



CRISIS TO LEGACY: STABILIZING FLORIDA'S RENTAL STOCK WITH PERMANENT AFFORDABILITY SOLUTIONS

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Florida is confronted with a pressing challenge: the imminent expiration of affordability restrictions on numerous rental units that continuously diminishes the state's affordable housing stock. This necessitates the development, funding, and construction of new affordable homes to sustain supply. Owners of rental units subsidized by federal, state, and local funding are obligated to maintain affordable rents for tenants in specific income categories for a designated period, usually ranging from 15 to 50 years, contingent on the housing subsidy utilized. Unfortunately, between 2000 and 2023, Florida witnessed a loss of 65,332 units of subsidized rental housing from the affordable housing inventory¹ (Shimberg Center for Housing Studies, 2019).

Projections from the Shimberg Center for Housing Studies indicate that over 80,000 units are at risk of being lost by 2043, considering factors such as the age of developments, subsidy sources, and subsidy expiration dates. It is crucial to note that beyond affordability periods tied to subsidies, units can also be lost due to owner prepayments, foreclosures, or, in rare instances, removal of subsidies due to poor property management.

The conversion of once affordable units to unrestricted market-priced rentals can have adverse effects on communities, including the loss of irreplaceable housing in desirable neighborhoods, displacement of current tenants, further disinvestment in distressed communities, and a continued decline in the already limited federally subsidized housing stock.

Given the severe consequences of affordability expiration, it is imperative to establish provisions for permanent affordability consistently and proactively for new and expiring units. Permanent affordability can be instituted when units are at risk of being converted from expiring affordability periods, preventing their loss to the open market. Additionally, these provisions should be implemented proactively for new units during development to eliminate the risk of future expiration.

¹ Shimberg Center for Housing Studies. (2019). Lost Properties Inventory Data for Florida. Retrieved from <http://flhousingdata.shimberg.ufl.edu/assisted-housing-inventory/results?nid=1>.

Typically spanning 99 years or more, permanent affordability agreements often require creative financing models to bridge funding gaps. This may include tax reductions or exemptions, development incentives, and low-cost financing. For example, via a no-interest, deferred payment loan, a recipient of development funding of \$150,000 could be authorized to build and own improvements on an infill parcel zoned for a single-family detached unit through a 99 year lease with the local government. In exchange, the recipient is obligated to rent the home to households with incomes not exceeding 80% of the area median income and at a rent not exceeding 30% of the occupant's income.

Stakeholders, such as affordable housing advocates, community-based organizations, and local governments, must act deliberately and swiftly to implement long-term affordability provisions before existing requirements expire or during the development and funding phases of new units. The inclusion of a Right of First Refusal (ROFR) is an example of a policy that can provide a future opportunity to preserve long-term or ongoing affordability.



A ROFR is desirable to protect the intentions of a donor, funder or developer to provide affordable housing. It is usually provided to the donor, funder or developer, or a selected mission-based organization. If the party with

ROFR declines to enter into a transaction, the seller is then free to seek out and entertain other offers.

Provisions designed to institute permanent affordability, such as the right of first refusal, can be incorporated into various legal instruments utilized to implement affordability requirements. These include:

- **Conveyance Agreement:** Used when a property is donated or sold for a nominal price to support development.
- **Development Agreement:** specifies the incentives, standards, and conditions governing property development.
- **Funding or Grant Agreement:** Establishes the terms and conditions of granted funds and may be accompanied by a no, low, or deferred payment and low-cost loan.
- **Land Use Restriction Agreement (LURA):** In exchange for financing such as an allocation of tax credits, a property owner agrees to provisions restricting use and ensuring affordability during a specified period of time.
- **99-year Ground Lease:** An agreement granting the right to utilize the land, including developing and owning improvements during the lease period. Like a LURA, 99-year ground leases establish permissible uses and provisions to ensure affordability. Such documents are utilized by or in connection with a Community Land Trust (CLT). A CLT is an independent non-profit organization holding title to land,

administering a 99-year lease to create permanently affordable housing, and counseling residents on home maintenance and financial planning.

Several communities in Florida have recognized the vital need for a perpetually affordable inventory of rental housing to mitigate the adverse effects of affordability period expiration and showcase a proactive approach to addressing the critical issue of affordable housing. Notable among recent projects that embrace this vision are Skyway Loft I & II, Seminole Square, and Bear Creek Commons in Pinellas County.

Altogether, these developments add 312 one- and two-bedroom units to the County's housing stock, mostly affordable to households with incomes at or below 60% of the County's area median income. These developments will remain affordable via a 99-year ground lease within Pinellas County's land trust framework. The acquisition of land under this lease structure is funded by the Penny for Pinellas program, an infrastructure surtax initiative that has afforded the creation of nearly 900 units of affordable rental housing since its inception.

Another example is the planned construction of 354 units as part of the redevelopment of the Fun Lan drive-in movie theatre in Tampa. This project was recently approved to receive substantial support from the City of Tampa in the form of a \$12 million investment. This financial backing, facilitated through a funding agreement, a mortgage and note, and a 99-year deed restriction, mandates that all units within this development maintain affordability over the term.

The commitment of Florida's communities to permanent affordability is crucial. By leveraging existing programs, instituting policy changes, and fostering collaboration, we can secure a future where every Floridian has access to safe, stable housing. The Florida Housing Coalition

provides expertise to organizations committed to ensuring their community has a legacy of homes that endure for generations. Reach out to find out more about the preservation of affordable housing.



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Learn More

Scan the QR Code above to learn more about Community Land Trusts and Preservation and Permanent Affordability of the state's housing supply.