

Chapter 2

Initial Choices

This chapter looks at a set of interrelated questions that the organizers of a CLT must address early in the organizing process. These questions include: who should plan and launch the organization; whom will the organization serve; in what geographical area will it operate; what kind of program will it mount; what other organizations will it relate to; where will it find the resources to support its program; and finally who should control this organization?

Who Should Plan and Launch the CLT?

For those actively engaged in planning the creation of a CLT, the question of who should undertake this action may seem already to have been answered. Nonetheless, it can be important to raise the question of who *else* should be invited to join the “CLT organizing committee” – and who else should stand behind the CLT as it is launched. Community land trust programs have been launched by a variety of institutions and groups – including faith-based groups, community organizing programs, existing housing and community development organizations, and local government agencies. Creation of CLTs has also been spurred by a variety of individuals, who may or may not be associated with the groups mentioned here, but who bring the kind of energy and commitment that is likely to be an important part of what makes a CLT happen.

The importance of involving established community development players. If the initial effort to create a CLT is coming from grassroots sources such as local religious congregations or community organizing programs, it is advisable to look for participation as well from local government agencies and existing housing and community development organizations that are already engaged in work related to what the CLT expects to do, and that are likely to control the resources to which the CLT will need access.

Some CLTs – and in particular some early CLTs – were created through strong community-based initiatives but lacked the participation of established nonprofit and public sector players. Often these CLTs struggled to gain access to the funding and other resources they needed to accomplish their goals. Even if the local “community development establishment” is skeptical about the CLT model, it is best to try to involve and persuade people from this quarter. Even if it is not the most experienced and influential people in those agencies who are interested in participating, those who do participate can provide important information about what resources are available and what kinds of housing and community development work is being done by others. They can also play an important role in introducing the CLT initiative to established players in the field. Obviously CLT organizers should not go into the field without knowing who is already there, and should not take those who are there by surprise.

How then do you find those who can guide you? Not all communities have the same kinds of housing and community development infrastructure. Public agencies and departments may be variously named, organized, and combined, but look for the people and/or agencies that:

- administer Community Development Block Grant (CDBG) and HOME program funds in jurisdictions that are entitled to receive such block grants directly from the federal government (in smaller, “non-entitlement” communities, look for those who develop local proposals for block grant funding administered by the state);
- manage affordable home purchase and home repair financing programs;
- conduct professional land-use planning activities for municipal and county governments;
- manage public housing (within municipal housing authorities);
- manage affordable housing development programs, including municipally controlled nonprofit developers;
- manage tax-foreclosed real estate for municipal or county governments;
- in rural areas, manage Rural Development housing programs within the US Department of Agriculture;
- carry out any other public sector programs relating to housing and community development.

Among local not-for-profits, look for those that:

- develop affordable housing (new construction and/or rehabilitation);
- manage affordable rental housing;
- operate neighborhood improvement programs;
- provide training and counseling for prospective lower income homebuyers;
- provide credit counseling;
- provide counseling and other assistance to tenants;
- operate weatherization and energy efficiency programs;
- provide housing-related legal services to lower income people and nonprofits;
- provide loans and other financial services for lower income people and nonprofits;
- provide architectural services to lower income people and nonprofits.

In seeking out such people and agencies, you will not only find people who can bring useful experience, skills and resources to the CLT effort; you will also gain important knowledge about what is already being done in your community, who is doing it, and how it is being done.

The importance of involving people from outside established programs. If the initial efforts to create a CLT program have come from within the established housing and community development programs, it may be important to look also for people who are *not* housing and community development professionals. Such people may include the following:

- *Potential lower income homebuyers*, who know what kind of homes they want and what prevents them from acquiring them.
- *Clergy*, who are often sympathetic to the idea of stewardship and the CLT model, and who know the needs and talents of their congregations.
- *Active neighborhood association members*, who know the needs of their neighborhoods and are interested in ways to address those needs.
- *Employers*, for whom high local housing costs can restrict the pool of available labor and/or increase the cost of labor.
- *Bankers*, who know what it takes to qualify for home mortgage financing and what problems are faced by people trying to find a home they can afford to finance.
- *Realtors*, who know the local housing market and how it affects potential buyers (some realtors may resist the idea but others may be intrigued by the CLT approach).
- *Lawyers*, who deal with real estate and understand property issues (often there are lawyers, too, who are intrigued by the CLT approach).
- *Anyone else* who is intrigued by the CLT approach.

What Area to Serve?

The geographical areas served by CLTs range from single urban neighborhoods, to whole cities or counties, to multi-county regions and entire small states. The typical size of CLT target areas has increased over the years. In fact it is now common to find that CLTs originally established as neighborhood-based organizations have expanded their territories to include whole cities, and sometimes surrounding suburbs as well.

This trend toward greater geographical scale is obviously driven by a concern with capturing the efficiencies of scale. In some cases, too, it may be the result of one organization expanding to fill a vacuum left by the failure or weakness of a small neighboring organization. And in many cases it has been a trend encouraged by funders, which find it more efficient to work with a limited number of larger organizations than with a large number of smaller ones.

There are trade-offs, however. As the size of the territory increases, the word *community* in the CLT's name tends to fade into abstraction (and in some cases has actually been removed altogether from the organization's legal name). The organization tends to become – and to be perceived as – an extension of public policy, albeit a progressive policy. It may be effective in this role, but it will not command the kind of loyalty from residents of the area that a true community organization can command. As the size of the territory increases it also becomes more difficult to oversee the organization's program from a base in a single location, which may result in a loss of efficiency as more time must be spent in travel, and certain kinds of tasks – especially those involving interaction between CLT staff and the residents of CLT homes – will happen less often. As a result, CLT staff in an extensive service area

will be more likely to be seen by most residents of CLT homes as strangers from out of town.

How to weigh the relative advantages of greater geographical scale vs. tightly localized scale will depend in part on whom the CLT is intended to serve and how it intends to serve them.

Who Will Be Served, Where, and How

The *who*, the *where*, and the *how* are closely related aspects of a CLT's mission. Low income tenants living in deteriorated housing in disinvested neighborhoods have needs different from moderate income people who live in better housing and are more mobile but are still unable to afford homeownership. And these differing situations call for differing CLT programs.

Working in low-income neighborhoods. If a necessary part of the CLT's mission is to help low-income households, the CLT planners may choose to focus on creating better housing for these households in the neighborhood that they already call home. If most of these households are not able to qualify for mortgage financing – or for enough financing to afford even a deeply subsidized home – then the CLT's goals may include providing better and more affordable rental housing in that neighborhood.

However, many if not most CLTs have been founded with a basic mission of creating opportunities for low-income people to move *out of* tenancy and attain the benefits of ownership. Since the urban neighborhoods where low-income people are concentrated tend to be characterized by disinvestment, absentee-ownership, deteriorated housing, inadequate services, limited economic opportunities, and the social problems that these conditions engender, CLTs that set out to create permanently affordable homeownership opportunities for low-income people in these neighborhoods face a daunting combination of challenges. They not only must deal with the economic circumstances that make it difficult or impossible for a low-income family to qualify for the mortgage financing that will open the door to ownership; they must also deal with the surrounding economic circumstances that discourage owner-occupancy in general. Such a CLT may purchase and rehabilitate houses and arrange for financing that will allow them to be purchased on affordable terms, but it will be hard to sell those houses – and perhaps harder still to keep them owner-occupied over time – if other properties on the same blocks are deteriorated, abandoned, and boarded up.

Our intention here is not to discourage CLT planners from launching affordable homeownership programs in low-income neighborhoods. Our intent is only to emphasize that it is usually impossible for a CLT that chooses to work in such a neighborhood to be *only* a housing organization. If it wants to be a successful long-term steward of affordable housing in such a community it will almost certainly need to launch – or at least participate in – a broader neighborhood improvement effort that will address the full range of problems that affect the community. In this role it may, for instance, become involved in community organizing; it may lobby local

government for more services, better law enforcement, better enforcement of rental housing codes; it may become involved in efforts to support small business development and create jobs. And it may also become involved in managing a certain amount of rental property.

A number of CLTs working to promote homeownership in low-income communities have launched lease-purchase programs as a way of providing a bridge to homeownership for families that do not initially have the resources to make even very modest down payments and/or do not yet qualify for the necessary mortgages. These programs can make a decisive difference for some families, but the CLT must be prepared to accept the responsibility for property management for a period of one to three years – and perhaps longer if a family fails to achieve ownership in the designated period of time.

Another complicating factor in such neighborhoods is that the existing housing stock, though it may include some single-family homes, often also includes many two-to-four-family buildings. If the CLT wants to deal with these buildings – and if it wants to affect the overall condition of housing in the neighborhood it may have no choice but to deal with them – it will need to decide on an a workable approach to their ownership. Some early CLTs began with the idea that they would organize limited-equity housing co-ops to own these buildings. Even under the best of circumstances, however, organizing successful limited equity coops is a challenging undertaking. And to organize and *sustain* cooperative ownership of two-to-four-family buildings (each involving only two to four member families) has usually proven impossible. CLTs are thus left with two possible ways of dealing with these buildings.

One approach has been to sell such buildings to one owner-occupant who then rents the additional unit(s) to others, usually with some guidance from the CLT. This arrangement can work well when there is an appropriate combination of tenant and owner. For instance it can be an ideal arrangement for an elderly tenant with a need for occasional assistance in maintaining her home. Nonetheless it is a kind of arrangement that will require the CLT not only to help first-time homebuyers to succeed as homeowners but to help them succeed as landlords as well – which is no easy task.

The other possible approach to these multi-family buildings is for the CLT to decide that it will need to manage a certain amount of rental property itself and must commit the necessary time and resources to doing it well. Unfortunately, the per-unit cost of property management is high for an organization that is managing only a few – or a few dozen – units. The CLT can hope to find a professional property manager that will contract to manage scattered, relatively small properties, but it will be difficult, if not impossible, to find a professional manager prepared to do this in a low income neighborhood for a fee that will be cost-effective for the CLT.

Working city-wide or regionally. If a CLT's primary goal is to expand the supply of homeownership opportunities that are affordable for low and moderate income

people throughout a larger area, it will be less concerned with changing the character of a particular neighborhood and will therefore have much less reason to concentrate its efforts in a particular neighborhood. In fact it may want to avoid limiting its territory in a way that would prevent it from taking advantage of opportunities for cost-effective projects wherever it finds those opportunities. The size of its territory is likely to be influenced more strongly by a concern with how large a service area it can serve effectively from a single base of operations. Such a CLT may also be concerned with the question of what area its primary funder(s) would like it to serve.

It is possible for a CLT to define and implement two different kinds of programs – one focused on a neighborhood with particular needs, the other allowing for housing projects where opportunities present themselves throughout a larger area – but in planning such a dual program, an organization obviously needs to ask itself whether it really has the resources to do both things effectively. If it does have or can acquire the resources needed to do both, it may be strong enough to do certain kinds of things for a low-income neighborhood better than the smaller, purely neighborhood-based organization can – for instance providing appropriate, cost-effective management of rental housing.

The matrix below summarizes the kinds of relationships between program goals and service areas that may shape a CLT's plans. Needless to say, these relationships are not a matter of hard and fast rules. Many other factors will of course affect the CLT's plans, but it is still useful to think about how different kinds of service areas may affect program goals. (Regarding these relationships see also Chapter 18, Project Planning and Pricing.)

	Low-income neighborhood	City-wide	Suburban
Improve low income rental housing	Probably a CLT goal	Not necessarily a CLT goal	Probably not a CLT goal
Create low income homeownership opportunities	Probably a CLT goal	Probably a CLT goal	Maybe not a realistic goal
Increase supply of affordable homes for median income homebuyers	Maybe not a realistic goal	Possible CLT goal	Possible CLT goal
Improve distressed neighborhoods	Necessarily a CLT goal	Probably not more than one	Probably not a CLT goal
Promote diverse neighborhoods	Maybe not a realistic goal	A probable CLT goal	A possible CLT goal

How Will the CLT Relate to Other Organizations

As noted above in connection with the composition of an organizing committee, one of the first things that CLT planners must do is to determine what is already being done by existing organizations and agencies. If what an existing organization is already doing in a CLT's designated territory relates to the CLT's goals in some way, then it obviously makes sense to explore a possible partnership with that organization rather than creating a redundant program.

The community land trust model is first and foremost a model of long-term stewardship. Most CLTs, of necessity, do a range of things that are not in themselves matters of long-term stewardship – including the development and redevelopment of housing, homebuyer counseling, and the marketing of homes, among other things. However a CLT need not perform such functions in every situation when a partner organization is positioned to do them effectively.

Most CLTs do a certain amount of *housing development* work, but there are some that do no development at all, and a number of CLTs, in addition to their own development work, perform stewardship functions relating to owner-occupied homes initially made affordable by others – including homes built by CDCs, Habitat for Humanity chapters and other nonprofits, and privately developed homes made affordable through inclusionary zoning programs.

Most CLTs provide some form of homebuyer *counseling and training* for those interested in buying CLT homes (and sometimes for those buying other homes as well), but many CLTs make use of programs offered by other nonprofit or public agencies – with the CLT then providing only counseling and orientation directly related to the unique features of CLT ownership. Some CLTs also refer their homeowners to post-purchase homeowner training and assistance programs operated by others.

Most CLTs are involved in *marketing* homes when the homes are new or have just come into the CLT's system, but marketing tasks can also be performed or shared by other entities, including other nonprofit developers, homebuyer counseling programs, and, in some cases, realtors. Some CLTs operate “buyer-initiated” programs, whereby the CLT subsidizes homes selected by buyers from among the properties listed for sale by conventional realtors, with the CLT then taking title to the land and executing a ground lease with the buyer. When CLT homeowners want to *resell* their homes, marketing efforts may be shared to a greater or lesser extent between the CLT and the homeowners themselves – with some CLTs controlling the process to a great extent and others leaving greater responsibility and control in the hands of the homeowners.

As noted above, CLTs engaged in neighborhood improvement efforts in distressed neighborhoods will want to cooperate actively with all other programs and institutions that are working to address the range of problems facing the community – including religious institutions and of course local government and its various agencies.

In any case, all CLT programs will inevitably be shaped by the types of partnerships that they are able to forge with others. Often the size and shape of the CLT's service area is also affected by the service areas of its partners.

Who Should Control the CLT – Through What Corporate Structure

The question of who should control a CLT involves many of the same considerations mentioned at the beginning of this chapter in connection with the question of who should participate in the initial planning of a CLT. If there is any generally applicable answer to this question it is that those who control the organizations should include both people who have a first-hand knowledge of the community's needs (and are recognized by the community as having this knowledge) and people who have the technical knowledge and skills required to address those needs effectively. However, this answer does not apply in the same way to all of the various kinds of programs and service areas discussed above.

For a CLT program focused on addressing the multiple needs of a particular low-income neighborhood, the involvement of people who live in that neighborhood is a necessary priority – and the more of them who are involved the better. The kind of democratic, membership-based governance structure characterized by the “classic” CLT structure, described below, is strongly recommended for this type of situation. However, for a CLT that serves a larger area, with a focus primarily, if not exclusively, on expanding the area's long-term supply of homeownership opportunities for low and moderate income people, other types of governance structure may be considered.

Classic CLT structure. The “classic” CLT model is designed to balance the interests of individual CLT homeowners with the interests of the community as a whole. It entails an independent, community-based membership corporation in which there is specific provision for two equally empowered membership categories – one category including all people who live on CLT-owned land, the other category open to all other people in the community who have an interest in the CLT's efforts and want to support them. Each of these categories elects one third of the board of directors. The final third, the “public representatives,” may be elected by the total membership or by the board itself to represent the “broader public interest.” The bylaws of some but not all classic CLTs specify that the public representatives (or a certain number of them) are to be public officials. The details of the classic CLT governance structure are laid out in the Model Classic CLT Bylaws presented in Chapter 5-A, and are discussed in the Commentary on these Model Bylaws presented in Chapter 5-B. It is also this classic CLT model that is defined in the federal Housing and Community Development Act of 1992.

The rationale for this structure is based on the recognition that all CLT residents have a common interest in the organization that owns the land they live on and should therefore have a degree of control over that organization, but that, unlike such common interest organizations as co-ops and condominiums, CLTs are not limited to single properties that exist as “islands” in the larger community. The CLT's land

holdings are normally intermingled with other properties in the community and the number of holdings typically continues to grow – so that other individual property owners, and the community as a whole, are affected by the CLT’s actions and should have a right to become members of the organization and have a role in electing its board.

Especially for CLTs that wish to address a range of concerns in a low-income neighborhood or other relatively concentrated geographical community, the classic model provides a governance structure in which that full range of concerns can be expressed. The classic CLT is also likely to be recognized as “belonging to the community” in a way that a regional housing organization, for instance, often is not. This sort of community recognition may not be important if an organization is simply going to come into the community, build or rehab some homes, sell them, and leave. But, if an organization is going to have the multiple functions and long-term presence in the community that a CLT has, the community’s recognition and loyalty become very important indeed.

It must be recognized, however, that successful implementation of the classic governance structure requires some extra effort. The structure is likely to be relatively meaningless without an active outreach and organizing effort. Nonresident members must be recruited and encouraged to participate. All members must be encouraged to attend membership meetings, and the meetings must offer something meaningful to the members who do attend. All of these activities will obviously make demands on CLT personnel, which will in turn make demands on CLT resources. If CLT planners are not prepared – or are not able – to commit the resources needed to make the classic structure achieve what it is intended to achieve, then they should perhaps consider modifying that structure or opting for a different approach.

CLT as program of existing organization. If an existing housing organization is developing or wants to develop affordable homes for owner-occupants and wants a mechanism to preserve the affordability of those homes from one owner-occupant to the next, it may simply create its own “community land trust program.” Such an arrangement obviously has the advantage that it can be launched quickly and relatively inexpensively. There will be no need to create a new corporation, no need to submit a new application for tax-exemption, no need to do all the things that must be done in getting a separate not-for-profit entity up and running. It can also be argued that such a program, housed and staffed within an existing not-for-profit organization and sharing its costs with the organization’s other programs, will be the most cost-effective means of preserving the affordability of owner-occupied homes.

Nonetheless, even if the program’s *only* goal is to preserve the affordability of those homes – for 99 years and beyond – there are ways in which this type of program may eventually falter. The parent organization may be strong now and its current personnel may be strongly committed to the CLT program, but such organizations typically are not membership organizations; they are typically created

with bylaws that give the board of directors a relatively free rein to take advantage of whatever community development opportunities present themselves, and that typically do not spell out long-term stewardship responsibilities (as classic CLT bylaws do). Within such a structure there can be no real assurance that future boards of directors will see the CLT program as a high priority. They may not staff it adequately. They may choose to put the organization's resources elsewhere.

The disadvantages of this structure grow stronger if the program's mission is intended to go beyond seeing that homes are resold to eligible buyers for duly restricted prices. If the stewardship mission includes working with homeowners to preserve the physical quality, as well as the affordability, of the homes (as it should), and if it includes seeing that the homeowners are able to manage their finances, avoid predatory lenders and retain secure ownership of their homes (as it also should), then the CLT program must have the resources and the commitment to engage with its homeowners on an ongoing basis. If the resources are allocated elsewhere and the commitment is not there, the program will have limited success at best.

CLT corporation established by existing nonprofit. An existing housing organization that takes the lead in creating a CLT program may decide that the CLT should be separately incorporated but may still want to retain some degree of control over it. Like the organization that creates a CLT program within its own corporate structure, it may be interested in the CLT primarily as a means of preserving the affordability of owner-occupied homes developed through its own efforts, but, unlike that organization, it may not want the direct responsibility of owning the land beneath those homes. It may be prepared to house and staff the CLT's operation, and may want enough control over that operation so that it can coordinate the work of the CLT with its own housing development work. Given this interest in controlling the program, it will probably not want to establish a classic CLT structure – and perhaps not any governance structure in which a board of directors is elected by a broader membership.

In this case, the CLT corporation may be created with a board of directors that is wholly or partially appointed by the “parent” organization. There may or may not be provision for a certain number of “lessee representatives” on the board, and such representatives may or may not be appointed by the parent board, but if the parent wants to be sure of controlling the CLT it will create a structure in which it can appoint at least a majority of the CLT's board members. This arrangement may be an efficient way of preserving the affordability of owner-occupied homes, but it may not provide the most dependable basis for long-term stewardship – particularly for those stewardship functions that call for greater engagement with those homeowners over time and that will therefore require greater staff support.

In some cases however, the parent organization may itself be a membership organization with a broad base of membership in the community and with a board of directors elected by those members. It can be argued that there is no need to create a separate membership structure for a CLT created by such a membership-based parent,

and that to overlay one membership structure upon another in such a situation would tend to result in confusion and inefficiency. Nonetheless, if the parent organization is a mover and shaker in the community, organizing residents to support this development project and oppose that project, and thus focused on making things happen in the here and now, it may not be the best base for a patient, long-term stewardship program. In any case, the parent's membership structure is not likely to give CLT lessee-homeowners the kind of representation that a classic CLT does.

Finally, we should emphasize that there are many different degrees of control that a parent organization may exert over a subsidiary. It is not simply a question of controlling or not controlling the new organization. The parent may, for instance, support the creation of a classic CLT structure in which it controls one or a few board seats – perhaps as designated “public representative” seats – but in which it does not control a majority of the board seats. It is also possible to establish a new CLT corporation with bylaws that provide for diminishing control of the board by a parent organization over time. Several “parents of CLTs” have in fact done this – with the number of board seats controlled by the parent reduced from year to year.

CLT corporation established by government. It has become increasingly common for local governments to take the lead in establishing CLTs. As with CLTs established through the initiative of existing nonprofit housing organizations, the degree of control exerted by the government entity varies greatly.

Some local governments, while creating a CLT as a separate corporation, have retained full control of the organization, appointing most or all of the board members, and staffing and housing the program within its own offices, so that it is a direct extension of the government's own program. Some government officials believe that if government is going to put public resources into a CLT program it should control the program to ensure that the resources are used responsibly and effectively. And from the CLT's point of view, this kind of seamless relationship with a primary source of funding – both to subsidize homeownership units and to support the CLT's operations – means that the program will not have to struggle from year to year to acquire the resources necessary for its work (unless the government's priorities change).

In other cases, local governments that have used their resources and powers to encourage the development of a CLT have wanted the CLT to be a fully independent organization. In their view, an independent nonprofit organization – more or less insulated from political motivation and buffered against the potentially destabilizing effects of electoral politics – is better positioned to carry out a CLT program consistently over an extended period of time, at least if there is reason to think that it can maintain a strong working relationship with its local government. (One interesting form of CLT-government relationship is the model implemented in Syracuse, New York, where an independent CLT and the municipality share control of a second nonprofit that utilizes municipal resources to develop homes for the CLT,

while the CLT focuses on various neighborhood improvement activities as well as its long-term relationship with its homeowners.)

In any case, as with relationships between CLTs and established housing organizations, there are trade-offs to be considered between immediate access to financial and technical support on the one hand and the kind of independence that makes it possible to chart its own long-term course, play an activist role in the community, and back up its long-term promises to its constituents.