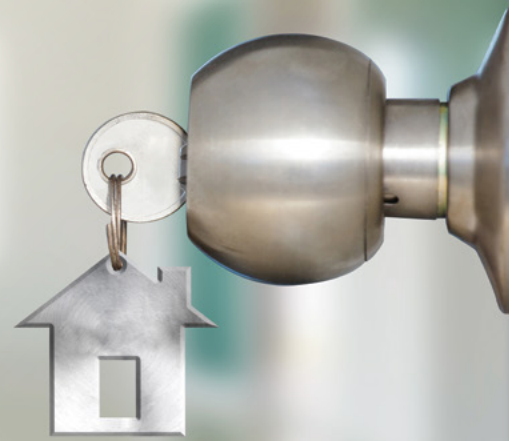


The Table is Set in Florida for Community Land Trusts and Subsidy Retention

By: Ashon Nesbitt



The community land trust model employs a subsidy retention approach to homebuyer assistance. This is different from the subsidy recapture approach most local governments use to provide homebuyer assistance. SHIP funds are often used to provide down payment assistance to low- and moderate-income first-time homebuyers in the form of loans. These loans are usually deferred payment loans, where the homebuyer makes no payments while living in the home. In some cases, the local government may require debt service. In virtually all cases, the security documents call for the homebuyer to repay some or all of the funds upon sale of the home. Those funds return to the local government as “recaptured” funds. The funds recaptured from home sales can then be used to assist another eligible household. However, the household originally assisted by SHIP down payment assistance can sell their home to any willing buyer with no limits on price or income-eligibility.

While this approach may increase revenue available to the local government, it fails to address the growing affordability gap of constantly increasing home prices requiring ever larger subsidies to make the home affordable. It also fails to address the limited supply of affordable housing because a previously SHIP-assisted homeowner will sell their home for the highest amount the open market will bear, just like any other seller. In most cases, this results in a home permanently lost from the inventory of affordable housing. A greater amount of resources will be needed to add a new affordable housing unit to make up for the unit lost.

Subsidy retention is an alternative approach. Subsidy retention takes the same subsidy local governments would normally provide to an individual homebuyer and invests it in a unit. This one-time investment keeps the house perpetually affordable to homebuyers at the same income level through accompanying restrictions on resale price and the income-eligibility of subsequent purchasers, thus providing a direct benefit to successive home buyers of the same house. These

restrictions remove the house from the speculative (open) market after it is sold and remains forever in the affordable housing inventory. Subsidy retention can be achieved through deed restrictions, but the most effective vehicle for subsidy retention is the community land trust. The CLT is a mission-based, nonprofit organization that maintains ownership of the land, conveying interest to the homeowner through a 99-year ground lease that contains resale restrictions on the sales price of the improvements (the home) and the income eligibility of subsequent purchasers.

To facilitate the use of traditional down payment assistance with community land trust purchases, the Florida Housing Coalition developed model community land trust technical language for down payment assistance strategies. Local governments can incorporate this language to existing down payment assistance strategies through the technical revision process. For local governments interested in the community land trust (CLT) model, using this Florida Housing Finance Corporation (FHFC)-approved language

eliminates the need to create a separate strategy for community land trusts.

The CLT technical language allows local governments to apply the following special terms for down payment assistance with community land trust purchases:

- Makes the initial down payment assistance assumable to subsequent income-eligible purchasers
- Requires no repayment if the loan remains in good standing
- Reduces the subsequent sales price in an amount equal to the initial SHIP down payment assistance

Benefits to the Homebuyers

These special terms benefit the initial and subsequent homebuyers.

1. By making the assistance assumable, the assistance flows to the initial and subsequent purchasers.
2. For local governments that normally require repayment during the term of the loan, a homebuyer may receive an added benefit of no debt service with a community land trust purchase.
3. The sales price to subsequent purchasers is further reduced by requiring the CLT to exclude the value of the down payment assistance from the base price used to calculate the sales price for subsequent purchasers. For example, a homebuyer decides to purchase a home from a CLT for \$175,000. This CLT allows for 1% increases in sales price each year. The homebuyer brings \$25,000 in down payment assistance. Instead of applying 1% starting at \$175,000, the CLT would apply 1% starting at \$150,000, increasing the affordability to the subsequent homebuyer. The balance of the down payment assistance is both added to the reduced sales price and assumed by the subsequent buyer for a net zero effect.

Benefits to the Local Government/Public

These special terms also benefit local governments and the public.

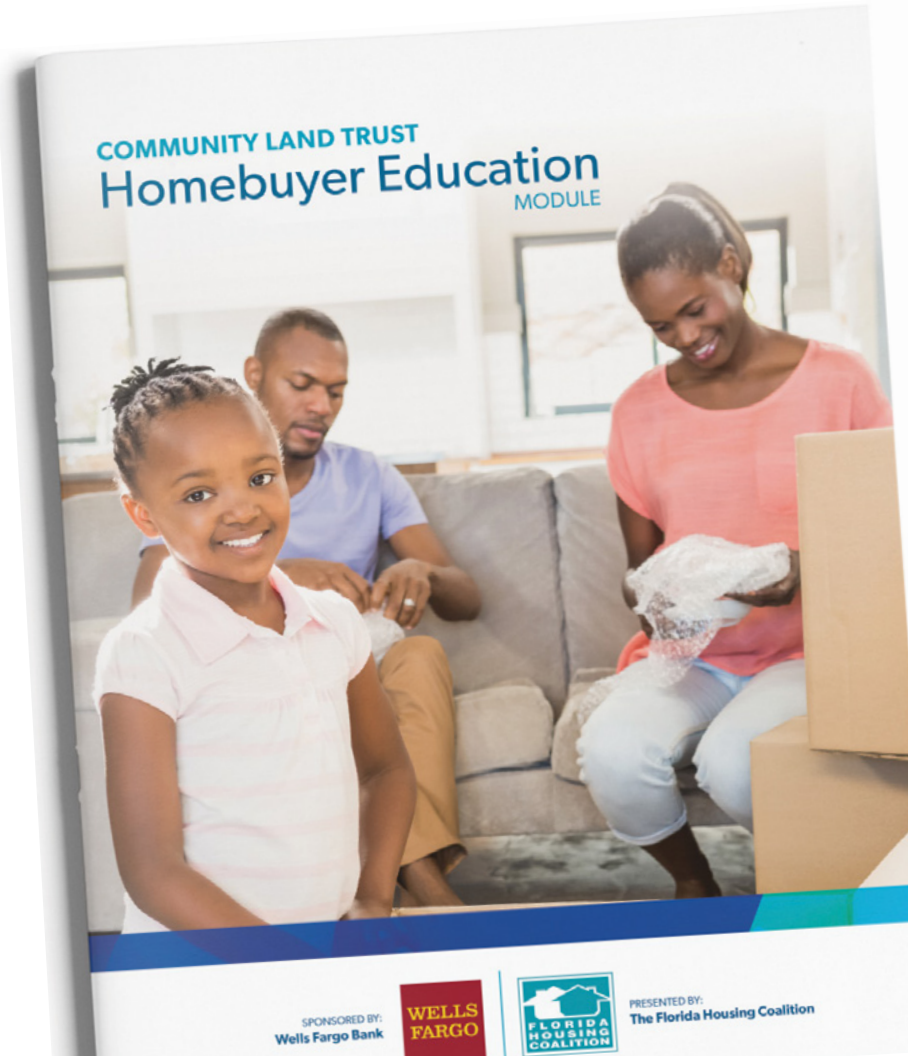
1. The CLT, as steward of the public investment, will ensure the home is sold to another income-eligible (SHIP) purchaser through requirements in its ground lease. While the loan is assumable (stays with the home), it still must be repaid in an event of default.

2. The CLT through its ground lease, retains a right of repurchase. Should the CLT decide to exercise its right, it must also repay any remaining balance of the down payment assistance. While the funds may return to the local government, the unit is saved and remains affordable through the restrictions in the CLT's ground lease.
3. Should the CLT not exercise its right of repurchase, the special terms allow the local government to intervene directly by purchasing the home.

CLT Certification

These special terms create a close relationship between local governments and CLTs as stewards of those funds. Therefore, the model language calls for homebuyers to purchase homes from an "approved" CLT. The Florida Housing Coalition has created a program that local governments can utilize to determine if a CLT should be approved: The CLT Certification Program. This program, first announced in August 2018, has been developed in collaboration with Freddie Mac, and will be implemented beginning in the fall of 2019.

The CLT Certification program will employ a rigorous review of a CLT's operations based on national



CLT best practices. A critical component for CLT Certification is a state of the art homebuyer education module specifically for prospective CLT homebuyers. To help agencies providing homebuyer education for SHIP down payment assistance, the Florida Housing Coalition, with funding from the Wells Fargo Foundation, developed a CLT homebuyer education module that agencies can incorporate into existing homebuyer education classes.

While purchasing a CLT home brings with it all the benefits and responsibilities of traditional homeownership, there are some key differences. In purchasing a CLT home, a homebuyer must understand how their interest in the property is divided between the home (improvements) and the land. The homebuyer must also have a clear understanding of key terms in their ground lease, particularly what the house can be sold

for, who it can be sold to, the procedures for selling the home, and what to do if the homebuyer is having trouble making mortgage payments. The module explains the division of interest in detail, explores key provisions of the ground lease, and highlights the benefits of CLT homeownership including reduced property taxes. Additionally, the module helps homebuyers to think ahead about moving from CLT homeownership to traditional homeownership.

The launch of the CLT Certification program, created in collaboration with Freddie Mac, including a detailed description of the program and an introduction of the first CLTs to enter the program, will be held on Day 3 of the 2019 Annual Affordable Housing Conference. The Florida Housing Coalition will also introduce the CLT Homebuyer Education module sponsored by the Wells Fargo Foundation. **HNN**



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The CLT Training and Certification Program

Developed by the Florida CLT Institute, a program of the Florida Housing Coalition in collaboration with Freddie Mac.

Launching August 28, 2019 at the Florida Housing Coalition CLT Symposium



- To promote best practices for the industry
- Standardization of key documents and procedures
- To increase lending for CLT homebuyers
- To encourage local governments and other funders to value subsidy retention over subsidy recapture
- To create affordable homeownership that helps one family after another, in perpetuity
- To facilitate a robust land banking and surplus lands program
- To promote fair housing and equitable redevelopment

The launch of the CLT Training and Certification Program will explain the steps for participation. We will also hear from The Florida CLT Institute's Steering Committee comprised of:

Bright Community Trust 🏠 Delray Beach CLT 🏠 Hannibal Square Community Land Trust
 CLT of Palm Beach County 🏠 Roof Housing Trust 🏠 South Florida CLT

This event should be of particular interest to local governments, lenders, and nonprofits considering or maturing a CLT program.