

Taking Community Land Trusts to Scale

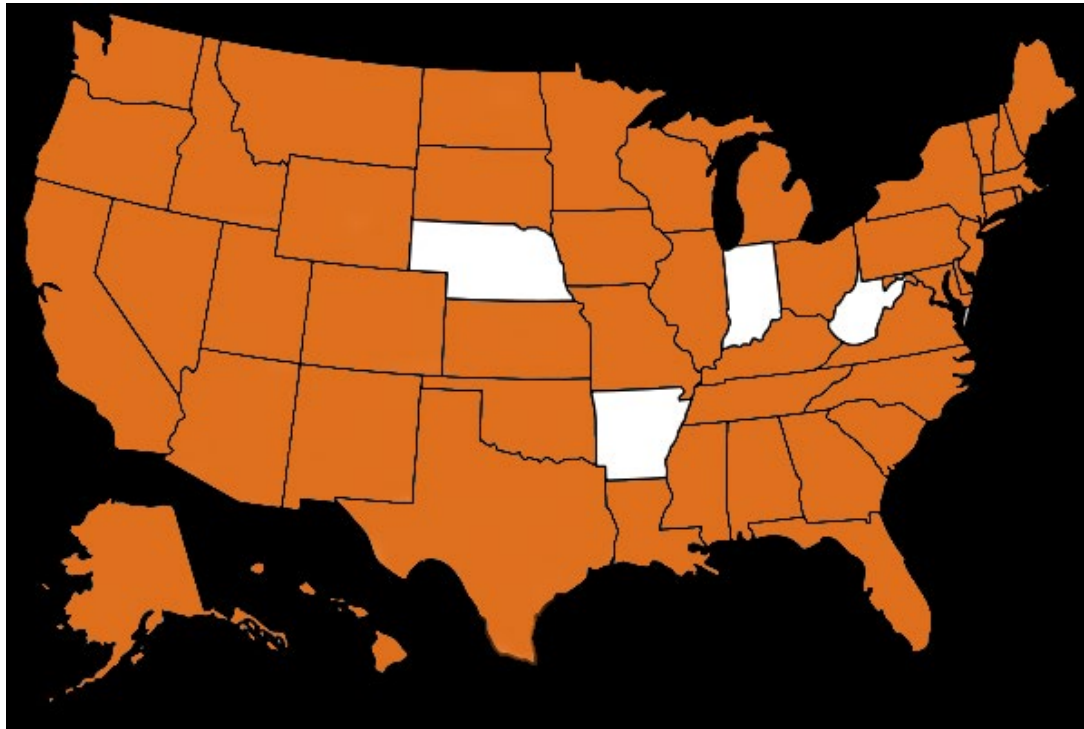
TACDC Policy Summit 2018



The University of Texas at Austin
Entrepreneurship and Community
Development Clinic
School of Law

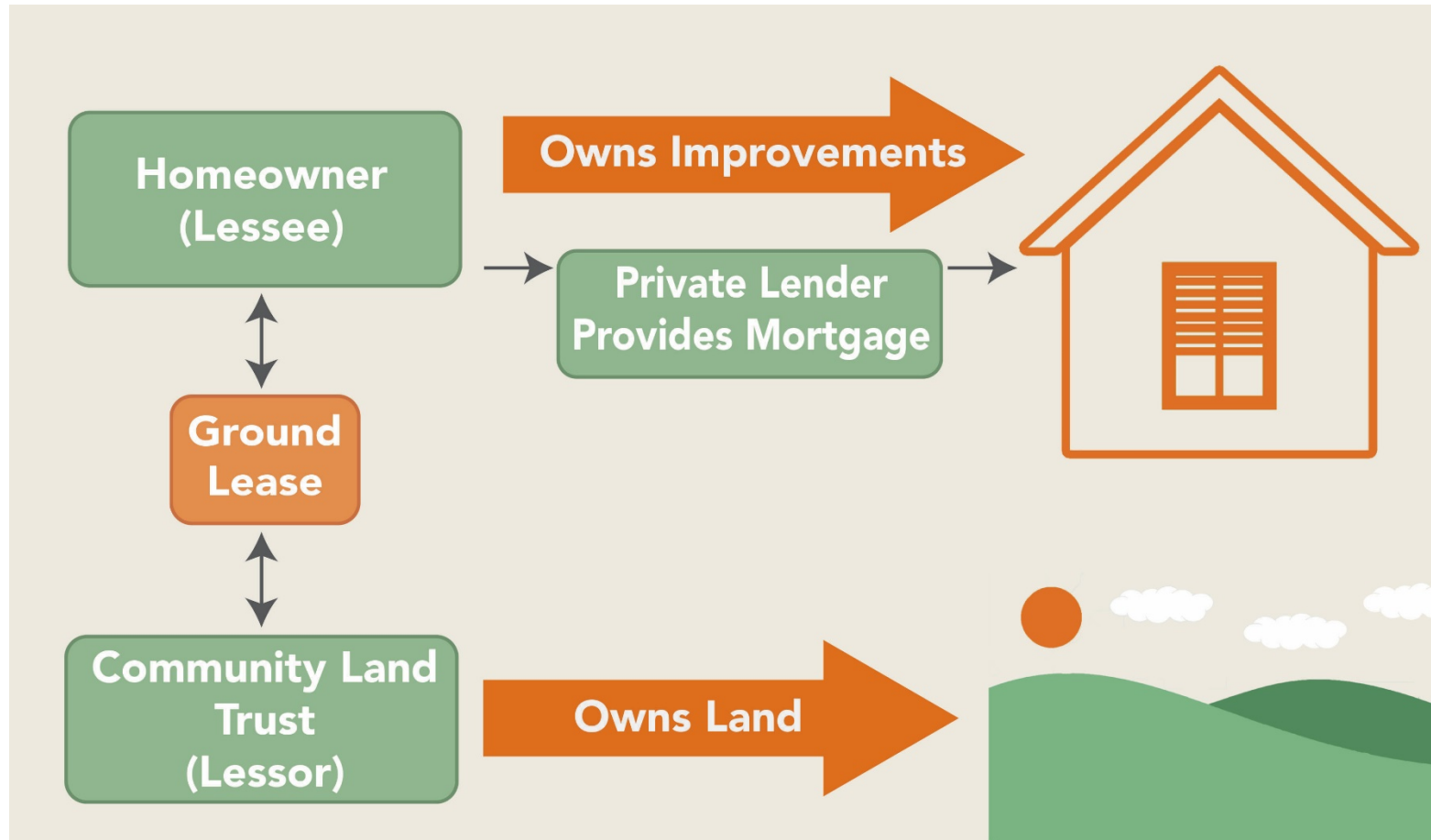


Community Land Trusts in the US



- First CLT in 1969
- 46 States have CLT Programs
- 240 CLT Programs

How a CLT Works



Source: Platts-Mills, Eliza. "A Guide for Developing Community Land Trust Affordable Homeownership Programs in Texas," First Edition, Summer 2018.

Classic CLT:

- Non-profit organization
- Defined service area
- Membership
- Tri-partite board

Variations:

- Program of a nonprofit
- Program of a city
- City, regional, state-wide
- No corporate membership
- No tri-partite board

Guadalupe Neighborhood Development Corporation

- First Texas CLT: 2012
- Location: Guadalupe and Central East Neighborhoods, Austin
- CLT Model: CLT is a program of GNDC
- Types of Homes: Single family homes currently; multi-family homes planned
- Similar CLTs: Austin Habitat for Humanity; City of Austin/Austin Housing Finance Corporation



Houston CLT

- Launched: Summer 2018
- Location: Houston-wide, land from the LARA bank
- CLT Model: CLT is a program of the City of Houston
 - Tri-partite advisory board
 - Participating developers will include nonprofit and for profit developers
- Types of Homes: Single family

Community land trusts offer a number of benefits for Texans

- Increasing the supply of permanently affordable homes for low- and moderate-income families, especially in areas with rapidly rising property values
- Increasing homeownership rates
- Capturing the value of public investment for long-term community benefit
- Maximizing the impact of limited nonprofit and government resources being invested in affordable homeownership

Challenges in Taking CLT's to Scale



- Lack of consistent tax treatment
- Need for operating capital
- Scarcity of affordable land in some areas
- Large upfront investment needed
- Possible resistance to no ownership of the land
- Lack of mortgage lenders ready to work with CLTs

CLT Tax Treatment

- **Existing Property Tax Laws for CLTs: Adopted by the Texas Legislature in 2011 (eff. 2012) (Senate Bill 402)**
- CLT Tax Exemption: Under current tax laws (Texas Tax Code, Section 11.1827), a city can elect to give a 100% exemption from city ad valorem taxes for land owned by qualified CLTs (the county can do the same for county ad valorem taxes).
- CLT Appraisal: Under current tax laws (Texas Tax Code, Section 23.21(c)), when appraising a qualified CLT land and home, the appraisal district must take into account the resale restrictions.
 - Example: The Travis County Appraisal District bases the appraisal of a CLT home on the resale restricted price set in the ground lease and recorded in the deed records. If a home cannot be sold for more than \$100,000, the home is appraised at \$100,000.
- How a CLT Qualifies: A city or county must create or designate the eligible CLTs. For the exemption, the city or county must also adopt the exemption. In addition, a CLT must: (1) be a 501(c)(3) nonprofit organization; (2) meet certain median family income requirements in the homes sold and rented by the CLT; and (3) be created to acquire and hold land for the benefit of developing and preserving long-term housing.

Tax Treatment: How it Works for Austin/TCAD

Overview of CLT Property Taxation in Texas

Home	Land
	
Appraisal Methodology: Market Value (TX Tax Code 23.01) <ul style="list-style-type: none">• Reduced market value reflecting sales price limitations (23.21(d)) Example from TCAD: Initial sales price and resale formula price schedule	Appraisal Methodology: Market Value (TX Tax Code 23.01) <ul style="list-style-type: none">• Reduced market value reflecting use restrictions (23.21(c)) Example from TCAD: Annual ground lease fee divided by 2% capitalization rate (e.g., \$300/year divided by 2% = \$15,000)
Tax Exemptions: <ul style="list-style-type: none">• Homestead exemption and other applicable exemptions (Tax Code 11.13)	Tax Exemption: <ul style="list-style-type: none">• CLT exemption: 100% exemption from taxing units adopting the exemption (Tax Code 11.1827)

Source: Platts-Mills, Eliza. "A Guide for Developing Community Land Trust Affordable Homeownership Programs in Texas," First Edition, Summer 2018.

GNDC: Tax Savings to Homeowners



- Market rate tax bill adds \$495.50 each month to mortgage payment.
- CLT tax bill adds \$170.42 each month to mortgage payment.

2017 Proposed Changes to Tax Code

- SB 1931/HB 3447
- Created more clarity and consistency for appraisal districts and nonprofit housing providers regarding:
 - How to qualify for the CLT property tax exemption
 - The timing for qualifying for the CLT tax exemption
 - The appraisal methodology used by the chief appraiser

Qualifying for the CLT Exemption

- **Problem with Current Law** : The law states that a CLT must be a charitable organization under Section 11.18(e) and (f) of the Tax Code, but it is unclear under those provisions whether the organization must be a nonprofit corporation and whether the organization is allowed to set up a subsidiary to own the land, which is a common practice in the real estate industry.
- SB 1931/HB 3447: Clarified that the CLT must be a 501(c)(3) nonprofit corporation or a subsidiary of the nonprofit (via a limited partnership (LP) or limited liability company (LLC) controlled by the nonprofit corporation).

Timing for Qualifying for the CLT Tax Exemption

- **Problem with Current Law:** Problematic deadlines and timing issues for when a city or county must adopt the exemption and when CLT must apply with the appraisal district; unclear whether the exemption must be re-adopted by the city or county every year.
- SB 1931/HB 3447:
- Clarified that the CLT exemption is adopted only once by city or county, and the city or county can then vote to rescind the exemption.
- Removed the July 1st deadline for adoption of the exemption by city or county.
- Allowed CLTs to apply for exemption within 30 days of acquisition of the property.

Consistent and Clear Appraisal Methodology by Chief Appraiser

- **Problem with Current Law:** The current law requires the chief appraiser to take into account resale restrictions when appraising CLT land and home, but the application of this requirement is vague and could be applied inconsistently around the state.
- SB 1931/HB 3447 : Created consistent and clear appraisal methodology for the CLT land and home:
- Required income appraisal method for the land (similar to tax credit properties).
- For the income method, required the same capitalization rate that the chief appraiser uses to appraise other rent-restricted properties (similar to tax credit properties).
- Set the appraisal of the home based on the price in the resale restriction if the restriction limits resale to an income-qualified family and is recorded in real property records with a term of at least 40 years.

Impact of Changes to Tax Treatment

- Increased Clarity
- Increased Consistency in Treatment
- Increased Operating Capital
 - Applying a same cap rate that the Chief Appraiser publishes each year would likely increase the rate to 8% to 9% versus the 2% that TCAD uses. If the cap rate goes up, the CLT can charge more for the ground lease fee while the taxes remain low. Being able to increase the ground lease fee would make CLTs much more feasible in terms of providing operating capital.
 - Example:
 - Current: Ground Lease at \$300 per year (\$25 per month) at **2%** cap rate is $\$300 / .02 = \$15,000$ valuation for the land
 - Potential: Ground Lease at \$1200 per year (\$100 per month) at **9%** cap rate is $\$1200 / .09 = \$13,333.33$ valuation for the land

First Community Land Trust Home in Texas



Increasing Homeownership Rates



Combatting Displacement of Vulnerable Communities



Resources

- UT School of Law Entrepreneurship and Community Development Clinic, Eliza Platts-Mills: <https://law.utexas.edu/wp-content/uploads/sites/11/2018/07/2018-07-ECDC-CLT-Toolkit.pdf>
- Grounded Solutions Network: <https://groundedsolutions.org/>
- Burlington Associates:
<http://www.burlingtonassociates.com/#!/home>

