FOREVER HOUSING: STATE SUPPORT FOR COMMUNITY BASED, PERMANENTLY AFFORDABLE HOUSING IN CONNECTICUT.

by

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B.A., St. Lawrence University, 1985.

Submitted to the Department of
Urban Studies and Planning
in Partial Fulfillment of the
Requirements of the Degree of

MASTER IN CITY PLANNING
at the
MASSACHUSETTS INSTITUTE OF TECHNOLOGY

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ABSTRACT

During the 1980s, the cost of both buying and renting housing soared beyond the means of many residents in New England. Housing activists and progressive academics promoted alternatives to conventional fee-simple home ownership and rental apartments. They sought to create a stock of housing which remained permanently affordable and which gave residents greater control over their housing.

Influenced by housing advocates, the Connecticut Department of Housing (DOH) has adopted a Forever Housing policy, which seeks to permanently remove all state assisted, privately owned housing from the private real estate market so that they remain "forever affordable." Several DOH programs encourage the development of the alternative tenure models mentioned above.

This thesis explores the emergence of Connecticut's Forever Housing policy by examining the development of two community land trusts (CLTs), which received state assistance. The case studies reveal how organizations deal with legal and institutional barriers.

Political, legal, and financial obstacles to developing Forever Housing have been partially overcome. A major challenge is to overcome the reluctance of public and private financial institutions to support Forever Housing. Building local capacity of sponsoring organizations and intermediaries will help preserve units built under the Forever Housing programs.

In conclusion, the Connecticut DOH has made progress in institutionalizing the Forever Housing policy. However, creating a significant stock of permanently affordable housing outside the speculative market will require greater acceptance among the development and financial industries and the public.

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ACKNOWLEDGEMENTS

I am grateful to many people for sharing their thoughts and time for this thesis. This thesis would not be possible without the assistance of Bob Kantor of Rural Homes, Ltd. and Billie Ward in the Rose City CLT for Housing, who shared their experience and inspiration. I would like to thank the many people at the Connecticut Department of Housing for their help as well. The folks at the Institute of Community Economics, especially Chuck Collins, provided insight, encouragement, and opened their files to me. My thesis advisor Phillip Clay and reader Sandra Lambert pushed me to think critically and offered helpful advice. Lisa and Drew Hession-Kunz have been supportive and gave urgent editing services. A special thanks goes to Carol Baldassari, who kept encouraging me while offering substantive critique and perspective.

Finally, I extend a warm thankyou to my classmates at DUSP, who made the past two years worthwhile.

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CHAPTER I

INTRODUCTION

Housing costs climbed significantly faster than median income in New England in the 1980's, creating a crisis known as the "affordability gap," the difference between housing costs and people's ability to pay for housing. Though median income rose during the decade, the costs of both fee-simple and rental apartments rose faster. As housing costs skyrocketed, the homeownership rate declined during the 1980s, especially among younger households.[1] Renters and owners alike spent greater shares of their income for housing. As the percentage grew too high, households were forced to move to areas of less expensive housing, or possibly become homeless, a potent symbol of the housing crisis.

The decade was also marked by the revitalization of New England cities, and the simultaneous gentrification of some neighborhoods. Public infrastructure investment and private development supplied a needed boost of activity and

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[1] Rachel Bratt. Neighborhood Reinvestment Corporation-Sponsored Mutual Housing Associations: Experience in Baltimore and New York. The Neighborhood Reinvestment Corporation, Washington, DC. 1990. p. 1.

resources in New England cities during the 1980s. Cities became a more desirable place in which to work and to live. In certain neighborhoods, homeowners who wished to sell benefitted from their city's revitalization.

The middle class' rediscovery of America's cities did not bode well for everyone, however. As some poor and middle class residential neighborhoods became more attractive, property values rose rapidly. Burdened by rising housing costs, many low- and moderate- income renters were forced out of their neighborhoods. Greater percentages of potential first time home-buyers became locked out of the ownership market. As property values rose, property taxes increased in these neighborhoods, threatening homeowners on fixed incomes. "Gentrification" became synonymous with "displacement" for some families. Community organizers found that insecurity of tenure and displacement hampered the building of a community supportive of residents.

Emergence of new strategies

Speculation, absentee landlords, condo-conversions, displacement, and more recently the threat of "expiring-use" properties, became targets of a new housing movement led by housing activists, academics, and "grassroots" organizations. Driving the movement was the recognition that the private housing market had structural flaws that would not provide well for low- or moderate- income families. Some proponents spoke of "decommodifying" housing by permanently removing it from the speculative market where housing is valued as an investment as well as shelter. The movement promoted a broad array of non-speculative housing models.[2] Though the ownership form and structure of these organizations varied, they shared many of the same goals. The movement sought to create a stock of housing which remained permanently affordable. Most also sought to give residents greater control over their housing, especially over security of tenure.

Public Policy

Some municipal and state officials also began looking for new solutions to the housing crisis during the 1980s. Public officials had often viewed government intervention as a stop-gap measure until the private housing market could supply sufficient affordable housing without substantial government assistance. Since production of public housing all but ceased by the early 1970s, government housing programs have been directed largely through the private market. Lower-income households receive direct cash vouchers or housing allowances to help fill the gap between income and the cost to rent existing privately owned

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[2] Community land trusts, limited equity cooperatives, mutual housing associations, and other forms of rental and ownership housing were promoted.

apartments.[3] Government housing programs have centered on subsidizing and stimulating the production of privately owned housing without adequate plans for maintaining affordability over the long-term. By the late 1980s, many of these privately owned units were at risk of being converted into market rate housing unaffordable to low- and moderate- income households. Both the affordable units and the public subsidies could be lost without significant intervention.

The housing crisis continued, with a substantial share of the population struggling to find and pay for housing. Neither the private market nor government strategies to intervene substantially alleviated the housing crisis.

Some public officials came to believe that the housing crisis would not simply be solved by committing more resources through conventional housing policy (though this was important). After substantially increasing resources for affordable housing programs, city and state governments began to look more critically at how their investments were protected over time. Policy responses have varied. In Massachusetts, the state has focussed on extending the duration of use-restrictions and lock-in periods of restrictions on state assisted homeownership units. The state directs funds to a variety of for-profit and non-

[3] Section 8 Existing Housing program authorized by the Housing and Community Development Act of 1974.

profit developers to produce housing. Other states, such as Connecticut and Vermont, redirected housing resources to nonprofit organizations that develop housing which is intended to remain permanently affordable.

In 1989, the Connecticut Department of Housing has adopted a policy of "Forever Housing," which seeks to permanently remove state assisted, privately owned housing from the speculative market. Almost all major programs which provide grants for the acquisition, rehabilitation, or construction of housing require that the units permanently remain affordable. Forever Housing programs direct resources towards an array of conventional and alternative rental and ownership housing forms which have means to permanently preserve affordability. A substantial share of state resources is reserved for community based, resident controlled housing such as limited equity cooperatives, mutual housing, and community land trusts for housing.[4]

That the DOH embraced and supported many of the principles of "Forever Housing" came as a surprise to many proponents of such models in Connecticut. It is still early to tell whether the state's commitment to Forever Housing will be sustained or how successful the policy will be. It is not too early, however, to see how public support can be adjusted if organizations, such as CLTs, which sponsor and

[4]A community land trust, which will be described in detail later, is really a form of property tenure. Many forms of housing can be built on community land trusts.

manage community based, perpetually affordable housing are to become a vehicle for government housing policy.

Many of the benefits and challenges of Forever Housing policy will not be clear until well into the future. However, a goal of organizations like community land trusts is to better plan for the long-term preservation of affordable housing. The financial structure, depth of subsidy, and contractual and regulatory protection of restrictions implemented at initiation all affect the ability to sustain the housing affordability and meet long-term goals. Further, CLTs and other Forever Housing models must negotiate with legal, financial, and public institutions which are often hostile to the restrictions necessary to preserve the affordability of units for future residents. Governments have and can help clear some of these institutional hurdles. As governments such as Connecticut encourage Forever Housing, it is important to anticipate any continuing public assistance which may be needed to sustain and protect the affordability of Forever Housing.

Methodology

This thesis evolved from my interest in community based, permanently affordable housing organizations such as community land trusts, limited equity cooperatives, and later mutual housing associations. I was intrigued by the philosophies behind the housing models and the way they recognized and confronted structural problems with the private real estate market. They also confront a broad range of urban problems simultaneously; for example, gentrification, displacement, and lack of affordable housing. Still, I wondered whether these models would ever play more than a fringe role to more mainstream strategies. I doubted the they would receive the significant public financial support they would need to expand.

I was surprised to learn that a few states actively promoted these non-speculative housing models, including Vermont and Connecticut in New England. My interest focussed on several issues. Do state governments could actually share the goals of these grassroots organizations, and could government support be matched with a grassroots movement. I also wondered about some of the practical issues of how and what would be needed to create a middle tier of housing which offered some balance to the extremes of fee-simple ownership and rental apartments.

This thesis examines several aspects of these questions. I looked at two community land trusts in Connecticut and at the state´s "Forever Housing" policy which promoted CLTs and other forms of permanently affordable housing. My research was designed to answer the following questions:

1. What are the major obstacles to institutionalizing a policy which promotes Forever Housing models, such as CLTs, as a vehicle to develop and maintain a permanent stock of affordable housing?

2. What types of public support (especially state) were crucial to the development of the land trusts, and how well does the state address the problems of preserving and protecting the affordability of Forever Housing.

Research Methods

I used three methods to answer these questions. First, I reviewed literature on the goals, methods, policies, criticisms and other issues related to Forever Housing (see Bibliography).

Second, I conducted case studies on two community land trusts in Connecticut. The case studies were intended to reveal how these CLTs developed and what crucial support they received from the state or other public institutions. I especially focused on the transactions made between the community land trusts and the other participants in the public and private sector. The case studies were also intended to reveal potential impediments to preserving the affordability of the CLTs´ housing.

Third, I conducted interviews and reviewed legislation, regulations, and other documents concerning Connecticut´s policy of Forever Housing.[5] This research was aimed at understanding how and why Connecticut adopted its Forever Housing Policy, and how the Forever Housing programs are structured and implemented.

Selection of case studies

I selected two community land trusts in Connecticut, the Rose City CLT and the Rural Homes CLT to study. While there are many models of community based, permanently affordable housing, I selected community land trusts because 1) they are an effective model for permanently preserving affordability; 2) they have been in the forefront of the Forever Housing movement; and 3) they strongly support both the principles of permanent affordability and resident/community control. I chose to study cases in Connecticut for two reasons. First, confining the scope to one state simplifies analysis by limiting the context. Second, Connecticut has made significant progress towards creating permanently affordable housing programs. Third, the political and economic climate in which the Forever Housing policy was adopted in Connecticut is less unique than Vermont, the other New England state which has made a

[5] See list of interviews after Bibliography.

significant commitment to promoting permanently affordable, resident controlled housing.[6]

I selected the Rose City CLT and the Rural Homes CLT because; 1) they have experience from which to draw lessons (there are few established community land trusts); 2) both have had transactions with several public and private institutions during their development; and 3) I have access to their records and staff through the Institute for Community Economics, which assisted in their development.

When I selected to study two land trusts, I thought analysis would be simplified by studying only one type of Forever Housing. The two CLTs turned out to have differences on a wide range of areas. Each had unique histories, motivations, strategies, and resources. The CLTs do, however, provide a wide perspective on some of the barriers to developing community land trusts and other forms of Forever Housing.

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[6]The conditions under which Vermont adopted a housing strategy that promotes community controlled, perpetually affordable housing are unique in several ways. The policy was promoted by a unique coalition of housing activists, conservationists, and farmers who lobbied to create a fund (The Vermont Housing and Conservation Trust Fund) for the dual purposes of creating affordable housing and conserving land. Second, the political climate had a strong progressive element; during the late 1980s, the mayor of Vermont's largest city, Burlington, was a socialist. Third, the fund was the first major effort to promote affordable housing by the Vermont government, thus there were fewer parties which may have had an interest in resisting the new strategy. See James Libby, "The Vermont Housing and Conservation Trust Fund: A Unique Approach to Developing Affordable Housing, The Clearinghouse Review, February 1990.

CHAPTER II

FOREVER HOUSING

Definition of Forever Housing

"Forever Housing" has different meanings to different people. Often it is used as a synonym for perpetually affordable housing or permanently affordable housing. Some people credit John Papandrea, former Commissioner of Housing in Connecticut, as coining the phrase.

Forever Housing as used in this thesis refers to housing that is intended to remain affordable to people of modest means over time and through subsequent occupancies. Forever Housing is permanently removed from the speculative market, where market forces tend to drive prices up with each transfer of property. The housing's cost is restricted and reserved for people of low- and moderate- income by private contractual agreements imposed by either the sponsoring organization or by public policy.

"Affordable" customarily means that the housing unit is affordable to low- and moderate- income households. Moderate income households are defined as earning less than 80% of the median income for a given region, often defined as the Standard Metropolitan Statistical Area (SMSA) or

County. Low income households are defined as earning 50% or less of the area's median income. What is "affordable" to households is often based on a programmatic decision rather than based on ability to pay. For purposes of this report, affordable shall mean that household payment towards housing does not exceed 30% of a households income, unless otherwise noted.[7]

Models of Forever Housing

Forever Housing can accommodate an array of ownership and property tenure models. Both rental apartments and single family home ownership can be perpetually affordable and offer resident control. Housing models have been developed which offer a continuum of responsibilities and benefits between these two extremes. Community Land Trusts, limited equity cooperatives, and mutual housing are common models. The appropriate model depends on the program goals and residents being served. A brief description of two forms of Forever Housing, limited equity cooperatives and mutual housing, is provided below. A more detailed description of community land trusts, which is important to the case studies, follows.

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[7] 30% of household income designated for housing may be too high for the poor, as discussed by Michael Stone in Shelter Poverty.

Limited Equity Cooperatives (LEC)

Housing cooperatives are democratically-controlled corporations set up by residents of multi-family buildings to manage and operate their building collectively.[8] Residents purchase shares in the corporation, which owns the building. Residents sign an occupancy agreement, or lease, which outlines their rights and responsibilities in the cooperative. The shares give residents a stake in the ownership and control of the housing and a right to live there.[9] The residents and their elected board of directors set policies and supervise the operations of the cooperative, though a management company may be hired to handle selected tasks.

Limited equity cooperatives make housing affordable to residents of low- or moderate- income through the pooling of resources and securing federal and state subsidies. The cost of shares are modest (and are often compared to a downpayment). Members also pay a monthly carrying charge to pay for the coops operating costs and blanket mortgage. Residents may sell their shares, but the price is restricted to ensure affordability to future residents. (Resale restrictions are discussed later in the chapter). Residents

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[8] Carol Baldassari, Limited Equity Homeownership, Metropolitan Area Planning Council, Boston, MA, 1989, p.6.

[9] Scott Hoeckman, From Tenants to Cooperators: Organizational Development in Limited-Equity Housing Cooperatives, Tufts University Masters Thesis, November, 1990. p. 7.

may also be reimbursed for approved improvements they make to their units.

Mutual Housing Associations (MHA)

There are three different models of MHAs. The "Integrated" model, promoted by the Neighborhood Reinvestment Corporation (NRC) in Connecticut, is described here:

> MHAs are non-profit membership organizations established to develop, maintain, and/or assist members in the operation of permanently affordable housing.... The MHA acts as a non-profit membership organization that continually develops affordable housing and owns and operates it in perpetuity. Ideally an MHA finances its housing through direct capital grants: however, loans can be used to the extent that capital grants are not adequate to cover development costs. Members are charged a fee to join the group and are given life-long tenure that can be passed onto their heirs. When members move, ending their membership, they get back their initial fee plus interest. Monthly charges are tied to operating expenses (if there is no debt) and are often set at a percentage of the tenants income. Charges are set to maintain the existing project and to help finance new affordable units. The integrated model can be characterized as resident controlled rental housing.[10]

Community Land Trusts (CLTs)

A community land trust is a private, democratically controlled, non-profit corporation which acquires and holds

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[10] Massachusetts Association of Community Development Corporations, and Citizens´ Housing and Planning Association, Looking to the Future: A Report On the Mechanisms For Preserving the Long- Term Affordability of Privately Owned, Publicly Assisted Housing In Massachusetts. August, 1990. p. 24.

land as a community resource. Though related to land conservation trusts, which preserve natural areas, CLTs "focus more on the social and economic dimensions of land, addressing issues of access and distribution, property value and equity."[11]

Principles of CLTs

The community land trust movement was founded on the concept of land reform. The founders of the community land trust movement were heavily influenced by the ideals of Henry George, an economist who wrote of unequal land distribution as being the root cause of poverty and social distress in Progress and Poverty, published in 1879. He recommended government place land in a common trust, where land would be distributed on an equal basis. The community land trust movement was also been drawn from more recent international land reform policies in India, Israel and Tanzania, where individuals may use the land but the community retains some control over the land. The CLT model has also been influenced by land banking in Europe and Canada, where a public agency acquires and holds land which is later sold for public and private purposes.

The community land trust model was developed by Robert

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[11] Charles Mathei, "Community Land Trusts: Protecting the interests of the Homeowner and the Community," Land Trust Exchange, Winter 1988. p. 8.

Swann and Ralph Borsodi in the 1960s.[12] It was founded in response to rural communities facing land tenure problems, but the concepts were quickly applied to urban communities as well. The CLT model was "conceived as a democratically controlled institution that would hold land for the common good of any community, while making it available to individuals within the community through long-term leases."[13] These concepts were further developed by people like Chuck Mathai and John Davis.

John Davis writes of community land trusts as a type of land reform which confronts problems of speculation, land monopolization, and absentee landlords through the reallocation of "equity embedded in real property between the individual owner and the larger community."[14] Davis and other reformers challenge the fundamental rights owners customarily have over the use and disposal of property in the United States. Among the presumed rights they challenge are the freedom to sell their home to whomever they wish and for whatever the market will bear. Owners are typically assumed to have legitimate claim to all (or most) of the equity accumulated in their property during their tenure.

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[12] Institute for Community Economics, The Community Land Trust Handbook, Rodale Press, Emmaus, Pennsylvania. 1982. p. vii.

[13] Ibid. p. vii.

[14] John Davis, "Reallocating Equity: A Land Trust Model of Land Reform," in Charles Geisler and Frank Popper, Land Reform, American Style. Rowman and Allenheld, Totowa, NJ. 1984. pp. 209-232.

CLTs are based on the premise that a property's equity can be split into two shares. A property's value is the sum of the efforts of both the individual (investments of capital and labor) and society. Society's efforts can come in the form of neighborhood revitalization through private investment or improved infrastructure or amenities through public investment. Davis writes that homeowners may legitimately keep the value created through their personal investment; yet, they are not entitled to the value created by "a gratuitous windfall bestowed by changes in the larger society."[15] The community has a right to reclaim the equity of a property created not through the efforts of the private owner but through changes exogenous to the property.

The CLT was developed based on these principles. Because they own the land on which the housing is built, the community land trusts have the means to allocate equity between the individual and community based on these principles.

The CLT typically separates the land from its improvements. The CLT retains title to the land in perpetuity, but leases the land to individuals, businesses, community groups, or other public interests. Improvements made to the land are owned by the leaseholders, who gain many of the rights and benefits associated with fee simple

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[15]Davis, 1984. p. 209

ownership.[16] Through the ground lease the CLT places some restrictions on members use of the land and on the amount of equity they can accrue upon resale of their improvements (homes). This is the means by which the property is forever removed from the speculative market to maintain affordable access to subsequent residents and for other community Interests.

Major Resident Benefits of CLTs

*High security of tenure

*Legacy for their descendants: the lease may be inherited by the leaseholders designated heirs

*Fair equity for their investment, in full for improvements and a share of market value appreciation

*More control over decisions of improvements and uses of their units, compared to rental.

Resale restrictions on improvements come in various forms. Usually the maximum resale value is based on the owners cost basis adjusted by some formula to account for improvements, inflation, and property damage which occurred since the purchase. In the case studies, for example, the homeowner can sell their homes for the cost basis plus 25% of the market value appreciation of the home from time of purchase, plus adjustments for improvements. The CLT

[16] Many forms of housing are built on CLT land. Housing may be sold to organizations (limited equity cooperatives, mutual housing associations) or individuals (single family homes or condominiums). Rental Housing, either owned by the community land trust or by a non-profit corporation, can also be found.

Some Restrictions on Residents of CLTs.

*units must be owner occupied; no absentee landlords.

*comply with land use restrictions in lease

*maintain the land in a "socially and environmentally responsible manner"

*Follow resale stipulations of lease (Equity restrictions, eligible buyers, etc.)

*Pay lease fee

usually retains a first option to buy the home, which is then resold in accordance with established goals. Any increase in value that is not due to a leaseholders effort is recaptured by the CLT in the interest of future residents.

Residents pay a lease fee to the CLT to cover land use fee, debt service on land (if any; land is often paid in full), nominal administrative fee, real estate taxes on land, insurance, and monitoring. The land use fee can be raised to recapture subsidies if residents' income rise considerably since in most CLTs residents cannot be expelled if their income rises. Because the CLT owns the land, residents don't make a down payment on the land, which reduces the initial costs of ownership to residents. The CLT will frequently help members gain access to credit and financing they would be unable to obtain individually. These non-conventional arrangements grant homeownership to families who could not afford to purchase a home in the private market. In exchange, they agree to the restrictions placed on them by the CLT.

The CLT has an open membership and a board of trustees elected by the membership. Structured to provide balance between resident and community interests, the board typically includes residents of trust owned lands, other Community members (who don´t reside on CLT land), and public interest representatives. These other members can protect the interests of future residents in the housing, if present residents try to remove or weaken equity restrictions.

Goals and Rationale of Forever Housing

Each Forever Housing model arose from a distinct history and motivation. Though their motivation and emphasis may vary, proponents of Forever Housing share many of the same goals.

The central rationale for Forever Housing among most government officials is that in the long-run, publicly assisted housing must remain permanently affordable and available to lower income households in order to protect the public´s investment. Many municipalities and states drew this conclusion after unrestricted, government subsidized housing was sold during a heated market. The profits fell into the lucky owners´ hands but the affordable units were no longer available to other low- and moderate- income families. Both the affordable unit and public subsidy were lost. Replacing these units is expensive, especially when costs of land, financing, and production continue to rise. Thus, public officials often argue that Forever Housing is a prudent fiscal procedure.[17]

Many proponents of Forever Housing also argue for the need to create a permanent stock of housing outside the speculative market, insulated from both economic and political currents. They recognize the private market is not and will not be able or willing to provide secure housing affordable to the poor. While public housing meets this need, many governments and constituencies politically oppose public housing, which no longer receives sufficient federal funds.

Many Forever Housing advocates (and some public officials), who work to create perpetually affordable, community based housing, offer additional justification which centers on benefits to residents. Forever Housing models typically provide residents with some of the benefits associated with homeownership at a lower price than fee-simple homeownership. Perpetually affordable units offer more secure tenure. Costs are usually lower and more stable than residents would pay in the private market. Residents

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[17]This thesis will not present analysis of the cost effectiveness of one type of housing over another. Others have written on this subject. See Rachel Bratt, Neighborhood Reinvestment Corporation-Sponsored Mutual Housing Associations: Experience in Baltimore and New York, The Neighborhood Reinvestment Corporation, Washington, DC. 1990.

usually have a right to remain in their housing except for extended non-payment or wanton abuses of restrictions. This usually includes residents whose income rises, though sometimes their rents or fees may rise. The sponsoring organization of Forever Housing may help residents who suffer temporary income losses remain in their homes. In most cases, residents may also pass their unit on to their heirs.

Many of the Forever Housing models provide greater resident control over their housing environment through a broad span of arrangements. Both tenants and owners may elect formal representation on their organizations boards which make decisions over physical improvements, property management, policies, and future housing development. Some arrangements allow future residents and other community members to participate in decisions.

Even among the grass roots organizations, goals and rationale differ according to views on ownership, property tenure, and incomes served. For example, some proponents see a prime benefit of Forever Housing models as an extension of ownership opportunities (with restrictions on equity appreciation) to people who otherwise could not afford to own. Other proponents (especially of mutual housing) may concentrate on providing better housing conditions and greater participation by residents of rental housing, which they see as more suitable to households with low and unstable incomes. Community land trusts are based on principles of regaining control of the land and empowering both residents and the community (though not all CLTs strongly hold these principles). The philosophy behind community land trusts will be explored in greater detail below.

How Affordability is Preserved[18]

There are many ways to preserve the affordability of housing. Broad public regulatory powers such as rent control and anti-speculation taxes can help stabilize housing costs. High quality, durable construction materials and workmanship reduce maintenance and delay costly replacement. The Forever Housing discussed in this thesis rely on different means to preserve affordability.

The central means by which the affordability of Forever Housing is preserved is by removing it from the speculative market. This is achieved through provisions written in private contractual and regulatory agreements that restrict the unit in perpetuity from being freely bought and sold in the private real estate market.

These restrictions, embedded in legal documents, are the key feature of Forever Housing, and are discussed in

[18]Note: this section is applicable for homeownership units only. Many of the issues are similar, and may be noted on occasion. However, most of the text will refer to the various ownership models only (including cooperatives).

detail below. Realization of long-term affordability requires three additional components. They are: 1) the availability and sufficiency of resources to ensure initial affordability and ongoing viability of the housing; 2) the capacity and commitment of those managing the housing; and 3) The capacity and commitment of the enforcing entity.[19] These are also discussed below.

Restrictions

Restrictions are used to accomplish several specific goals, shared by advocates of permanently affordable housing. The goals are A) to keep the housing cost to residents low and to keep any subsidies within the project; B) to keep the housing available solely for households with low- or moderate- income; C) to keep the unit owner-occupied; D) to preserve the housing's physical integrity without excessive cost; and E) to safeguard from unintended events such as mortgage default, failure to find eligible owners, or unexpected maintenance needs.

To accomplish these goals, a set of rules and procedures are formulated by the Forever Housing sponsor. Most restrict the owner from doing things that would

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[19] These components are based on the report: Massachusetts Association of Community Development Corporations, and Citizens' Housing and Planning Association, Looking to the Future: A Report On the Mechanisms For Preserving the Long- Term Affordability of Privately Owned, Publicly Assisted Housing In Massachusetts. August, 1990.

conflict with the project goals. A resale formula, which calculates the price of a property (or shares) upon resale, achieves the primary goal of controlling the cost of the unit. The formula replaces the market system pricing mechanism with one that (in theory) will reflect project goals. The formula is designed to balance the interests of current and future owners. Many variations of resale formulas are adopted. The resale price is usually the product of the owner's original purchase price and some economic index, such as the Community Price Index (CPI), change in median family income, or change in market value. Adjustments may be made for any improvements or damage inflicted on the unit. Adjustments for improvements compensate occupants for the cost of improvements made in their units, though total compensation is capped or only certain improvements are allowed to ensure the housing remains affordable.

Rules are also formulated to accomplish other goals. Income eligibility requirements of both initial and future occupants reserve the unit for households with low or moderate incomes. Procedures are also made for the sponsor, or other responsible entity, to intervene if the seller is unable to find a qualified buyer. In some cases, the unit may be sold to any buyer at the determined price. However, many organizations reserve the option to buy the unit and then seek eligible occupants (or in the case of CLTs, members who are waiting to buy a unit).

Legal Instruments for Preserving Affordability

The restrictions are written in legal documents which are tied to the property ("run with the land"), and all relevant parties agree to these at the initial sale or occupancy. Often the restrictions are layered in different legal documents to strengthen protection against tampering or to circumvent property law problems. The instruments chosen depends upon the situation and type of housing model. Examples of legal documents in which restrictions are embedded are deed restrictions, ground leases, and corporate bylaws.

Appropriate and effective restrictions embedded in sound legal documents lay the framework for perpetually preserving the affordability of housing. However, three other ingredients are necessary to preserve affordability.

The availability and sufficiency of resources to ensure initial affordability and ongoing viability of the housing.

In theory, Forever Housing ownership models should be subsidized with sufficiently deep up-front capital grants to:

A) Make the units affordable to target low- or moderate- income persons. The cost should be low enough relative to market value so that the housing is marketable even with equity restrictions and that owners feel the restrictions are fair.

B) Stabilize long-term housing costs by reducing financing costs (especially interest rates). Reducing financing costs is intended to reduce need for continuous operating subsidies.

The administrative tasks of management (especially in coop and rental housing), development, and monitoring properties for compliance with restrictions must also be funded. The responsible organization should also have quick access to resources to exercise first options and to cure defaults.

The capacity and commitment of those managing the housing.

The management of Forever Housing requires the same capacity and commitment that all well run affordable housing projects require. Reserve Funds must be built for major capital improvements needed periodically.

The capacity and commitment of the enforcing entity.

To preserve affordability, a designated entity must have capacity and commitment to:

A) Monitor all housing units for compliance with the affordability restrictions.

B) Intervene when restrictions are violated or residents run into financial trouble.

C) Cure defaults and exercise options to buy units.

In additions, the designated entity may continue to educate residents about the concept, goals, responsibilities and benefits of Forever Housing. Residents would likely be more willing to comply with restrictions for which they understood the reasons.

The designated entity could be the community based organization (e.g. the CLT), a regional intermediary, or a municipal or state government. Often the local organization is responsible for monitoring for compliance and enforcing the affordability restrictions. However, intermediaries and states may supervise and assist the local organizations.

Tradeoffs and Priorities of Perpetual Affordability

When working with a given housing budget, there is a potential conflict between greater production and ensuring long-term affordability. To develop housing which can remain affordable in perpetuity without continued operating subsidies, deeper front-end subsidies are needed. Thus, fewer units will be produced than if the same amount of funds were used for shallow subsidies to achieve greater production.

Governments often make housing production the highest priority of their housing policy. To do so, private money is leveraged through high debt financing, requiring extended high debt service payments. Also, tax credits are often syndicated which have a 10-15 year life, at which time the investors must be bought out to preserve the affordability of the housing. This jeopardizes long-term affordability. A highly leveraged finance package also often permits the owner to refinance or sell the building to capture the residual value, an incentive which conflicts with maintaining affordability.

Developers of Forever Housing place priority on long-term affordability for which a different system for financing is needed. Long-term affordability is best attained when debt service (and interest rates) are low. To attain this, the cost of housing must be reduced with front-end capital contributions. Private capital cannot be lured with promises of future profits from the residual value of the housing. Thus, fewer units can be constructed with given public funds.

Resistance to Permanent Affordability

Regardless of motivation, the restrictions imposed on property by Forever Housing challenge fundamental American attitudes towards property and homeownership. By custom and law, property in the United States is treated as a commodity which can be freely traded and from which profits may be derived. Despite its function as a shelter, housing has recently also been viewed as an investment by most Americans. Essential to the notion of homeownership in the United States is that owners have a right to profit from their investment in their homes. Forever Housing demands an alternative notion of homeownership which does not include the ability to make profits off housing. While allowing many of the benefits of homeownership, Forever Housing restricts the transfer and profitability of a home.

These restrictions, which cross such fundamental attitudes towards property, naturally arouse opposition. In his book about the United States in the nineteenth century, Alexis de Tocqueville wrote "In no country in the world is the love of property more active and more anxious than in the United States; nowhere does the majority display less inclination for those principles which threaten to alter, in whatever manner, the laws of property."[20] Such resistance to interference in property rights may have ebbed, at least if intervention enhances property value as zoning ordinances typically do. Nevertheless, the notion of ownership and property rights remain a strong force which proponents of Forever Housing must confront.

Opposition to perpetually affordable housing models come from both ideological (conservative and liberal) and pragmatic grounds. Conservatives criticize Forever Housing

[20] Institute for Community Economics, The Community Land Trust Handbook, Rodale Press, Emmaus, Pennsylvania. 1982. p. 10.

for infringing on the perceived fundamental property right to sell a home at an unlimited profit. Conservatives also criticize the restrictions for constraining the transferability of property, which is essential for the efficient running of a market economy. Both conservatives and liberals criticize resale restrictions for relegating owners to second class citizenship status. Why should these owners be constrained in their ability to make profits while owners of most housing are allowed unlimited appreciation?

Summary

This chapter accomplished several objectives. First, the various models, motivations of proponents, benefits, and criticisms of Forever Housing were summarized. While the motivations behind the models were different, many of the benefits and goals are shared by all models of Forever Housing described. Each model attempts to provide residents with some of the benefits associated with homeownership at an affordable price. However, residents are not allowed to sell their homes or shares freely in the private market in order to maintain the affordable units for future residents. These legal restrictions are the underlying basis by which the cost of Forever Housing is controlled. The restrictions prevent the housing from being treated as a commodity, where prices are inflated by profit motivations. In addition, and particularly important to public officials, is that these restrictions also prevent the public subsidies from being lost when the original occupants move out and sell their units at market rate prices.

Second, the chapter outlined additional components necessary to realize a key goal of Forever Housing, to maintain the affordability of the housing in perpetuity. While the restrictions provide the base, maintaining the long-term affordability of units is jeopardized if other elements are not adequately planned and executed. Among these elements are an appropriate financial structure, the commitment and capacity of organizations designated to manage the properties and monitoring and enforcing the affordability restrictions.

Third, the chapter introduced some of the ideological and political contexts within which proponents of Forever Housing must operate. Developers and policy makers of Forever Housing continually meet subtle and overt resistance to the affordability restrictions. The treatment of property as a commodity is not only deeply ingrained in American attitudes and ideology, but is also reflected in our legal, financial, and political institutions. Few of these institutions are structured or inclined to handle properties which are restricted in perpetuity. For example, property law doctrines disfavor any restrictions which inhibit the transferability (marketability) of property, especially "forever". The restrictions also create problems when taking out loans to finance Forever Housing at most lending institutions, which are concerned about the effects of the restrictions on the marketability of units if the borrowers default on the loan. These obstacles to Forever Housing will be further explained in the following chapters.

Chapter III looks at the adoption, design, and administration of the Forever Housing policy and programs in Connecticut. Some of the resistance and barriers to institutionalizing a Forever Housing policy in Connecticut are described, as well as how some of these barriers were overcome.

CHAPTER III

CONNECTICUT'S FOREVER HOUSING POLICY

In 1989, the Connecticut Department of Housing (DOH) issued a policy statement referred to as "Forever Housing". It was a rare public commitment to insure that state-assisted housing remained "forever affordable". In a widely distributed brochure, the DOH listed four precepts on which the program is founded:

> *Every Connecticut citizen has the right to decent, safe, and affordable housing.
>
> *Housing generated by state financing should remain forever affordable.
>
> *State-assisted housing should be permanently removed from the speculative market.
>
> *A community's economic base, self-reliance, and growth should be sustained through the preservation of its stock of affordable housing.

In essence, Connecticut DOH has made a public commitment to redirect a substantial share of its resources and programs towards the promotion of housing which is intended to remain permanently affordable. When providing grants or substantially subsidized loans for land acquisition or construction, the DOH now requires the sponsoring organization to have a plan to maintain the long-term affordability of the housing, enforced by a legally binding commitment. Program regulations contain reverter clauses and the state places liens against the properties as added enforcement measures to help ensure that the units remain affordable and available to low and moderate income families.

Though there are some exceptions[21], Connecticut's Forever Housing programs represent a substantial commitment to developing housing which is affordable in perpetuity. Such a commitment is a real transformation from conventional methods of producing affordable housing which relied on more traditional housing tenure models and did not insist upon long-term affordability provisions. How did Connecticut come to promote housing models which were formerly promoted by a relatively small movement of progressive housing activists? The next section examines some of the conditions and initiatives which led to the adoption of Forever Housing in Connecticut.

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[21] There are some exceptions to the Forever Housing policy. One exception is small consumer loan programs like the energy conservation loan program and Homeowners Emergency Assistance Repair for Seniors. Another exception is the Downpayment Assistance Program, which provides low interest rate loans to cover downpayment of homes to eligible buyers. However, the DOH has recently instituted a subsidy recapture clause.

Another major exception is The Connecticut Housing Finance Authority (CHFA), which does not require commitments to preserve the long-term affordability of homes. The CHFA provides mortgages with below-market rate interest rates to moderate income households. Raised by the sale of tax exempt bonds, the CHFA mortgage fund is far larger than the DOH budget. A proposed reorganization (perhaps even combining both agencies) may bring the CHFA policies more in line with DOH.

Housing Crisis

The Forever Housing policy was embraced after a heated economy and demographic shifts drove housing prices up far faster than the ability of many Connecticut residents to pay. A 1987 study of the states' demographic profile, economy and housing markets conducted for the states' 5 year housing plan revealed evidence of a housing crisis.[22] Like the rest of New England, Connecticut's economy boomed during the 1980s. By 1986, the unemployment rate had dropped to 3.5% and per capita income reached $17,627, the second highest in the nation. Though population grew relatively slowly during the decade, new households formed at a faster rate as the baby boom generation continued to reach adulthood.

These and other factors caused the demand for housing to expand rapidly in Connecticut throughout much of the 1980s. In response, housing production also increased, though most of these new homes were luxury or market rate properties. At the same time, rapid price increases and the conversion of apartments to condos reduced the supply of low cost rental apartments and homes. The median price of a single family home rose to $161,542 in 1987, an 18.4% increase from $134,445 in 1986, according to Connecticut

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[22] State of Connecticut Advisory Committee, State of Connecticut Five Year Housing Advisory Plan, 1987-1992. 1987. Unless otherwise noted, all statistics from this section are from this report.

Association of Realtors figures. Rental costs also rose quickly, but reliable figures are hard to find.

Median income and price figures do not give a full picture of the housing climate in Connecticut. Like the rest of the nation, economic prosperity was unevenly distributed across the population and across regions:

> Connecticut's tremendous economic prosperity has simply not made a difference for the hard core unemployed and their families. To make matters even worse for the hard core unemployed and the working poor, that same economic boom has at least partially fueled the rapid increase in housing costs, thus leaving those already least able to afford decent homes in an even tighter bind.[23]

While rising housing costs affected many, it especially hurt low income households and first time home buyers with moderate or middle incomes. The Five Year Housing Advisory Plan noted that a family would need a downpayment of $26,000 (20%) and an annual income of $50,000 to buy a $130,000 home, about the median home sales price in 1986. The report also noted that "it is not uncommon for these families (of lower income) to be paying as much as 50-75%" of their income for housing. In 1984, households on waiting lists for state assisted housing exceeded 13,000, and waiting periods grew to as long as 5 ½ years. Three quarters of households applying for assistance paid over 50% of their income for rent. Homeless individuals and families also increased markedly.

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[23] State of Connecticut Advisory Committee, 1987.

Formation of the Forever Housing Policy and Programs

The seeds of Connecticut's Forever Housing policy were planted by the early 1980s. At that time, the DOH was more concerned about blighted and declining neighborhoods than about property speculation. The DOH Urban Homesteading Program had been designed to assist local homesteading agencies purchase and rehabilitate abandoned buildings in decaying neighborhoods. The renovated buildings offered homeownership opportunities to low and moderate income households.

During the early 1980s, limited equity cooperatives (LECs) became increasingly popular among several non-profit organizations in Connecticut. One major sponsor, the Office of Urban Affairs of the Archdiocese of Hartford (which staffed the

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There was a widespread consensus among Connecticut residents that there was a major affordable housing problem:

*88% agreed that the cost of housing is a "major problem" in Connecticut.

*72% agreed that affordable housing is a right that the government should guarantee, even if tax money needs to be spent.

*More than 80% of renters said they could not afford to buy a home in Connecticut.

*Two of three homeowners said they would not be able to buy their house if they did not already own them.

*Only 39% said government should build and operate low-income housing.

3Poll of 500 randomly selected adults in February, 1988. Poll Commissioned by the DOH and CHFA. From The Hartford Courant, October 21, 1988.

Connecticut Housing Coalition), experimented with a LEC model with sweat equity. When a HUD program from which they had received funding was cut, the coalition sought funds from the DOH Urban Homesteading Program. By the mid-1980s, the Urban Homesteading Program became overwhelmed by funding requests from organizations developing LECs. The DOH staff, some of whom had grown to accept and promote LECs, decided a second program should be set up exclusively for LECs. The Connecticut Housing Coalition, which had previously lobbied for changes in the Urban Homesteading Program, began to prepare and lobby for a bill to enable a new limited equity cooperative program. The coalition took legislators on bus rides to see completed LEC projects and meet families who had contributed sweat equity.

Meanwhile, the Neighborhood Redevelopment Corporation (NRC) was setting up a Mutual Housing Association (MHA) demonstration project in Hartford. The NRC was seeking state funds when they were asked by a state legislator to help write a bill to establish a fund for mutual housing. Both the LEC and MHA bills were in jeopardy of losing when the Deputy Commissioner of Housing insisted both bills be combined. Despite reservations due to the different characteristics of each housing model (LECs are more closely related to ownership, MHAs are more closely related to rental), both groups agreed to combine the bills.

Enabling Legislation

Despite pockets of resistance, the bill to establish the LEC\MHA passed through the legislature in its first attempt in 1986. A number of reasons were attributed for the relative ease in passage by people involved in the process. Pat Wallace of the Office of Urban Affairs of Archdiocese and the Connecticut Housing Coalition, who lobbied for the bill, said there was a "broad consciousness of the housing crisis on the part of the legislature and the executive branch, who were eager to think of themselves and to appear creative and innovative in doing something about it."[24] The LEC/MHA enabling legislation offered an avenue for the politicians to do so. The LEC model offered something to both liberal and conservative politicians. The "Sweat equity and homeownership appeal was very popular among suburban legislatures. LECs play well across the political spectrum, especially when legislatures meet families and see projects. People ate up the ´Barn Raising Image´ -- they were frustrated by perceived and real failures of past housing policy.... the flavor of homeownership is an easier pill to swallow from the suburban standpoint." The bills were also well accepted by the executive branch and received little organized opposition from private developers.

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[24]In phone interview.

The coalition of non-profit housing organizations, with assistance from Institute of Community Economics (ICE), also presented a Land Bank/Land Trust bill to the legislature in 1987. The bill was initiated in a context of property speculation and of rapidly rising land prices.[25] The program was intended to provide quick access to funding for land acquisition when developable land became available at a reasonable price. Some nonprofit organizations wanted the option to acquire land for immediate housing development, while other organizations wanted to acquire and hold land for future development goals. Both ideas were rolled into one package, the Land Bank\Land Trust Program. The House passed enabling legislation to establish a Housing Land Trust Program effective July 1, 1987. One million dollars in bonds were also authorized for the program. Over the next year the DOH wrote regulations for the program, which began operation in October, 1988.

Adoption of Forever Housing at DOH

By the time the legislation passed to enable the LEC\MHA and Land Bank\Land Trust programs, there was growing acceptance of coops and of permanent affordability

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[25]The Home Builders Association of Connecticut, Inc. estimated that the cost of land for a new single family home rose from $48,500 in 1986 to $70,500 in 1987, a 45.4% increase. The land price rose 59.2% the previous year. The study suggested part of the increased land costs may have been due to the propensity to develop on larger lot sizes.

principles among many in the DOH, according to staff members. Richard Cofrancesco, director of the Homeownership Division and now a leading proponent of Forever Housing in DOH, said the department was "heading in that direction." However, some housing activists (and some DOH staff) perceived the leadership from the "old Housing Authority mode", who had little understanding or commitment towards principles of permanent affordability and resident control. At the time, there was greater distrust and less cooperation between the DOH and the legislature and non-profit housing coalitions (according to both DOH staff and housing advocates).

The enabling legislation for the Land Bank\Land Trust Program took many at the DOH by surprise. According to members of the Homeownership Division which now administers the program, no one from the department even heard of the program when it was established. That has changed: the department has a legislative liaison and a more cooperative relationship has been established with some of the housing advocates.

That same year, Governor William O'Neill declared 1987 the "Year of Housing". The governor also appointed John Papandrea as the Commissioner of Housing. Previously the Commissioner of Gaming, John Papandrea knew little of housing issues. However, within weeks of his arrival he expressed commitment to the ideals of programs which promoted permanent affordability and resident control. Ted Malone, then working with NRC to establish a Mutual Housing Association demonstration, related a meeting in which residents of an MHA gave moving testimony about how their lives had been transformed by gaining more control over their housing. John Papandrea told members of the NRC that "this is what I´m going to do". Pat Wallace recalled that he "grasped right away the programs as practical solutions to Connecticut´s need from both a technical and political standpoint."

As previously mentioned, there had also been growing acceptance of policies which encouraged permanent affordability among DOH staff. According to Richard Cofrancesco, there were two major impetuses to the Forever Housing Policy within DOH. First, DOH officials began to realize that many units of federally subsidized, privately owned affordable rental units built in the early 1970s would be eligible for prepayment in the next several years. Second, housing built with assistance from the Housing Site Development Program, once the major DOH grant program for housing development, was also being lost to the speculative market as owners sold their housing. Often funded with CHFA or HUD financing, the program helped pay for land acquisition and site preparation for single family homes. The 15 year use-restrictions on these homes began to expire in the 1980s, when housing costs were booming. A letter written by John Papandrea two years later expressed the sentiment:

> Early in my tenure as Commissioner of the Department of Housing I was faced with a request to allow the resale of a formerly State assisted housing unit which, upon resale, had appreciated from $30,000 to more than $200,000. This unconscionable windfall profit at taxpayers' expense convinced me that we had to develop a way to ensure that all developments receiving State assistance must, in some way, remain "forever affordable.[26]

The Forever Housing Committee

In 1988, the Housing Commissioner designated a task force composed of "housing experts" (including representatives of DOH, CHFA, ICE, attorneys, and other housing advocates). Chaired by Richard Cofrancesco, Manager of the Homeownership Division, the committee was coined the "Forever Housing Committee". The committee was charged with articulating the Forever Housing mission statement and exploring ways to adapt permanent affordability principles within DOH programs. Co-chair Yvonne Parker, also of DOH, said the committee looked at community land trusts both within and outside of Connecticut. They tried to anticipate future program needs, and how to best incorporate means to permanently preserve affordability of housing funded by other programs, such as the rental programs.

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[26] John Papandrea, former Commissioner of Housing, in letter to William H. Hernandez, Jr., Manager, Hartford HUD office, dated February 17, 1989.

Forever Housing Programs

The Forever Housing policy is primarily executed through five programs which cut across four divisions of the DOH. The programs provide grants and deferred loans to several alternative housing models which are affordable to a range of low- and moderate- income families (See Table 3.1). Each program now requires that all funded projects have plans to permanently preserve affordability and reserve the units for eligible low- or moderate- income households. In addition, programs have been developed explicitly for several forms of non-speculative housing which offer a continuum of ownership structures, responsibilities, and benefits which fall between rental apartments and fee-simple ownership.

Table 3.1: FORFEVER HOUSING PROGRAMS

Program Name\Model	Eligible Organizations	Use	1989-90 Expenditures
Affordable Housing (rental)	Local Housing Auth. nonprofit corps. municipal developers housing partnerships	construction, rehab	19,071,309 (grants)
Moderate Rental Local or Housing	Housing Author. nonprofit corps. municipal developers housing partnerships	construction, rehab	2,062,025 (grants) 1,227,912 (loans)
Limited Equity Cooperative	LECs (non-profit corps.)	acquisit. of land & Bldgs construction, rehab	260,000 (loans) 2,721,361 (grants)
Mutual Housing	MHAs (non-profit corps.)		4,916,648 (grants)
Community Land Trusts (single family homes, LECs, MHAs, non-profit rentals)	CLTs (Non-profit corps.)	Acquisition of land & Improvements	6,430,048 (grants)

Complementary Programs

Other programs complement the Forever Housing policy and are important to the case studies. Three important programs are:

1) The Surplus State Property Program is designed to identify state owned land and improvements of land which may be suitable for housing. A Connecticut General Statute "requires that all state agencies notify the Commissioner of Housing when land or land and improvements are deemed surplus to their needs. If the land is suitable for housing development, it is then transferred to the DOH."

Once in the hands of DOH, the property is leased or conveyed to organizations which develop or rehabilitate housing for homeless or low- and moderate- income households. Diane Langley, Administrator of the Surplus Properties program, says she requires recipients of the property to have a sound plan for maintaining the long-term affordability of the housing. A "reverter clause" written into the statute stipulates that the property must revert to the state if not used for low- or moderate- income housing.

2) The Downpayment Assistance Program promotes homeownership for low and moderate income families by providing 30 year, low-interest loans (now 6%) to individuals who need a downpayment of up to 25% of the purchase price. The program is closely connected to CHFA permanent financing, and shares the same eligibility

requirements. Non-profit housing organizations often arrange to directly market both CHFA mortgages and downpayment loans to their clients. The program administrators give loan precedence to buyers of permanently affordable housing. For other loans, the DOH is working on a bill which would recapture some of the subsidy when owners sell their home.

3) The Administrative Assistance and Technical Assistance Program provides grants to non-profit organizations, which develop and manage most Forever Housing. The grants may reimburse organizations for general operating expenses, staff salaries, provision of technical assistance services, and other personal services. The program is especially important for small organizations to build capacity and develop new programs which have not yet developed sufficient revenues.

The Land Bank\Land Trust Program

As noted earlier, the enabling legislation created the Land Bank\Land Trust program in July, 1987. The legislature authorized a $1 million fund to be raised by tax-exempt bonds exclusively for the program. By 1990, the programs bonding authority had reached $16 million.

Popular among both non-profit and for-profit (with a non-profit partner) developers, the program received $11 million in requests during the initial funding round.

Though elaborate, the regulations had been written to allow some flexibility in the application criteria and processing of grants.[27] They would "see what came in", and adjust the program accordingly. Organizations proposed an array of housing projects, including single-family homes for resale, limited equity cooperatives, and rental housing to be built on land held by land trusts. After securing more money from the Department's flexible funds, the program funded 20 proposals for $6 million during the first round of funding.

Since that time, the process, regulations, and statute have been altered. Originally, the enabling legislation designated a fund which would be allocated after a competitive bidding process. In 1991, the program received funds from the DOH flexible bond fund which are distributed to divisions and programs based on demand. Projects are reviewed and approved by the DOH as they come in, and then sent to the state Bond Council for bonding approval.

Various constituencies have expanded the regulations, restrictions, and the number of approvals required. For example, large projects now require "scoping", where the project is reviewed for environmental soundness by other state programs. The Bonding Authority has also tightened its requirements, frequently rejecting proposals until adjustments are made. Concerned about IRS regulations on non-taxable bonds, the Bond Council prohibits any

[27] Phone Interview with Yvonne Parker, Connecticut DOH.

arrangements which could be construed as profit-making. For example, development fees and lease-fees are frequently rejected as excessive. The council´s strict regulations have negative implications for many community land trusts, which consider these fees an important source of revenue for both administrative tasks and for future development.

Efforts have been made by DOH staff and others to make sure the Land Bank\Land Trust Program serves organizations which adhere to the principles of the program both now and in the future. Deb Landry, administrator or the program, frequently received calls about the program from private developers, whom she informed that the program only assists non-profit corporations. Some of these developers later returned with newly created community land trusts as partners. She questioned whether some of these organizations are genuinely committed to the residents, and how well they will plan for the long-term affordability of the housing. In some cases, the developers received far greater sums for their land than what they had paid for it a few years back. To guard against this, the program now requires applicants to file affidavits about past activities and the original cost basis of the land.

Enabling Legislation to Protect the CLTs

An "Act Enabling Community Land Trusts To Operate in the State of Connecticut" was presented to and passed by the

Connecticut legislature in 1990. The bill was designed to address two fundamental concerns about the Land Bank\Land Trust Program. First, there was concern that the affordability restrictions of the community land trusts may be vulnerable to legal challenges in the future. Second, there was concern that CLTs were being developed that were not structured in a manner which would protect the interest of CLT residents or the state. While presenting the bill, Chuck Collins of ICE testified that in addition to organizations which are structured and operated like CLTS, there were "many other organizations which are not structured to include resident representation on their boards, nor is the housing they develop structured to remain permanently affordable."[28] By making funds available for community land trusts, many developers in need of funds would create CLTs without a true understanding or commitment to the principles of Forever Housing.

Thus, the legislation further defined the essential characteristics of a community land trust. The bill described several "minimal structural and operational characteristics which define what a land trust is." For example, it defined the composition of the governing board of the CLT to ensure that residents have representation, but not enough to override ground lease provisions. The bill

[28]Testimony to Judiciary Committee, March 16, 1990.

also set upper income limits for residents of a CLT.[29]

The bill also exempted the community land trusts from two property doctrines, the Rule Against Perpetuities and Restraints Against Unreasonable Alienation, which may be used to challenge the legality of the CLTs affordability restrictions. These property doctrines can be traced to England, many centuries ago. The original intent of these common laws was to keep land from being concentrated in the hands of a few rich people.[30] Now, however, they present legal barriers to the use of long-term affordability mechanisms which allow greater ownership opportunities for people of lower income.

Chuck Collins described the Rule Against Perpetuity as a property doctrine which "insures that contingent claims of ownership of real estate, do not "float around" so long as to inhibit the use or transfer by the present generation. Or, to paraphrase the legal language of its framers, to prevent the hand of the deceased (and their control of

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[29]Some CLTs have questioned the narrowness of the definitions, especially the income requirements. One housing advocate involved in the process thought the definition was defined narrowly to appease the legislators who were resistant to the second part of the bill which exempted CLTs from certain property law doctrines. According to this advocate, most of the legislators were lawyers, "who equate suspending rules against perpetuity and alienation with attacking the Constitution of the US with a hatchet."

[30]Massachusetts Association of Community Development Corporations, and Citizens' Housing and Planning Association, 1990. p. 70.

future ownership) from reaching up and dictating the uses of land by the living."[31]

The Rule Against Unreasonable Restraints on Alienation prohibits conditions which "unreasonably" restrict an owner's ability to resell his or her property. Typically, anything which inhibits the transferability of property is discouraged by resale law. Exceptions are sometimes made, such as when they are employed for a "worthwhile" or "public purpose."

The purpose of exempting community land trusts (and other forms of Forever Housing -- similar acts have been passed for LECs) from these rules is to strengthen protection against future resident challenges to the use and resale restrictions. To achieve permanent affordability, community land trusts restrict the use and value of property through 99 year renewable ground leases, which are legally structured to avoid challenges based on these property doctrines. However, future residents may challenge the CLTs restrictions, especially if property values escalate far faster than the restricted price at which CLT homeowners are allowed to sell. Exempting CLTs from the Rule Against Perpetuities and Restraints on Alienation adds a second layer of protection.

[31] Testimony to Judiciary Committee.

Summary

Connecticut´s Forever Housing mission statement is backed up by a policy which prioritized resources towards permanently affordable housing. Advocates of community based, permanently affordable housing participated in creating grant and loan programs which provide front-end subsidies to an array of Forever Housing forms. Regardless of the form, the state assisted housing must have legal mechanisms which permanently remove the housing from the private market. The front-end grants help make the financial package less reliant on loans and tax-credits which detract from preserving affordability. In addition to funding Forever Housing projects, the state has exempted Forever Housing models from the property doctrines which may be used in the future to legally challenge the affordability restrictions employed by Forever Housing.

The Connecticut DOH´s adoption of Forever Housing policy was the product of several factors. A severe housing crisis focused attention on housing policy and gave politicians a mandate to create new programs. Privately owned, state assisted housing which had not locked in long-term affordability restrictions were sold at multiple times its original cost, becoming a poignant symbol of the deficiencies of past housing policy. Non-profit housing groups demonstrated the ability to produce permanently affordable housing, especially limited equity cooperatives.

Housing coalition groups ran an effective lobbying campaign, bringing legislatures to observe successful projects. A new housing commissioner quickly latched onto and advocated for the Forever Housing initiative.

These and other factors combined to make Connecticut one of the few states to actively encourage community based, permanently affordable housing. State officials and politicians of various political colors have supported the Forever Housing policy, irregardless of the sometimes progressive (even radical) motivations behind some of the Forever Housing models. It is not yet possible to declare that Connecticut has firmly entrenched the Forever Housing policy. In the Spring of 1991, the Forever Housing programs, like all DOH programs, are experiencing severe cuts. The Land Bank\Land Trust Program has been frozen for 18 months. The Administrative Cost Grant program which provides vital assistance to non-profit organizations that sponsor Forever Housing is under threat of elimination.

Despite these funding cuts, the DOH and others continue to pass legislation and refine regulations concerning the Forever Housing programs. The DOH staff express commitment to this new direction of housing policy. Thus far, the new state administration has supported the Forever Housing policy.

In the meantime, the state has assisted numerous non-profit organizations develop Forever Housing. The next two chapters look at the development of two community land trusts which have received instrumental assistance from the DOH. Chapter IV examines the Rose City Community Land Trust for Housing (RCCLTH) in Norwich, a grassroots organization which strongly embraces many of the principles behind the community land trust movement. Chapter V describes the NCCDC-RHL Land Trust in rural Northeastern Connecticut, which is sponsored by an established non-profit housing developer.

Each case provides a preliminary assessment of the potential benefits, as well as some of the problems and obstacles of implementing state housing policy through organizations which develop Forever Housing. While the cases concentrate on the formation of the community land trusts and the development of housing, an attempt has been made to anticipate some of the problems of preserving the affordability over the long-run. Special attention is given to the relationship between the CLTs and other public and private institutions to identify obstacles to the development and preservation of Forever Housing.

CHAPTER IV

ROSE CITY CLT FOR HOUSING

The Rose City Community Land Trust for Housing (RCCLTH) is a grassroots community land trust[32] located in Norwich, Connecticut. Incorporated in February 1986, the Rose City CLT became the first land trust for housing in the state. Its portfolio includes 11 units, most of which are rental apartments, giving shelter to about 60 persons of low and moderate income. The CLT was formed to provide housing to Norwich's growing numbers of residents in urgent need of secure shelter. In this endeavor, the RCCLTH has received a broad range of community and government support in building its organizational capacity and in developing permanently affordable housing through which residents gain greater control of their living environment. However, the development of the RCCLTH has been strewn with obstacles as well. Below, I chronicle some of these hurdles as well as the support the land trust received from the state, city, churches, individuals and other organizations. Following the case study is a brief assessment of how well the RCCLTH has met its goals, and what have been some of the major barriers of concern to policy makers.

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[32] See Chapter 2 for description of community land trusts.

Setting the Context

Norwich, with a population of almost 40,000, is the largest city in mostly rural eastern Connecticut. Though still lagging behind more prosperous cities in the state, Norwich benefitted from the economic expansion of the 1980s in many ways. Unemployment fell while median household incomes rose 66% between 1980 and 1987, to $30,440. However, many residents did not benefit from the economic expansion.

A Local Needs Assessment reported in April of 1990 illustrates some of the problems which faced the community.[33] A growing reliance on lower-paid service jobs while manufacturers cut back both employees and wages left the city with a large pool of unemployed and working poor families. Almost half (45%) of the city's households are considered poor (earn less than 80% of county median income) or very poor (earn less than 50% of the county median income) by HUD definitions. A quarter of the households (24.9%) are very poor.

Housing prices almost tripled between 1980 and 1987, far outstripping incomes of most low- and moderate- income families. By 1987, median monthly rent on a two bedroom apartment without utilities reached $530 and the median home sale price reached $120,000. The report argued that the

[33] Unless otherwise noted, all statistics in this section are from the Local Needs Assessment, Norwich Housing Partnership, April, 1990.

drastic increase in housing costs was "due largely to the skyrocketing cost of land, as the finite supply was subjected to pent-up demand by lower interest rates and new adjustable rate mortgages. Jobs....were plentiful, and household income surged. The best investment for excess income, at the time, was rapidly appreciating real estate..."

From 1980 to 1988, 841 new Single Family Units and 468 multi-family units were developed. However, new housing development was mostly market rate or luxury units, unaffordable to poor families.[34] Moreover, the report also noted that "fire, demolition, urban renewal, mismanagement or conversions" consumed many of Norwich's old housing stock, reducing the supply of units available to the poor between 1980-1988. "Condo conversions alone have accounted for the loss of nearly 300 units."

Rising property taxes and rents fueled by the housing boom threatened to displace long-time Norwich residents with low- or fixed-income. By 1986, increasing numbers of individuals and families became homeless, and waiting periods multiplied for placement in both emergency shelters

[34]The Local Needs Assessment estimated at least 80% of new multi-family units were a result of "gentrification", adaptive re-use of existing buildings to market rate rentals, or market-rate rental condominiums.

(to several weeks) and subsidized units (to several years).[35] Meanwhile, the state began de-institutionalizing mental patients and centralizing social services. Norwich, as a hub of eastern Connecticut, began to draw residents from outlying areas in need of social services, further straining the affordable housing stock.

Formation of the Community Land Trust

In 1983, a handful of people involved with human service provision began to gather at St. Vincent de Paul Soup Kitchen on Main Street on occasion to talk about issues of poverty and human services. "The one topic which kept rearing its head was housing," said one participant.[36] The group eventually recruited others who were concerned with social services and peace and justice issues. Joanne Sheehan, Executive Director of the New England War Resisters League, and her husband Rick Gaumer were active participants. Both Joanne and Rick had lived on a small land trust, and knew Chuck Mathai, director of the Institute for Community Economics (ICE). Based in western Massachusetts, ICE is the primary sponsor of community land trusts in the nation. After presentations from ICE staff,

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[35]According to Billie Ward, Administrative Director or Rose City CLT for housing, and a former Red Cross Director in charge of placing homeless.

[36]Barbara Bellone, Charter member of CLT, The Rose City Sentinel, December 11, 1985.

the group decided to organize a community land trust in Norwich. ICE helped develop an organizational structure and legal documents, and provided technical assistance to the CLT. In 1985, Joanne Sheehan became the first president of the Rose City CLT for Housing, which had 21 charter members, including community representatives and potential residents. Among the charter members were many who received welfare and disability assistance. Members attended workshops to learn about and discuss the concept, goals and organization of the community land trust model.

After a two year approval process, without assistance of a lawyer, the CLT was incorporated as a non-profit corporation in February 1986. CLT members elected a board of trustees composed of user representatives (residents and potential residents), general representatives, and public representatives. CLT membership was open to anyone in the community over 16 years of age.

CLT members, especially Joanne Sheehan and other founders, expended substantial time and energy to organize the Rose City CLT for housing. They struggled with developing a structure, method of organizing, and board and staff relations for the CLT.[37] Before acquiring property, potential CLT residents and community representatives formed committees responsible for the organization, development and operation of the CLT. Lacking finances and committed to

[37] 1986 Annual Report.

individual and community participation and empowerment, RCCLTH was built around volunteer participation from members and other community residents. The group held a benefit concert featuring a local folk singer and sought funds from charities and church groups.

An employee was hired to assist in the formation of the land trust for six months, funded with an anonymous $12,000 loan. When the employee´s service ended, the CLTs various committees took on more responsibilities. Working with meager financial resources, a mostly volunteer staff, no development experience

Building Committee: Rehab and maintenance of properties; coordinate workers for projects.

Finance Committee: Review of finances, audit, and budget.

Outreach Committee: Recruitment of members, orientations, community, and the produce newsletter.

P.R. and Marketing Committee: Marketing the RCCLth, developing a logo, and brochures.

Personnel Committee: Personnel policies, job descriptions, evaluations, nomination for Board of Trustees.

Research and Development Committee: Planning, research, and acquisition of properties for housing.

Selection Committee: Screening and selection of residents.

Tenant Committee: Tenant advocacy, grievances, and representatives on the Board of Trustees.

Training committee: Overseeing training of homeowners, tenants, board members, and the community.

Ways and Means Committee: Obtain funds from grants, loans, and fund raising.

1 Committees & Responsibilities

nor track record, the organization searched for an appropriate initial project.

Strategy

The Rose City CLT for Housing sought property to acquire which would complement their strategy. Rather than build new housing, they wanted to acquire abandoned buildings in rundown and blighted neighborhoods, which they would renovate and sell to low- and moderate- income people. The goal was to give poor families who had been at the mercy of the rental market and landlords for most of their lives greater control over their housing and a chance to gain some equity. Volunteer labor and contributions from churches, other organizations, and the city would help keep the housing affordable. The housing would be kept affordable if an owner moved by limiting the resale price to the cost basis plus 25% of appreciation, adjusted for improvements and damage to the unit.

The land trust members felt that this strategy would help win the support of city officials, who had been "slow to recognize and admit Norwich had a housing crisis."[38] City officials were also concerned about the formation of downtown slums, homelessness, the loss of tax revenue through abandonment of buildings, and the concentration of regional social services in Norwich. Any effort which attracted more homeless into the city would likely be

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[38] Interview with Billie Ward.

resisted by the city, which felt it already had an unfair burden in dealing with the region's social problems. Rose City wanted to demonstrate to the city that its strategy of rehabilitating buildings in disrepair would solve several of these problems at once. Abandoned buildings would be placed back on the tax role, blighted neighborhoods would be revitalized, and affordable housing would be provided to some of Norwich's most neediest residents. They also argued that as the land trust developed equity and financial independence, their reliance on public support would decrease.[39]

Early Property Acquisitions

The Rose City CLT acquired its first house from the city for $36,880 in November, 1986.[40] The circa 1840 building on Mechanic Street had housed the city's Redevelopment Office and was spacious and centrally located, well suited for poor families with children who could not afford cars.

Major rehabilitation was required. Churches and other organizations donated material and members poured in hundreds of hours of sweat equity (worth about $8000) which kept the cost of rehab to $25,000. The organization

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[39]RCCLTH newsletter.

[40]After the city reached an agreement with the pharmacist next door who had a claim on the site for parking.

considered sweat equity the "backbone" of the land trust. Sweat Equity reduced the costs of development and operation, "generated feelings of self worth and direct attachment to specific property", and helped build a sense of community.[41] Members accumulated hours by working on projects which can later be applied towards a downpayment for buyers or as a security payment for renters. Required to work a minimum of 100 hours to be eligible for RCCLTH housing, many members have elected to work considerably more hours.

To pay for the acquisition and rehab of the Mechanic Street property, the organization received a bridge loan of $49,500 (3 years, 7.5% interest) from ICE´s revolving loan program until permanent financing could be secured when Rose City established credibility with traditional banks.[42] The land trust also received $10,000 of Section 8 Rehab money administered by the city´s Community Development Office (matching grant).

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[41] RCCLTH Newsletter.

[42] ICE´s Revolving Loan Fund provided bridge loans at below market rate interest rates (often at 7 to 7½ %). Privately capitalized by loans from individuals, religious organizations, and foundations, the loan fund provides short- and intermediate term financing to community groups unable to secure funds through traditional channels. The largest such fund in the nation, the fund has lent almost $17 million (as of December 31, 1990) to community groups. Land and housing groups have received most of the loans (83%). $7.7 million has gone to community land trusts. (ICE report...)

Table 4.1

RCCLTH PORTFOLIO
MARCH, 1991

PROPERTY	DATE ACQUIRED	UNITS	RESIDENTS	TENURE	COST OF ACQUISITION & IMPROVEMENT	GRANTS AND GIFTS			COST TO RCCLTH	SURPLUS
						PROPERTY GIFT	DOH LAND TRUST	CDBG		
11 MECHANIC	1986	2	12	RENTAL	68,020			4,500	63,520	
134 TALMAN	1987	1	12	RENTAL	65,618		16,025	30,749	18,844	
MARIAN STREET	1988	1	5	RESALE	69,476		61,650		7,826	
89 FRANKLIN	1988	2	4	RENTAL	45,554	CITY		49,759	0	4,205
BETHSAIDA COMM.	1989	*	8	*	487,500			28,093	0	
426 N.L. TPKE	1990	1	4	RESALE	46,000	STATE		14,447	31,553	
702 N.L. TPKE	1990	2	5	RENTAL	140,000		90,755	61,453	0	12,208
631 WEST MAIN ST.	1991	1	4	RENTAL	NA	STATE		12,000	NA	
165 TALMAN	1991	1	5	RESALE	NA			10,000	NA	
		11	59		922,168		168,430	211,001	121,743	

*Transitional Residence Owned by Bethsaida Community.

Table 4.2

RCCLTH
RENTAL PROPERTIES

	UNITS	NUMBER TENANTS	MONTHLY RENT + FEE		MINIMUM INCOME*
			BUILDING	AVERAGE PER UNIT	
11 MECHANIC	2	12	1,075	538	18,429
134 TALMAN	1	7	417	417	14,286
89 FRANKLIN	2	4	537	269	9,206
702 N.L. TPKE	2	5	574	287	9,840
MEAN			651	372	

*At Rent Equal To 35% of Income.

Two families moved into the building in early 1987. A mother and 5 children occupied one unit, while a woman and her mother and daughter occupied the second unit. "In all our lives, we've never had a place like this" said the mother of one of the families.[43] Though they rented the apartment, the families received some of the benefits associated with ownership. The families signed a 99 year lease for the use of the unit, which may be left to their heirs. "They have stable housing," said Garnet Wrigley, a land trust board member, "They will never be kicked out."[44] The land trust set the rent at 30% of the families income, as was then the board policy.

The land trust decided to rent the first units rather than sell them to residents, as they originally intended, for a few reasons. First, many of the early members and the first selected families had very low incomes which could not afford the maintenance of housing even if debt service was relatively small. However, state and federal laws also prohibited some of the early residents from owning a home. Families who receive Section 8 rental vouchers were not allowed to own real property. Connecticut state law treats any form of state assistance, such as welfare and disability, as a loan. If the money is used towards

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[43]"City land trust, tenant celebrate new housing," Norwich Sunday Bulletin, February 1, 1987.

[44]Ibid.

mortgages, the state places a lien against a recipient's property. The land trust hopes to experiment with limited equity housing models which can skirt these barriers.

The Mechanic Street project received decidedly favorable press coverage.[45] The project garnered good will from politicians and many community groups, who helped with the effort. Land trust members pointed to the positive tone set in this first project as what "won the city over" as an ally. Another 34 members joined the CLT in 1987, as total membership reached over 50 people.

In May of 1987 the CLT purchased a six bedroom house at 134 Talmon Street for $65,000. The CLT received its first Community Development Block Grant (CDBG), of $25,000, to purchase the property. As with most properties, ICE supplied a bridge loan. Two years later the CLT received $16,000 for the land ("a lousy lot, on a cliff strait down to a river") from the state Land Trust Program.

The CLT's growth accelerated in 1988 and 1989. In 1988, a rehab coordinator was hired and four new projects were started. Progress was slowed by the absence of a paid administrative coordinator: the paperwork and management responsibilities began to pile up.

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[45]The Norwich Bulletin published editorials such as: "Land Trust: a Worthy Endeavor," "Role Model for City of Norwich". Each stage of the development process was covered (from "Housing group, merchant reach compromise" to "Coast Guard cadets lend a hand to get house shiposhape" to "City land trust, tenant celebrate new housing".

In 1988, the RCCLTH bought a house on Mariam street, which it would rent to a family with the option to buy. The land trust borrowed $60,000 from ICE to buy the home, but were later reimbursed in full by the a new state program, the Land Bank/Land Trust program.

Also, Rose City CLT struck a deal with the city to rent an abandoned house on Franklin Street for one dollar a year. However, the land trust could not get rehab loans on a rental house, so the city changed its laws and sold the property to the land trust for one dollar. The RCCLTH agreed to renovate the house and create two affordable rental units.

In January of 1989 the land trust completed a transaction with Bethsaida Community to provide a transitional residence for up to eight single women. The CLT bought the land for $27,500 with CDBG money, and leased it to the Bethsaida Community, which used State Department of Housing (DOH) funds to buy the house for $460,000.

Received State Grants and Properties

The Rose City CLT received the first awards from two new state programs in 1989. After lobbying the state, Rose City received the first property (426 New London Turnpike) from the DOH State Surplus Property program. The property was acquired by the state during the New London Turnpike widening project and set for demolition when the land trust was tipped by a local supporter. After paying the wrecking crew $1,000 from of CDBG monies, the house was acquired by the RCCLTH. As required by the Surplus Lands Program, the land transfer was approved by city council, which has approved all of Rose City CLT's efforts to receive land gifts and grants. The Zoning Board waived the frontage set back regulations which the property violated after the turnpike had been widened. Zoning relief has seldom been needed since the land trust only rehabilitates existing buildings. However, the Zoning Board has been consistently helpful in giving information and advice about potential acquisitions.

The market value of the property after renovation was conservatively appraised at $100,000, $60,000 for the house and $40,000 for the land owned by the CLT. Rose City sold the house for $50,000 to a family, less $9000 of sweat equity the family had contributed. The RCCLTH quickly spent the sales revenue to cover pressing needs. The CLT needed $42,000 to take care of administrative expenses, two years of back taxes, and to replenish replacement reserves for future maintenance (which were often tapped for administration expenses).

The RCCLTH was also awarded a grant from the DOH Land Bank/Land Trust program to purchase a home from a woman who could no longer afford to live there. Her health failing, the women had lost income and had received assistance from the Department of Income Maintenance (DIM). DIM had placed a lien of $150,000 on the home to cover their assistance, far exceeding the run-down house's market value. After negotiating with DIM to lower the lien to $90,000, the RCCLTH received a grant from the DOH Land Trust Program to purchase the property. The grant for the property, which was linked to the Mariam street house mentioned earlier, took a year to arrive. According to Rick Gaumer, the "criteria changed with each new committee which had to approve the money."[46] Major rehabilitation, including dividing the large house into two units and making the house wheel chair accessible, was needed. The city building inspection department helped design a ramp which met the building codes while negotiating some of the eccentricities of the house. The $60,000 cost was covered with CDBG Money. With the acquisition and renovation paid in full, the RCCLTH rented both units to the owner and her adult children for a total of $574 a month (including utilities).

Administration: Growing Demands

For the first four years, the Rose City CLT managed almost exclusively with volunteers. However, administrative

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[46]Deb Landry of the DOH Land Bank/Land Trust Program noted the process took longer because 1) the land trust is mainly set up to buy just vacant land, rather than land with improvements, and 2) the program dispersed money for both the land and house, an exception to the rules, to give Rose City CLT seed money with which to buy future property. Also, the program's regulations were still being refined.

responsibilities grew as the land trust acquired more properties. Tasks such as fund raising, member and resident training sessions, developing an organization, monitoring units, coordinating dozens of volunteers for rehab projects, paying bills, and especially property management placed increasing demands on the volunteers. The RCCLTH was required to send separate copies of all formal agreements to each DOH program which had aided the land trust (including the Administrative Cost program, the State Surplus Lands Program, the Land Bank/Land Trust Program, and the Downpayment Assistance Program).

While the organization saw the need for an administrative coordinator, hiring one was delayed by insufficient funds and for a while, the need for the land trust to come to a consensus about its commitments to more rapid future growth. Also, the land trust's priority was to create affordable units for its members, many in desperate need of secure shelter. Thus, they originally placed far greater priority on development over administration.

In 1988 the RCCLTH started to set up a central office, including buying a copier and a computer. In March of 1988 the RCCLTH was awarded a $10,000 matching DOH administrative grant, and transferred another $10,000 from savings. They also received $2,700 in donations from community groups.

RCCLTH hired a full time executive director, Willemina "Billie" Ward, in November of 1989. That year they received another $10,000 DOH administrative grant, as well as a matching $10,000 United Way Venture grant. Billie Ward, for the previous seven years executive director of the Southeastern Connecticut Chapter of the American Red Cross, brought with her long experience and skills. The organization also received the services of three Vista volunteers, who earned $120 a week in subsistence allowance. This became the core of the administrative staff.

Painful Adjustments

With the help of a CPA volunteer, years worth of financial records were sorted, reorganized, and analyzed over a period of months for the purpose of securing bank mortgages. Though the organization kept financial books on its endeavors, the system was unsophisticated. They discovered that most properties were losing money, jeopardizing the land trust's future. Rick Gaumer, Chairman of the Ways and Means Committee, said they had underestimated the cost of renovation of the houses on Mariam Street, Talmon Street, and Franklin Street. RCCLTH's policy was to select a resident for a house prior to renovation. Estimates were made of the total cost of acquisition and renovation, so that the houses could be matched with residents who could afford the monthly debt service (or rental cost) and other fees. The selected resident could then make some choices about the renovation and contribute sweat equity. RCCLTH paid most of the excess capital costs with CDBG money, but the monthly costs were still higher than the pre-selected residents could afford. Each property ran a deficit. "Altruistic ideas guide you when beginning the community land trust, but then reality hits you", as Billie Ward put it.

The land trust made several adjustments to bring income in line with expenditures. The most painful was to change their minimum rent policy, which had been formulated to provide for very poor families. The maximum rent (including utilities) charged was increased from 30% to 35% of income. RCCLTH placed a floor on rent charged for each unit, which required them to change the resident selection criteria to assure that rent did not exceed 35% of any family's income.

Costs were also cut. The land trust secured property-tax exempt status from the city, with a commitment to pay a gift of equal value to the city in lieu of taxes. This provision was necessary because state law required an organization to hold tax exempt property status before exempting it from paying sales tax. Connecticut's sales tax of eight percent, especially on construction materials, had been a major cost for the fledgling organization. The RCCLTH renovated one old house to improve energy efficiency, and shifted the responsibility for paying heating costs to the tenants (accompanied by a decrease in rent). After several months of non-payment of rent, a household had to be evicted.

Reduction of State Assistance

Even with these internal adjustments, the organization still walked a tight rope of financial stability. Most serious, the land trust lost a $25,000 grant it expected from the DOH Administrative Grant Program for FY 1990-1991. The Administrative Grant Program has been frozen and is targeted for elimination due to the state budget crisis. These grants came near the end of the fiscal year to reimburse expenses over the year. As a result, Billie Ward expected to use the sale proceeds of two properties ($5000 from one unit), CDBG grants, and perhaps some capital replacement reserves to pay administrative bills. Also the land trust would likely be able to pay only a small portion of its property tax gift on its rental housing.

Billie Ward was distressed by the steps taken to pay for administration brought on by the loss of the administrative grant. She felt paying administrative expenses with development fees (sales proceeds) and CDBG grants is "bad business," and hinders acquisition and rehab of new properties. Rick Gaumer concurred, saying the land trust preferred to use the CDBG money for "nuts and bolts" which would be a physical presence in the city for years. In a recent survey on the affects of the proposed state cut in the Administrative Cost Program, the Rose City CLT responded "The agency has too few units to recover administrative costs from property management. In order to develop additional housing we _must_ have a paid staff person. It is _impossible_ to raise these funds from other sources. We had raised this amount in tax credit donations but did not get vouchers!"[47]

Both Billie Ward and Rick Gaumer expressed concern over the need to raise funds. Fund raising has become both more difficult and time consuming. They have found it more difficult to raise funds for operations than for development. The land trust must spend more time seeking new money than educating its members how to run the CLT, said Rick Gaumer.

The land trust members were also concerned about not paying the entire property tax bill, since being a "good citizen" is a primary goal, and maintaining good relations with the city is vital to the organization's viability. Paying taxes will become especially important as the land trust becomes a more prominent land holder in Norwich, which has had its tax base drained by the recession.

[47] Survey of non-profit developers which are members of the Connecticut Housing Coalition Regarding the Impact of proposed state cuts in administrative cost program and in state bond funds, February, 1991.

Survival without State Assistance

Meanwhile, the land trust staff and board continue to search for new administrative funding, charge higher development fees, and are planning more ownership projects relative to rental projects. Without further assistance, Billie Ward said they will have to cut back on the share of revenues going to new development. She noted that sheltering families of lower income will also be more difficult. Billie Ward said, "if you put development money into administration, by definition the housing isn´t going to be affordable". The rental units are now serving families with incomes below 25% of median income (with rental vouchers), with two exceptions (who are at about 50% of median). The ownership units target families between 60% and 80% of median income, though most families have been close to the 80% area. The RCCLTH plans to develop more units for resale, which will recirculate money faster into future projects, and equally importantly reduce the organization´s role as rental property managers, which has been a major time and energy drain. They want to experiment with owner occupied multi-family rental buildings, which they hope will reduce some of their rental management duties. The RCCLTH sees many opportunities to buy foreclosure properties. The Director of Social Services and the city building inspector bring the RCCLTH staff a list of all condemned buildings and point out potential good buys.

Billie Ward believes that buying foreclosed properties would benefit both families in need of affordable housing and the banks, but they are still seeking ways to pull this off ("the solution is on the tip of our fingers").

The land trust continues to seize opportunities for expansion when they emerge. The State Surplus Lands Division turned over the keys to a house on West Main Street in March. The RCCLTH bought a foreclosed house on Talmon Street from a bank which couldn´t sell it. The housing partnership lent the land trust $22,500 for a downpayment, payable upon resale.

The land trust had a sales agreement on a 6 unit modern building at a good price, which would have been "perfect for a limited equity cooperative". However, their application to the Land Trust/Land Bank just missed the last bond council meeting before a moratorium on the program was placed. They now have plans to acquire and redevelop three contiguous, boarded-up properties. They hope to create a limited equity coop or other tenant association. These plans are contingent upon receiving funding, however. Since the state funds have dried up, the land trust is seeking CDBG money or other city administered redevelopment money since the neighborhood is a targeted redevelopment district.

Seeking Private Financing

The RCCLTH would like take out loans for new development, but they have run into barriers. The state placed a lien against RCCLTH properties which had received grants from the DOH Land Trust Program to ensure the properties are used for their intended purposes. Usually, an organization could use the equity built up in its existing portfolio as collateral to secure financing for additional development. However, lending institutions are unwilling to use these properties as collateral since their lien would be subordinate to the states in the case of foreclosure. The RCCLTH's lawyer is working on an agreement which is acceptable to the state and the lending institutions.

The RCCLTH is presently negotiating with private banks for permanent financing on its rental buildings. Billie Ward and Chuck Collins of ICE have met with local banks to discuss funding, and Billie feels comfortable that they will receive funding fairly soon. Mary O'Hara, an ICE board member and consultant, has assisted RCCLTH to make its proforma and operating budget more compatible with bank expectations. She said RCCLTH projects have shown positive cash flow and stable operations in 1991. She feels the land trust can set up enough replacement reserves and operating reserves to satisfy private banks.

Summary

RCCLTH is typical of many grassroots community land trusts. The CLT´s board and staff demonstrate commitment to acquiring property within the community and making it available to low- and moderate- income residents at an affordable price. The RCCLTH newsletters and board meetings reveal a broader commitment to the ideals behind the community land trust movement, including resident and community empowerment and the desire to change the way property is treated. The board and staff have shown devotion in helping CLT members attain a home in which they can remain forever and build a life around. The RCCLTH can point with pride to the difference that they have made for their residents, and how the community has rallied around their cause. Indeed, the benefits of the RCCLTH cannot be measured just in number of units produced or residents housed.

At the same time, the CLT has had to struggle with the realities of creating and managing affordable housing. The tasks of acquiring, rehabilitating, and managing property has been hampered by both the CLTs limited organizational capacity and resources, as well as by exogenous events and institutions over which it has little control. Below is a brief attempt to identify both the RCCLTH´s successes as well as obstacles to meeting its goals of producing and preserving Forever Housing.

Housing Acquisition and Rehabilitation

Among the RCCLTH's goals is the production of housing which is affordable to its members, many of whom have incomes at 25% of the region's median income. This section examines how well the CLT has met this goal.

Production of Housing

Since 1986, RCCLTH has acquired and rehabilitated 11 units of housing (including the Bethsaida, which was developed by a non-profit organization for 8 single women). The housing shelters 59 persons; average household size is almost 5½ persons per unit, about twice the median household size for many areas. The RCCLTH began with a volunteer staff, untrained and inexperienced, working in a nascent movement to achieve difficult and ambitious goal. The development of these units represents a considerable achievement; however, the RCCLTH has not fulfilled its goal of providing housing for other Norwich families in need of affordable and secure shelter.

RCCLTH housing development has been slowed by several factors, both within and external to the organization. The RCCLTH is young and is still developing its capacity to develop housing. The small staff, with duties in all areas from finance and construction to contracts and enforcement, can only execute a finite number of projects at one time. The budget crisis has affected local and state governments, limiting their support, loans and subsidies. Future prospects are not particularly strong at this writing.

Development has also been slowed by the land trusts inability to take out loans from banks. Until recently, the RCCLTH has been unable to secure loans from traditional banking institutions because of its tenuous financial position. Now the RCCLTH seems on the verge of achieving a stable operating budget which will be acceptable to banks.

However, its ability to develop more housing while managing existing property is dependent on sustaining and developing RCCLTH´s organizational capacity. The impending elimination the DOH Administrative Cost Grants compromises the land trust´s ability to develop and manage its housing. The RCCLTH is caught in a Catch 22. It needs to expand its portfolio to increase revenue for administration and management. However, the organization is obstructed from expanding due to the loss of state grants for administration and property acquisition.

The prime obstacle is insufficient access to both grants and loans for new development. Monetary and property grants from the state and city have been instrumental to the acquisition and rehabilitation of each of land trusts properties. However, the DOH Land Trust program has been suspended, causing the RCCLTH to cancel a 6 unit project (its largest to date). The RCCLTH will continue to acquire property gifts and relatively inexpensive foreclosed properties when possible, but the lack of a reliable source of grant money is a serious hurdle to future housing production.

Affordability

The RCCLTH has provided housing affordable to households with incomes as low as 25% of the median. As Table 4.2 shows, the mean monthly rent and fees on RCCLTH's rental units is $342, quite low considering most units have several bedrooms and are occupied by an average of 4 people.[48] These rents had been raised from their original levels to cover operating costs, and some families are paying as much as 35% of their incomes towards rent. The ownership units have been sold to families with higher incomes, between 60% and 80% of median income. On the whole, however, the RCCLTH has been successful in providing affordable units to low income families.

Several factors have allowed the CLT to reduce housing costs to residents. First, the RCCLTH has either acquired properties relatively cheaply or through gifts (see Table 4.1). Second, volunteer labor, sweat equity, and material donations have reduced the costs of rehabilitation, though coordination of volunteers takes considerable time. Third,

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[48]This compares to the median monthly rent on a two bedroom apartment without utilities of $530 in Norwich in 1987 -- and the RCCLTH is aware of many cases where landlords have raised rents when occupants received rental vouchers.

the RCCLTH has received deep grants in the form of property and money, which have paid for most of the capital costs (see Table 4.1). As a result, residents pay rents to cover operating costs which are not inflated by high debt service costs.

Preservation of Affordability

The RCCLTH staff and board express commitment to permanently maintain land trust housing as affordable in perpetuity. The units are legally restricted to serve only low- and moderate- income people, and the RCCLTH closely monitors its properties for compliance with use restrictions. The CLT staff and board intimately know each household and their financial situation, and can anticipate problems. The staff express commitment to both helping the residents and enforcing the restrictions necessary to preserve the affordability of the housing for future residents.

The RCCLTH also conducts educational workshops and publishes newsletters concerning the land trust's activities and the underlying concept and goals. Residents have expressed an understanding for the reasons behind the restrictions. Continued educational efforts may help the land trust ensure the restrictions are observed over the long-run. Restrictions will be easier to enforce if residents feel the restrictions are fair and understand the reasons behind them.

> A leaseholder who has paid off the mortgage on his/her house has an interest in removing the limitations on the resale price of that house. Thus, those who at first have the greatest stake in seeing the CLT succeed may have the greatest stake in seeing it fail. This danger highlights the need for a broad-based initiative to change the political climate and the climate of personal expectations in which CLTs will exist.[49]

This quote speaks to the need to view continuing education as directly connected to enforcement of restrictions under the community land trust model.

The state lien on many of the properties adds protection that the housing will be appropriately used. However, the level of reporting required to the DOH for the Land Trust and other programs has proved burdensome to the small staff of RCCLTH (as will be discussed in Chapter VI).

The RCCLTH's capacity to preserve affordability when unanticipated expenses occur may be a greater threat to preserving the affordability of its housing. For example, if major repair is needed, a member defaults on his or her loan, or the land trust must exercise its first option to buy a house, capital will be needed. The land trust has not yet developed a sufficient reserve fund for future capital improvements or repair. This may change since the RCCLTH recently made efforts to strengthen its financial position. The absence of significant debt on most of the units should

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[49] John Davis, "CLTs and the Politics of Ownership", Community Economics, ICE, Fall 1983.

allow the CLT to charge modest monthly fees to residents for the creation of a central replacement reserve fund. The RCCLTH may also be able to borrow from ICE for urgent repairs or to exercise options to purchase units. Nevertheless, the land trusts capacity to pay for sudden expenses must be built as the land trust grows.

CHAPTER V

RURAL HOMES, LTD (RHL)

Rural Homes, LTD (RHL) is a non-profit affiliate of the Northeastern Connecticut Community Development Corporation (NCCDC). RHL´s goals include the "development and preservation of decent, affordable housing for low and moderate income people in the Northeastern Connecticut area; the promotion of neighborhood stability and improvement in the low-income communities in the Northeastern Connecticut area; and the creation of homeownership opportunities for low and moderate income people..."[50]

NCCDC has developed affordable housing through a range of programs since 1973, including a self-help, single-family housing program funded by the Farmers Home Administration (FmHA). NCCDC\RHL has also converted historic textile mills and inns into affordable housing for low- and moderate-income families and the elderly. The organization has also administered housing programs for the Town of Brooklyn and Brooklyn Housing Authority, and ran the Town of Killingly´s Community Development Program for several years.

Only recently has the RHL started to develop homes to be stewarded by a community land trust. At present, RHL

[50]NCCDC-RHL Land Trust ground lease.

acts as the community land trust by holding title to the land under homes it builds in order to preserve the affordability of their investments. However, they are in the process of organizing a community land trust which will be distanced from the development organization (RHL), and will allow greater resident control (as described below).

The Setting

Northeastern Connecticut is poorer and more rural than most of Connecticut. Agriculture and manufacturing had traditionally been the region's economic base. Many towns grew up around mills, particularly textile mills. Though a relatively large manufacturing sector still exists, most manufacturers have downsized and wages have dropped to a very low level. Many better educated residents found higher paying jobs in the cities, while less skilled residents usually worked at the low wage jobs available locally. At the same time new families have moved into the area, which is within commuting distance of larger cities, in search of affordable housing. The rural region faced growing development pressure during the 1980s.

The region was not excluded from the explosion in property prices which occurred throughout Connecticut in the past decade. Between 1984 and 1988, land prices quadrupled and housing prices doubled.[51] Rising property costs and

[51]RHL pamphlet.

development pressure threatened both farm land and families in need of affordable and secure housing. Rising property costs also caused the RHL to reexamine its affordable housing strategies.

In the past, most RHL projects were built for and sold to people who received below-market rate mortgages from the Farmers Home Administration (FmHA). FmHA is an agency within the Department of Agricultural which administers assistance programs for purchasers of homes and small farms in rural areas. FmHA´s mortgage terms did not have any provisions to preserve the affordability of units. As a result, many units sold to the recipients of such aid for $50,000 were re-sold for $80,000 two or three years later. The lucky owners received windfalls, but RHL saw its investment lost as the housing became unaffordable to low-income residents. According to Bob Kantor of Rural Homes, experiences like this prompted RHL to look for methods to preserve the affordability of their units.

Organizing a Community Land Trust

NCCDC-RHL Land Trust rose from within the RHL staff, a grass roots organizing effort. Bob Kantor said the RHL had two reasons for creating the CLT. First, by buying and holding land, the CLT would reduce the cost of ownership to families. As prices increased during the 1980s, it became more difficult to provide homes for moderate income families. Second, the CLT would preserve the long-term affordability of the housing RHL built.

Thus far, the RHL has acted as the community land trust board of directors. The RHL has made decisions regarding development of the land trust, marketed the units, and monitored homes for compliance with the restrictions embedded in the ground lease. Residents do not yet have formal participation on the board of directors.

The RHL staff is helping to organize a new community land trust with resident participation to take title to the land. While the ground leases stipulating the restrictions and responsibilities of the various parties is complete, the eventual structure of the organization and operations of the land trust is still being formulated. An organizing campaign to educate residents about the community land trust concept and responsibilities of each party is currently underway.

The RHL's goal is to develop a community land trust with an organizational structure more compatible to rural Northeastern Connecticut. RHL typically develops small subdivisions spread throughout a 30 mile radius. They believe creating many small, independent CLTs will be inefficient. On the other hand, many RHL residents don't own cars or have the time to participate in frequent night meetings or other activities typical of a more traditional community land trust model. Thus, the RHL has tried to produce a structure that is less demanding on residents while still allowing them some participation in decisions. RHL will also continue as the centralized housing development organization.

Developing Housing

RHL bought a large site in the town of Brooklyn in June of 1988, and shortly thereafter road and utility construction began. Riverview I, a subdivision of 14 single-family homes on Erin Drive, was completed the Spring of 1989. Riverview II, six additional units on Kathleen Drive, was completed in the following Spring. Another 13 unit single family subdivision is now being finished in nearby Killingly. RHL acts as the developer and general contractor, hiring subcontractors from the local area to recycle local dollars.

The land acquisition and improvements were fully financed by a loan from the Connecticut Housing Finance Authority (CHFA) based on RHL's successful track record. RHL paid for the land and infrastructure at the Riverview Estates with a $500,000 grant from the DOH Land Bank\Land Trust Program. However, the grant money took a year to arrive, after being held up at the bond council for months.

Part of the delay was attributed to the time-consuming political process of receiving bonding approval. However, part of the delay may be attributed to some of the bureaucratic necessities of the Land Trust program. The DOH requires that each funded project be appraised by state certified appraisers, a slow process that hindered the RHL's deal-making ability. The RHL complained that these appraisers were expensive and unfamiliar with the area. Further, the bill was footed by the nonprofit (to be reimbursed if the project went through) which had no say in who was hired. The delay in receiving the land trust funds had two major impacts on the development: the carrying costs of the land were high, and marketing of the units was stalled several months until RHL was sure of the final cost.

Municipalities did not play a large role in the development of the land trusts, as RHL generally complies with existing zoning laws in these rural towns. Bob Kantor said that towns now seldom resist RHL projects, since their homes can't be differentiated from other, non-subsidized homes. RHL also avoids requesting tax abatements since the host towns are fairly small, poor, and in need of the tax revenues.

Marketing

Riverview I homes sold quickly. An intensive educational campaign was undertaken to explain the concept, rights, restrictions, and responsibilities under the CLT model. Eligible families could not afford to buy a fee-simple home, and the benefits of the shared ownership model outweighed the restrictions placed on them. The homes were of high quality, with ample insulation to cut energy cost during the winter.

Table 5.1 illustrates how RHL brought down the cost of the house. The RHL sold Cape style homes for $77,600. The price excluded the cost of land, estimated at $35,400 per house, which was owned by the CLT. With the DOH downpayment package attached to the housing, these houses could be affordable to families with incomes of $26,352 (given good credit history). Without the land written off, homes would have sold for $113,000, which would be affordable to households with incomes of $36,178.

Most homes were sold to families with incomes between $28,000 and $35,000, however. The biggest hurdle for families was coming up with the closing costs of $3500, resulting in the loss of many potential sales.

Home sales on more recent subdivisions have slowed due to reduced consumer demand and increased competition from the private market. Private developers have recently built less costly prefabricated, modular homes and slashed prices -- for the first time directly competing with RHL's prices. However, Bob Kantor said buyers recognize the superior quality of the RHL homes, which continue to sell. The public subsidy (write-off of the land) was great enough to overcome the prejudice in favor of fee-simple homes of inferior quality.

Table 5.1

NCCDC-RHL Land Trust

How the CLT Made the Homes More Affordable

	Land Trust Purchase (House only)	Conventional Purchase (House & Land)
Purchase Price	77,600	113,000
Down Payment Assistance	3,000	3,390
FHA Premium	2,949	2,400
CHFA Mortgage	74,600	109,610
Total Mortgage Requried	77,549	112,010
Payments		
CHFA Debt service	582	835
DOH Downpayment	18	20
Taxes and Insurance	107	109
Ground Lease w/taxes	53	NA
FHA Monthly Ins. Fee	31	NA
Total Housing Costs	791	964
Monthly Income needed	2,197	2,678
Annual Income Required to purchase home*	26,367	32,133

Assumptions

Land Value	35,000
Insurance cost per year	300
House Assessment	32,880
Mill Rate- $30/$1000	986

Land Lease Fee equals taxes on land plus $40 per month land lease fee

Mortgage Rates: 30 year fixed mortgages at 8.5%

*Underwriting- 36% of income. This is an upper limit; usually a lower percentage is used. At 30%, the annual incomes needed are $31,640 and $38,560, respectively.

Source: based on RHL calculations.

Permanent Financing

The RHL took great efforts to obtain permanent financing for residents. Typically, the RHL packages low interest CHFA mortgages with the sale of each of its units. CHFA mortgages are usually insured by Federal Housing Administration (FHA), an agency within HUD. Typical CHFA mortgages have few restrictions.[52] According to Bob Kantor, negotiations with CHFA, with whom RHL had a long-standing relationship, boiled down to a few technical issues which were solved relatively smoothly.[53]

CHFA originally agreed to lend mortgages if the FHA insured the mortgages; however, the FHA refused to insure the loans since the provisions in the CLT ground lease violated HUD regulations (see negotiations below). The CHFA then agreed to self-insure the mortgages on Riverview I. Bob Kantor felt the CHFA supplied the mortgages both because of RHL's track record and because the loans were smaller than usual, since they did not cover the estimated $35,000 cost of land owned by RHL.

The NCCDC-RHL Land Trust homes came with pre-arranged financing package providing the buyers meet the CHFA income

[52] though federal regulation effective December 31, 1991 allows CHFA to levy a recapture tax upon persons who sell their homes within the first 10 years of the mortgage. The tax is calculated based on the capital gained from the sale.

[53] Though a couple of CHFA officials had expressed some ideological opposition to placing restrictions on homes. However, Lee Wallace of CHFA claimed that the working with RHL was "just business as usual", with "no magic involved".

eligibility requirements. The financial package consisted of:

1) Special second mortgages from the DOH Downpayment Assistance Program which provides deferred loans to cover the $3000 downpayment at 6% interest.

2) CHFA graduated equity mortgages offered to first time home buyers and administered through participating lenders at favorable terms. Riverview I buyers were offered 30 year fixed rate mortgages at 8.5% interest.

3) FHA insured the CHFA mortgages for Riverview II.

Negotiations With HUD\FHA

RHL negotiated with HUD\FHA to obtain FHA insurance (203 b) for CHFA permanent mortgages for houses on the land trust. RHL received assistance from both ICE, with pro-bono work from lawyers, and the DOH during the negotiations. The goal was to create a model ground lease acceptable to FHA insurers which could be used as a standard by other CLTs in Connecticut. Taking over a year to resolve, the negotiations started in the district office in Hartford and ended in Washington, DC. The CHFA self-insured Riverview I, but FHA insured mortgages on Riverview II.

To place the FHA insurance negotiations higher on HUD´s list of priorities (HUD was in the midst of various scandals at the time), RHL and ICE enlisted the political support of DOH and state congressional delegates. Meetings with high-level HUD officials were set up by the offices of Senator Christopher Dodd and Representative Sam Gejdenson. Sam Gejdenson, Representative to Congress, wrote a letter to

Secretary Jack Kemp in support of RHL (asking for a change in FHA´s policy not to insure mortgages with resale restrictions of more than 10 years); "Since a significant amount of public-sector time and money will be invested to establish this and other similar housing endeavors, it is critical that the Federal Government adopt policies which prolong the affordability of each housing unit"[54] John Popandrea wrote a letter (quoted in Chapter III) to the Hartford HUD office urging them to cooperate with RHL, and noting that the state expected to sponsor similar projects in the future.

Issues

At first, HUD expressed resistance to any restrictions which limited the transferability of property, especially if the duration of those restrictions exceeded 10 years. HUD officials expressed some ideological opposition beyond their concerns over their fiduciary responsibilities. In a letter to Senator Dodd, HUD Assistant Secretary Timothy Coyle wrote "our Hartford Office identified the restrictions on inalienability in Article IX [of the ground lease] and on the mortgagee´s right to foreclose in Article VII as being in conflict with general policies of the Department."[55] After citing that deed restrictions which last in perpetuity

[54]Letter dated March 14, 1989.

[55]Letter written April 28, 1989.

were generally disfavored by the courts, he wrote "Similarly, the Department has noted that resale restrictions which do not terminate after a given number of years may prevent the borrowers from recouping their investment." He had also written "The Department has traditionally discouraged restrictions which interfere with a homeowner´s ability to freely transfer his or her property when it is subject to an insured mortgage." RHL´s ground lease (as with all CLTs) restricts the conveyance of the homeowner´s interest of both the home and the land underneath (which is leased) in perpetuity.

However, Coyle then wrote that HUD would except certain government sponsored programs, as long as the FHA position as insurer is safeguarded from undue risk. "Notwithstanding the Departments longstanding policy of discouraging restrictions, the Department recognizes that certain advantages may accrue to a family purchasing property under state or local government .... Therefore, in January 1981, the Office of Insured Single Family Housing revised the policy to permit restrictions if the restrictions will be permanently void if title is acquired by a mortgagee, HUD or another party upon foreclosure or by a deed in lieu of foreclosure, or if the mortgage is assigned to HUD."

Thus, the negotiations centered around ensuring that HUD would "receive a marketable title in exchange for insurance benefits" in the case of foreclosure, while allowing the community land trust reasonable opportunity to ensure the property was maintained for its original purpose: to provide secure, affordable housing for low- and moderate income households in perpetuity. Negotiations focussed on several issues concerning provisions in the ground lease for foreclosure if a household defaulted on a mortgage loan:

1) HUD insisted that, in the event HUD acquired the property leasehold interest due to default, the lease provide HUD with the option to purchase the title to the land, which it would hold with the improvements in fee simple ownership. Their rational was to protect the marketability of the title, unencumbered by uncommon conditions which may hinder selling the property. This provision was a major stumbling block. RHL\ICE argued that since the FHA was asked to insure the improvements only, HUD´s insistence on requiring access to the land as well went "beyond a reasonable effort to protect the mortgage security." ICE cited private financial institutions which agreed to only capture the improvements in the event of foreclosure; the FHA relented.

2) A second issue was the duration of time in which the lessor (RHL) could cure the default of a homeowner. HUD´s policy was to allow defaults to be cured within 62 days after the first installment was not paid. However, RHL wanted a total of 120 days (90 days after missed payment) to cure a homeowners default before HUD foreclosed. HUD agreed

to 120 days, recognizing that RHL had a contractual obligation to help homeowners cure defaults and that this might save HUD the need to foreclose.

3) The lease originally called for RHL to exercise its right of first refusal on a property for 120 days from the time of default. The right of first refusal allows RHL to match the lower of the highest bid received for the property and the maximum price allowed under the resale formula (which aids the land trust in keeping the unit designated to targeted families). HUD argued that the option be exercised within 45 days of default, the concern being that extensive debt accumulation could subject HUD to unnecessary claims liability. RHL recognized HUD´s concern and agreed to reduce the time frame to 60 days, and give notice of such intent within 45 days.

4) The ground lease also stated that after the mortgagee (HUD\FHA) obtains title by foreclosure or deed in lieu of foreclosure, the mortgagee will use "reasonable efforts" to sell the improvements to a low or moderate income purchaser. HUD rejected this provision on the grounds that it governs the conduct of the mortgagee after a default, when the lease restrictions should no longer be in effect (according to HUD policy).

This became another point of serious contention. ICE and RHL considered this point chiefly a statement of "good faith", which is reasonable for an institution such as

HUD\FHA (which has a stated public mission to further ownership opportunities for low- and moderate incomes). In a letter, Senator Dobbs wrote "To be frank, we have a hard time understanding HUD's policy position on this critical issue. The intent of the land trust, and the State of Connecticut's funding of the land trust, is to create a mechanism which allows for the perpetuation of homeownership opportunities for low and moderate income households. The ground lease does not ask for a guarantee that a foreclosure sale would be sold to a low or moderate income purchaser. The lease requires that a reasonable effort be made to this end." In his letter to HUD, John Papandrea argued that "because of the State contribution to each unit, the FHA mortgage will be considerably less than market value and will, therefore, pose no difficulty in marketing on resale.

5) HUD also had concerns about what entity was responsible for administering the resale restrictions. They finally agreed that RHL was acting as an instrument of the state and would therefore be acceptable. In addition, they noted that they understood RHL was governed by a DOH grant contract, and that the DOH would monitor RHL to assure compliance with purposes of the Land Trust program.

All issues were eventually resolved as noted and the FHA insured the mortgages for Riverview II. ICE and DOH hoped to convince HUD to make the resulting lease a model for future projects. In 1991, HUD still preferred to look at projects on a case by case basis, though Chuck Collins of ICE thought these negotiations have eased the way for other community land trusts seeking mortgage insurance from FHA.

Future Directions

The RHL is looking for additional sites to subdivide. However, without the DOH land trust funds, which are now depleted, RHL has had trouble making single-family homes affordable to moderate incomes. They are especially concerned now that the 1990 enabling legislation which defined essential characteristics of a CLT included tight income eligibility requirements. RHL staff say this is unfair because eligibility is based on median income of the county. Windham county, in which RHL operates, is the poorest in connecticut.

The RHL is now working on the acquisition and rehabilitation of a 65 unit project, and the rehabilitation of an historic mill housing development, which has 120 units. They may also try to secure density bonuses from towns, which they have been reluctant to do. They will also continue organizing the community land trust.

Summary

The NCCDC-RHL Land Trust is atypical of what many people associate with CLTs. Rural Homes is an established non-profit housing developer with a long and varied track record. Though centered in Danielson, RHL serves a large rural area in northeastern Connecticut. It develops new, high quality single-family homes and duplexes for resale. The RHL has an experienced staff and a network of local professional subcontractors to construct new housing. The CLT concept arose largely from staff members in response to rising property values which obstructed their ability to build and preserve affordable housing. With state grants, the RHL was able to lower the cost of homeownership. They were also able to preserve the housing for subsequent residents by restricting the resale value of the homes. Due to $35,000 subsidies and favorable financing terms the units remained desirable despite these restrictions.

Issues of resident and community empowerment were not as essential to motivating the establishment of a community land trust by RHL in comparison to Rose City CLT for Housing in Norwich. Because they share the ownership of their housing, NCCDC-RHL Land Trust residents naturally gain more control of their housing environment relative to private market rental conditions. Residents will also have some influence into decisions over the land trusts policy and development, but the emphasis on resident and community control over the land was not a fundamental motivation for the development of the NCCDC-RHL Land Trust.

The top-down approach to organizing a community land trust exhibited by the NCCDC-RHL Land Trust may become more common if DOH continues to institutionalize land trusts through the Land Bank\Land Trust Program. The program offers an important source of funds for the development of affordable housing. Other non-profit developers will likely seek funds from the Land Trust Program with motivations similar to that of RHL. These established developers offer a means to increase production of affordable housing held on CLTs.

Below is a brief assessment of the RHL's efforts to develop permanently affordable housing.

Development of Affordable Units

Using $500,000 grant from the DOH Land Bank\Land Trust Program to pay for land and improvements, RHL developed and sold homes for about $78,000 to households with incomes as low as $28,000, though most households had an income closer to $35,000. Without the land grant, the homes would cost $113,000 and require at least $6000 in additional income. The RHL provided homeownership opportunities for families at approximately the region's median income, which is the lowest in Connecticut. The sales price could be lowered in the future if RHL can develop more densely, though many towns in rural Northeastern Connecticut may resist density bonuses. The state could play a role to pressure towns to allow higher densities. The cost of the housing will also depend on depth of subsidy.

RHL developed 33 single-family homes and rehabilitated many apartments over the past two years. The organization has a professional staff which, with the aid of RHL's network of subcontractors, was able to develop the housing relatively efficiently. The FHA's reluctance to insure the CHFA mortgages for buyers of CLT homes was the major hurdle which the RHL had to bridge. RHL negotiated with HUD for a year before FHA insured the loans. Now that the negotiations are complete, future efforts to obtain insured mortgages may come more easily.

Preservation of Affordability

The negotiations between the FHA and RHL did impact the plight of the affordability restrictions in the case of foreclosure. Compromises by both parties were made so that FHA could obtain a marketable security in the event of default, and so that the RHL had room to cure defaults and save the units for their intended purposes.

There is a possibility that the restrictions placed on the units to maintain their affordability may become void if FHA forecloses on the property. RHL left a window open which should allow it to assist residents in short term trouble or, if the owners finances declined too much, to cure the default and rescue the housing for future residents. The RHL's ability to intervene and protect the units in case of default is dependent on its ability to raise funds relatively quickly.

CHAPTER VI

INSTITUTIONAL BARRIERS

Connecticut´s Forever Housing policy represents a transformation in the states housing policy. The DOH requires state assisted housing to have mechanisms which preserve the affordability to residents "forever", and, equally important, it has designed programs around particular models of permanently affordable, community controlled housing. The policy is still maturing; new legislation and adjustments to existing programs are underway. However, some of the difficulties in institutionalizing a policy of Forever Housing indicated in the case studies and in interviews with a variety of participants in the DOH Forever Housing Programs. These problems arose during the organization of the land trusts, the development of housing, and during early years of operation. Still other barriers towards achieving the goals of Forever Housing projects will not arise for years. However, some of these potential hurdles can be anticipated by examining the young history of the Forever Housing programs and CLTs studied.

Barriers to Institutionalization of Forever Housing

Chapter II listed five components needed to develop and preserve permanently affordable housing. They are: 1) affordability restrictions; 2) legal instruments in which restrictions are embedded; 3) the availability and sufficiency of resources to ensure initial affordability and ongoing viability of the housing; 4) the capacity and commitment of those managing the housing; and 5) the capacity and commitment of the enforcing entity.

Under the Forever Housing policy, the Connecticut DOH prioritized assistance to housing organizations and projects which incorporate the first two of these components. That is, all state assisted housing must have provisions written in private contractual agreements that restrict the unit from being bought and sold in the speculative market in perpetuity. Chapter III described how the state exempted community land trusts from property doctrines which might later be used to challenge these legal contracts.

Hence, the first two components for developing Forever Housing seem adequately addressed by the state. The DOH insistence on legally binding affordability restrictions and the legislation represent a giant step towards institutionalizing the Forever Housing policy. They required great political will by the state and other parties. Chapter III summarized the conversion of politicians and bureaucrats to balk conventional housing policy, American norms towards property, and almost revered property doctrines to create programs and legislation to implement the Forever Housing policy.

The other components to creating Forever Housing are discussed below.

Financial issues

The preservation of the long-term affordability of a unit is affected by the financial structure at project initiation. As discussed in Chapter II, the affordability of a project is best sustained when capital expenses can be paid up-front to reduce the debt service on the project. There is a direct relationship between depth of subsidy and the affordability of the housing both initially and over the life of the project.

The DOH Land Trust\Land Bank program provides grants which can pay for both land costs and improvements. Originally, the program's regulations restricted grants to cover only the cost of land. However, the grants were not always sufficiently deep to make the housing affordable to targeted income groups. The regulations were adjusted to allow grants to also cover existing improvements, though the program forbids paying for construction.[56] The DOH programs are now in place to provide deep front-end grants to assist Forever Housing organizations avert financial packages which conflict with preserving affordability. The depth of subsidy can vary according to the goals of the

[56] Construction must be financed through separate loans, which can later be repaid by the Land Trust program.

project. On some properties, The Rose City CLT received grants which covered all of the acquisition and rehabilitation costs, allowing them to house families with very low incomes. The NCCDC-RHL Land Trust received grants to cover the cost of land and some infrastructure, enabling them to sell homes to moderate- income households.

After DOH grants reduce a project's capital costs, the CLTs (or other groups) must find construction and permanent loans to fill the gap left between the grant and cost of the housing. When obtaining both types of financing, the community land trust may have to overcome ideological resistance to the affordability restrictions placed on the housing. Banking institutions, whether public or private, tend to be conservative and resist long-term affordability restrictions because they are unfamiliar with them and because they fundamentally oppose restrictions which interfere with the transferability and profitability of housing. The ideological opposition to Forever Housing was explored in Chapter II.

Though time consuming, CLTs can sometimes overcome this resistance by demonstrating the benefits of imposing the restrictions (e.g., providing lower income families with homeownership opportunities) and the need to protect the public's subsidy. Nevertheless, "biases towards property inevitably arise" when negotiating with mainstream financial institutions, according to Chuck Collins of ICE.[57] The state can play an important role in persuading or pressuring financial institutions, whether private or public, to provide loans to Forever Housing projects. The political support Connecticut gave RHL was instrumental in prodding the FHA to insure the CHFA mortgages for residents of the land trust. Still, after personal or institutional ideological convictions towards Forever Housing are subdued (either with persuasive arguments or by political coercion), other more practical concerns of the lending institutions need to be addressed.

Construction Financing

Typically, real estate developers build on the equity of their existing property; using their property as collateral, developers borrow money for new construction. The lender places a lien against other property belonging to the borrower as insurance against default. However, provisions in Forever Housing may interfere with this procedure. As noted in the RCCLTH case study, the DOH

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[57] ICE typically uses a number of arguing points during negotiations. ICE asserts the bank's mortgage on CLT homes are often safer than traditional loans because the property is deeply subsidized. The property has "real equity", meaning the mortgage is usually far smaller than current market value. Second, the bank can establish a "niche" for itself, potentially attracting more such business. ICE may remind banks that lending to CLTs can be a way to live up to their Community Reinvestment Act (CRA) obligations. Beyond that, however, the ICE often asks the bank to rethink how they evaluate risk, security, and the viability of lending to non-profit organizations.

places a lien against any property which receives a Forever Housing program grant to ensure compliance with affordability restrictions. The state lien takes precedence over other liens. Lenders are understandably resistant to use such properties as collateral.

According to the Land Bank\Land Trust Program regulations, the Commissioner of Housing has authority to remove state liens against a property if he determines it to be in the state's best interest. However, the Rose City CLT has not yet convinced the state to do so on its property so that it may secure loans. Finding an alternative means for the state to protect its investment in the property or a more workable procedure to remove the liens when appropriate are worthwhile endeavors.

Permanent Financing

Both public housing finance authorities and private banks do provide mortgages for the housing on CLTs (and other Forever Housing organizations) which have affordability restrictions. However, lenders will not issue loans to such properties without their concerns over the marketability of restricted housing, especially in the event of foreclosure, being addressed. Citing fiduciary responsibilities to bank depositors, lenders insist that they obtain a marketable security in case of foreclosure. For this reason, restricted housing may conflict with underwriting criteria.

Lenders often insist that restrictions become permanently void if the lender\mortgagee acquires title to the home due to foreclosure. However, this provision defeats the original purpose of the restrictions. Usually, other arrangements are made to permit the community land trust, or other responsible organization, to intervene and save the housing with restrictions intact.

The CLT, or other entity responsible for the housing, is usually notified if the owner defaults. If the owner defaults due to temporary cash flow problems, the organization may help the owner meet his or her payment schedule. If the owner's failure to pay the mortgage payments is due to an extended drop in income, the organization may arrange for the property to be sold to another eligible household with restrictions intact, or the organization may exercise its option to buy the property at the maximum resale price or for the outstanding mortgage balance. The latitude of the CLT to rescue the housing varies. For example, public finance authorities or other public institutions with stated public missions are sometimes convinced to make greater efforts to allow the default to be cured while abiding by the restrictions in place.

Over time, reluctance of bankers to loan to Forever Housing projects and residents may be overcome if the movement grows and the concept becomes more familiar. It must be demonstrated that Forever Housing is discounted enough to sell quickly despite its restrictions. The state may consider establishing a centralized information network which keeps track of Forever Housing and can help market such units. In theory, Forever Housing will become more of a bargain over time as its value is restricted relative to increasing housing costs in the private market.

Organizational Capacity

Acquiring, developing, and managing property requires many administrative tasks. Larger organizations such as RHL may be able to sustain an administrative office though development and lease fees. (Although the State Bond Council presently limits the fee organizations can charge due to IRS regulations.) However, small organizations such as RCCLTH do not have sufficient portfolios to sustain an administrative office. They are reliant on subsidies for administrative activities while they build the capacity to be more self sufficient.

The RCCLTH would clearly benefit from a stable source of administrative funds so that it could better plan and develop new housing. The recent suspension and proposed elimination of the DOH Administrative Cost Program is devastating to the land trust´s plans for expansion. If small non-profit organizations such as the RCCLTH are to be a part of the states Forever Housing strategy, their administrative needs must also be recognized before they become more self-sufficient.

Preservation of Affordability

Because Forever Housing is relatively new, many of the issues affecting long-term affordability may not have surfaced yet. Nevertheless, Forever Housing faces other threats to its preservation if sponsoring organizations have not planned for or have the capacity to intervene to save housing if necessary. Possible sources of derailment include violations of restrictions, major unanticipated capital costs, and mortgage defaults. Some of this issues are addressed below.

Monitoring

The state is still establishing a plan to monitor and enforce the restrictions on Forever Housing it assisted. At present, the responsibility of monitoring and enforcing individual leases lies with the community land trusts. However, the CLTs are relatively closely watched by the DOH. For example, the Rose City CLT for Housing sends documents of its operations and legal agreements to the Land Trust program for review several times a year.

The decision to give Rose City the responsibility of monitoring the land trusts' housing appears reasonable. As noted in Chapter IV, the CLT staff and board appear in a good position to monitor individual households because of their proximity to, and knowledge of, their properties. The staff also exhibit commitment to the enforcement of restrictions. However, the DOH´s tight oversight of the RCCLTH has created bureaucratic hassles for the small organization.

A partial solution is to streamline the reporting system, which the DOH has started to do. The state may also give some administrative money to the CLT explicitly for monitoring purposes and for communicating with the DOH. The challenge is to find an appropriate level of state oversight and control which will ensure the safety of the units if the local organization changes its mission or otherwise does not meet its monitoring responsibilities. Perhaps state oversight can be eased after the CLTs demonstrate good compliance records.

Unanticipated Expenses

Unanticipated capital costs, the need to cure defaults, and to exercise options to buy units will inevitably occur. The CLTs ability to meet these challenges and thus preserve the units for future residents in need of affordable housing, is dependent on their organizational capacity and access to financial resources. A financially healthy land trust which has reserved funds explicitly for these purposes will most quickly be able to respond. However, a regional or state loan fund or other institution which can quickly provide funds to save endangered Forever Housing units would be helpful. At present ICE will probably extend emergency loans; but if Forever Housing stock grows additional sources would be needed.

Conclusion

Connecticut´s Forever Housing policy is a promising long-term approach to easing the housing crisis. The policy explicitly recognizes that the private housing sector is unable or unwilling to provide housing to many of the states low- and moderate income households. Further, the policy acknowledges that the housing crisis will not recede without government intervention. Rather than continue to direct resources towards privately owned housing that will eventually revert to the private market, the Forever Housing programs direct funds to housing which is restricted from being bought or sold freely in the private market in perpetuity. The programs also promote alternatives to conventional fee-simple ownership and rental apartments that offer many of the benefits of homeownership at a more affordable price.

The two case studies revealed the creative approaches possible within one model of Forever Housing. Both have provided secure housing for people who otherwise would not have access to it. Their missions, histories, strategies, service area, and resources are different. While its portfolio is limited, the Rose City CLT for Housing has sheltered some of Norwich's neediest families at an affordable price. Though have made mistakes and struggled to bring the organization together, they have learned how to rehabilitate housing relatively inexpensively. Their real strength can not be measured exclusively in units produced. Judging from interviews, newspaper articles and other documents, the impact of the RCCLTH on residents and the community has been great. The RCCLTH has found local solutions and opportunities which have settled several concerns simultaneously. The states help in building the capacity of bottom-up organizations like RCCLTH is commendable.

RHL, on the other hand, supplied affordable housing and ownership opportunities to moderate income families who would be unable to buy on the private market. If present owners move, these homes will be available to future residents in need of affordable housing. The RHL brought an experienced and professional development capability to the community land trust. Other experienced non-profit developers will be needed as well in order to increase the production of affordable homes. The RHL demonstrates a flexible approach in which a more centralized and efficient developer can build homes which can later be stewarded by a community land trust. The arrangement brings out the possibility of creating various intermediaries to add greater flexibility, economies of scale, and resources to the mission of financing and assisting local organizations.

The entrance of new players into the production and management of Forever Housing is accompanied by certain tensions. A greater range of actors is likely to attract number of "phantom" non-profits which are out to make a profit or otherwise don´t share the same concerns about residents and permanent affordability.

Housing activists have concerns about maintaining the integrity and mission of the original housing model which may be altered by sponsors which are not as disposed to principles such as resident or community empowerment. Thus, on the one hand is a pressure for the state to take measures to ensure the housing is used for its intended purposes. The state liens placed against state assisted properties discussed earlier is one example. On the other hand, there is the need to allow and encourage greater participation, flexibility and creativity in the Forever Housing movement. Questions still remain on the affects of institutionalization of the Forever Housing program on the non-production aspects and benefits of each Forever Housing model.

Significant obstacles to institutionalization of the Forever Housing policy have been discussed. The major obstacle each CLT faced was obtaining financing from existing public and private financial institutions. Other obstacles include unstable development and administrative grants which have impeded the development of the organizational capacity of the RCCLTH. The affordability of housing created under the Forever Housing stock will be better preserved with improved planning and support by both the CLTs and the state.

Nevertheless, I found no insurmountable obstacles to making Forever Housing a significant part of Connecticut's housing strategy. Many of the political, legal, and financial obstacles have been at least partially overcome. Creating a significant stock of permanently affordable housing outside the speculative market will require greater acceptance and understanding among both the development and financial industries as well as the public. Connecticut can play a role in promoting such acceptance through its funding decisions and by targeting its political and regulatory power towards institutions which are resistant to Forever Housing.

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INTERVIEWS

All interviews were by phone and in person, and took place from January through April, 1991.

Connecticut

Billie Ward, Administrative Director, Rose City Community Land Trust for Housing.

Rick Gaumer, Rose City Community Land Trust for Housing.

Robert Kantor, Rural Homes, Ltd.

Richard Cofrancesco, Manager, Homeownership Division, Connecticut Department of Housing, April 4

Deb Landry, Land Bank\Land Trust Program, Connecticut Department of Housing.

Diane Langley, Administrator, Surplus Lands Program, Connecticut Department of Housing, April 4.

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Ted Malone, National Reinvestment Corporation (NRC).

Pat Wallace, Director of Programming, Office of Urban Affairs of Archdiocese of Hartford, April 16.

Pat Spring, Co-opportunity.

Other States

Carol Baldassari, Metropolitan Area Planning Council.

John Davis, Community and Economic Development Office, Burlington, Vermont. March 13, 1991.

Jim Libby, Vermont Conservation and Housing Fund.