Chapter 17
Property Tax Assessments

Property tax assessments are a major factor in determining the affordability of CLT homes. When the assessed value of CLT homes increases, the taxes will of course increase, which will in turn increase the amount that must be added to the homeowner's monthly mortgage payment to be escrowed for taxes, thereby decreasing what is available for repayment of mortgage debt. For lower income households a higher assessment can easily wipe out the affordability of a given CLT home – or require a substantially larger subsidy to make that home affordable. The subject of tax assessment is therefore extremely important for CLTs. Unfortunately it is a subject that is treated differently in different states, and that in most states is treated differently from one local jurisdiction to another. In many states, treatment is also subject to change – or is in the process of changing – as it is addressed by the courts or state agencies, or, in some cases, by pending legislation.

Because of this variety and ongoing change, this chapter does not attempt a comprehensive review of exactly what CLTs around the country will face when they sit down to talk with their local tax assessors about the assessment of CLT homes. Instead, the goals of the chapter are, first, to frame the basic issues involved in determining how CLT homes (or other owner-occupied, resale-restricted homes) should, ideally, be assessed, then to describe in general terms the different approaches to assessment of CLT property currently being taken in different jurisdictions, and finally to review some legislation recently passed in several states and to consider the issues that concern those advocating for such legislation in other states.

Theoretical Overview

Premises. Although many aspects of this subject vary from one jurisdiction to another, there are some basic assumptions and circumstances that are constant for all CLTs in all jurisdictions.

CLT homes should be taxed. CLT's do not seek exemption from property taxes for their homeowners. It is agreed that residents of CLT homes consume local government services (schools, streets, sidewalks, police and fire protection, etc.) to the same extent that other residents of the community do. Property taxes may not be the best form of taxation for funding these services, but, for so long as it is the system that *is* used, there is wide agreement that CLT homes should not be exempt from the basic obligations imposed by the system.

CLT Leases require homeowners to pay all property taxes. Virtually all CLT leases pass on the cost of all property taxes to the lessee-homeowner. Some do this by assigning responsibility for payment of taxes on both the home and the leased land directly to the homeowner (as in Section 6.1 of the Model Lease). Others assign responsibility for payment of taxes on the home (improvements only) directly to the homeowner, while assigning responsibility for taxes on the land to the CLT but then adding the amount of this tax to the lease fee that the homeowner must pay to the CLT. In either case the full cost of property taxes is added to the homeowner's monthly housing costs.

Taxes are based on market value of property. All U.S. property tax systems base the amount of taxes due for a particular piece of property on an assessment of the value of that property. In many jurisdictions the "assessed value" is required by law to equal a reasonable estimation of the full amount of the property's market value. In other jurisdictions assessed value may be required by law to equal a lesser percentage of full market value, with that percentage being the same for all property in the jurisdiction. The underlying assumption in any case is that no property owner in the jurisdiction should be taxed on a higher percentage of the market value of her property than any other property owner in the jurisdiction.

Theoretical basis for assessing CLT and other shared equity property. The question then is how should the market value of CLT property be defined. Virtually everyone involved with any form of "shared equity homeownership" will agree that the market value of shared equity property should not be measured in the same way as the value of unrestricted property. All shared-equity property is burdened by restrictions that undeniably limit what the owner can sell it for in the market place. The situation for CLTs, however, is somewhat more complicated than for other forms of shared equity property, such as deed-restricted homes. Unlike deed restricted ownership, CLT ownership is divided into a "leasehold interest" held by the lessee-homeowner and a "leased fee" interest held by the CLT. Both of these ownership interests are burdened by restrictions – but not the same restrictions.

Determining the value of a CLT homeowner's leasehold interest (or the value of a deed-restricted home). Restrictions on the price for which a CLT homeowner can sell her home (including both the improvements and the leasehold interest in the land) are an essential feature of CLT ground leases. These price restrictions, together with restrictions on the rent that the owner can receive from sublessees (if subleasing is permitted at all), permanently limit the financial return yielded by this form of ownership, usually to a level substantially below the return that the market would yield in the absence of these restrictions. CLTs and their homeowners have consistently taken the position that to assess the value of such an ownership interest as if its market value were not affected by the restrictions is to violate the principle that all property within a tax jurisdiction should be assessed for the same percentage of true market value.

Most CLTs have argued specifically that, for tax purposes, the market value of the homeowner's property should be defined as equal to the CLT's purchase option price (the maximum permitted resale price) at the time of tax assessment. At the time of the *initial* assessment, the purchase option price, under almost all resale formulas, is the "base price" for which the home is being purchased (the possible exception being the rarely used "mortgage-based formula"). This base price will normally be roughly equal to the unrestricted value of the home minus the amount of subsidy in the home, which can be as much as $50,000 or more. At the time of later reassessments, the purchase option price will be defined by the particular resale formula contained in the lease. In an appreciating market, these formulas will generally increase the effect of the original subsidy, so that, for instance, a home with an original subsidy of $50,000 might have a "formula price" some years later that is $100,000 less than what the home's unrestricted value would be.

Assessing the value of the CLT's leased fee. The market value of the CLT's ownership interest in the land (the "leased fee") is limited in two ways. It is limited first by the fact that the monthly lease fee received by the CLT is reduced for the sake of affordability to an amount that is typically much less than a market-rate ground rent would be. It is further limited by the fact that the CLT's future ability either to increase the rent to a market rate or to convert the property in any way to a more profitable use is strictly limited by the very long term and renewability of the lease. The conventional method of appraising the market value of a leased fee is to calculate the present value of the stream of rental income and to add to this amount the present value of what the property will be worth upon the expiration of the lease. In the case of a 99-year renewable CLT lease it is usually assumed that the value remaining upon expiration is so remote in time that its present value is insignificant, so the market value of the leased fee can be seen simply as the present value of a stream of less-than-market-rate ground rent payments over a term approximating that of a very long term loan (30 years or longer). The result will vary depending on the capitalization rate used in calculating present value, but typically it will be an amount much less than what the land could be sold for if it were not encumbered by a CLT lease.

Overview of Current Real-World Practices

Having reviewed what most CLTs would agree is the way CLT property *ought* to be tax-assessed, we will now look at the variety of approaches actually being taken by tax jurisdictions across the country.

State-by-state variations. Tax assessments are carried out locally (municipality-by-municipality or county-by-county) but states differ in the way in which, and the extent to which, they advise or regulate the practices of local jurisdictions regarding the assessment of shared equity property.

A few states have adopted legislation requiring that such property be assessed at a lower value than unrestricted property. This legislation may be specific to community land trust property (like legislation recently enacted in Florida and North Carolina) or it may be written more broadly to apply to property committed to other forms of shared equity homeownership (as in Vermont). Elsewhere, local practice may be guided not by legislation but by case law established through courts within the state. In some states, court decisions (e.g., the often-cited Prowitz decision in New Jersey) have clearly supported reduced assessments for shared-equity homes. In other states (e.g., New York) courts have not found a clear legal basis for reduced assessments.

In many states, local tax assessment practices are guided to a greater or lesser extent by variously named state agencies (e.g. California's Tax Equalization Board, or New York's Office of Real Property Services). These agencies interpret the applicable law (legislation and/or case law) and assist local assessors in complying with it. They may or may not have specific enforcement powers. It must be said, however, that in a majority of states actual practice varies significantly from one local jurisdiction to another.

Tests commonly applied. In all cases, one or another party – whether a state legislature, a state court, a state agency, or a local assessor – must decide whether a given set of restrictions on a property owner's rights constitutes grounds for a reduced assessment. These decisions have generally rested on a series of "tests" – the most common of which are the following.

- *Limited return.* The restrictions must clearly limit the financial return that the owner can receive from the sale or rental of the property. CLT ground leases do limit financial return in these ways.

- *Long duration.* The restrictions should not be of such short duration that the owner can look forward to a time when she can achieve an unrestricted return on her investment. The restrictions on a CLT homeowner's return will never expire. Restrictions on the return generated by CLT's leased fee interest can increase only if and when the amount of the lease fee is increased.
- *Irrevocability*. The restrictions must not be revocable. The CLT lease does not permit the restrictions on the homeowner's rights to be revoked (though the resale restrictions on the leasehold interest can be removed pursuant to a mortgage foreclosure). Restrictions on the value of the leased fee can be eliminated or modified only if the CLT exercises its purchase option and then alters the terms on which it re-leases or sells the property – in which case its actions are still generally limited by its charitable purposes and 501(c)(3) status.
- *Disclosure.* The nature of the restrictions must of course be disclosed to the owners – as is established CLT practice, reinforced and documented by a "letter of agreement" and a "letter of and attorney's acknowledgement."
- *Recording.* The documents establishing the restrictions must be a matter of public record. CLTs normally record a memorandum of ground lease (or deed covenant) for each CLT home.
- *Public benefit.* The restrictions must provide benefits to the public – as is the case with CLT programs that not only create affordable homeownership opportunities for certain individuals but preserve those opportunities for future members of the community.

Common methods of assessing the restricted value of CLT property. When it is decided that the assessed value of CLT property should be based on something less than its unrestricted market value, differing methods have been employed in different jurisdictions to determine how much the assessment should be reduced.

The simplest method is to reduce the assessed value of all CLT properties (including both the homeowner's property and the CLT's leased fee) by a set percentage of the presumed unrestricted market value of the whole. This approach is easy for the assessor to apply but arbitrary in its application to individual homes that are subsidized to substantially different degrees. The rest of the approaches identified below involve separate assessment of the homeowner's and CLT's property.

Methods of adjusting assessed value of homeowner's property

1. The assessor may assess the restricted value of the homeowner's property by reducing that property's unrestricted value by a set percentage. This method is almost as easy and equally as arbitrary as when a set percentage is applied to the combined value of home and land, as described above.
2. The assessor may initially assess the value of the homeowner's property as equal to the amount of the base price (subsidized price) paid by the homeowner, with later reassessments then determined by adjusting the base price upward (or conceivably downward) by the average rate of change in assessed value for unrestricted property in the jurisdiction. This approach is less arbitrary than #1 above, but, in an appreciating market, it is likely to result in assessed value increasing more rapidly over time than the resale price would increase under most resale formulas.

3. The assessor may assess the value of the homeowner's property as equal to the maximum amount for which it could be sold (the purchase option price) at the time of the assessment. As noted above, under almost all resale formulas this method will result in an initial assessed value that is the same as the base price paid by the homeowner (as with #2 above); however, subsequent reassessments will increase only as fast as the purchase option price increases rather than at the rate that market prices increase. The ease of this method of adjusting value over time will depend somewhat on the type of resale formula used. With fixed-rate and indexed formulas the process involves only the application of a single annual percentage rate. With appraisal-based formulas it is relatively simple to calculate the owner's share of whatever increase in unrestricted market value the assessor assigns to the property. However, a more serious complication arises with any of these formulas if they provide for the inclusion of a "capital improvement factor" in the calculation of the resale price. With such formulas, the assessor will need to know, for each home, whether a capital improvement factor has in fact been approved, and, if so, for what dollar amount. In this situation, assessors will presumably be more inclined to fall back on the practice of limiting the increase in value of all homes to the same percentage.

Methods of adjusting assessed value of the land (CLT's leased fee)

1. The assessor may adjust only the assessed value of the homeowner's property while assessing the land at the value it would have if it were not "burdened" by the ground lease.
2. The assessor may treat the land as fully exempt from property taxes because it is owned by a 501(c)(3) charitable organization.
3. The assessor may adjust the value of the land downward by a set percentage, in recognition of the fact that it is burdened by a long-term lease with a below-market-rate lease fee.
4. The assessor may determine the value of the land in the way described in the "theoretical overview" above – by calculating the present value of the long-term stream of lease fee revenue.

Issues in Drafting Legislation

Many of the inconsistencies and difficulties of the present situation can be resolved in the long run through state-by-state legislation that clearly dictates appropriate reductions in the assessments of all shared equity homes within the state. Though the readiness of state legislatures to address this issue will vary considerably, the fact that several state legislatures have recently done so should encourage CLTs and other shared equity programs in other states to advocate for legislative solutions.

Such legislation will normally be developed in the context of – and will be affected by – existing state law relating to affordable housing and to property tax assessment, so the language in which statutes are drafted can be expected to differ from state to state. But, whatever the context, anyone interested in promoting such legislation will want to think carefully about how a proposed bill will define certain key factors. We will discuss the most important of these factors below, and will note the different ways they have been defined in specific bills passed in Vermont, Florida, and North Carolina – the pertinent portions of which are attached at the end of this chapter. (We focus on legislation from these states to illustrate varying approaches – not to offer specific legal advice to CLTs in those states, which should seek such advice from their own attorneys, who will be more fully informed regarding the applicable laws and local practices.)

Definition of qualifying sponsoring entity. What sort of entity must establish and enforce the restrictions if the restrictions are to be grounds for reduced tax assessments? Several states, including Florida and North Carolina, have passed legislation providing reduced assessments specifically for property restricted by CLTs (or at least for property restricted through methods commonly used by CLTs), but not for property restricted and stewarded by other types of entities using other methods. The Vermont legislation, on the other hand, is framed in much broader terms – applying to "non-rental residential property" that is subject to a "housing subsidy covenant," which, as defined elsewhere in Vermont law, can be established by a variety of not-for-profit and governmental entities.

CLT advocates who are seeking tax assessment legislation may see an advantage in a CLT-specific bill, since it is immediately clear that such a bill applies to CLT property, with no need to explain to assessors how and why it applies. In terms of long-term CLT strategy, however, there is likely to be more benefit from a more broadly defined bill. For one thing, the chances of getting such a bill passed – at least in some states – can be increased by joining forces with other types of shared equity homeownership programs. For another thing, there is a risk that the legislative process may result in CLT-specific bills with terms so *narrowly* specific that even some CLT programs will not qualify for reduced tax assessments. The state of Texas, for instance, adopted legislation providing for reduced property taxes for CLT programs, but the legislation defines CLT programs as necessarily serving a lower range of household incomes than the majority of CLT programs (at least in other states) do serve.

Definition of qualifying ownership interest. The North Carolina legislation applies *both* to restricted long-term (at least 99 year) leasehold interests (which may or may not include deeded ownership of the improvements) *and* to fee interests that are restricted by deed covenants. For CLTs that establish restrictions on condominium units through deed covenants, it is obviously important that the legislation apply to this form of restricted ownership. The North Carolina legislation does *not* address the assessment of the CLT's leased fee interest in the land.

The Florida legislation provides specifically for CLT leasehold interests but does not appear to cover deed-restricted ownership interests (whether established by CLTs or other not-for-profit or government entities). However it does specifically cover the CLT's leased fee interest in the land (providing for full exemption from taxes for this property).

The Vermont legislation can apply to any fee interest that is restricted by a "housing subsidy covenant" (a term which one might assume would be limited to property in which a *government* subsidy had been invested, but which is defined elsewhere in Vermont law [27 V.S.A. § 610] in terms that do *not* specify a government source for the subsidy). There is no mention of ground leases, leasehold interests, or leased fee interests in the Vermont legislation. It should be noted, however, that housing subsidy covenants are routinely filed in Vermont, as separate documents, against a CLT homeowner's property, regardless of whether the homeowner holds a leasehold interest or a fee interest in the land.

Definitions of qualifying restriction and qualifying owner. The Florida legislation relates only to restrictions established through a ground lease. The ground lease must have a term of 99 years, and must give the CLT "a preemptive option to purchase any structural improvements on the land at a price determined by a formula that is designed to ensure that the improvements remain affordable" for households within income limits, specified elsewhere in Florida law, ranging up to 120% of AMI. No CLT should have a problem with these provisions as long as it uses a 99-year ground lease with a resale formula designed to preserve affordability for a mix of incomes not exceeding 120% of AMI. But shared equity homeownership restrictions established through deed covenants (or other legal means) are not covered.

The North Carolina legislation defines qualifying restrictions as lasting for "at least 99 years," but differs from the Florida legislation in its treatment of income requirements. It does not specify the income levels for which the restriction is intended to preserve affordability (as Florida law does), but it defines "qualified owner" as one whose household income at time of transfer (i.e., purchase) does not exceed 100% of AMI. This legislation would create no problems for CLTs that do not sell homes to buyers with household incomes greater than 100% of AMI, but would create a significant problem for those intending to serve households with incomes up to 120% of AMI.

In Vermont, the definition of a qualifying restriction hinges on the broad meaning of the term "housing subsidy covenant," as defined elsewhere in Vermont law (27 V.S.A. § 610), in part as follows: "A housing subsidy covenant may include without limitation restrictions on the use of real property, restrictions on resale price, restrictions on tenant income and rents and restrictions on the income of a purchaser of housing or a housing unit for his or her own residence." This section of the law also states that the duration of such covenants "may be perpetual or may be limited to a period of time specified in the document."

Method of adjusting assessment. Regarding the assessment of the CLT lessee's property (both initially and in succeeding assessments), the Florida legislation states, "The amount a willing purchaser would pay a willing seller [thus the assessed value] shall be limited to the restricted price at which the improvement may be sold." Regarding the assessment of the CLT's leased fee, this legislation provides for full tax exemption as long as the CLT qualifies as a 501(c)(3) charitable organization.

The North Carolina legislation states that the initial assessed value is to be "the initial investment basis" (i.e., the "base price" paid by the homeowner). For successive reappraisals, assessed value is to be "the maximum sales price permitted pursuant to the resale restrictions effective for a hypothetical sale occurring on the date of reappraisal." This legislation also deals specifically with a factor that can otherwise cause confusion. It states that any subsidy provided in the form of a deferred loan to the homeowner ("silent mortgage amount") is to be subtracted in determining the resale price, and thus in determining the assessed value.

The Vermont legislation does not specify a method for adjusting the assessed value of property that is subject to a housing subsidy covenant. It simply states that such covenants are among the factors to be taken into consideration in determining assessed value. In fact, although it clearly *permits* a reduction in the assessed value of shared equity homes, this legislation stops short of mandating that the assessed value of such homes *shall* be reduced. The Vermont Department of Taxation has issued a memorandum outlining in some detail a "uniform approach… for determining the listed value of owner-occupied homes subject to resale restrictions." The memorandum is not binding on local tax jurisdictions, the majority of which are small rural towns where assessments are done by volunteer listers. As a result, actual practice is still not uniform from town to town.

Basic Features of "Best" Legislation

Although the appropriate forms for shared equity tax assessment legislation will differ from state to state, it is possible to identify basic features of such legislation that will best suit the purposes of community land trusts and other shared equity homeownership programs.

- The legislation should have the breadth of the Vermont legislation with regard to the type of entity that can establish restrictions that will reduce the assessed value of shared equity homes.
- The legislation should cover both restricted leasehold interests and restricted fee interests held by shared equity homeowners, as is the case with the North Carolina legislation.
- Like the Florida legislation, it should allow for the full range of household incomes that shared equity homeownership programs are likely to serve, including moderate incomes up to 120% of AMI.
- Like the Florida and North Carolina Legislation, it should mandate specifically that the assessed value of shared equity homes not exceed the purchase option price established by the restriction.
- It should also limit the assessed value of the leased fee interest in land held by CLTs – either by providing for full exemption as the Florida legislation does, or by limiting the assessed value to the present value of future lease fee revenue.

Sample Legislation

Vermont

(32 V.S.A. §3481 (1), effective April 1, 2006)

"The estimated fair market value of a property is the price which the property will bring in the market when offered for sale and purchased by another, taking into consideration all the elements of the availability of the property, its use both potential and prospective, any functional deficiencies, and all other elements such as age and condition which combine to give property a market value. Those elements shall include a consideration of a decrease in value in non-rental residential property due to a housing subsidy covenant as defined in section 610 of Title 27, or the effect of any state or local law or regulation affecting the use of land, including but not limited to chapter 151 of Title 10 or any land capability plan established in furtherance or implementation thereof, rules adopted by the state board of health and any local or regional zoning ordinances or development plans. In determining estimated fair market value, the sale price of the property in question is one element to consider, but is not solely determinative."

Florida

"**Section 1.** Section 193.018, Florida Statutes, is created to read:
193.018 Assessment of improvements on lands used by a community land trust to provide affordable housing.
As used in this section, the term "community land trust" means a nonprofit entity that is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and has as one of its purposes the acquisition of land to be held in perpetuity for the primary purpose of providing affordable homeownership through the conveyance of structural improvements located on such land, subject to a ground lease having a term of 99 years, while retaining a preemptive option to purchase any structural improvements on the land at a price determined by a formula that is designed to ensure that the improvements remain affordable to persons who meet the income limits in s. 420.0004(8), (10), (11), or (15). In assessing property for ad valorem taxation under s. 193.011, an improvement used for affordable housing on land owned by a community land trust and subject to such a ground lease shall be assessed under the following criteria:
(1) The amount a willing purchaser would pay a willing seller shall be limited to the restricted price at which the improvement may be sold.
(2) If the ground lease and all amendments and supplements thereto, or a memorandum documenting how such lease and amendments or supplements restrict the price at which the improvements may be sold, is recorded and filed in the official public records of the county in which the leased land is located, the lease and any amendments or supplements shall be deemed a land use regulation during the term of the lease as amended or supplemented.
Section 2. Section 196.1978, Florida Statutes, is amended to read: 196.1978 Affordable housing property exemption. Property used to provide affordable housing serving eligible persons as defined by s. 159.603(7) and persons meeting income limits specified in s. 420.0004(8), (10), (11), or ~~and~~ (15), which property is owned entirely by a nonprofit entity that ~~which~~ is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and that ~~which~~ complies with Rev. Proc. 96-32, 1996-1 C.B. 717, shall be considered property owned by an exempt entity and used for a charitable purpose, and those portions of the affordable housing property which provide housing to individuals with incomes as defined in s. 420.0004(10) or ~~and~~ (15) shall be exempt from ad valorem taxation to the extent authorized in s.196.196. All property identified in this section shall comply with the criteria for determination of exempt status to be applied by property appraisers on an annual basis as defined in s. 196.195. The Legislature intends that any property owned by a limited liability company which is disregarded as an entity for federal income tax purposes pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) shall be treated as owned by its sole member. The exemption provided in this section extends to land that is owned by a community land trust, as defined under s. 193.018, which provides affordable housing to persons meeting income limits specified in s. 420.0004(8), (10), or (15), is held in perpetuity for that purpose, and is subject to a ground lease having a term of 99 years for the purpose of providing such housing.
Section 3. This act shall take effect July 1, 2007.

North Carolina

"AN ACT TO CLARIFY THE VALUATION OF COMMUNITY LAND TRUST PROPERTY.

SECTION 1. Article 12 of Subchapter II of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-277.17. Taxation of community land trust property.

(a) Classification. – Community land trust property is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution and must be appraised, assessed, and taxed in accordance with this section.

(b) Definitions. – The following definitions apply in this section:

(1) Community land trust developer. – A nonprofit housing development entity that is an exempt organization under section 501(c)(3) of the Code and that transfers community land trust property to a qualifying owner.

(2) Community land trust property. – Improvements to real property that meet all of the following conditions:

a. A fee or leasehold interest in the improvements is transferred subject to resale restrictions contained in a long-term ground lease of not less than 99 years.

b. The community land trust developer retains an interest in the property pursuant to the deed of conveyance or the long-term ground lease.

(3) Ground lease. – A lease between the community land trust developer of a dwelling site, as landlord, and the owner or lessee of a permanent residence constructed on the dwelling site, as tenant. The leasehold interest of the tenant in the dwelling site includes an undivided interest and nonexclusive easement for ingress and egress to the dwelling site and for the use and enjoyment of the common areas and community facilities, if any.

(4) Income. – Defined in G.S. 105-277.1(b).

(5) Initial investment basis. – The most recent sales price, excluding any silent mortgage amount, of community land trust property.

(6) Qualifying owner. – A North Carolina resident who (i) "occupies, as owner or lessee, community land trust property as a permanent residence and (ii) is part of a household, the annual income of which at the time of transfer and adjusted for family size is not more than one hundred percent (100%) of the local area median family income as defined by the most recent figures published by the U.S. Department of Housing and Urban Development.

(7) Resale restrictions. – Binding restrictions that affect the price at which a qualifying owner's interest in community land trust property can be transferred for value to a subsequent qualifying owner or the community land trust developer.

(8) Silent mortgage amount. – The amount of debt incurred by a qualifying owner that is represented by a deed of trust or leasehold deed of trust on community land trust property and that earns no interest and requires no repayment prior to satisfaction of any interest-earning mortgage or a subsequent transfer of the property, whichever occurs first.

(9) Transfer. – Any method of disposing of an interest in real property.

(c) Valuation. – The initial appraised value of community land trust property in the year the property first qualifies for classification under this section is the initial investment basis. In subsequent general reappraisals, the value of the community land trust property shall not exceed the sum of the restricted capital gain amount and the initial investment basis. The restricted capital gain amount is the market value of the community land trust property that would be established for the current general reappraisal if not for this classification (i) adjusted to the maximum sales price permitted pursuant to the resale restrictions effective for a hypothetical sale occurring on the date of reappraisal, if less, and (ii) subtracting the initial investment basis and any silent mortgage amount."

SECTION 2. G.S. 105-278.6(e) reads as rewritten:

"(e) Real property held by an organization described in subdivision (a)(8) for a charitable purpose under this section as a future site for housing for individuals or families with low or moderate incomes may be classified under this section for no more than five years. The taxes that would otherwise be due on real property exempt under this subsection shall be a lien on the property as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit as deferred taxes. The deferred taxes are due and payable in accordance with G.S. 105-277.1F when the property loses its eligibility for deferral as a result of a disqualifying event. A disqualifying event occurs when the organization fails to construct property was not used for low- or moderate-income housing on the site within five years from the first day of the fiscal year the property was classified under this subsection."