the low-income community to be affected by the highway extension. Although the community land trust may be an attractive option for maintaining housing affordability and community cohesion, the idea must overcome some significant hurdles if it is going to be useful as an environmental impact mitigation tool. One problem is selling the idea of communal land ownership to African American and low-income households. Part of the challenge is to design a method for sharing capital gains that gives an adequate return to home buyers while maintaining affordability.

Another difficulty concerns renters who are eligible for only limited relocation subsidies that in many cases will not be enough to cover the cost of new rental housing.

Previous article View issue table of contents Next article

Notes

1 Support for CLTs due to the fact that they maintain long-term affordability emerges in various contexts, including advocacy of affordable housing (Abromowitz, 1991; Kenn, 1995–96; McStotts, 2004; Stone, 1993), sustainable urban development (Roseland, 1992), community control over urban development (Gunn & Gunn, 1991; Williamson, Imbroscio, & Alperovitz, 2002), and economic empowerment of low-income communities (DeFilippis, 2001).

2 Early case studies of this and other CLTs may be found in Swann, Gottschalk, Hansch, and Webster (1972) and White (1982). The experiences of several CLTs are discussed in White and Matthei (1987), Krinsky and Hovde (1996), and OPAL Community Land Trust (1999).

3 Telephone interview with Ellen Giordano, Director of Research and Program Development for the Institute for Community Economics, June 2, 2005. For a list of CLTs and sponsoring organizations, see <http://www.iceclt.org/clt/cltlist.html>.

4 This paragraph is based on discussion at the Community Land Trust Roundtable, held at the Lincoln Institute of Land Policy, December 16, 2004.

5 Interview with BCLT staff, March 31, 2006; see also <http://www.bclt.net/aboutclt.shtml>.

6 The history of the Newtown Pike Extension is documented in the Draft Environmental Impact Statement (U.S. Department of Transportation & Kentucky Transportation Cabinet, 2005).

7 Note that not all of what is referred to as Davis Bottoms is included in the Southend Park neighborhood.

8 Along with Christian County, Fayette County has the lowest homeownership rate in Kentucky (Bourassa, Schneider, & Hagan, 2001, p. 37), due in part to the large

transient student population attending the University of Kentucky.

9 These statistics are from the U.S. Census Bureau, Census of Population and Housing 2000, available at <http://factfinder.census.gov/>.

10 For more details, see the matrix in the DEIS at p. 252 and related discussion. The CLT model for Southend Park seems to have been first proposed by a staff attorney with the Kentucky Department of Highways who had previous experience with farmland trusts.

11 Michael Brown, of Burlington Associates, was hired as a consultant to the Steering Committee.

12 An exception would be made for property donated to the CLT and located outside of Southend Park.

13 This is taken from Article II, Section 1.a., of the draft bylaws for LCLT dated November 9, 2004.

14 In addition to the Board of Directors, the bylaws provide for Councils of Neighborhood Stewards, responsible for certain land trust operations within specific neighborhoods. These Councils report to the Board of Directors and derive whatever authority they have from the Board.

15 Note that this definition of “low income”, based on U.S. Department of Health and Human Services poverty guidelines, is much less inclusive than the definition established by the U.S. Department of Housing and Urban Development. The HUD definition states that low income is equal to or less than 80% of area median income, while the HHS poverty guidelines, which do not vary geographically within the continental U.S., are very roughly comparable to what HUD considers extremely low income, which is equal to or less than 30% or area median income. In Kentucky, for example, some 15.8% of persons were in poverty in 1999, while 42.1% of households were classified as low-income and 13.6% were extremely low income using HUD’s definitions (Bourassa, Barber, Hagan, Schneider, & Shiels, 2004, Tables 2.3 and 2.4, pp. 7–8).

16 Stegman and Luger (1993) discuss an example of this debate as it played out in Chapel Hill, North Carolina, noting that some local council members “opposed resale restrictions on philosophical grounds” (p. 419). See also Cohen (1994).

17 For further information about IDAs, including federal demonstration programs, see <http://www.idanetwork.org>.

18 Staff of Albuquerque's Sawmill Community Land Trust were quick to raise this issue with respect to the LCLT and to stress the importance of a strong community base for their success (personal interview with Sawmill's Executive Director, Ken Balizer, and others, December 9, 2004).

19 The Sawmill Community Land Trust ground lease specifies that this percentage is 25% for the first 15 years and then increases by one percentage point per year to a maximum of 30% after 20 years (Sawmill Community Land Trust, 1999). The sample ground lease in the Community Land Trust Legal Manual (Institute for Community Economics, 2002) specifies that lessees are entitled to 25% of the appreciation in the value of the structure on resale, although several alternative approaches are discussed.

20 Nationally, residential frame construction costs increased about 2.9% per year during the 1990s (Boeckh, 1990, 2000).

21 Researchers have come up with a range of estimates of depreciation rates for houses in the U.S. (see, for example, Leigh, 1980); 1.5% is about at the middle of the range. However, newer buildings may depreciate at slower rates than older ones (Appraisal Institute, 1996, chap. 17).

22 This is the average of the annual appreciation rates reported by the Office of Federal Housing Enterprise Oversight for the 2nd quarter of 1996 through the 2nd quarter of 2000; see <http://www.ofheo.gov>.

23 Interview with BCLT staff, March 31, 2006.

24 Personal interview with Ken Balizer, December 9, 2004.

25 The project is included in LFUCG's draft consolidated plan recently submitted to HUD (LFUCG, 2005). Highway relocation subsidies are outlined in Kentucky Transportation Cabinet (1995).

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