

# Our Thanks to the Florida Housing Catalyst Program



**AFFORDABLE HOUSING CATALYST PROGRAM**

**Sponsored by the Florida Housing  
Finance Corporation**



we make housing affordable™

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# Catalyst Training Schedule

A promotional banner for SHIP Catalyst Training. The left side features a photograph of three people (two men and one woman) sitting at a table, smiling and looking towards the camera. The right side has a teal background with white text. The SHIP logo is in the bottom left corner of the banner. The text on the right reads: "Fine Tune Your SHIP Program", "REGISTER NOW FOR", "CATALYST", and "TRAINING". Below the banner, the text "Register Now for SHIP Catalyst Training!" is displayed.



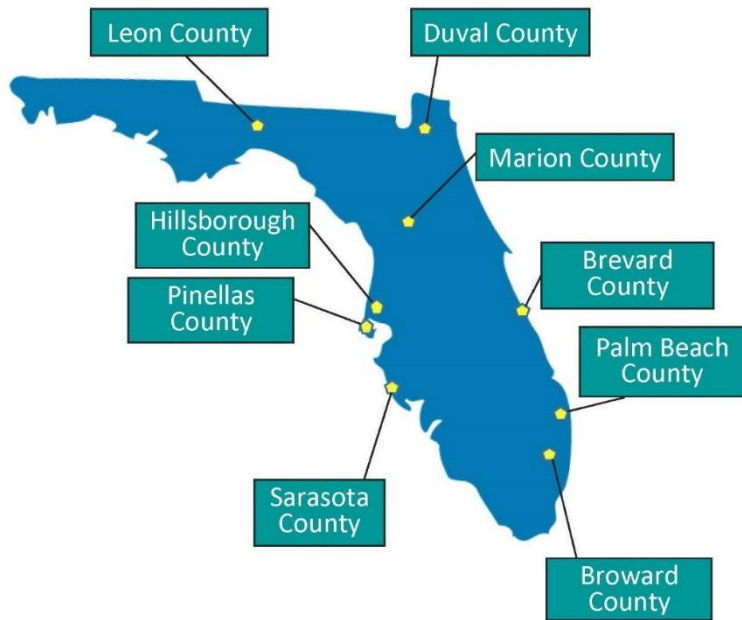
Fine Tune Your SHIP Program  
REGISTER NOW FOR  
**CATALYST  
TRAINING**

Register Now for SHIP Catalyst Training!

The Coalition is Florida's affordable housing training and technical assistance provider

[www.flhousing.org](http://www.flhousing.org)

1-800-677-4548



WE'RE PROUD TO OFFER PROFESSIONAL  
**CONSULTING SERVICES**

In the areas of affordable housing, fair housing, ending homelessness, & related issues

# The Florida Housing Coalition's ten offices cover every region of the state

# Alternative Approaches to Affordable Housing


Shared Equity Models, Linkage Fees, and Inclusionary Housing



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# Shared Equity Models

Deed Restrictions, Limited Equity Cooperatives and  
Community Land Trusts

# Deed Restrictions

- **Ownership properties:**
  - Homeowner holds title to the land and improvements
  - Covenants stipulating resale restrictions are recorded with the deed conveying the property to the homeowner
- **Rental properties:**
  - Owner holds title to the land and improvements
  - Covenants stipulating lease and resale restrictions are recorded with the deed conveying the property

# Deed Restrictions

- Typical restrictive covenant provisions for ownership properties include:
  - Home must be used as primary residence
  - At resale, home must be sold to an income-eligible buyer
  - Resale price must be affordable to income-eligible buyer based on formula set out in restrictive covenants
  - Not-for-profit organization or government agency may have preemptive option to purchase at resale

# Deed Restrictions

- **Typical restrictive covenant provisions for rental properties include:**
  - Units must be leased to income-eligible tenants
  - Rental rates must be affordable to income-eligible tenants based on formula set out in restrictive covenants
  - Not-for-profit organization or government agency may have right of first refusal upon sale



# Deed Restrictions

- Restrictive covenants are “self-enforcing” in theory; but not necessarily in practice
- Recorded in public records, and are evident in title search
- Enforcement may be problematic because:
  - Local government typically does not monitor property leasing or resale transactions
  - Seller or lessor may attempt to circumvent restrictive covenants

# Deed Restrictions

- Enforcement may be addressed through oversight by a third party not-for-profit entity or government agency

# Limited Equity Cooperatives

- **What is a Cooperative?**
  - A corporation holds title to the land and improvements
  - Owners purchase shares in corporation with right to occupy unit
    - Proprietary Lease
  - Personal property v. real property
- **How are Cooperatives formed?**
  - Statutory authority – In Florida, Chapter 719 of the Florida Statutes (The Cooperatives Act)

# Limited Equity Cooperatives

- What is it?
  - Purchase price (share price) set for initial affordability
  - Resale restrictions on price and income-level of subsequent purchasers controlled by the governing documents of the Cooperative
- Primary Advantage:
  - Purchasers qualify on the strength of the development as opposed to solely individual qualification
- Main Challenges
  - Financing difficult to find/very few comparables
  - Requires greater tenant/purchaser education

# Community Land Trusts

- A vehicle to separate ownership of land from ownership of the improvements on the land.
- A nonprofit entity holds title to the land and conveys the improvements together with a 99-year ground lease.
- The ground lease includes restrictions on use and resale, which ensure the improvements continue to be affordable to subsequent owners in perpetuity.

# Community Land Trusts:

## Key Provisions of the Ground Lease

- Income eligibility requirements
- Use and resale restrictions
- Rental rate restrictions
- Taxes
- Inheritance
- Resale Formulas
  - Shared Appreciation
  - Indexes

# Community Land Trusts:

## Key Benefits for the Public

- Subsidy is retained through re-sale restrictions
- Permanent stock of affordable housing is created
- A nonprofit entity is providing stewardship

# Community Land Trusts: For-Sale Units

- A nonprofit entity (the CLT) acquires and retains ownership of land for the benefit of the community.
- The CLT sells the improvements (the home) to an income-eligible family.
- The income-eligible family owns the home, and leases the land from the CLT under a 99-year lease agreement.
- The 99-year lease includes restrictions that require re-sale only to another income-eligible family at below market appreciated sale price.



# Community Land Trusts:

## Benefits to Home Buyer

- The home is now affordable because the purchase price does not include the price of the land.
- Owning the home means:
  - Mortgage payments instead of rent payments
  - Return of equity upon resale
  - Mortgage interest payments are tax deductible
  - Financial stability— able to save without fear of rent increases or loss of housing

# Community Land Trusts:

## Rental Units

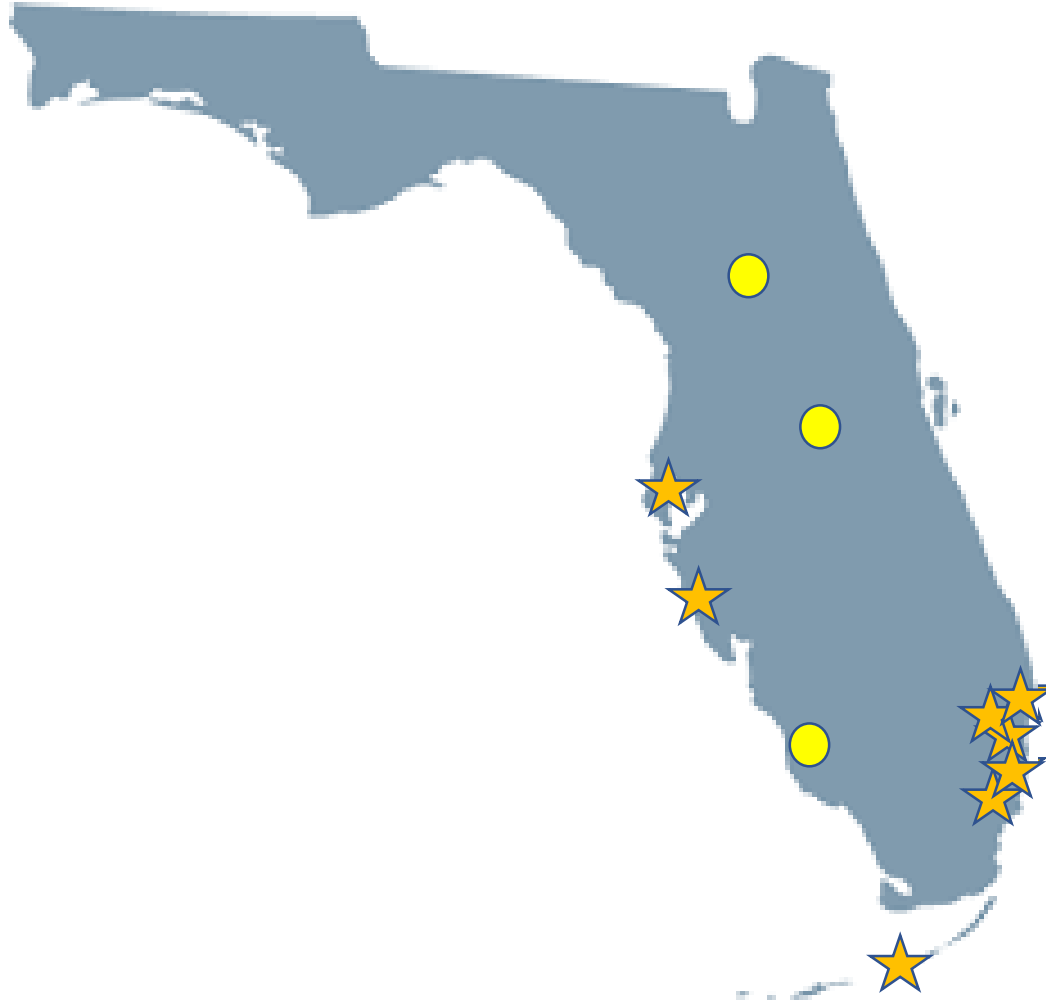
- A nonprofit entity (the CLT) acquires and retains ownership of land for the benefit of the community.
- The CLT or owner of the improvements (the rental units) leases to income-eligible families.
- If the owner is not the CLT, the owner of the rental units leases the land from the CLT under a 99-year lease agreement.
- The 99-year lease requires leasing of the rental units only to income-eligible families at below market rents and includes restrictions on the transfer of ownership

# Community Land Trusts:

## Benefits to Renters

- The rental unit is now affordable because the owner's purchase price did not include the price of the land.
- The rent is maintained at below market rate.

# Community Land Trusts in Florida



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# Inclusionary Housing

What is it? How does it happen?



LIVE. WORK. SHOP. PLAY.



# Essential Services



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# Also Essential Services?



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# Affordable Housing

- Personal investment or community asset?
- Part of the community's infrastructure?
- If infrastructure, should developers be required to build it?
- How long should it remain affordable?

# Housing Element of Comprehensive Plans

- Every jurisdiction in Florida has the obligation to provide for housing its entire current and anticipated population
- The Housing Element requirement does not mean that local governments have to build all this housing themselves....
- Local government should use its police powers, land use authority, and compliance with fair housing and affordable housing laws to create an environment in which affordable housing will be provided by the private sector.

# Inclusionary Housing

**A local land use regulation (planning tool) that requires the market rate housing developer to include a percentage of affordable housing within the market rate development**

# Inclusionary Housing

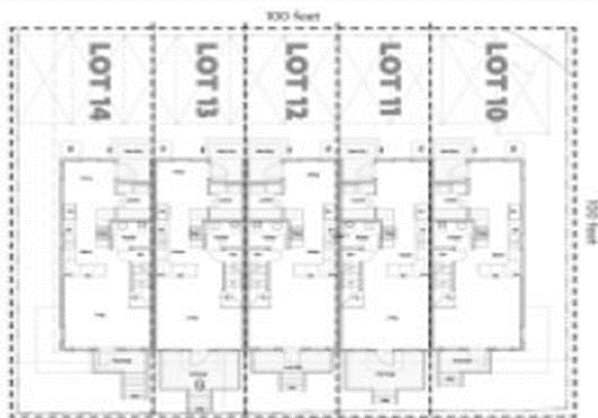
- Usually triggered by a request for a land use and/or zoning change that increases the value of the land
- Portion of the increased value “captured” to create affordable housing that otherwise would not be created
- Developers maintain same profit and community gets benefit

# Inclusionary Housing

INCLUSIONARY HOUSING

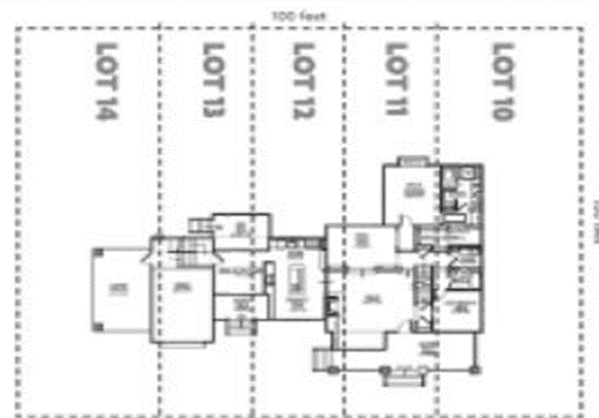


K2 - INCLUSIONARY HOUSING  
PALMDALE, CALIFORNIA



5 inclusionary lots on 1/4 acre

ESTATE HOME



1 estate lot on 1/4 acre

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# Statutory Support

## **Section 166.0415 (cities) and 125.01055 (Counties) Affordable Housing:**

Notwithstanding any other provision of law, a local government may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances.

# Advantages and Benefits

- Creates communities of opportunity
- Improves economic sustainability
- May not require public subsidy



# Issues and Challenges

- Opposition from developers and the community
- Additional program administration costs
- Difficulty reaching very-low and extremely-low income without additional subsidy





# Best Practices for Inclusionary Housing

- Needs to have long term or perpetual affordability
- Needs to create as little burden on market rate developer as possible - local government should provide income compliance assistance

# Inclusionary Housing in Florida



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# Inclusionary Housing and Permanent Affordability

- Large-scale greenfield developments creating new towns with need for permanently affordable housing
- Urban redevelopment creating need to create and permanently preserve affordability (opportunity with transit-oriented development)



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# Why CLTs are Good for Inclusionary Housing and Vice Versa

- Can perform program management and compliance functions
- Can provide pipeline of qualified buyers/renters
- Right-of-purchase provisions preserve affordability
- Ground lease more effective for enforcement than deed restriction
- One-time public subsidy for permanent affordability

# Community Land Trusts and Inclusionary Housing in Florida

## Community Land Trusts



## Inclusionary Housing



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# Linkage Fees

What are they? How are they implemented?

# Linkage Fees

- Commercial and high-end market rate residential development increase the need for employment of low wage workers
- Linkage fees collect monies such development to use in building affordable housing
- Linkage fees set to balance between funding needed to meet affordable needs and ensuring development remains financially feasible

# Linkage Fees

- Linkage fees are generally charged on a per square foot basis.
- Rates vary from less than \$1 per square foot to upwards of \$25 per square foot.
- Fees are usually paid upfront at permitting.



# How to Establish Linkage Fees

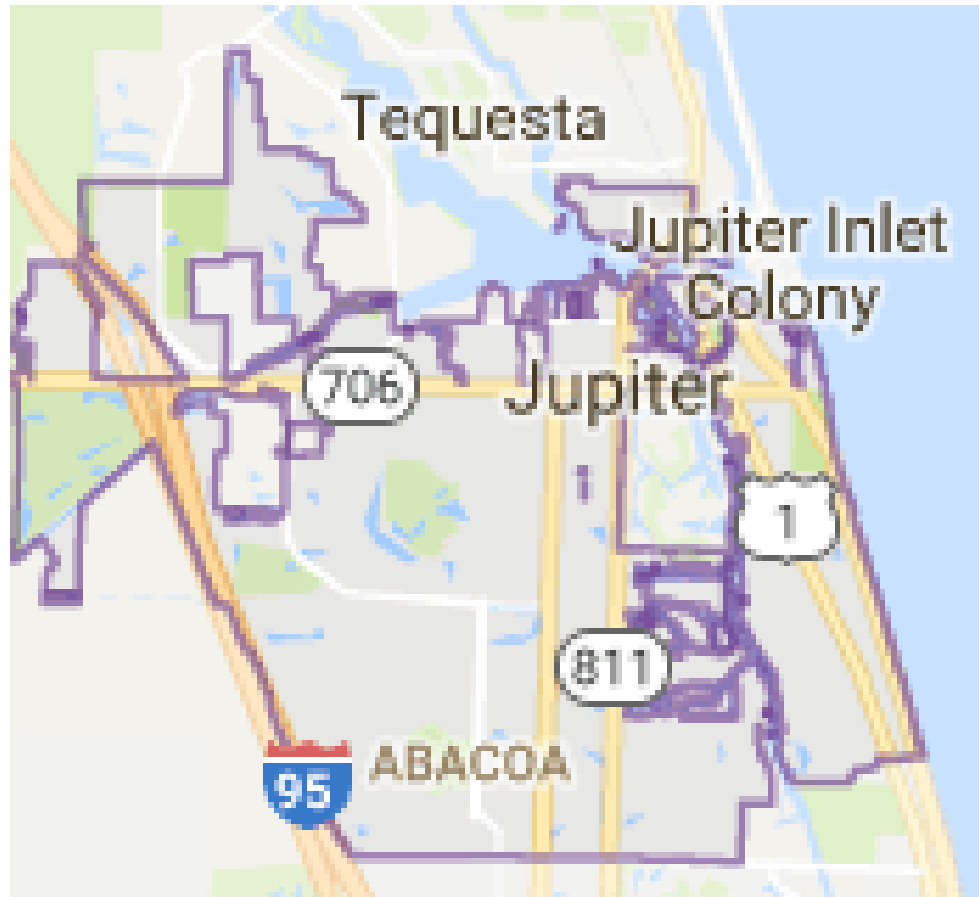
- Nexus and Feasibility Studies
- Implementation Plan
- Adoption

# Town of Jupiter



Example Community for Inclusionary Housing, Linkage Fees and Community Land Trusts

# Town of Jupiter



## Background:

- 2008 comp plan housing element
- 2012 outreach, steering committee
- 2015 Workforce Housing Program

# Town of Jupiter



## Linkage fee:

- All new or redevelopment of commercial and industrial development exceeding 10,000 square feet of gross floor area
- \$1 per square foot, paid at issuance of building permit, deposited into housing trust fund
- Certain exemptions and waivers

# Town of Jupiter



## Workforce Housing Program:

- 6% of units in developments of  $\geq 10$  units
- 20% of units associated with increased density if rezoning or land use amendment requested
- For-sale units must remain affordable in perpetuity (99-years); rental units must remain affordable at least 30 years
- Allows agreement with a CLT to administer program

# Town of Jupiter



## Workforce Housing Program:

- Density bonus and other incentives
- Construction standards for quality, size, and timing of workforce units
- Fee or donation of land in lieu of constructing workforce units
- Sale and rental price standards
- Eligible household qualifications

# Town of Jupiter



## Workforce Housing Program 2017 Amendment

- Allows offsite construction of workforce units
- Formula to calculate number of required offsite workforce units
- **12% ~~20%~~** of units associated with increased density if ~~rezoning or~~ land use amendment requested
- Value of land donated in lieu must be at least 90 percent of value of applicable fee in lieu





## Meet the Team!



Gladys Cook

Pamela Jo  
Hatley

Jaimie Ross

Ashon  
Nesbitt

Ben Toro-  
Spears







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