Social Justice Mitigation in Transportation Projects

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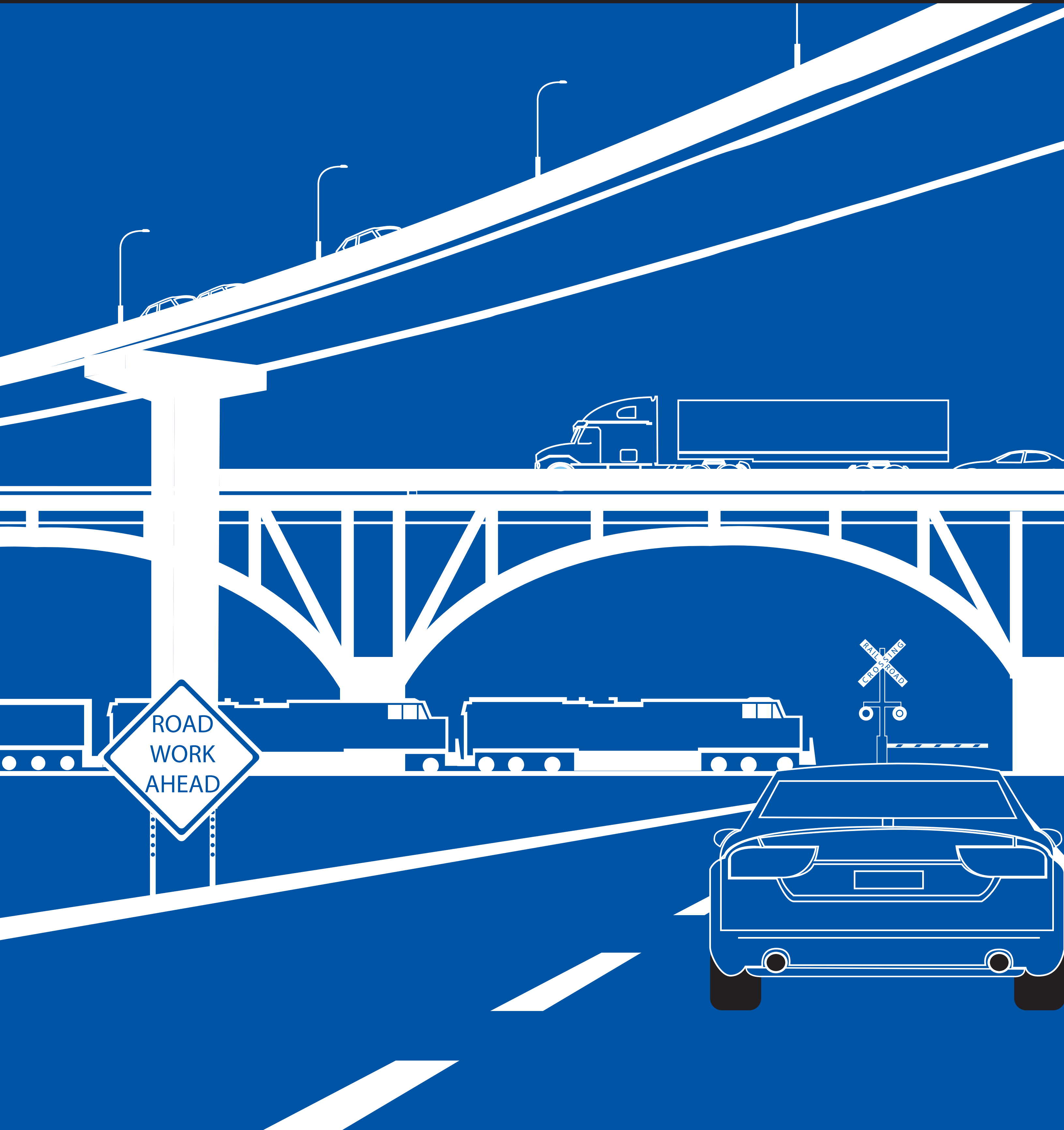

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Research Report
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Social Justice Mitigation in Transportation Projects

Why and How Lexington Fayette Urban County Government Can Support the Lexington Community Land Trust's Path to Self-Sustainability

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The city of Lexington has reached a critical shortage of affordable housing available to families earning 80% - 50% of area median income (AMI). This study focuses on how to grow the Lexington CLT into self-sustainability while also narrowing the affordable housing gaps in Fayette County. Current research offers support for the city's affordable housing program to adopt the community land trust model (CLT). The research recommends using tools such as the Lexington CLT, the Lexington-Fayette Urban County Landbank Authority (LFUCLA), and Lexington's Affordable Housing Trust Fund, along with new development incentives, to develop a housing strategy that is cost effective and grows rather than shrinks its portfolio of units. The CLT model performs better than other traditional affordable housing models in a variety of achievement measures, including keeping units affordable for future buyers after the initial buyer received a subsidy to purchase the home. CLTs move modest income families into successful homeownership, and unlike traditional models of delivering affordable housing, the ability to retain affordability for subsequent sales requires no additional public or private subsidy.

CLTs are known for their commitment to stewardship, which extends to looking out for the homeowner and family after the home is purchased. Most importantly, CLTs keep neighborhoods stable and family wealth safe by preventing foreclosure. When a city delivers housing through a CLT, they collect critical data that aids governments and the public in determining the effectiveness of affordable housing programs across locally and the nation.</td></tr>
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Executive Summary

The Newtown Pike Extension Project (NPE) Team has requested that the Lexington Fayette Urban County Government (LFUCG) assist the Lexington Community Land Trust (LCLT) with expanding its development in Fayette County. The primary goals for the LCLT are to expand the size of its portfolio of permanently affordable, owner-occupied housing and to achieve self-sustainability as an organization. This document describes how a collaboration between LFUCG and LCLT can achieve LCLT's productivity and sustainability goals, while simultaneously enhancing LFUCG's housing program, thus improving the lives of Fayette County residents.

At this time, LFUCG is putting its primary focus on rental development to meet the immediate demand for affordable housing in Fayette County. Current research offers support for LFUCG's affordable housing program to adopt the community land trust model (CLT). The CLT model performs better than other traditional affordable housing subsidy programs in a variety of achievement measures, including its ability to: 1) assist families with a range of incomes below the 80% of area median income (AMI) in moving into homeownership, 2) stabilize neighborhoods and protect public investment by keeping the home permanently affordable without additional public investment for subsequent purchasers, 3) keep neighborhoods stable and family wealth safe by preventing foreclosure, 4) protect public investment and assist household mobility (when desired or needed) by stewarding the maintenance and resale of CLT homes, 5) empower neighbors and neighborhoods by vesting residents with the decision making power over land use, and 6) collect critical data that aids governments and the public in determining the effectiveness of an affordable housing program.

The LCLT is able to sell homes at a price that low income families can afford. Shared equity home organizations nationwide have an average of 95% of their homes priced affordably for households earning 80% of AMI or below. In Lexington, the LCLT has assisted families in becoming homeowners with income between 77% to 56% and an average of 64.6% AMI.

LFUCG defines an affordable home as being below $170,000 (in 2017$). Consistent with this standard, the 14 homes sold by the LCLT had an average selling price of $121,783 with a high of $132,834 and a low of $112,244, which are well below LFUCG's definition of affordability.

The hallmark of any CLT is the protection of the public's investment by keeping homes affordable for future buyers without additional public subsidy, which ultimately benefits the wider community. This is accomplished by the CLT owning the land upon which the home is built. A homeowner enters into a 99-year renewable land lease with the CLT, giving the homeowner secure and exclusive occupancy of the parcel of land on which her house is located. Contained in this ground lease are conditions and restrictions on the financing, use, improvement, and resale of the house. This includes a limitation on the equity that a homeowner may remove from the house on resale, thereby limiting the price that a subsequent homebuyer will pay. Under the resale formula adopted by the LCLT, homeowners receive all of the equity they have personally invested (i.e., their down payment and the amortization of mortgage principal), but they receive only 25% of any increase in the market value of their homes. They are also not allowed to pocket on resale the public subsidy that decreased the sale price of these houses.

Although the LCLT has not had any homes resold, the *average* market value for LCLT homes when they were originally sold in 2018 was $157,000. A $39,250 subsidy made the homes affordable at a selling price of $117,750. If this "average" home had resold in 2019, it would have had a market price of $175,429 (a $18,429 increase). Because the LCLT required the original subsidy to stay with the house, however, instead of allowing it to be removed by the original buyer and because of the resale formula, the LCLT could have sold the house for $122,357 to the second buyer *without any additional public subsidy*.

To put it another way, a projection using home sale increases for Fayette County and LCLT data determined that a total public investment of $395,000 over 28 years would be required if a subsidized home were to resell four times (serving 5 low income families – the original and 4 others) under a subsidy recapture program, whereas the LCLT could accomplish this with a total subsidy of $35,000.

Homeowners in Lexington's Davis Park, a LCLT development, are living in resale-restricted homes but they are building wealth. Their homes are in a highly desirable location and the NPE project insisted on a higher quality construction than is generally required. As a result, home values have increased rather rapidly since development began. Accordingly, a LCLT comparison of original and October 2019 appraised home values for initial non-resident families of Davis Park show an average $4,310 increase for the homeowner when the resale formula is applied. This figure does not include equity earned by mortgage paydown.

With the exception of six homes developed by the LCLT, LFUCG does not currently employ a policy of permanent affordability. Instead, LFUCG uses a subsidy forgiveness program (the subsidy is retained by the first purchaser) and a subsidy recapture program (a low-interest loan is repaid over time). This practice results in all homes being sold at market value and will require an additional public subsidy if the unit is sold to an income-qualifying buyer. Employing the LCLT in affordable housing development will allow LFUCG to meet its affordable housing goals with a fiscally prudent, financially conservative approach.

While no homeowners in the LCLT have struggled with foreclosure, nationally 99% of homeowners of CLT homes (and households who own their homes through other Shared Equity Homeownership models) avoid foreclosure. There is no reason to expect the LCLT to perform differently than other programs nationwide.

Gentrification can impact a CLT's best efforts to protect its affordable housing portfolio. LCLT already has experience protecting the resident stability and housing affordability of a neighborhood undergoing renewal. This study examines the option of supporting the LCLT through the use of a local land bank and describes how land banks have been used in other cities to give preference to affordable housing programs that protect permanent affordability of a home in neighborhoods, including those undergoing gentrification. While land trusts are created to hold land in perpetuity, primarily for affordable housing, land banks are created to hold land temporarily for a variety of for-profit and non-profit uses, including but not limited to affordable housing. Both can work in concert with each other to create more opportunity for affordable housing and other community driven land uses. The LCLT has the flexibility to be re-tooled to utilize a land bank in developing land for a variety of uses that allow community driven land use development.

Given Lexington's now critical affordable housing shortage and the LCLT's ability to serve more families with equivalent funding, this research recommends using the LCLT, the Lexington-Fayette Urban County Landbank Authority (LFUCLA), and Lexington's Affordable Housing Trust Fund along with new development incentives to make an affordable housing development strategy cost effective and successful. Strengthening collaboration between LFUCG and LCLT will require an implementation team to make decisions on adopting the many recommendations from this study. What follows is a brief summary of the steps for LFUCG and LCLT to follow; an exhaustive list can be found in Chapter 10.

LFUCG:

- Set a 10-year goal of adding 600 residential units to the LCLT portfolio, of which 400 are homeownership units.
- Devote at least half of LFUCG affordable housing resources into permanently affordable homeownership.

- Commit to the methods and policies that will put a minimum of $4 million per year into the Affordable Housing Trust Fund, requiring permanent affordability as a threshold priority for the disbursement of these funds.
- Give top priority to re-establishing a land bank, along with the adequate staffing and funding required to manage it.
- Codify the current taxing strategy adopted by the Fayette County PVA for LCLT homeowners.
- Provide capacity funding to support the operations of the LCLT: office support staff and assistance with developing a media campaign for Fayette County.
- Evaluate the Grounded Solutions Network's (Grounded Solutions) HomeKeeper software for its effectiveness in tracking data and gauging performance of an affordable housing program.
- Determine how existing community development programs and other governmental sources of funding may need to be modified to make them compatible with the model of permanent affordability employed by the LCLT.
- Reconsider the adoption of inclusionary zoning.

LCLT:

- Update the LCLT's business plan set forth in the ROD, to include adopting detailed stewardship policies and becoming a HOME Community Housing Development Organization (CHDO).
- Begin the development of commercial property on land owned by the LCLT as soon as the title is transferred.
- The LCLT should partner with non-profit and for-profit developers who are willing to create quality, permanently affordable housing, both homeownership and rental.
- Protect modest income families from gentrification and place homeownership units in locations that provide easy access to opportunity while affirmatively furthering fair housing by opening up affluent enclaves to affordable housing.
- Explore the development of condominiums and limited equity cooperatives (LECs) as another option for less expensive, permanently affordable housing.
- Create a partnership with Habitat for Humanity, Resources Education Assistance Community Housing (REACH), and all other affordable housing developers in Fayette County, giving LCTC the ability to serve more families below 60% of AMI and expand into housing rehabilitation.

1. Introduction to the Newtown Pike Extension Highway Project

1.1 Background

The Newtown Pike Extension (NPE) highway project has been in progress since 1999. The project is extremely complex, making its completion tedious and slow. In addition to constructing a road that bypasses downtown Lexington, the project has responsibly addressed hazardous material clean-up and has effectively implemented minor stream improvements. It continues to address historic building and park property impacts, and the protection and preservation of a low-income minority neighborhood along with its attendant affordable housing. By placing the Davis Bottom neighborhood land in a community land trust (CLT), the project has mitigated social justice impacts to the benefit of the affected neighbors and to the larger community.

The programs traditionally used by most public agencies when subsidizing the production and purchase of owner-occupied housing have provided some form of down payment grant or low-interest or forgivable loan to the home purchaser. By contrast, all public funds that were used to make homeownership available and affordable in the NPE mitigation area were granted to the LCLT for the acquisition of land and the construction of the housing. This subsidy, which reduced the upfront purchase of price of each house, will remain with the house forever; it will never be pocketed by the owner. Upon resale, the seller receives only a portion of the increase in market value of the home. By locking public subsidies into the land and house and by limiting the appreciation that a homeowner may remove on resale, permanent affordability is achieved. As in all CLT programs, the land trust provides ongoing support to homeowners, including overseeing maintenance of the homes, preserving their affordability, and preventing foreclosures long after purchase. “Stewardship” is the name that is given to this continuing support for CLT homes and CLT homeowners. A CLT is the “developer that doesn’t go away.”

When the NPE Project Team established the Lexington Community Land Trust (LCLT), the project committed 25 acres of land for housing and commercial ventures on property to be owned by the LCLT. Throughout this report, shared equity housing, or SEH, is the generic term that is used to describe three models of resale-restricted, owner-occupied housing: the community land trust (CLT); the limited equity cooperative (LEC) and deed-restricted houses and condominiums with long-lasting affordability controls.[1] SEH is defined by what it offers: it promotes homeownership for limited income families, preserves housing affordability from one owner to the next, and preserves public investment. A designated amount of money can serve more people.

The CLT model in particular was selected by the NPE Project team because it met the required goals and desired elements of mitigation. A CLT supports homeowners throughout their ownership experience to protect against the pitfalls of maintenance deferral and foreclosure. In addition, this model encourages involvement of community members in land use planning. Other affordable housing developers — both for profit and non-profit — can partner with a CLT and develop permanently affordable housing. For example, LCLT’s first homeownership home was built in partnership with Habitat for Humanity.
The CLT model is also able to provide permanently affordable *rental* units. The LCLT has done so in the first 14 units constructed within the project’s mitigation area.[i]

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[1] Limited equity cooperatives (LECs) were not considered by the NPE Project Team. They are a tool better suited for multi-unit housing, or a larger group of “investor/owners” in the cooperative who might not otherwise individually qualify for a mortgage. LECs are often layered with the CLT model by placing the property on land owned by a CLT. Deed restrictions and Community Development Corporations, which use a loan-to-home purchaser program, were also fully considered and eventually rejected by the project team due to the CLT’s ability to provide permanent affordability, more flexibility, an ongoing relationship with homeowners, and the most protection of public funds. See NPE Project, Final Environmental Impact Statement (FEIS), Ownership Entity Decision Matrix, Table 35, p. 266 — Mitigation.

The NPE Project Team projected that after reaching a certain number of units, the LCLT could operate on funds it can generate through its own efforts. For example: housing development, land lease fees, membership fees, grants, and other support. The NPE Project Team wants the LCLT to continue to support its homeowners and increase the number of families that can be lifted into home ownership; to be both financially and operationally self-sustaining. Self-sustainability was based on an assumption that construction of 100 residential units would be completed by 2016 and all commercial property would be transferred to the land trust for development by then. No additional housing development activity was anticipated between 2015 and 2017.[ii]

As of the summer of 2019, however, a substantial part of the proposed 25 acres, including land slated for residential lots and land designated for commercial use, has *not* been transferred to the LCLT. As a result, only 28 residential units have been constructed. All Phase I rental units (14) have been leased and all lots (14) transferred to the LCLT to date have been leased to homeowner residents. There are eight families qualified and on a waiting list to purchase a LCLT home and an additional 15 families working through the pre-eligibility requirements for two future LCLT homes.

These are significant accomplishments, but the delay in ramping up to a 100-unit portfolio has created issues for both the LCLT and the Kentucky Transportation Cabinet (KYTC). KYTC found it necessary to increase the amount of startup money available to the LCLT due to the trust's inability to fully develop its financial capacity. The LCLT cannot proceed with plans for commercial space or additional residential units, which restrains its ability to derive income from land lease fees in numbers originally projected in the Record of Decision (ROD).

KYTC, the Federal Highway Administration (FHWA), and the LCLT are highly motivated to move forward with a revised plan for reaching the goal of the LCLT's financial self-sustainability.

1.2 Financial Self-Sustainability for CLTs

Traditionally, CLTs support themselves in a variety of ways. The bread and butter for many CLTs are funds derived from ground lease fees. A mature CLT can cover or nearly cover all of its stewardship costs through lease fees.

As Davis, Jacobs, and Hickey (2010) point out:

> As long as the CLT is operating as an expansionist buyer of land and activist developer of housing (or other facilities) serving lower-income households, the CLT will always require outside support from public and private sources for its projects and operations. The CLT's stewardship function *can* become self-sustaining, however, once the CLT's portfolio has reached a certain size. A sustainability analysis is done to determine how fast a CLT's portfolio of land and housing must grow and to determine how large it must become in approaching the point where the CLT can generate enough revenues internally to cover the cost of monitoring the provisions of its ground lease, managing resales, preventing foreclosures, and other stewardship responsibilities.[iii]

Many CLTs charge developer fees for each unit of affordable housing they are actively involved in developing. In addition, CLTs also charge a per unit fee for providing "marketing and outreach to potential homebuyers; managing waiting lists/lotteries; screening potential buyers for eligibility; coordinating homebuyer orientation and counseling prospective homebuyers; and working with local lenders to qualify low- and moderate-income buyers for mortgages." In 2008 the fee for these services was typically 3% of the sales price.[iv]

Operating support can also come from lease re-issuance fees which are collected when a CLT unit changes hands. These fees serve to cover some of the expense of managing the transfer of ownership and range from 1% - 6% of the resale price. They are either charged to the buyer just like a realtor's commission or added to the sale price. Obviously, younger CLTs that do not have a large portfolio and are too new to have turnover do not benefit from such fees, but once the size of the portfolio grows over time, these fees can become very helpful.[v]

CLTs are non-profit corporations, chartered in the states in which they are located. Most are also organized and operated in compliance with the "charitable" purposes set forth in 501(c)(3) of the federal Internal Revenue Code. This allows them to receive tax deductible charitable donations from individuals and from private businesses such as banks, credit unions, and corporations. Reports indicate donations bring in an average of 5% of a CLT's operating revenue, and yet, tracking donations can be difficult and time consuming. The main benefit of collecting donations is that these unrestricted funds can be used to cover operating costs. CLTs often hold fundraising events that serve the purpose of raising money and raising public awareness of the organization and its work. However, the net revenue generated may not be worth the time and energy staff put into the event when the event takes them away from other important work. In addition to fundraising and other donations, local industries in need of affordable housing for their workforce have sometimes funded CLT efforts. The most renowned example was a $7 million-dollar grant from the Mayo Clinic to a newly established CLT. Some CLTs have also successfully applied for foundation grants which target specific goals or provide startup funds for new programs.[vi]

Membership fees are yet another source of funding. Almost all CLTs are open membership organizations. Community residents who support the organization pay an annual membership fee ranging from $1 to $50. "Although membership income is a small factor in most CLT budgets, it can provide a predictable source that grows steadily as an organization matures. The Champlain Housing Trust (CHT) in Burlington VT, for example, has thousands of individual members who pay very modest membership fees (some as low as $1 per year), but CHT collects over $70,000 in membership fees annually, which covers about 5% of the organization's operating budget."[vii]

1.3 LCTC's Approach to Self-Sustainability

The LCLT has survived almost entirely from NPE mitigation funding. It is just beginning the work of grant writing and solicitation of donations. As a result, in October 2019 it was awarded a $35,000 grant from Fifth Third Bank to be used for strategic planning, designing a program to prepare renters for homeownership and creating a refreshed vision for the Davis Park neighborhood. The first grant priority is particularly timely. Strategic planning, which should involve a sustainability analysis, is part of the LCLT's critical path since KYTC and FHWA desire to bring closure to their involvement with the project and to ensure the LCLT sees a clear path toward successful self-sustainability.

In addition to the sustainability analysis, the LCLT can review all the ways CLTs create sustainability and adopt those that fit best with its mission and vision. It is noteworthy that the LCLT has started a membership drive targeting Fayette County residents who are concerned about affordable housing and want to support the LCLT. LCLT membership fees are $10.00 per individual and $25.00 per year for a family. Currently the LCLT has less than 1% of its budget funded by membership fees. A goal of obtaining 5% of its 2020 budget from membership fees would require a minimum of 1,005 individual members. Creating a substantial membership can assist the LCLT in many ways beyond collecting membership fees, and is worthy of attention, time, and software investments. The LCLT should also consider establishing a corporate membership with a higher membership fee.

Any plan for moving the LCLT into self-sustainability must include an increase in the number of land leases used for residential and commercial properties. The expansion of the LCLT land lease portfolio through homeownership units is the primary focus of this report.

The new program designed to prepare renters for homeownership with funding from the Fifth Third Bank grant has the potential to create synergy between Lexington-Fayette Urban County Government (LFUCG) and the LCLT and build out the affordable housing portfolio of both entities. It will, however, require LFUCG to focus more attention on homeownership opportunities and a willingness to capitalize on the benefits the LCLT can bring to its affordable housing program when used often and creatively.

The NPE Project Team foresaw the need for the LCLT's Board of Directors to consider additional funding sources and to grow its capacity beyond the 25-acre Davis Park neighborhood. The project team hoped to have fulfilled its commitments to the CLT by 2015-2017.[viii] While LFUCG made no commitment to the long-term sustainability of the then fledgling land trust during NPE project discussions, it has recently indicated it will support development in the mitigation area.[ix] LFUCG has called for the creation of policies that support and call attention to the LCLT's mission with the idea of using the LCLT as a way of delivering affordable housing beyond Davis Park; indeed, extending throughout Fayette County.[x]

The Imagine Lexington 2018 Comprehensive Plan went so far as to include the LCLT along with the Land Bank and Vacant Land Commission when recommending steps to "address the ongoing funding and identify methods for making sure these programs reach critical mass of assets needed to become self-sufficient".[xi] It must be noted, however, the 2019 Consolidation Plan retreated to a more tepid proposal to assist the LCLT in growing its portfolio, stating successful implementation of the NPE housing project *may* pave the way for other applications of the land trust model.[xii]

If embraced, this partnership could cover any affordable homeownership units developed using public funds.[2] Such a relationship would be a natural extension of the rapport established between LFUCG and the LCLT during the earlier phases of the Newtown Pike Extension Project and would fulfill the mission of the 2018 Comprehensive Plan.

The question is whether the establishment of a more robust relationship between LCLT and LFUCG is an appropriate, mutually beneficial strategy that will fulfill NPE-related project commitments and LFUCG's affordable housing goals simultaneously**.**

[2] It may also include rental and/or commercial units in the future, but that type of land use is not addressed in this analysis.

2. Traditional Affordable Housing Subsidy Methods

Home ownership is the primary asset for most people. This is one reason why right-of-way acquisition is viewed as so intrusive: it is an assault on the personal wealth of the family. This is particularly true of wealth held by low-income households, and for low-income minorities specifically because housing wealth is their only real asset.[xiii] Good government acknowledges the importance of homeownership and develops policies and programs to assist families with low incomes to become part of this investment in both family and community. However, until the 1960s, government policy did not include people of color in this national commitment to expanding homeownership. Rather, government policies were implemented that deterred and prevented minorities from owning their own home.[xiv] This history of discrimination had a direct impact on the decisions made in consideration of the Project Team's social justice initiatives for the Newtown Pike Extension Project.

2.1 How Homebuyer Assistance Programs Have Traditionally Worked

Most governmental policies and programs for assisting income-eligible households in purchasing a home have traditionally focused on reducing the amount of money a family had to borrow. This was and often still is accomplished by dispersing a second mortgage (or sometimes a grant) to the family using public funds at a very low or no interest rate. Families are not required to pay on the mortgage/grant, or they make only nominal payments. For every year the family lives in the home, part of the mortgage/grant is forgiven. At the end of the set term of the second mortgage — usually from five to fifteen years — the second mortgage is forgiven and/or the grant requirements are deemed fulfilled. When the house is later resold at a market rate, the family often makes a nice profit, pocketing both the public's investment and 100% of any appreciation in the house's value. This governmental approach is called "subsidy forgiveness."

Unfortunately, the public entity which originally created the affordability of the home, gained by a reduction in the mortgage amount, loses the home to market rate purchasers. If the home is to become affordable to the next income-eligible buyer, additional public investment will be required to reduce the amount of the mortgage payment for the new home buyer.

Other governmental programs loan money to the buyer with no (or nominal) monthly payments but require repayment of the subsidy when the property is resold to the next buyer at market rate. This is called "subsidy recapture." Even if all of the original subsidy is recaptured and put towards making the home affordable to second buyer, additional money will still be required due to the typical rise in housing prices. "Pioneers in affordable housing programs learned…without long-lasting affordability controls the impact of affordable housing programs was limited, as thousands of affordable units converted back to market-rate prices when the controls expired."[xv]

2.2 LFUCG's Affordable Housing Needs and Subsidy Programs

LFUCG currently employs two methods for subsidizing access to homeownership for income-eligible households. One is a *subsidy forgiveness program*. Under this program, during the first 10 years a homeowner lives in the home the loan is not forgivable. Over the course of the next ten years LFUCG employs pro-rated forgiveness with a portion of the loan being forgiven for each additional year the owner remains in the home. If the homeowner stays the entire term, the entire loan is forgiven.

LFUCG also has a *subsidy recapture program* for eligible buyers who are at the top end of the income eligibility limit. The homeowner makes monthly payments to pay down the loan. If the home is sold prior to the end of the term, LFUCG recaptures the remaining loan balance. With a small exception, homes previously subsidized in the LFUCG affordable housing program are or will be resold at market rate. If the home is to become affordable again, it requires a new outlay of public funds to reduce the mortgage for the second buyer.

LFUCG's affordable housing program currently has a portfolio of approximately 187 loans used to make homeownership affordable by way of a $30,000 down payment assistance loan to the purchaser. Prior to an investment in six LCLT homes, this was the entirety of LFUCG's affordable homeownership program, thus representing affordability created over a period of years.[3] Of those loans, 79 are deferred loans that will be forgiven at the end of the affordability period and 108 are repayable loans for which homeowners are currently making monthly payments. On average, 5 - 10 of those loans will mature every year. None of the 187 homes made affordable with LFUCG funding under the subsidy forgiveness and subsidy recapture programs will retain their affordability upon resale, however, the six LCLT homes will retain affordability because of the way the model works.

There is also information on the stock of affordably priced, owner-occupied housing in Lexington. According to Fayette County's Housing Demand Study, "Approximately a quarter of the homeownership units in Fayette County are priced above maximum affordability for households at or under 120% of the Area Median Income."[xvi] From 2011-2016 there were 10,991 homes that sold for less than $170,000 which is the maximum amount a low-to-moderate income family can afford (defined in the report as earning less than 80% of AMI). The report did not indicate how many of those, if any, were made affordable by public subsidy. The report also identified data indicating the number of homes that were selling for prices affordable to families of modest means might be shrinking, meaning less homes are available to that population, even when a subsidy is used. The number of homes sold at affordable prices dropped 4.1% during 2015-2017, when compared to 2011-2016 numbers.

"Fayette County is [also] home to a total of 4,843 income-restricted *rental* homes that are project specific (i.e., not including households with Housing Choice Vouchers)."[xvii] There is a stated difference in the 2017 number of 4,843 income restricted rental units and the 9,000 receiving rental assistance in the 2014 *czb* report. This difference in numbers is a reflection of not including the families receiving rental assistance through Housing Choice Vouchers in the 2017 number.

Even with the 10,991 affordably priced homes for sale and the 9,000 publicly subsidized rental units, Lexington is experiencing an affordable housing shortage. Counting all of Fayette County's subsidized units can be daunting, because both homeownership and rental units use a one-time subsidy to maintain affordability for a term of years (usually 20 years). Units are added each year, but units are lost each year as well. The total number of units is constantly and simultaneously growing and shrinking. According to the 2017 Housing Demand Study, Fayette County will still be short 4,400 affordable rental units in 2025 and the number of homes within reach for low to moderate income homebuyers is currently shrinking. Can we stop the losses? Is there a better way? What should future affordable housing assistance look like in Fayette County?

2.3 Owning Versus Renting

Homeownership has long been held as one piece of the American Dream. It provides numerous benefits, including increased residential stability, greater freedom to shape one's physical environment, the freezing of most housing costs, and the ability to build assets through pay-down of principal and home price appreciation. When families with low incomes are lifted into homeownership, neighborhoods may also enjoy improved diversity and equitable access to neighborhoods of opportunity.

[3] LFUCG awarded LCLT $210,833 from Kentucky's share of a fund created when the federal government and 49 state attorney generals, including KY, settled with five of the largest mortgage servicers for mortgage loan servicing and foreclosure abuses. LCLT used these funds to make the selling price (not the individual mortgage) of 6 homes affordable to buyers under 80% area median income (AMI). LFUCG does not hold any liens or deed restrictions on these funds, but the LCLT has preserved permanent affordability through its land lease.

Since homeowners move far less frequently than renters, they are more likely to establish meaningful social ties with neighbors and enjoy that sense of belonging to a community. "Owning a home means owning part of a neighborhood, and a homeowner's feelings of commitment to the home can arouse feelings of commitment to the neighborhood, which, in turn, can produce interactions with neighbors."[xviii]

A study sponsored by the City of Lexington acknowledges the effect that stable housing has on children, showing "a strong correlation between the frequency of moves during childhood and below-average performance in school. Studies have found that children who change schools frequently often have below-average math and reading scores and that these children and teens are significantly less likely to finish high school on time."[xix] In citing a Harvard housing study, the report notes children of homeowners have elevated math scores (up to 9% higher) and reading scores (up to 7% higher). The *Social Benefits* study mentions that all children's "access to economic and educational opportunities are more prevalent in neighborhoods with high rates of homeownership and community involvement."[xx]

Notably, a family's health, educational outcomes, and economic well-being are also influenced by *where* their home is located.[xxi] Lexington has recognized the location of a home — primarily its proximity to employment centers and public transit — is an important aspect of successfully making a transition from welfare to work.[xxii]

As desirable as homeownership is, it does have risks. Homes must be maintained in order for the family's investment to pay off. Lack of maintenance or the busting of a real estate bubble, as experienced during the Great Recession of 2006-2009, might leave a family with a home worth less than the original purchase price, or even worse, less than their current mortgage lien. Market demand may prevent selling a home at a time when an important move is required. Family emergencies can force a choice between medical needs and a mortgage payment. As a result, a family may decide they can't afford to become a homeowner, or they may buy a lower-quality home in a less desirable neighborhood. Lower quality homes require more maintenance making a home less affordable over time, putting both the family and their investment at risk. Furthermore, homeownership remains out of reach for many households that might otherwise aspire to become a homeowner because of high costs and/or credit requirements. Housing prices are higher now than the time preceding the Great Recession and credit requirements have become more stringent and many would-be homebuyers are unable to meet them. Faced with these risks and drawbacks, many local governments have adopted rental housing as their affordable housing priority, and to a significant extent this is understandable.

2.4 Lexington's Choice

In keeping with the findings of its report done by *czb*, LFUCG has followed the report's recommendation of increasing Lexington's affordable housing through rental assistance programs rather than through homeownership initiatives.[xxiii]

The *czb* report found roughly 15,000 non-student low-income households needed housing assistance in Lexington in 2014. In the shadow of the 15,000 families needing affordable housing, only 9,000 affordable housing units were available through public subsidy or private rate. The other 6,000 families could not find affordable housing and either overpaid or lived in substandard/overcrowded conditions. In other words, in 2014, Lexington was short 6,000 affordable rental units. The report anticipated the gap would grow by about 400 *each year* if the city did nothing. Hence, Lexington's tax base continues to suffer, and neighborhoods become less stable. The *czb* recommended a two-prong approach to resolve the problem: (1) catching up (closing the then current gap) and (2) keeping up (not letting the gap get any bigger). Specifically, in 2014 *czb* recommended first setting a goal of catching up within 11 years: completely closing the 6,000-unit gap by steadily and persistently providing more rental subsidy to working families, with certain standards and inspection requirements. After the initial 11 years, the focus would target efforts to keep up, adding new affordable units each year to keep pace with continued price escalation through proactive planning measures that leverage the market. Since the *czb* report was issued, Lexington has been able to keep up with affordable rental needs of 400 additional units every year but has made no progress in catching up with the 6,000-unit gap.

Of course, closing the gap costs money, and lots of it. For the 9,000 families who were being served either by assistance or were accommodated by the private market, the additional 6,000 families needing to be served would add $6,000 per household per year.[4] If the goal is not only to catch up, (i.e., serving the 6,000 not being served in 2014), but to keep up by serving the 400 additional families per year who join this growing pool, the cost would have been $38,400,000 *per year* in 2014.

The good news, according to the *czb*, was that Lexington benefits from a near infinite leverage ratio, noting that prior to 2014, Lexington was putting in almost zero dollars towards its affordable housing problem. The federal and state governments were paying nearly all of the tens of millions of dollars a year for the 9,000 households who received help. But what about the 6,000 households without assistance and the estimated 400 per year increase who will not be assisted in the future? Something must change.

Given Lexington's situation, the recommendation found in the 2017 *Locked Out* report calling for a vast increase in resources to expand the city's stock of affordable housing and an increase in the investment in affordable housing construction is not surprising.[xxiv] Is there a way to provide affordable housing to some of these 6,000 families using a model that is less expensive over time because it creates s permanent affordability? A model that doesn't require reinvestment of millions of dollars to serve the same families after the term of the funding? Beyond that, can some of these renters successfully and sustainably become homeowners?[5]

Professionals seem to think so. "…[G]iven the many benefits of homeownership … it is worth looking hard at whether homeownership can be modified in a way that substantially reduces the risks and drawbacks, while preserving as many of the benefits as possible."[xxv] Jeffrey Lubell believed that a CLT, one of four methods of delivering shared equity homeownership he considered, can guard against the risks of homeownership without removing the benefits.[6] Lubell found SEH models to be more efficient and effective when affordable housing is created by "scarce public funds as compared with large grants for affordable apartments or forgivable loans (which convert to grants over time) for homeownership."[xxvi]

First and foremost, it must be recognized that homeownership is not for everyone. But perhaps more renters could become homeowners if the terms of ownership were different. Because CLTs and other forms of shared equity homeownership allow families who might normally rent to move into homeownership, they are being utilized more frequently, with Davis citing Hocket et al. (2005) noting the "*time has come to rethink rental housing*." (p. 2). Hocket was not alone. The Center for Community Change, the Center for Economic and Policy Research, the Children's Defense Fund, the Community Learning Project, the

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[4] *czb* for the City of Lexington**,** KY, (February 2014) noted on p. 4 "Most critical of all as regards to a response [the question being, "what is the solution to closing the affordability gap?"] – no matter how the gap is closed – is that the unit cost of addressing this problem will be roughly $6,000 per year per household. Whether as a rental subsidy of $500 per month on average) per low-income working household, or as repayment of amortized debt taken on to construct new units, the per unit/per year scalable variable is $6,000."

[5] Another obvious question is, "Can rental units be provided in a way that ensures permanent affordability?" The answer is, "Yes". But that issue is not covered by the scope of this report.

[6] In addition to CLTs, Lubell also considered limited equity cooperatives, deed restricted properties, and shared appreciation loans as shared equity homeownership models. Shared appreciation loans have a history of being used by predatory lenders, however. Most advocates of CLTs, LECs, and deed-restricted homes do not consider shared appreciation loans a proper form of shared equity homeownership.

National Low-Income Housing Coalition, and the National Housing Conference of 2015 support more creative approaches that are more flexible and strengthen sustainable homeownership.[xxvii]

3. Community Land Trust: A Different Model of Affordable Homeownership, A Different Result

3.1 How CLTs Operate

CLTs use public monies and private donations to reduce the price of the home. CLTs allow families to purchase homes at below-market prices. In return for the subsidized purchase price, CLT homeowners accept a limitation on potential capital gains from the resale of their homes, maintaining their affordability for subsequent buyers.

> By creating a stock of homes that resell for prices that remain within the reach of lower income households, shared equity programs can serve a larger number of families for the same amount of subsidy dollars, when compared to programs in which families are provided grants to purchase their homes and then allowed to pocket these public subsidies and a hundred percent of their property's capital gains when they resell.[xxviii]

Shared equity housing does more than create permanent affordability. Both the rewards of homeownership and the risks of homeownership are shared. "By restructuring the "owner's interest" and introducing a stewardship regime that remains in effect long after a home is sold, shared equity homeownership does what market-rate homeownership often fails to do: it prevents the loss of affordably priced homes, especially when housing markets are very hot or very cold. Shared equity homeownership promises a better outcome for people of modest means: homes that last."[xxix]

The rationale for the reallocation of the increase in market value is directly related to the appreciating value of homes, and appreciation is due largely to a community's investment in roads, schools, upgrading of utilities and other infrastructure. These larger investments bring in retail, restaurants, and other business, which in turn, raise property values. Davis refers to this as the "wealth of the community." He says, "Because society is the cause of this wealth, society is justified in capturing it and using for the common good. They [SEH models] lock this socially created value in place, turning residential property into a permanent repository for subsidies invested and gains deposited over time by the larger community."[xxx]

> It is a better deal, too, for the larger community. When heavily subsidized homes are allowed to leak away, along with the public dollars and private donations invested in them, the generosity of government and charity is squandered. Their earnest attempt to address a community's chronic shortage of safe, decent and affordable housing is crippled. These losses are unacceptable, but they are not inevitable. Assisted homes can be made to last. Subsidies can be preserved. All it takes is a prudent dose of creativity and a farsighted willingness to rethink the way that homeownership is normally done.[xxxi]

Even when critics acknowledge the CLT model provides more homeownership opportunity to more families, the limit that is placed on the homeowners' "profits" on resale may strike some as patently unfair. Given the history of excluding African Americans from homeownership opportunities sanctioned by government policies such as red lining, exclusionary covenants, and preferential treatment for all white neighborhoods by banking institutions — to name only a few — this is a reasonable concern. Some critics allege that limiting an African American family's amount of equity when they bear the financial, social, and emotional injuries of historical discrimination may not afford the family a fair opportunity to build wealth and invest in homeownership. Especially when one is confronted with the truth that, "For every dollar of assets a white household has, a minority household has only 13 cents. This is the racial wealth gap."[xxxii] But, perhaps the best judges of the CLT model are the families who have purchased homes on CLT property. One land trust found "the community reaction to their program is very different when they have a participating homeowner explain the restrictions than when staff members provide the same information."[xxxiii]

It is true that buying a home through conventional funding without any restrictions on the home's use or resale is likely to be a more profitable deal for the purchaser in strong markets with appreciating real estate values. It is also true that buying a subsidized home that allows the purchaser to walk away with the subsidy is a good deal for homebuyers who are lucky enough to pocket these public subsidies on resale. Families build wealth more quickly that way. But CLTs are not designed to serve people with enough assets and income to buy a market rate house with conventional loans. They are designed to allow renters who *cannot* afford to become homeowners without assistance to achieve their dream of owning a home. They are also designed to ensure that subsidized homes remain available and affordable for other families who need assistance but cannot obtain it because of the shrinking availability of affordable housing funds and the shrinking availability of affordably priced homes.

Before serious consideration is given to upending the subsidy method used to deliver affordable housing in Fayette County, it is necessary to understand if CLTs deliver on their promises. There is data on that.

3.2 The Performance of CLTs

In evaluating the overall performance and effectiveness of the CLT model, it is reasonable to ask (1) whether CLTs do enable families who could not otherwise afford to buy and operate a home, (2) whether CLTs preserve affordability for future homebuyers, (3) whether CLT homeowners build wealth, (4) whether the stewardship regime of a CLT preserves security of tenure, and (5) whether CLT homeownership enables – or hinders – mobility. Each of these questions is considered below.

3.2.1 Expanding Access to Homeownership for Modest Income Families

Tracking Growth was a 2019 study of 58 shared equity homeownership programs encompassing 4,108 properties sponsored by the Lincoln Institute of Land Policy. Researchers found "95% of shared equity homes are priced affordably (mortgage payments under 30% of monthly income) for households earning 80% of area median income or below. In addition, nearly half of the shared equity homes are affordable to very low-income households who have incomes below 50% of AMI." The majority of purchasers are first time homebuyers; low-income (51–80% AMI); female-headed household; in their late 30s; and employed in office, retail, or service industries.[xxxiv]

Similarly, a 2010 Urban Institute study found: "The median incomes (in 2008 $) of households purchasing a shared equity home in all seven programs were well below the median family income (MFI) of the surrounding areas in which the programs operated. At the median, the programs sold homes to families between 35% and 73% of the HUD-determined area median family income. In addition to serving families earning well below the median income, these programs served a very high share of first-time homebuyers."[xxxv]

The LCLT typically works with buyers between 56-77% AMI. It has sold 12 homes since the first one sold in January 2016. The average selling price was $121,783, with a high of $132,834 and a low of $112,244. The AMI of home purchasers ranged from 77% to 56%, with an overall average of 64.6% AMI; three of the buyers were below 60% AMI.[7] Given these numbers, the LCLT has established it can develop homes to be sold at affordable prices.

[7] These figures are derived from CLT homeowners who were new to the neighborhood and did not benefit from project funding for housing affordability. It is noteworthy that the LCLT did serve a family at 18% AMI that benefited from project relocation monies — the home was sold for $42,000. Again, that was possible because of project relocation and mitigation funds. It would be difficult if not impossible to recreate in the normal course of CLT business. However, it does demonstrate the flexibility of the CLT model.

Another way an LCLT home is made more affordable to its owner is the manner in which property taxes are calculated. The rate of taxation is based on the limitations in value imposed by the resale formula, not on the FMV of the homes. A tax assessment controlled by the resale formula is both fairer and more affordable for LCLT homeowners. Every year, as one of its stewardship duties, the LCLT forwards to Lexington's PVA office an appraisal value indicating the FMV for the taxable year, and the value of the home (accounting for the limitation on market share) if the home were sold within that year. This information is used to determine how much equity the homeowner has earned thus far.

3.2.2 Creating Affordability for Modest Income Families

But do CLT homes deliver on their promise to retain home affordability continuously, family after family? It can be argued the affordability of the SEH model is a function of the level of subsidy more than the form of the model. In other words, a $50,000 subsidy for a $250,000 home will make that home affordable to the first buyer using either the CLT model or a forgivable/recaptured loan. In any of the three scenarios, the home is purchased with a mortgage loan that is below the home's market price. The critical difference is how the subsidy is employed. The traditional approach to subsidizing homeownership will use the $50,000 to make the mortgage affordable to the original buyer. In the subsidy forgiveness scenario, the $50,000 goes into the pocket of the buyer at the end of the affordable term, leaving the house at market value for the next buyer. In the subsidy recapture scenario, $50,000 is available to assist the next buyer, but there are no additional funds available for the increase in housing prices over time. An additional subsidy would be required to make the home affordable to the second buyer. With a CLT, by contrast, the $50,000, along with resale restrictions on how much of the increase in market value the homeowner receives upon resale, makes the home affordable to the original buyer and *keeps* it affordable for the second and future buyers.

Data similar to what is found in Table 1 was charted in a report prepared for the Annie E. Casey Foundation (using an annual growth of home prices of 6% and an annual growth of incomes of 3%), researchers calculated that "[o]ver a thirty-year period, a total public investment of $820,000 would be needed to ensure the continued affordability of this one home if assistance were provided in the form of homebuyer loans with no shared appreciation or interest component. However, under the shared equity approach, the same house could serve the same number of homebuyers over a period of 30 years at the same targeted level of income for a total municipal investment of only $50,000."[xxxvi] Using the same format — based on home sale increases for Fayette County and LCLT data — reveals a total public investment of $395,000 over 28 years would be needed to make one home affordable for 5 consecutive low income buyers under the traditional subsidization program, while the LCLT could accomplish this with a total subsidy of $35,000.

Table 1 Resale and Subsidy Comparison of LCLT and Traditional Programs

INITIAL SALE	Traditional Affordability Program using Homebuyer Loan (No Interest)	CLT Model using LCLT Data
Initial Market Value	$175,000	$175,000
Subsidy	$35,000	$35,000
Initial Purchase Price	$175,000	$140,000
RESALE IN YEAR 7		
Sale Price	$235,000	$155,000
Repay First Mortgage	$121,625	$121,625
Repay Public Subsidy	$50,000	$-

Sales Costs (6%)	$14,100	$9,300
Seller's Net Proceeds	$49,275	$24,075
Affordable Price to Next Buyer	$155,000	$155,000
Recaptured Subsidy	$35,000	$-
Additional subsidy required	$45,000	$-
Total subsidy for next buyer	**$80,000**	**$-**
RESALE IN YEAR 14	$330,000	$178,750
Additional subsidy required	**$71,250**	**$-**
RESALE IN YEAR 21	$465,000	$212,500
Additional subsidy required	**$101,250**	**$-**
RESALE IN YEAR 28	$655,000	$260,000
Additional subsidy required	**$142,500**	**$-**
TOTAL SUBSIDY INVESTED OVER 30 YEARS TO 5 HOMEBUYERS	**$395,000**	**$35,000**

Note: Data assumes 5% annual home price increase

A 2016 snapshot in time of study attributed to Grounded Solutions looked at 971 resales from 53 of the shared equity programs and revealed that homes were initially affordable to families earning 55.5% of AMI. On resale, they sold for a price that was affordable to families earning 53.6% AMI.[xxxvii] Notably, these numbers are almost identical to the 2010 study done by the Champlain Housing Trust mentioned below.

When studying long term and permanent affordability, researchers looked at: (1) the affordability level, calculated as the percentage of the AMI for households who could afford shared equity homes; (2) subsidy depth, calculated as a percentage of fair market price; and (3) housing costs, calculated as a percentage of household income. They found them to be similar between first purchases and resales.[xxxviii]

The Urban Institute found that the SEH programs (seven shared equity programs including three CLTs, two Limited Equity Cooperatives (LEC), and two deed covenant programs) in their 2010 study required between $40,000 to nearly $300,000 less than grant based programs at the point of resale in order to make a home affordable to the next buyer. They noted, "The overall savings is a function of the number of resales, but the per-unit savings for the programs in this study indicates that the total savings is substantial and underscores the cost-effective nature of the shared equity approach to promoting homeownership."[xxxix]

Upon resale, two programs in the Urban Institute study saw an increase in the cost to purchase the same home, 4.0% and 1.9% per year, respectively. Two other programs saw a decrease in the cost to purchase the same home, 1.6% and 0.7% per year, respectively. The remaining three sites increased by no more than 1.1% per year. This analysis determined the gain or loss in affordability by calculating the ratio of the minimum income required to purchase a home to the area's MFI, focusing on the change in the ratio between when each home was purchased and sold. Findings indicated the ratio decreased for two sites, two sites had a small increase (0.3% and 0.9%), one had a modest increase of 1.7%, and two had larger changes in the ratio (>10%). "However, even in communities where some erosion of affordability occurred, homes were resold at prices that remained affordable to buyers well below the area median income. In sum, our analyses of changes to required income (whether measured in absolute or relative terms) reached the same conclusion: resold units across all of the programs have remained affordable to households with incomes well below the area median."[xl]

In another 2010 study of 424 resale-restricted, owner-occupied houses and condominiums developed by the Champlain Housing Trust (CHT), a CLT in Burlington, Vermont between 1988 and 2008, researchers found, "… [I]n its first 25 years, CHT helped 629 families to gain access to homeownership, none of whom had sufficient wealth and/or sufficient income to acquire a home on the open market without CHT's assistance. All of the households served by CHT earned less than 100% of Area Median Income (AMI); 82% of them earned under 80%. All of them secured fixed-rate mortgages and housing costs totaling no more than 35% of their income. Affordability not only continued between successive generations of low-income homebuyers but improved — even when the favorable effect of falling mortgage interest rates was removed. The average CHT home was affordable to a household earning 56.6% of AMI on initial sale. On resale, it was affordable to a household earning 53.4% of AMI – a 5.65% gain in affordability".[xli]

Another CLT in Duluth Minnesota, One Roof Community Housing, had a portfolio of 276 resale-restricted, owner-occupied homes with a purchase price of $82,000 (Fair Market Value of $120,000). These homes were affordable to households earning 42% of median income at the time of purchase. 118 homes have resold and at the time of resale they remained affordable to households at the same level of income.[xlii]

Given the utilization of subsidy forgiveness and subsidy recapture employed by LFUCG at this time, no home that has resold remains affordable to modest income families without additional subsidy. The LCLT has not had a home resell since its inception, but current data confirms the CLT model delivers on its promise of creating and preserving affordability *permanently*.

3.2.3 Generational Wealth Creation

Generically speaking, low income homeowners are wealthier than their renting counterparts. This is due not only to housing equity, but low-income homeowners also have higher non-housing wealth than renters. What is not clear is whether CLTs are effective at building wealth for individual families or whether these homeowners have more opportunities for financial gains than renters do. One study determined low income renters, regardless of race, have no wealth at all.[xliii] No one has ever created wealth for themselves by making an ordinary rental payment.

The federal government acknowledges that measuring wealth accumulation as a result of homeownership has been difficult to track. In 2004, a Housing and Urban Development study noted,

> …owners often transition back to renting and, particularly among low-income minority families, do not regain owner-occupied housing. Specifically, for those low-income minority residents who transition out of owning only 37% return to owner status. For high-income white households this percentage is approximately 58%. This is a critical issue in that housing wealth accumulation is impacted by both whether or not a family returns to homeownership and how quickly this process occurs. Second, there are significant differences in the movement to a new house (typically of higher value) with associated impacts on housing wealth accumulation. For low-income minority households only 22% actually transition to a second home and of those, about 14% move to a third owned home during the observation period. For high-income white families the percentages are higher, namely 33% and 28% respectively. ... For high-income white families, average annual housing wealth accumulation due to appreciation (ignoring the equity down-payment and forced savings through amortization) is $4,460 dollars for high-income white households and $1,712 for low-income minority families. It is critical to recognize that the numbers for annual housing wealth accumulation compare very favorably to the actual accumulation of non-housing wealth by families over the same period. For high-income white households the average median level of non-housing wealth accumulation is $2,650, while for low-income minority household's it is, quite simply, $0.[xliv]

CLTs and other forms of SEH tout their ability to build wealth for the families who purchase a home. But the purchase has restrictions: no windfall by receiving the public investment at the end of the affordability term and a limitation on capturing the increase in market value, which any other homebuyer, including homebuyers of traditional affordable homes, experience. Are these limitations worth it? When considering this question, the first point to be made is the simple fact that but for the public investment or private donations, CLT homeowners would not be able to purchase any home.

CLTs provide families an opportunity to build wealth via the homeowner's share of the increase in market value at resale, the equity built from the down payment, and by paying down mortgage principal. "If we assume our hypothetical buyer took out a mortgage at 5 percent interest, the buyer would have paid off $20,129 of its $200,000 mortgage after six years. Adding this to the $7,500 in home price appreciation, the buyer walks away with $27,629, more than two and half times the buyer's original $10,000 investment."[xlv]

But hypotheticals are just that. Studies have proven that homeowners of SEH properties do build wealth. The 2019 Lincoln Institute for Land Policy study found that six out of ten homeowners of SEH homes had built up enough equity upon resale to purchase a home in the conventional market. With an average down payment of $1,875, these SEH homeowners realized an average of $14,000 in wealth accumulation upon resale.[xlvi]

A 2016 study credited to Grounded Solutions examined wealth creation in the resale of 674 SEHs. They found that the average initial investment by a homebuyer was $2,355. At resale, "…they recouped their down payment, collected an average of $6,714 from the amortization of their mortgages, and earned an additional $6,550 from appreciation. Had they invested their original down payment in the stock market instead, they would have earned only $33 in appreciation over the same period."[xlvii]

In the Urban Institute's 2010 study, researchers found the median rate of return for the resale of a home ranged between 6.5% to 59.6%.[8] The median rate of return for all homeowners involved in a resale, except for one program included in the study, was greater than the return that the family would have realized if they had rented a unit and invested their down payment in either the stock market or purchased a 10-year Treasury bond. Had these families put their money in an S&P 500 index fund, they would have earned return between -0.1 % and 10.6 %; a 10-year Treasury bond would have earned them between 4.4 % and 7.8%.[xlviii]

A study of the resale of CHT homes in Burlington, Vermont found 97 out of 205 families gained equity by paying down their mortgages. The only cases in which this was not true were those homes that changed hands because of a foreclosure or a deed-in-lieu of foreclosure. In addition to wealth building via mortgage pay-down, 169 out of 205 families also gained equity by capturing a portion of the increase in the market value of their homes.[xlix]

> The average CHT homeowner, reselling after 5.4 years, received $7,889 in equity, as her share of the home's price appreciation. Because CHT's homeowners make only a small initial investment, this gain represented an average annualized Internal Rate of Return of over 25 percent. In addition to their share of appreciation, the average CHT homeowner also earned $4,294 at resale because of the pay-down on her mortgage, plus $1,348 as a credit for capital improvements made to the home after purchase. While the resale restrictions on CHT's Houses and condominiums succeeded in maintaining the affordability of these shared equity homes, as they were transferred from one income-eligible homebuyer to another, the average homeowner who left CHT still walked away nearly $14,000 richer than she had been when first entering CHT's homeownership program. Compared to other asset building strategies realistically available to lower income households, CHT's homeowners accumulated family wealth much faster and with

[8] The high rate of return is due to one of the programs having a resale formula generous to the seller. Kenneth Temkin, Theodos, B., & Price, D. (2010), p. 17.

> less risk. The average buyer invested savings equivalent to 58 percent of the asset poverty level and received equity at resale equivalent to 284 percent of the then-current asset poverty level. She was able to accumulate wealth far beyond what Individual Development Account (IDA) participants typically save and to move on to unassisted homeownership at a higher rate than is typical among IDA programs.[l]

Accordingly, a LCLT comparison of original and October 2019 appraised home values for initial non-resident families of Davis Park shows an average $4,310 increase in home value for the homeowner (considering the home seller receives 25% of the increase in value).

CLT families, including LCLT families, can build wealth, but not as rapidly as conventional homeowners or other low-income homeowners purchasing a home through a traditional affordability program who receive a windfall of public investment at resale. This is a critically important issue, particularly to skeptics of the CLT model. Its significance demands CLTs take wealth-creation seriously and make it a measurable goal of any CLT program. But it does not mean the CLT model should be discarded, thereby limiting the number of households that can be lifted into successful homeownership.

3.2.4 Security of Tenure

A major challenge to maintaining conventional, market-rate homeownership is avoiding delinquency and foreclosure, which carries with it the positive result of preserving neighborhood stability. Owners of CLT homes, however, in addition to having a wealth building mechanism in the form of homeownership which comes to fruition at the time of re-sale, also "benefit from the stability and security that comes from having direct control over a significant asset – their home."[li]

There are critics that have pointed out that a CLT homeowner doesn't own the land under their home, suggesting that this limits their control over their personal living space. A few of the model's most derogatory critics have suggested that the CLT's ongoing ownership of the underlying land makes for "second-class" homeowners, a modern-day form of sharecropping.[9] The rebuttal from CLT advocates and practitioners is that the CLT's 99-year renewable ground lease (combined with the lessee's ownership of his or her house) bestows a majority of the sticks in the "bundle of rights" of homeownership, far more than any residential renter enjoys. But do these limitations on ownership cause families to move more? Conversely, does a CLT's stewardship services promote stability, helping families stay in homeownership?

Renters are found to move every 2.1 years; homeowners on average move every 8.2 years. The 2010 Jacobus/Davis study found the average rate of tenure for families owning SEH is 5.44 years, while somewhat shorter for the owners of condominiums (4.96 years) and somewhat longer for the owners of single-family houses (6.32 years). The average length of tenure among the 258 owners of homes that have never resold was 6.73 years, again somewhat shorter for condominiums (5.47 years) and substantially longer for houses (8.7 years).[lii] Put another way, the annual number of families who move that own shared equity homes is 2.6%. By comparison, 6.9% of all homeowners and 14% of all households nationwide move each year.[liii] Furthermore, when shared equity families sold their homes and moved, 58% choose to purchase again.[liv]

The LCLT opened the Davis Park Apartments in 2014, and from 2014 through 2019 the average occupancy was 3.5 years for the 14 renters. The turnover rate for LCLT's rental units is 1 person per year, or 7%,

[9] Sharecropper, a member of a low social class of farm workers who receive a share of the value of the crop and who must pay the farm owner for seed, tools, food, and a place to live, [even while working the farm.] Cambridge Dictionary. (n.d.). https://dictionary.cambridge.org/us/dictionary/english/sharecropper

which exceeds the national average for length of tenure of renters. For sake of comparison, there has been no turnover in homeownership since residents first moved into Davis Park homes in January 2016.

What about foreclosures? Two studies referenced in the following foreclosure discussion focused solely on the CLT model rather than shared equity cooperatives or deed restricted properties. (Thaden, 2010, 2011). One study referenced below did not focus on any SEH model (Reid, 2004), while other studies cited below focused on all three SEH models.

The most recent study by Wang, Cahen, Acolin, and Walter (2019) discovered that over 99% of shared equity homes avoid foreclosure proceedings.[lv]

The first Thaden study published in 2010 focused on CLT homes in 42 CLT programs with an aggregate of 2,173 homes. The study was performed in 2009: a significant year due to foreclosure rates skyrocketing. The economy had a toxic brew of subprime loans (43%), high unemployment rates (15% for blacks, 11.3% for Hispanics and 8% for whites), and 40% of low-income households spending over 50% of their income on housing.[10]

Notably, CLT homebuyers fared well in comparison to the nation as a whole. Mortgage Bankers Association (MBA) loans in conventional homeownership situations were 4.3 times more likely to be seriously delinquent than CLT mortgages and 5.9 times more likely to be in the process of foreclosure than CLT homes. By type of loan, 30.56% of MBA subprime loans, 7.01% MBA prime loans, and 1.62% CLT loans were seriously delinquent at the end of 2009 and 15.58% MBA subprime loans, 3.31% MBA prime loans, and 0.56% CLT loans were in the foreclosure process during the same time period.

CLTs cured 51% of mortgages that were ever seriously delinquent or in foreclosure in 2009, yet only 1 out of 3 CLTs received any external funding for foreclosure prevention activities for that same time period. According to Thaden (2010), a global rating agency defines cure as the percentage of delinquent loans returning to a current payment each month. CLTs define cure as resolving impractical financial situations for their homeowners, rather than solely making mortgage payments current.[lvi]

The cure was obtained by stewardship which took the form of, "…facilitating short-sales, offering financial counseling and referrals to other financial services, providing direct loans to the homeowner, arranging a sale and purchase of a less expensive unit, and working with the homeowner and lender to arrange loan modifications."[lvii]

A subsequent 2011 Thaden study focused on delinquency and foreclosure rates among 3,143 CLT units. The comparison was made again between CLT homes and market-rate housing as reported by the MBA. This study found that 1.30% of mortgages held by CLT families were seriously delinquent or in foreclosure in 2010. There was a delinquency rate of 8.57% in conventional markets. Mortgages of CLT families actually in foreclosure were at 0.46%, where 4.63% of market rate home mortgages were in foreclosure at the same time (end of 2010). Between 2008 and 2010, seriously delinquent rates among CLT families declined every year. In the conventional market, delinquency rates increased from 2008-2009, with a slight decrease from the end of 2009-2010. As an example of CLT stewardship in action, the study reports 82% of CLT families who were delinquent on their mortgages either sold their home with the assistance of a CLT or kept their home with financial assistance and counseling from their CLT.[lviii]

> When a lender in the first mortgage position forecloses on a home owned by a resale-restricted homeowner, CLTs typically have the right of first offer or first refusal to

[10] 2009 witnessed an unprecedented number of foreclosures. 2.8 million properties were foreclosed on that year, a 21% increase from 2008 and a 120% increase over 2007. See Thaden, (2010), p. 1.

> reacquire the foreclosed home from the lender. Furthermore, most CLTs do not allow their homeowners to mortgage the underlying land. A lender who takes possession of a CLT home through foreclosure, therefore, does not typically take possession of the land as well, giving the CLT considerable leverage in negotiating the future disposition of any foreclosed home. Despite 45 completed foreclosures over the entire history of the organizations included in the subsample, there were only five instances where a foreclosure resulted in a home being lost from a CLT's portfolio of permanently affordable, resale-restricted, owner-occupied housing.
>
> CLTs are not only enabling entry into homeownership by lower income and minority households; they are also protecting the homeownership and wealth building opportunities that they and their public-sector partners have worked so hard to create. In the world of CLTs, attaining homeownership is perceived as only half the battle; homeownership must be *sustained* for a CLT to consider its program a success.[lix]

In Reid's 2004 study, completed just *prior* to the Great Recession and in the middle of the dot-com bust, she found that 64% of all low-income homeowners (that is, those in conventional, non-CLT homes) remained so after 2 years, and only 47% did so after five years. When analyzed for race, less than 50% of low-income minority families remained homeowners after four years, and only 60% of low-income white families owned their home after four years. This was, in part, due to lenders encouraging buyers to take on a higher income-to-debt ratio, with many spending 50% of their monthly income on the mortgage payment. Reid did not distinguish SEH home buyers from purchasers using the forgivable loan/grant programs, or other forms of financing or ownership. In fact, it is unclear if she knew of the distinction. Interestingly, she also found low-income home buyers are at greatest risk of returning to the rental market within the first three years of homeownership, but after that, the risk drops off.[lx] By contrast, a study of SEH programs, which includes CLTs, found over 90% of buyers were still homeowners after 5 years.[lxi]

Just *after* the Great Recession in 2011, analysis of data provided by a large sample of CLTs found 0.46% of CLT homes were in foreclosure and 1.3% of homeowner loans were seriously delinquent. These rates were compared to data from the Mortgage Bankers Association which showed a foreclosure rate of 4.63% and a severe delinquency rate of 8.57%. CLTs are known for their commitment to stewardship which involves remaining in a partnership with families after the home is purchased, as well as looking out for the home itself.[lxii]

As previously mentioned, the CLT program operated by the Champlain Housing Trust in Burlington, Vermont had 9 foreclosures among the 629 families who purchased home between 1984 and 2008 — a cumulative 25-year foreclosure rate of 1.43 %. It was noteworthy that the CHT program did not lose any of these homes from its portfolio. Instead, it was able to retain/recover the units and sell them to other income qualified families.[lxiii]

Davis, in commenting on the Urban Institute study, noted a review of CLT mortgages during 2008-2010 revealed:

> A full 15 percent of all Federal Housing Administration loans originated in 2004 had been delinquent at some point by 2008, and 4.2 percent of them were currently in foreclosure. By contrast, shared-equity homes in foreclosure at the time of the Urban Institute study ranged from 0 percent in three of the programs to "highs" of 0.4 percent, 0.5 percent and 1.1 percent in the others.
>
> From 2008 to 2010, CLT mortgages consistently posted much lower rates of serious delinquency and foreclosure than the pool of MBA mortgages.…. When the American

> economy was at its worst, the stewardship regime overseen by CLTs was at its best, preventing the loss of shared-equity homes and outperforming conventional homeownership by a wide margin.[lxiv]

Currently LFUCG has no formal method of tracking turnover or foreclosure rates for Lexington families receiving assistance for affordable home purchases, although it does get notified when affordable housing properties with LFUCG loans are sold.

In summary, "The nation has tried expanding homeownership opportunities by relaxing lending standards and by using creative subprime financing strategies that do not ensure long-term sustainability. Shared equity homeownership represents a safer and more sustainable approach to affordable homeownership that, if adopted widely, could provide families with meaningful alternatives to the risky subprime financing that contributed to the foreclosure crisis and resulting economic meltdown."[lxv]

Data currently available persuasively shows CLTs deliver on their promise to offer families stability by effectively supporting them through hard financial times and preventing foreclosures. Collaterally, CLTs show tenacity in preserving public investment in affordable housing by protecting the loss of the affordable units during hard times.

3.2.5 The Mobility of CLT Families

One assumes that buyers will always prefer a good deal on a market rate home using conventional financing: no strings attached. That may be the case for people who can enter into that market rate world. The ideal situation is for CLT families to be able sell their homes and move into other housing and neighborhoods of their choice, without being stuck. However, should we also assume there is no market, or at least no strong market, for homes that are burdened by eligibility, occupancy, and affordability restrictions? Should we expect families who buy a CLT home to be trapped because they will never be able to afford to relocate to other neighborhoods or move into the market rate system? Current data tells a different story.

Sixty percent of shared equity homeowners use their earned equity to eventually purchase a traditional market rate home.[lxvi]

Davis and Jacob noted:

> Several studies have found that roughly half of all low-income, first-time homeowners revert to rental housing within five years of buying a home. By contrast, fully 90 percent of CHT homeowners remained owners five years later, either continuing to occupy a CHT home or having acquired a market-rate after leaving CHT. Seventy-three percent of CHT's sellers purchased another home when they moved out of the shared equity home they had purchased from CHT, including 5.7 percent who bought another CHT home and 67.4 percent who moved into market-rate homes.[lxvii]

The CLT model makes it easy for families to sell their home because a CLT retains the ability to repurchase the home via the terms of the ground lease. Typically, the repurchase does not occur until a CLT has another income eligible buyer lined up. The CHT has occasionally repurchased a home that needed major rehabilitation and done the work while looking for another low-income purchaser.[lxviii]

The average time on the market for a home in Lexington is under two months. It's impossible to compare the marketing time of market-rate homes with the marketing time of subsidized homes because of the education and financial status reviews placed on applicants for affordable housing. Habitat for Humanity has approximately 400 applicants each year for their homeowner program. On average, only 10 of these families make it through their 18-month to 2-year qualification process.

Notably, the LCLT has 20 applicants for 2 future homes. According to staff, since January of 2017 the LCLT has received 51 applications to become a homeowner and 31 Inquiry Forms to initiate the application process — an overwhelming response without any formal marketing of the LCLT. It would be exciting to see what could happen if LFUCG and the LCLT joined forces to develop and market permanently affordable homes.

4. Benefits CLTs Offer to Local Government Affordable Housing Programs

Because of an ever-growing gap between housing prices and household incomes and because of the loss of existing affordable housing due to the use of forgivable loans/grants, there is a crisis in the need for affordable housing in many cities and a policy priority among some city and county governments for preserving the public's investment in affordable housing.[11] Lexington is not immune from this crisis, but is now embracing the need to solve it as a priority.[lxix]

4.1 Synergy: Affordable Housing Partnerships and the Impact on LFUCG

As mentioned in Chapter 1 of the current report, the LCLT partnered with Habitat for Humanity on its first homeownership home for a person who had lived in the neighborhood for over 70 years. This person became a homeowner for the first time as a result of that partnership. Can this example be expanded to improve the larger affordable housing program in Fayette County? Can permanent affordability be embraced by other affordable housing developers in order to supplement and not supplant their continued efforts to bring permanent affordability to LFUCG's affordable housing program? If so, what would it look like and why try?

Rachael Childress, director of Lexington's Habitat for Humanity chapter, indicated in a 2019 interview an eagerness to partner with the LCLT on new homeowner construction. Their previous collaborations were very positive, with compromises being made by both organizations in order to provide a home to a family with an extremely modest income. Such a partnership would give the LCLT the ability to serve more families who are below 60% of AMI, thus expanding their service portfolio. It might also allow LFUCG to adopt the LEC model, which can serve families that may have more difficulty with moving into ownership of single-family homes. Habitat was interested in learning more about how the LEC model can be employed for multi-family housing developments. When asked why a LCLT/Habitat partnership hasn't occurred more frequently, the answer from both organizations was a lack of land. National Habitat for Humanity leaders have called for their local chapters and CLTs to partner and express concerns about the loss of affordable housing units.[lxx]

Locally, Habitat was willing to go so far as to advocate the idea that permanent affordability should be LFUCG's preferred model. The preference should be adopted in such a way as to encourage but not preclude developments which do not have permanent affordability from LFUCGs housing program. "There is not enough quality affordable housing available and Lexington is losing units every day. If this doesn't change, there will be a group of people who will never be able to afford to live here, and that is a detriment to everyone who does live here."[lxxi]

REACH has a primary focus on home rehabilitation and resale rather than new construction. This is primarily due to the lack of land available in Fayette County for affordable housing. They service Fayette and surrounding counties and have constructed 20 new homes in Fayette County since 2006. They are interested in working with the LCLT on homebuyer and homeowner education and housing development and are open to other partnering opportunities. REACH leadership suggested a one-day summit for all affordable housing developers and community leaders to discuss opportunities and barriers to partnerships within the affordable housing community.

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[11] The Census Bureau defines housing costs for owner-occupied units as mortgages, taxes, hazard insurance, utilities, and homeowner's association or condominium fees; while renters' housing costs (gross rent) are defined as rent and utilities. United States Census Bureau. (n.d.) *Housing Cost and Housing Quality Fact Sheet.* https://www.census.gov/housing/hsgcostfactsheet.html.

In addition to facilitating more development for partnering organizations, encouraging partnerships between the LCLT and other affordable housing developers would allow data tracking via the LCLTs HomeKeeper software,[12] giving community leaders and nonprofit investors solid information on the efficacy of affordable housing programs in Fayette county. Local affordable housing developers are willing to participate in these types of partnerships.

4.2 Keeping Affordable Housing Portfolios Stable

Data proves CLTs deliver on their promises of permanent affordability and stewardship that creates security for homeowners. But why should LFUCG embrace this model?

The CLT model rarely loses an affordable unit to market rate. However, a CLT does retain affordability for second, third, and beyond homebuyers without additional monies needed to make the same home affordable buyer after buyer. These two realities create a defining moment for cities. Data about the truth of permanent affordability is critical not only because it proves a CLT (and other SEH models included in the studies) delivers on its promise of permanent affordability, but it also forces the realization that *more* families can be served with the same dollars now being spent through the traditional affordability programs (forgivable loans/grants and recoupment programs). "The supply of resale-restricted, owner-occupied housing is not diminished every time another subsidized home is resold. Instead, the supply increases with every new home that is produced and subsidized, expanding access to homeownership for a growing number of people."[lxxii] In fact, recent calculations performed by NCB Capital Impact suggest the model can make a national difference in overall asset inequality. "Simply investing current homeownership resources in a more lasting way could build a stock of permanently affordable homes that is large enough to provide predictable asset building for a significant share of lower income households."[lxxiii]

In advocating for homeownership through SEH over rental programs, Lubell conducted a thought experiment on this very topic. He hypothesized about how many families could be served through the SEH model compared to the traditional affordable housing programs (forgivable loans) over a period of time if the homes sold and resold every six or twelve years. He calculated that — based on the assumption that households move every 6 years — SEHs could serve an estimated 1 million families over 30 years and 2.5 million over 50 years as compared to the traditional grant program which would serve 300,000 families over 30 years and 500,000 over 50 years.[lxxiv]

A 2009 study enlightens us with real numbers:

> From 1988 to 2008, the Champlain Housing Trust, or CHT, in Burlington, Vermont, helped 357 families purchase shared-equity homes that were resold one or more times, using $2,172,207 in public subsidies. Examining these resales, CHT posed a question similar to Lubell's: How many families would have been served with that same amount of money if those same homes had not been part of CHT's stewardship regime — that is, if homeowners had been allowed to pocket all of those subsidies on resale, along with all of the appreciation? The answer was that only 152 families would have had access to homeownership, instead of the 357 who were actually served.

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[12] HomeKeeper is designed for local housing program administrators, but also collects performance data that is forwarded to a national data hub which aggregates the data and generates social impact reports. HomeKeeper is a HUD-approved Housing Counseling Management System. It provides tracking for Property / Real Estate Information, Grant and Loan programs, Application and Homebuyer Information Management, Eligibility Certification Documentation, Owner Monitoring and Compliance Tracking, Resale Price Formula Tracking, Loan and Subsidy Tracking, Program Management and Evaluation Reporting, Workshops, and HUD 9902 Housing Counseling quarterly reporting. See https://myhomekeeper.org/tour/features/.

> CHT's researchers then examined the data from the opposite side. They asked: How many dollars in additional government assistance would have been required to serve the same number of families (357) at the same level of income (68 percent of area median income) if CHT's homes had been sold and resold under a conventional homeownership assistance program? The answer was $10,584,003 — nearly five times the amount of public investment that had actually been needed.[lxxv]
>
> By preserving the affordability of specific homes, the CLT model can be used to ensure that low- and moderate-income households have access to affordable homes in neighborhoods with good schools or that are likely to experience gentrification, such as high-demand neighborhoods near public transit stations or job centers.[lxxvi]

Further, once a CLT has an affordable home in its portfolio, they have a track record of keeping that home in their portfolio, even during difficult times. In Thaden's 2010 study, she found that "[p]rior to 2009, out of the 42 organizations, only one unit had lost its resale restriction and resulted in the loss of the land from the organization's portfolio since organizational inception. This was attributed to the bank being unwilling to negotiate with the organization. Also prior to 2009, only one additional RRR [multi-unit home] lost the resale-restriction due to foreclosure. This was attributed to lack of notice from the bank."[lxxvii]

The importance of stable homeownership to municipal health should not be underestimated. Most cities get revenue from property taxes (assuming steady home value appreciation). Stable homeownership protects cities from additional spending on social services which are not needed when families live in decent and safe homes in stable neighborhoods. Conversely, the costs of unsustainable homeownership found primarily in low-income and minority neighborhoods can require a city to increase police presence and fire service needs, pay costs for inspections and the razing of vacant properties, and pay legal and other fees involved in foreclosing on those properties. Cities also accumulate losses related to unpaid property taxes, unpaid utility fees, and a declining property tax revenue stream if nearby property values decline. Thaden referenced two studies done by Apgar and Duda wherein they "modeled the costs of a foreclosure to the City of Chicago under different scenarios and found that more than a dozen agencies could be involved in over two dozen activities, which were estimated to cost the government up to $34,199 per foreclosure" in 2005. Their previous 1995 study "estimated the cost to the cities of Minneapolis and Saint Paul for the foreclosure of houses financed with FHA mortgages and found that municipal losses were approximately $27,000. If foreclosure rates are lower for CLT homeowners than homeowners in the conventional market, then CLTs may directly prevent costs for households and indirectly prevent these losses for lenders, neighborhoods, and municipalities."[lxxviii]

In the study done by the Lexington Fair Housing Council the cost of foreclosure on the entire neighborhood was noted: "As Immergluck and Smith (2006a, 2006b) have shown, each additional foreclosure within one-eighth of a mile of a single family home results in roughly a 1% decline in the value of that home. A 1% increase in the foreclosure rate at the Census tract scale is expected to increase the number of violent crimes in that area by 2.33%. That is, regardless of the cause of a given foreclosure, the negative effects of foreclosure extend far beyond those directly involved in the original transaction".[lxxix]

Habitat for Humanity International is encouraging its local affiliates to adopt the shared equity homeownership model with permanent affordability in lieu of its previous practice of using forgivable loans.[lxxx] Habitat recognized the dwindling supply of public affordable housing money. There is also a reduction in monies available through charitable giving. Those harsh realities are now coupled with the fact that building sites are scarcer and more expensive to affordable housing developers. There is also a loss of affordable housing units themselves, caused by the expiration of short-term affordability controls and the gentrification of neighborhoods that once offered homes on the open market which were affordable to families with modest incomes. This bleak assessment prompted Habitat to call for a paradigm shift in how affordable housing should be offered: dollars and homes that last.[lxxxi]

In Lexington, the LCLT has 14 rental units built on its land using Low Income Housing Tax Credits (LIHTC).[13] During the term of the tax credit investment (15 to 20 years), the LCLT receives a modest ground lease fee. In typical LIHTC developments, at the end of the term the units are the property of the developer and can be rented at market rate. For that reason, the NPE project ensured the units would remain affordable by purchasing the remainder interest in the properties. The units will become LCLT properties and added to its portfolio, but most importantly, they will remain affordable with no additional investment of public dollars or charitable giving. The cost for this investment for permanent affordability of all 14 units was $80,000, or an average *one-time cost of $5,714 per unit*. This creates permanent affordability in each rental until as compared to the *$6,000 per rental unit each year (2014$)* LFUCG is spending.

Limited Equity Cooperatives, particularly when built on CLT property, can accomplish the same permanent affordability but with a significant advantage: instead of being a renter, as a shareholder in a cooperative there is an owner status that includes the ability to build equity. Perhaps a simpler way to accomplish the goal of multi-family structures providing homeownership opportunity is condominiums built on CLT property. A CLT owns the ground and the common areas of the structure, and each family purchases a condo. The point of these examples is to emphasize the CLT model can provide varied ways to create permanently affordable housing for families of incomes below 80% AMI. CLTs provide a way to serve more families with the same level of funding, which should be the goal for any municipality's affordable housing program.

The CLT model has flexibility. While it can be used to stabilize a neighborhood when home market prices are too high, it can also be used when home market prices are too low. The 24:1 CLT in a St. Louis suburb built a commercial structure on the property and leased it to a grocery store. Unlike many CLTs who lift families into homeownership in locations where land and housing prices are high and unattainable, this CLT is developing rental homes and commercial space in order to prevent the *bottom* from dropping out in local housing and retail markets. The Sav-A-Lot store located on their property is the third most profitable Sav-A-Lot store in the country. Because of the forethought of the 24:1 CLT, the property provides a vital service to this low-income neighborhood and generates income which aids in the financial stability of the CLT.

4.3 Protecting Public Dollars and Private Donations

Cities are faced with the uncomfortable truth that "[u]nless augmented by additional infusions of public capital, a shrinking subsidy pool will assist fewer homebuyers every year. … Unlike the situation created by policies and programs that allow a homeowner to claim public subsidies at resale (subsidy removal) or return them to the public agency that provided them (subsidy recapture), the CLT locks those subsides in place (subsidy retention)."[lxxxii]

As Davis (2010) points out:

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[13] In this program, investors can claim tax credits on their federal income tax returns which allows the housing units to be made available to income qualified renters at a reduced rate. Developers of LIHTC units are required to set aside at least 40 percent of the units for renters earning no more than 60 percent of the area's median income (the 40/60 test) or 20 percent of the units for renters earning 50 percent or less of the area's median income (the 20/50 test). These units are subject to rent restrictions such that the maximum permissible gross rent, including an allowance for utilities, must be less than 30 percent of imputed income based on an area's median income.
See Office of the Comptroller of the Currency. (2014, March). *Low-Income Housing Tax Credits: Affordable Housing Investment Opportunities for Banks.* https://www.occ.gov/topics/community-affairs/publications/insights/pub-insights-mar-2014.pdf

> Affordable prices are lost when the owners of publicly assisted, market rate housing are allowed to resell their homes in a rising market for the highest possible price, pocketing 100 percent of the appreciation for themselves. The most egregious of these losses have occurred in cities and counties that have employed inclusionary zoning or some other regulatory incentive or mandate to create thousands of affordably priced homes without long-term controls over their resale. Most of this housing passes into the market within a single decade, earning equity windfalls for the first owners while fetching inflated prices that low and moderate income households cannot afford to pay.[lxxxiii]

The LCLT already has experience protecting the affordability of a home. A rental home developed by the NPE Project became available because of the death of its elderly occupant. This affordable unit (a single-family house) was not lost to market rate rent, nor was it sold for a market rate price. Since it was a LCLT property, the land trust converted the house to a homeownership opportunity, and it was sold to a qualifying modest income family. Lexington did not lose this affordable housing unit and it will not do so in the future, even if/when the current owner decides to sell.

As the above discussion referencing Thaden indicates, CLTs rarely lose a home to market rate resales but rather the homes are often more affordable at the time of resale. This is true even when the initial buyer has narrowly escaped foreclosure or has, unfortunately, fell victim to it. The benefit this offers a municipality's affordable housing program is exponential.

"If CLTs prevent low-to-moderate income households from being foreclosed upon, they are also preventing a costly chain of outcomes for households, lenders, neighborhoods and municipalities. … [A] households' credit is significantly impaired after experiencing foreclosure, which limits their ability to qualify for loans for cars or education as well as limits their access to alternative housing options (since credit checks are often a part of rental applications)."[lxxxiv] Home foreclosures lower the value of homes in close proximity resulting in a cumulative significant financial loss to the community. When foreclosure rates rise, so does violent crime. "Furthermore, completed foreclosures cost lenders. One study examined the cost of foreclosures in Massachusetts and found that foreclosures cost the loan holder an average of $58,792 and took approximately eighteen months to resolve (Cutts & Green, 2004)."[lxxxv]

The loss of a home to foreclosure, including homes deemed affordable, churns a vicious cycle of neighborhood instability in Lexington. "Some of the most active purchasers of foreclosed homes are also among the most frequent evictors, demonstrating linkages between the experience of housing instability among both renters and homeowners."[lxxxvi]

Under the CLT model, LFUCG could actually transform its affordable housing paradigm and prevent the loss of affordable units. LFUCG can begin to think of funding for homes not as a short-term subsidy but as a long-term investment which will grow their affordable housing portfolio and not merely deplete funds. Table 2 shows how the LCLT grows public investment in affordable housing over time.

Table 2 LFUCG's Affordability Investment via the LCLT

Initial Affordability Investment	**$355,925.00**
Current Value of Affordability Investment	**$472,298.00**
Community Return on Investment	**33%**
Value of LCLT Homes at time of Initial Purchase	**$1,423,700.00**
Current Value of LCLT Homes (Oct 2019)	**$1,578,864.00**
Value Increase of LCLT Homes	**$155,164.00**
Reserved for Homeowner Equity	**Additional Affordability Investment**
$38,791.00	**$116,373.00**

4.4 Stewardship Services for Homes and Homeowners

The idea of a steward for modest income homeowners and their homes is of great benefit to any city wise enough to employ it. Generally, any affordable housing program ensures homes created with public monies are initially offered for sale at an affordable priced and are marketed in a fair way. They maintain a waiting list for eligible buyers, require some type of education for new home buyers, screen for and document the eligibility of home buyers, and make some effort to make sure the buyer is giving informed consent at closing. But CLTs go well beyond those efforts.

An excellent way of stewarding homeowners is to involve homeowners in programmatic decisions. Directly involving shared equity homeowners (or would-be homeowners) in the development of the program details and the organization's governance can be one way to ensure that their concerns are considered before new policies are adopted. Most community land trusts include homeowners on their boards of directors for this reason, but less formal involvement also can make a significant difference.

It cannot be over emphasized that the CLT model does more than capture community wealth and preserve public investment. It provides ownership support long after the keys have been given to the new owner and the mortgage payments are underway. CLTs provide long term stewardship to nurture the success of each family in their homeownership journey, supporting the family but also protecting the public investment and the home itself. (Lower foreclosure rates among CLT homes is one fruit of this stewardship effort.) Traditional affordable housing programs did not offer such guidance. "… [E]ffective and sustainable stewardship is the key to success. An adequately staffed entity must stand behind the housing long after it is first rented or sold, performing the duties of stewardship."[lxxxvii]

According to Davis:

> Stewardship is also focused on managing and minimizing risks that accompany the financing of homeownership, protecting low-income homeowners against the threat of foreclosure. Before a shared equity home is sold, most stewards provide prospective buyers with an intense orientation to their new responsibilities; they impose a screen that prevents their homeowners from entering into predatory or high-cost mortgages; and they carefully match the cost of buying and operating a particular home to the household's ability to carry this added financial burden. After purchase, most stewards regulate the improvement and refinancing of shared equity homes to ensure that homeowners do not assume more debt than they can afford or pledge more equity than they own. Many stewards, CLTs in particular, also insist on being a party to every mortgage, requiring lenders to give the CLT three critical rights in the event of mortgage default: (1) the CLT is notified if the homeowner gets behind in her payments; (2) the CLT gets an opportunity to cure the default on the homeowner's behalf, forestalling foreclosure; and (3) the CLT gets the first

> shot at buying the property out of foreclosure should the CLT be unsuccessful in helping the homeowner to retain her home.[lxxxviii]

The stewardship of home and household that CLTs can provide was called for in a study on homeownership experiences of low-income families in conventional homeownership situations in the Seattle area. Reid (2004) noted a banker's observation that they were losing low income homeowners twice as fast as they were creating them. This was in 2004, just prior to the Great Recession. It did not appear from her study that she was aware of the CLT model, or any SEH model for that matter. Nonetheless, one of her major takeaways from the study was a call to government policy to place more emphasis on supporting families with low incomes *after* they became homeowners. "Although the current effort to expand homeownership opportunities to underserved populations is important, focus should also be placed on 'post-purchase' support to ensure that homeownership is sustainable." "… the promise of homeownership is likely only to be realized to the extent that government policies enable households to cope with crises in income, health, and family circumstances."[lxxxix] Traditional affordability programs do little to assist first time home buyers *after* they purchase their first home. According to Reid (2004) many first-time low-income buyers entering into homeownership via traditional markets (55%) leave homeownership within the first five years.

This sentiment was echoed Davis in an article published by the American Bar Association, whose members know all too well the toll foreclosures impose on families and communities:

> It is not only low-income families that have been "unable to properly assess the risks and responsibilities of homeownership." So have most policy makers. They have been slow to acknowledge the fragility of the homeownership opportunities that governmental resources have made possible. They have been even slower to act in stemming the tide of post-purchase losses that permeate their programs, especially when real estate markets are very hot or very cold. Public dollars, public powers, and creative financing from private lenders continue to be lavished on lifting low-income households across the threshold of ownership with little regard for the long-term fate of hard-earned subsidies, hard-won affordability, and newly minted homeowners on the other side. Attainability is all. Sustainability is outside the parameters and beyond the horizon of the program's design. Or, in the words of the space age ditty from yesteryear, ... 'Once the rockets are up, who cares where they come down?...'[xc]
>
> But durable affordability is not the only thing distinguishing these homes from their market-priced counterparts. Just as the rewards of homeownership are not all that is shared, affordability is not all that is preserved. The long-term survival of SEH and the long-term success of its owners require a steward that is equally attentive to perpetuating the occupancy and quality of these resale-restricted homes and equally protective of the new owners' security of tenure, safeguarding the homeownership opportunities that public funders and their nonprofit partners have made possible.[xci]

Thaden, in her 2010 study, found CLTs implement stewardship policies and practices in five domains that are likely to contribute to their low rates of delinquency and foreclosure: (1) Pre-purchase education, (2) Ongoing stewardship to promote sustainable homeownership, (3) Prevention of high-risk loan acquisition, (4) Detection of homeowners who have defaulted, and (5) Intervention with homeowners to prevent foreclosure.[xcii]

4.4.1 Pre-Purchase Stewardship Activities

CLTs have a vested interest in ensuring that homeowners are able to build wealth during their tenure, obtain mortgages with affordable monthly payments, and properly maintain their homes. Therefore, CLTs often have policies and procedures in place that ensure CLT purchasers are utilizing mortgage loans with traditional terms, such as fixed-rate, prime loans. "Research supports that high-risk loans, including subprime loans, Adjustable Rate Mortgages (ARMs), 80/20 loans, and balloon payment mortgages are all less likely to result in sustainable homeownership and equity accumulation than fixed-rate, prime loans (Immergluck, 2009)."[xciii] There are several activities that promote successful homeownership and that help homeowners meet affordability standards. The debt to income ratios (compiled from mortgage payment, taxes, insurance, lease fee, and utilities) should not exceed 33-41% of a family's net income per month. The family can be required to make a personal contribution in the form of a modest down payment, have financial literacy education provided by CLT staff or by referral, have a one-on-one meeting with a home buyer counselor or financial counselor, and meet with an attorney to safeguard against uninformed consent. CLT home purchasers must understand the restrictions prior to purchase. CLT's can offer the services of lawyers and pre-approved lenders educated on resale-restrictions of a CLT and who are supportive of a CLT's goals.[xciv]

This type of stewardship, the protection of would-be home buyers from predatory lending, is particularly important in Lexington where:

> … the concentration of foreclosures within Lexington's black and Latino neighborhoods demonstrate that for many, homeownership doesn't necessarily mean housing stability in the first place. As Wyly et al. (2009) argue, the "[m]illions of home 'owners' drawn into the subprime system are, in material and housing-class terms, barely distinguishable from renters. In the subprime market, homeowners are simply paying rent to the new landlord, subprime mortgage capital. In these circumstances, the cultural symbolism of homeownership is nothing more than a deceptive illusion.[xcv]

4.4.2 Post-Purchase Stewardship Activities

Stewardship does not stop once a family has settled into their new home. Many CLTs, around 50%, provide post-purchase financial literacy education, directly or through referrals; have a staffed position for homeowner outreach and support; have a practice of formalized communication (e.g., letters, e-mails) with homeowners that remind them of policies; provide referrals to contractors, repair persons, or other services; and if a CLT is notified of delinquency, require a meeting with the homeowner. Around one third of CLTs provide ongoing education classes or events and have a system in place to identify delinquencies prior to 90 days, or at a minimum, delinquencies of 90 days or more. Fewer have a formalized check-in with the homeowner once a year or more via phone or in-person and require and assist homeowners in maintaining a reserve fund for emergencies**.** A surprising 16.67% of CLTs provide ongoing homeowner savings programs (e.g., IDAs, savings accounts for home repairs or mortgage reserves).[xcvi]

4.4.2.1 Policies & Practices to Prevent Non-Permitted Debt

CLTs not only support sound loan acquisition by CLT homeowners for purchase but also throughout the household's tenure. This is due to research showing that subprime and predatory lending have occurred more often during acquisition of refinance or home equity loans than during home purchase loans (Apgar & Calder, 2005). A surprising 83% of CLTs in Thaden's 2010 study required homeowners to receive written consent from the CLT before refinancing. Over half of CLTs encourage homeowners to meet with a financial counselor during financial hardships or if they are interested in refinancing or home equity loans. These CLTs remind homeowners of these policies through post-purchase communication. Over one third of CLTs review policies on non-permitted debt during pre-purchase education and ensure that any additional debt on the property would be subordinate to the resale formula. Fewer have a policy on a specific allowable refinancing and home equity line of credit. Fewer still have the CLT documented in the public record which prevents homeowners from being contacted by predatory lenders. Some CLTs do not have any policy in this regard.[xcvii]

4.4.2.2 Practices & Policies for Detection of Homeowners in Default

> One of the key barriers identified by organizations for detecting homeowners who had fallen behind was that homeowners did not voluntarily or readily contact the organization when they were experiencing financial hardship; therefore, the majority of CLTs are spending time and resources on outreach in order to accomplish early detection of homeowners in trouble.". … [T]he most prevalent way CLTs identify homeowners who are at risk of becoming seriously delinquent is by tracking those who do not pay lease fees [90.48%]. These fees are usually a relatively small amount, ranging from $10-50. Therefore, organizations reported that this is typically a good indication that homeowners have hit financial troubles.[xcviii]

The next most utilized method of discovering if a homeowner had fallen behind on their mortgage was informal interaction with homeowners. Interestingly, 55% of CLTs reported that 80-100% of their homeowners contacted the CLT when they were delinquent, while 25% reported none of their homeowners in delinquency did. Apparently some CLTs are better at establishing trust, rapport, and ongoing relationships with their homeowners, and that may be worthy of additional review. Beyond these informal methods, some CLTs legally require lenders to notify the organization of delinquencies while others make this a requirement of the homeowner. Around one third of CLTs utilized their previously obtained authorization to contact the mortgage lender or had previously arranged for lenders to contact the CLT when the homeowner was 30- or 60-days delinquent. Fewer require that lenders inform the CLT when the homeowner is 90 days delinquent. Very few CLTs (less than 3%) were made aware when homeowners accessed their reserve fund or had the title company give the CLT a listing of defaults on a monthly or quarterly basis. Almost 5% did not have a method of detecting delinquencies.[xcix]

4.5 Intervention with Homeowners to Prevent Foreclosure

In her 2010 research Thaden emphasized:

> The majority of CLTs have policies and practices that allow them to intervene with homeowners and their lenders to prevent foreclosure. Notably, 57% were providing direct financial counseling to homeowners, and 72 % were contacting the homeowners' lenders. These two activities are instrumental components of federally funded foreclosure prevention programs. Twenty out of 35 organizations (57%) were implementing practices or had policies that help homeowners keep their homes (i.e., allow subletting, donations or rescue funds for late mortgage payments, or lease-purchase conversion). For homeowners who were unable to stay in their homes due to their financial situations, 17 out of 35 organizations (49%) had implemented or had policies in place to prevent foreclosure, which can devastate household's credit and ability to find alternative housing (i.e., paid mortgage while on market, assisted sale, or made purchase).[c]

Several other foreclosure prevention efforts are often put into practice. CLTs may refer the homeowner to financial counseling, a foreclosure prevention program, or directly provide financial counseling to the homeowner. They may also help the homeowner sell their home to a qualified buyer or provide emergency or rescue funds. Twenty percent of CLTs purchased the home from the owner before it was foreclosed upon. Some CLTs paid mortgage and the defaulted amount while the home was put on the market. Approximately 10% of CLTs did not intervene, and some of these reported no delinquencies or foreclosures.

Shelton's (2017) report recommends interventions for renters; specifically, an intervention program to educate renters and connect them to necessary resources.[ci] The CLT model calls this stewardship, and the

LCLT is initiating a program to prepare its renters for homeownership. With proper funding, a more expansive program for renter education and support is possible. Where there is a will, there is a way.

4.6 Stewardship of Homes: Maintaining Occupancy and Condition

Some critics of CLTs argue that because there is a limitation in what CLT families will receive in market appreciation, there will be insufficient motivation to maintain homes properly. Embedded in a CLT's ground lease are provisions that restrict subletting and require the housing to be continually occupied as the homeowner's principal residence. There are also provisions requiring the housing to be maintained in good repair and to be used and improved in compliance with local building codes, local zoning restrictions, and a CLT's own guidelines.[cii] Along with the legal requirements, a small amount of CLTs (7.14%) require homeowners to have a savings for emergency home repairs, and one third of CLTs have classes in home maintenance and repairs.[ciii] Most traditional affordable housing programs do not have any legal requirement for occupancy or maintenance, do not monitor maintenance activity, and do not offer or refer homeowners for maintenance/repair classes.

Locally, Habitat for Humanity just recently started assisting home buyers in securing a mortgage outside Habitat financing when appropriate, in order to guard the homeowner against predatory lenders. They also provide the homebuyer the opportunity for educational classes even after the home is purchased. However, they do not monitor for proper maintenance and have no leverage to insist upon it.

But the LCLT can enforce compliance with all use restrictions found in its ground lease. They can verify the home is adequately maintained, confirm owners keep current property insurance, including insurance for the public's interest in the structure. And, after making sure LCLT homeowners are not taxed on the fair market rate of their home, but rather they are taxed based on the below market rate value of their home due to resale restrictions, the LCLT can confirm owners are paying all applicable property taxes. Later, the LCLT will market and manage the resale of the home to the next income eligible buyer. The LCLT has already managed one resale of a rental property converted to a homeownership property.

It would be interesting to compare maintenance practices of similar units under the different affordability programs. While the tools are there, there is no data on whether or not CLT homes hold their value better than homes made affordable under traditional subsidization programs, nor is there data to compare the maintenance practices of CLT homes to those of similar market rate homes.

5. Gentrification and Affordable Housing Protection

Rising home prices in neighborhoods on the cusp of gentrification are displacing long-time community residents.[14] Areas similar to what was formerly Davis Bottom (Lexington, KY) benefited from multi-generational occupancy of homes. Now, residents are worried that their children will not be able to afford to remain in these areas due to rising property taxes and pressure from developers. This is not a problem exclusive to Lexington, but there is a local example of how to prevent negative outcomes.

The NPE Project Team experienced this firsthand when developers began attempting to buy properties in what had been identified as the project's mitigation area — in hopes of gentrifying the area. At one point in the project there were 9 other developments planned for market rate ownership and rental property. The Project Team approved early acquisition of properties to prevent the ousting of long-time renters. The LCLT continued this protection for the neighbors who wanted to stay, not by preventing the improvement of homes, but rather by protecting the affordability of both rental and homeownership opportunities in the new homes being built. Davis Bottom, now Davis Park, is not the only Lexington neighborhood to face this threat of eviction.

5.1 Displacement Protection

The Lexington Herald Leader published an article, As Rents Go Up, What Can Lexington Do About Gentrification? (Musgrave, 2018), noting that apartment complexes along Tates Creek Road were purchased, renovated, and tenants forced out due to higher rents. According to the article, neighborhoods north of Main, the Kenwick neighborhood, and more than a dozen older apartment complexes have not only forced people out of their apartments, but due to the lack of other affordable housing, caused them to leave Fayette County all together.civ

The loss of low-income homeowners through financial stress or foreclosure is the grandfather of gentrification. This allows investment companies to purchase what was previously owner-occupied homes, or several of them in a neighborhood and convert them to rental units. Absentee landlord investors tend to be committed to profit, not people or neighborhoods. They are more likely to evict. This changes the stability of the neighborhood as well as its demographic makeup. "And though much of the nascent discussion around housing inequality in Lexington has focused on the gentrification of Lexington's Northside and East End neighborhoods, this report suggests the need to expand our view to the more mundane, and also more widespread, ways that landlords, financial institutions, and various levels of government work to produce housing instability and concentrate it in particular locations throughout the city".[cv]

The CLT offers a powerful pushback to these forces: community control of land placed in trust. It allows residents to have control over CLT property through the board of directors. The LCLT's board is comprised of one third homeowners living on CLT property, one third residents of Fayette County who support the CLT model, and one third public and other non-profit representatives concerned with affordable housing. It is a membership organization so members of the board are selected by their constituents.

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[14] Gentrification, the process of repairing and rebuilding homes and businesses in a deteriorating area (such as an urban neighborhood) accompanied by an influx of middle-class or affluent people and that often results in the displacement of earlier, usually poorer residents a neighborhood) ...derived from the word gentry, meaning "people of good birth and education; those next in standing to the nobility of England." Merriam-Webster, (1951), p. 258. https://www.merriam-webster.com/dictionary/gentrification.

When CLTs control a sufficient percentage of housing in areas that are high-cost or where housing costs are rising, the neighborhood can achieve mixed-income status. This has potential to enrich residents' lives across all income levels through diverse interconnectedness and opportunities for betterment.[cvi]

Revitalization is not a ruinous endeavor. However, left unmanaged, it can raise housing costs (rents, taxes) and force families out of their neighborhoods, despite best efforts to help. The CLT model can halt rising costs by preserving the affordability of some properties in a neighborhood undergoing such a change. The CLT is a tool that can find that sweet spot that occurs between revitalization efforts and gentrification results. When timed correctly the sweet spot is a place of income and racial diversity. In fact, "[m]any CLTs also actively engage the communities where they hold land in trust through community events, educational programming, and opportunities for civic engagement"[cvii], in other words, better break control. [I]f lower-income residents and residents of color are in control of land, then the CLT can support the mobilization and empowerment of those residents and the broader community to demand land and resources from public and private entities and enable development to fulfill the needs of residents. The result can be mixed-income communities that not only survive through market pressures but thrive through diverse interconnectedness.[cviii]

5.2 The Efforts of LCTC

The LCLT was created to prevent any longtime resident of Davis Bottom who wanted to stay in the neighborhood from being forced to leave – the LCLT provided permanently affordable housing, either rentals or homeownership, which allowed them to stay if they chose to. What if a similar commitment could allow the LCLT to offer resident homeowners in neighborhoods being pressed by gentrification to make needed repairs or desired renovations to their homes and, reduce the taxes they pay? By purchasing the land and allowing the owner to improve their home, longtime residents who want to stay, can. The same can be done for long time renters of neglected homes by purchasing from landlords who are facing enforcement due to violation of building codes.

The LCLT offers Lexington a way to increase the number of families lifted into homeownership with the same amount of dollars. It opens the door for families currently receiving what amounts to a $6,000 in rental subsidy each year to have a way to move into homeownership with a one-time investment. It partners with families and acts as a good steward so that the risks associated with homeownership are reduced, particularly the risk of mortgage default. The LCLT ensures the public's investment is well maintained by working with homeowners on repair and maintenance issues and ultimately through enforcement provisions of the ground lease. It actually makes homes *more* affordable to families than programs without a restricted resale component because the owner pays property taxes based on the resale formula value, not the fair market value. Through its HomeKeeper program, LCLT provides excellent tracking data for the families assisted with public dollars so the government and the public have confidence their hard-earned tax dollars are well invested.

6. What Local Governments Can Offer CLTs

Local governments can be extremely helpful to CLTs. The first step for a city that has looked to rental units to meet affordable housing needs is "… committing part or most of its resources into affordable homeownership rather than all of its resources into rental housing; committing to the availability of public subsidies; and a commitment to preserving the affordability perpetually rather than recapturing or releasing those funds."[cix]

Lexington is no exception. There was a crucial concluding remark in Lexington's *czb* report (2014) after noting the creation of a housing trust fund was a wise way to begin addressing the problem of Lexington's affordable housing shortage. The report recognized the magnitude of the challenge is very large and that fully funding the effort will be very costly. It went on to observe that the Lexington economy is fully capable of absorbing such costs, remarking, "…This is not an issue of whether Lexington can zero out its affordable housing gaps and keep them narrow, but whether it wants to badly enough."[cx]

6.1 Introducing a Locally Unfamiliar Model

The CLT model can be initially difficult to understand. Most communities don't know the details of how affordable housing is delivered by a local government, and those who do are usually unacquainted with the CLT model. It took NPE Project Team members some time to digest how a CLT works and even longer to be able to easily explain a CLT to those who had never heard of such a trust. While there are 280 CLTs across the country, the LCLT was the first in Kentucky.[cxi] If the LCLT is to reach sustainability, its mission, vision, and benefit to Fayette County needs to be made more visible. The LCLT has invested in branding and logos for marketing but has not successfully accomplished educating the greater Lexington area about its benefits to the community.

In 2017 the LCLT partnered with Transylvania University to host a discussion about the historic discrimination of African Americans, particularly in housing policy. Richard Rothstein, author of *The Color of Law: A Forgotten History of How Our Government Segregated America*, spoke to the community. While the discussion was not about Community Land Trusts in particular, it did create interest in and energy about the LCLT. LFUCG has staff communication professionals that could assist the LCLT in developing a plan for creating community support for its work. This is consistent with the goals set forth in the *Imagine Lexington: 2018 Comprehensive Plan*.

6.2 Grants for Capacity Building, Sustainability, and Stewardship

Operating grants from local governments are critical to fledging organizations and play a significant role in supporting the organization while it builds into a self-sustaining entity. Over time, as the number of homes are added to the portfolio, the organization can begin relying on ground lease fees, membership fees, and resale fees for its long term stability.

"Several newer CLTs have projections that show that they reach a 'sustainability threshold' once they hold 150 to 200 units in their portfolios. That is, at their sustainability threshold they are likely to receive sufficient income from internally generated revenues to be able to cover the cost of their stewardship responsibilities. Nevertheless, it is important to note that even mature CLTs continue to receive external support for their operations from local governments or private foundations. Once a CLT's portfolio has grown to a certain size, however, most external support for operations tends to be directed toward new programs or projects rather than being used for stewardship of the CLT's existing housing."[cxii]

Recently, the LCLT completed the last two houses on the last two lots in in its portfolio. Its development work is deferred, waiting on another land transfer from KYTC for more residential lots as well as commercial and institutional lands. "A CLT may suspend project development for a period of time, awaiting new opportunities and additional subsidies, but a CLT can never stop managing its lands, monitoring its leases, or enforcing the use and resale controls that encumber the buildings that are located on its lands. Its operations must be sustained, even when project development has slowed. Cities who want to benefit from the CLT model must assist CLTs in building long-term stewardship capacity."[cxiii]

In the meantime, the LCLT staff continue reaching out to potential future homebuyers and screening them for eligibility. They will continue to look for markets for future homes and monitor compliance with the ground lease in current homes. The LCLT Board is considering its path forward. Some of the issues on the agenda are: consideration of establishing a program for current renters to prepare them for homeownership if that is their family's goal; determining how to effectively partner with other affordable housing developers to expand the number of permanently affordable homes for Lexington's modest income families; strategic planning for attaining self-sustainability which means moving into other areas of Fayette County; exploring the development of a new program which allows the LCLT to rehabilitate homes in areas where gentrification threatens the longevity of families with low incomes, consideration of creating a program to increase a buyer's purchase power for the home of their choice through an affordability investment/subsidy from the LCLT, homebuyer education for maintenance and other important areas to ensure successful homeowners, fundraising, advocacy and community education, and developing a thriving membership base. These services are maintained even though they rarely receive funding for stewardship support, even when it is critical to protect the success of homeowners and the public's investment. [15]

Stewardship services provide "…perpetual responsibility for ensuring that public resources are invested well and that the program is balancing the public and private benefits as it was intended to. Stewards ensure that homes remain owner-occupied, they promote quality maintenance, they oversee resale of homes or reinvestment of public funds, and they actively intervene to avoid foreclosures when necessary. By building capacity to be effective in this role over the long term, communities can avoid many of the problems that may undermine public support for shared equity homeownership."[cxiv]

A city may be tempted to believe that if it is supporting a CLT by way of development subsidies, there is no need to consider operational support. However, reliance on developer fees is risky business. Developer fees are paid when the project is completed on time and on budget, but a CLT might fail at both of those goals for reasons beyond the control of the CLT. The NPE Project is a case example. The LCLT had expected to be fully built out by this time, but has yet to have acquired title to a large portion of the land. If it weren't for the support of FHWA and KYTC, the LCLT would have been out of operational funds long ago. It is almost certain, given the ongoing process of affordable housing development, this will not be the last time delays and over runs that will impact a LCLT project. A long-term commitment to operating grants can be critical for the LCLT's survival.[cxv]

If Lexington is serious about permanently affordable housing via the CLT model, it should be ready to commit to multi-year operational funding. A good example of a program who enjoys this benefit can be found in Burlington, Vermont's CHT. The city provides operating grants to the CLT from three sources: Community Development Block Grant (CDBG), HOME Investment Partnerships Program (HOME), and the Burlington Housing Trust Fund. Although there is no contractual guarantee of multi-year funding and CHT must re-apply for funds on an annual basis, the City has provided grants to support CHT's operations

[15] "Out of the 39 organizations who responded to questions on general home buyer education, 84.62 percent require it for purchase, and 95.12 percent require CLT-specific education prior to purchase. Since home buying and home owning are both complicated, this level of education is typically quite intensive, requiring both financial resources and trained staff." CLTs in one study were found to cure or helped to cure 51% of mortgages that were seriously delinquent in 2009, *only 1 out of 2 CLTs received any external funding for foreclosure prevention activities in 2009*. Thaden, Emily (2010), p. 18, and see p. *i*.

every year since the organization's incorporation as the Burlington Community Land Trust in 1984. In FY 2006/2007, CHT received $125,000 in operating support from CDBG, $25,000 from HOME (as a city-designated Community Housing Development Organization), and a $46,500 capacity grant from the City's Housing Trust Fund.[cxvi]

6.3 Provision of Development Subsidy

In most housing programs administered by city and county governments, a developer is given a subsidy to develop affordable housing *and* a subsidy loan is made to the homeowner for the purpose of making the mortgage payment affordable. Neither of those create permanent affordability, however. Without additional subsidy, the reduced payment is lost when the house is re-sold. The home price remains reduced without additional subsidy when the house is re-sold through the CLT model. So instead of providing a forgivable grant or loan to the homeowner, if the money were provided to the CLT, the same money would make the home affordable to the first buyer and to future buyers. In addition, when a CLT is operating in a rising real estate market and serving very low-income households, the normal subsidy to purchase land and reduce the housing price may still be insufficient to bring homeownership within financial reach of the target population. CLTs must be allowed to stack sources of funding.[16]

Cases in point: Community land trusts in Albuquerque, NM; Burlington, VT; Highland Park, IL; Lawrence, KS; Orange County, NC; Portland, OR; and Washington, DC [only to name a few] have all been beneficiaries of no-interest or low-interest/forgivable loans and affordable housing trust dollars, or any combination of the above.[cxvii]

In Lexington, there has been a plea in almost every housing study for increased funding for the development of affordable housing. Recent studies also call for an expanded use of the LCLT: "…. Given the promise of the community land trust model for creating permanently affordable housing, we would also encourage the city to explore ways to expand on the model already being created by the Lexington Community Land Trust in Davis Park, including implementing it in other areas of the city."[cxviii] See also LFUCG's Infill and Redevelopment Quality of Process Task Force Recommendations, December, 2007; Imagine Lexington, 2018 Comprehensive Plan, and 2019 Consolidation Plan.

[16] Two caveats: 1. affordability services to lower income families will require a combination of subsidies to bring the home within an affordable price for that family; 2. rising costs of homes combined with stagnate wages, rising property taxes, rising mortgage interest rates, and rising utilities, or any combination of these may force a CLT to obtain additional subsidies upon resale. A CLT cannot guarantee affordability. See Davis, John Emmeus, Jacobs, R., & Hickey, M. (2008). p 28.

7. Land Banking

The creation of land banks as a tool in the municipal toolbox is becoming more popular. Since 2011, twelve states have passed land bank enabling legislation. Land banks are created as a government entity or as a municipally controlled nonprofit. Their purpose is to covert vacant, abandoned, contaminated and/or tax delinquent properties into productive use consistent with a city's or county's land use goals. In short, land banks typically acquire property that the open market has rejected. Land banks are not, in and of themselves, a complete answer to a local government's affordable housing needs, but they can be a useful tool. The purpose of a land bank is to acquire vacant or blighted property on behalf of a municipality and scrub it clean of any hazardous materials. Land banks also deal with abandoned structures that are beyond repair or that have title problems. The property can then be sold or donated for more useful public or private purposes. If some of these properties can be donated to a CLT, they can be placed in the hands of a nonprofit that will redevelop them into housing with permanent affordability and long-term stewardship, prevent deferred maintenance, and protect against foreclosure. The real estate holdings of a land bank that is working correctly are temporary, usually less than two years. The real estate holdings of a CLT are permanent; they usually come with a 99-year renewable lease.[cxix]

7.1 When Land Banks May Succeed

Land banks are more active in cities and counties with weaker or mixed real estate markets. There are several circumstances that may proves favorable to the success of a land bank: large inventories of vacant and abandoned property; properties with little to no market value; properties with delinquent taxes in excess of fair market value; properties with title problems; local governments with inflexible policies that have strict processes for the disposition of public property, denying local governments the chance to move quickly; and the speculation and uncertainty inherent in the auction sale of tax-foreclosed properties.

Land banks are quasi-public agencies established under the auspices of a city or county government. Most have been created through state legislation, although some have not. Unlike a CLT that has a board composed of lessees of CLT property, affordable housing advocates, and public agency representatives, land bank boards are appointed by government officials. Neighborhood representation is not guaranteed. Typically, land bank legislation grants the power to obtain property at low or no cost through the tax foreclosure process. Additionally, land banks hold land tax-free, clear title and/or extinguish back taxes; lease properties for temporary uses; and negotiate sales based not only on the highest bid but also on the outcome that most closely aligns with community needs, such as workforce housing, a grocery store, or expanded recreational space.

7.2 Characteristics of Land Banks

There are 170 land banks across the country, and the following attributes are recommended:

- Strategic links to the tax collection and foreclosure process: This is particularly true in locations where the tax foreclosure process is ineffective. Land banks should be able to acquire properties through the tax foreclosure process at little to no cost.
- Operations scaled in response to local land use goals: Successful land banks have a strategic acquisition and disposition policy that directly supports local land use goals and meets community needs.
- Community engagement and neighborhood partnerships are critical to the success of local land banks.
- Transparency and public accountability of all transactions: Let the public know the land bank's priorities, policies, and procedures. Engage community neighbors whose lives will be most directly affected by the land bank's work. Creativity in informing, engaging, and empowering residents will lead to success.
- Recruitment and collaboration with other public, private, and nonprofit groups that share similar economic and community development goals: Atlanta's land bank has designated the local CLT as a preferred partner in developing affordable housing on land bank properties. Houston is doing the same.

- Establishment of recurring and reliable sources of funding: Most land banks use a variety of funding sources, receiving money from the sale of properties, foundation grants, general fund appropriations from local and county governments, and federal and state grants.

Some land banks benefit from sources created in their enabling legislation. Michigan and New York recapture 50% of the taxes on properties returned to the tax rolls for five years. In Ohio, special fees imposed on delinquent taxpayers provide a dedicated source of funding. Land banks can also benefit from yearly budget allocations and in-kind assistance, e.g., shared staffing.[cxx]

7.3 Putting Land Banks to Use in Lexington

Lexington's real estate market as a whole is considered strong if not hot, and that is impacting the area's affordable housing stock. A land bank's ability to efficiently access tax-delinquent properties that can be transformed into community-driven development opportunities that protect any public investment has already been thoughtfully considered: the idea was adopted in *Imagine Lexington, 2018 Comprehensive Plan*.

This rings true in Lexington where affordable housing developers are having a difficult time finding land even though there are abandoned properties sprinkled throughout several areas of the city. A strategic acquisition program through the Lexington-Fayette Urban County Landbank Authority (LFUCLA) can play a key role in creating synergy between LFUCG and the LCLT as they partner with other local affordable housing developers.[cxxi]

LFUCG's 2015 ordinance referencing the LFUCLA referred to a land bank incorporated in 2010 as a Kentucky non-profit corporation, according to the articles of incorporation. The corporation has lapsed; it does not appear on the Secretary of State's website search, and staff for the vacant property commission were unaware of the incorporation. Recreating the LFUCLA is a critical path for all of Lexington's affordable housing development and warrants immediate action. It will be necessary to review 2017 legislation, KRS 65.350 et. seq., Land Bank Authority Legislation, which authorizes local governments to create land banks with certain parameters and powers.

7.4 Municipal Property Donations

It is essential for a municipality to commit to donations of municipal property in order to assist a CLT in building its portfolio. "Only 1 out of 3 CLTs received any funding to acquire foreclosed or vacant properties during 2009."[cxxii]

Donations can be made from a city's inventory of lands and buildings, including lands acquired in anticipation of other public projects that either never came to be or did not use all of the land acquired that could be designated as surplus. Cities can also convey properties acquired by the city through tax foreclosure or blighted properties purchased for redevelopment for the cost of the unpaid taxes. Portland Oregon, Multnomah County has this practice and it has served to induce developers of affordable housing to partner with the local CLT in their applications to the county. Developers acquire tax-foreclosed land from the county, build affordably priced resale-restricted homes, and then transfer the land to the CLT.[cxxiii]

There is local precedent for this practice. The NPE Project received FHWA approval to transfer all income derived from the sale of remnant parcels on the NPE project to the LCLT as part of the project's mitigation plan.[cxxiv]

Indeed, the most consistent and perhaps desperate comment from every organization interviewed for this report was the shortage of land available for affordable housing development in Fayette County. As mentioned, Lexington does have a vacant property ordinance which vests the vacant property commission with the authority to condemn properties. The list of vacant properties is published on the LFUCG web site.[17] But the critical component, a land bank, needs to be established before any vacant and/or abandoned property can be captured for use in developing affordable housing.

Examples of municipal property donations in cities with a more robust relationship between cities and CLTs include:

- Syracuse, NY deeded 12.5 acres of vacant, municipally owned land to Jubilee Homes, a non-profit developer that was jointly controlled by the city and a local CLT.
- In Delray Beach, FL their community development authority conveyed land at a discounted price to their local CLT.
- Cleveland, OH received tax-foreclosed parcels from the city to build their new homes.
- The Burlington, VT CLT received a de-commissioned firehouse which they converted into temporary housing for the homeless.
- Boston, MA donated 30 acres of blighted and abandoned property to a CLT which developed 155 units, rehabilitated a commercial building and provided public open spaces.[cxxv]
- Sawmill Community Land Trust in Albuquerque, NM was able to acquire 34 acres of reclaimed industrial land with help from the City of Albuquerque and has developed a neighborhood with 93 affordable ownership homes and three affordable apartment complexes.

Another opportunity for the LCLT to obtain property is to establish a donation program with another NPE Project partner, the University of Kentucky, and expand such a program to include any public or corporate entity. This could be particularly beneficial for UK's low-income employees.

[17] https://www.dropbox.com/s/bwtd8hivxya3fnc/Final%20-%202018%20Abandoned%20Urban%20Properties.pdf?dl=0
It should be noted the list has identified fewer vacant properties in the last year or so due to staff turnover and reorganization. New staff were unaware of the practice of retrieving addresses from utility companies that identified properties with no utility service. According to staff, this omission has been corrected recently.

8. Re-tooling Existing Programs

The expectation that the durability and affordability of CLT homes must last as long as the ground lease will likely affect affordability by influencing the front-end decisions that developers make when designing and building affordable housing. Shared equity housing comes with contractual restrictions and stewardship responsibilities that last many years. This should encourage those who are drafting the specifications, choosing the materials, and selecting the insulation, heating, and cooling systems for a newly constructed residential project to think in terms of a longer time horizon than is customary when planning the production of low-cost housing for low-income homebuyers. This will, in turn, require more investment on the front end in order to allow a CLT to keep its promise of permanency.[cxxvi] The LCLT and LFUCG should remain mindful of the need for quality at the time of construction to save the future cost of stewardship.

8.1 The Importance of Ensuring Sustainability

For cities that understand the benefits a CLT can offer a municipality and that want to adopt the CLT model as a tool for implementing affordable housing programs, "[t]he challenge lies in finding the most supportive and productive ways in putting these resources to work. Too many municipalities, without meaning to do so, have structured their assistance, regulated CLT's activities, or taxed a CLT's homes in such a way as to undermine the productivity and sustainability of the model they have decided to support. By contrast, other municipalities have gone out of their way to understand the peculiarities of this new model of resale-restricted, owner-occupied housing and, where necessary, have made adjustments in their programs, regulations, and taxes to help the CLT thrive."[cxxvii]

For example, municipalities sometimes continue to offer subsidies to the home buyer in addition to providing subsidies to a CLT. The purpose is altruistic: they want to build wealth for the homeowner *and* support affordable housing. The problem with this arrangement is that it works at cross purposes. Subsidy directly to the homeowner is lost over time thus making the home less affordable in the future.[cxxviii]

Funding methods and requirements are definitely areas that may require retooling. During the interview with other affordable housing developers in Fayette County, there was a desire to understand how different funding sources could be used in concert with one another and why some funding could be "stacked" in areas outside of Fayette County, but they could not do so for affordable housing development inside of Fayette County. Critical examination of the existing array of municipally administered housing and community development programs and funding sources for their compatibility with each other and with the LCLT should be undertaken. Where necessary and allowed, modify the procedures/priorities of the program so the LCLT can access them. This will encourage partnerships that do not currently exist.

8.2 Housing Trust Fund

The creation of an affordable housing trust fund is immensely important and its use limited only by one's imagination.

> In the District of Columbia "New Communities" represents the city's primary program targeting distressed neighborhoods. The program leverages local funds from the Housing Production Trust Fund (HPTF) to unlock private investment in mixed-income housing. To take advantage of the program, developers guarantee at least a one-to-one replacement of all existing affordable units, usually dividing the housing stock evenly between residents making below 30 percent AMI, between 30 and 80 percent AMI, and above 80 percent AMI. The use of HPTF funds requires that units remain affordable for 40 years.[cxxix]
>
> The housing trust fund in Burlington VT, capitalized through a 1% add-on to the city's property tax rate, distributes "capacity grants" on an annual basis that may used to support

> the "staffing, training, planning, fund-raising, or on-going operations" of the nonprofit corporations that are developing residential projects that "guarantee the perpetual affordability of these units."[cxxx]

To its credit, Lexington established an Affordable Housing Trust Fund in 2014. A recommendation from the *czb* report in early 2014, when Lexington had a growing gap of $36 million-a-year in meeting its affordable housing needs, indicated a trust fund should be established and needed to be "commensurately large". If it was not, the report continued, the lack of affordable housing would remain a significant problem.[cxxxi] According to another LFUCG sponsored study, "Lexington would be able to construct approximately 150 new housing units and rehab up to 320 units per year based on an anticipated spending allocation of $4 million."[cxxxii]

8.3 Inclusive Zoning via Regulatory Concessions

This is a case of offering the carrot instead of the stick. Some municipalities have inspired voluntary inclusionary affordability and supported the development of CLT homes through regulatory concessions not offered to projects containing only market-rate housing. These have included: reduction or waiver of application fees or impact fees, a waiver or relaxation of zoning requirements like parking or lot coverage, or an allowance for greater density. Only developers who can promise lasting affordability are assisted in this way. In these cases, CLTs enjoy a competitive advantage. Again, examples:

- Burlington, VT offers a reduction – or outright waiver – of impact fees for newly constructed homes with durable affordability controls. The more affordable the home and the longer the period of affordability, the greater the reduction in impact fees.
- Bellingham, WA offers a 50% density bonus to developers who "can demonstrate the ability to employ a mechanism to retain all of the units as permanently affordable to income-qualified buyers," defined as households earning below 80% of the AMI. Additional adjustments to zoning requirements for minimum lot size, street frontage, setbacks, parking, and usable open space may be granted. Furthermore, the ordinance indicates that the applicant must maintain continued ownership of the land, with the owner of the residences leasing the land from the landowner. [cxxxiii]

8.4 Inclusive Zoning: A Case can be Made for the Stick

Municipalities that require private developers to include affordable housing units in new market-rate developments assign the CLT with the task of managing the resale and preservation of the affordability. Market-rate developers who are unfamiliar with affordable housing restrictions and requirements are eager to identify means of meeting long-term affordability expectations without being directly involved with constant monitoring and reporting.[cxxxiv]

The following are examples of inclusionary zoning best practices:

- The city of Petaluma, CA encourages developers to meet their inclusionary requirements by having them sell the completed homes to buyers selected by the local CLT and simultaneously donating the land under the homes to the land trust. Irvine, CA requires developers to donate land to the CLT, and it in turn uses the land for affordable home development.[cxxxv]
- Chapel Hill, NC did not have inclusionary zoning but when a large developer proposed a 200-home development, the city strongly suggested the developer make 15% of the units affordable. The developer agreed to sell 30 units below market price to a CLT.[cxxxvi]

A city must be cautioned if it does not plan for the cost of stewardship. Some municipalities want the benefits of permanent affordability and long-term stewardship but believe that affordability requirements are "self-enforcing," with no need for some entity overseeing, enforcing, and managing affordability controls. Other cities have enacted IZ and accept the need for long-term oversight of IZ units, but have ignored the need to make an inclusionary housing program align with the way a CLT functions. For example, developers are required to set aside a certain percentage of "affordable" units, but there is not requirement that the units be of the same quality and appearance as the other units in the developer's project. The developer should have an early and ongoing relationship with a CLT so that it can make sure the units produced are appropriate and acceptable for the lower-income households to whom a CLT will be selling the homes. A CLT's early involvement in shaping the units' design, location, and marketing.is a necessity for success. Nor can a CLT oversee development and monitor and enforce long-term contractual controls over the occupancy and resale of inclusionary units without assistance in covering these costs of stewardship.[cxxxvii]

Two cities stand out in their practices of planning for stewardship:

- Burlington, VT requires inclusionary units to remain affordable for a minimum of 99 years, with prices that rise no faster than the resale formula used by the CHT.
- Boulder, CO employs an inclusionary ordinance that has produced a portfolio of 500 resale-restricted, owner-occupied homes, with roughly 50 new homes added every year. Developers have occasionally been encouraged to pre-sell inclusionary units to Thistle Community Housing, a local CLT. This has been a boon to all parties. The developer's risk is reduced, because 20% of the project is pre-sold before ever breaking ground. Thistle's risk is reduced, because it is not holding land or constructing houses, but accepting units at completion on a turn-key basis. The price to the homebuyers is reduced because Thistle is usually able to negotiate a lower sales price from the developer — generally 5%-9% lower than the city-mandated inclusionary price — in return for Thistle's contractual commitment to purchase and market all of the developer's inclusionary units. Thistle's cost of serving as the long-term steward for these units is covered through the collection of monthly lease fees and the collection of a 3% "Lease Reissuance Fee" on the resale of every CLT home.[cxxxviii]

The LFUCG has rejected the practice of inclusionary zoning in the past, but it should be reconsidered through the lens of having the LCLT as a tool in the toolbox. A for profit entity may be more willing to participate in inclusive zoning requirements if they have a partner that will assist them with the affordable development and continue that assistance through the sale of the properties.

9. Considerations for Government Oversight of CLTs

The municipality needs assurances that any organization receiving public funds is producing and performing as promised. Good practice recommends municipal officials and CLT staff meet annually to discuss a CLT's progress, identifying mutual goals for the coming year and setting the amount of the grant renewal. If the municipality concludes that a CLT is failing to perform as promised or if sufficient funds are not available, municipal staff may decide to reduce the annual grant. If a CLT exceeds expectations, however, or makes a convincing case for increased funding, municipal staff may recommend increasing the grant.[cxxxix]

"Operating funds should not be provided indefinitely to organizations that can never produce results, but neither should the availability of development fees be seen as a substitute for ongoing capacity building grants – especially in the early years."[cxl]

9.1 Categories of Oversight
An oversight program should include the following attributes:

- Monitoring Compliance with Ground Leases
- Preventing Foreclosure
- Empowering CLT leaseholders
- Home Development: Includes site acquisition, planning approvals, building permits, designing projects, obtaining construction financing and overseeing construction.
- Marketing: Because of concerns with fairness in limited wealth building, it is important to monitor the concept of informed consent, both in marketing and during closing. Again, homeowner education during this time should include conflict free professionals that discuss the terms and conditions of buying a CLT home. "Shared equity homeownership programs can hold themselves to a higher standard by insisting that homeowners not only agree to the restrictions but learn how to explain them and explain why they are important. Homebuyers need to see real financial examples that show how much equity they will be able to realize under different circumstances so that they can make an informed decision about what is in their best interest."[cxli]
- Selection of Homebuyers: Each project should identify a buyer's threshold criteria and supplementary priorities at the onset. Threshold criteria should include maximum income, minimum income/maximum debt burden, creditworthiness, mortgage readiness, asset limits, if they are first time homebuyers, appropriate size, down payment ability, and participation in homebuyer education. Supplemental criteria should include displacement, disability, need, local residency, local employment-occupation/employer, and existing owners of affordable homes. What is important is that the criteria for each project be spelled out in writing and agreed to by all relevant parties before marketing begins.[cxlii]
- Record keeping for a particular project's annual report should include the number of applicants, demographic distribution of applicants (age, race, household size, etc.), demographic distribution of those selected, a description of the process used, and a description of any complaints and their resolution.[cxliii]
- The Initial Price should allow occupancy to be maintained as well as permanent affordability. The resale formulas should not tie the sellers' price to fluctuations in interest rates, nor should the resale formula be controlled by the municipality. These can have negative impacts when trying to balance permanent affordability with wealth creation.[cxliv]
- Wealth Building: Because of concerns about the fairness of limiting the equity a homeowner receives at resale, it is important for a CLT to document for the community-at-large not only that their tax dollars help modest income families move into homeownership, but also that these families

have been afforded a real and meaningful opportunity to build wealth. Wealth building successes or failures should be measurable and documented to inform a CLT whether or not a failure is a result of forces outside the control of a CLT or if their policies or practices should change in order to promote this goal.

- Promoting maintenance of CLT homes: "The idea of inexperienced first-time buyers partnering with a stakeholder who cares about property maintenance and appropriate financial decisions is perhaps the least appreciated benefit, but it is very important."[cxlv]

9.2 What LFUCG Can Do

LFUCG can support the LCLT by weaving participation and accountability into its organizational fabric, ensuring the LCLT's continuing connection to the community it serves.[cxlvi] Likewise, LFUCG's affordable housing program should require sufficient data so objective and fair comparisons can be made between the risks and benefits experienced by homeowners of LCLT homes, and of home owners whose homes were subsidized by traditional programs, and of lower income buyers in conventional homeownership.

This information is critical to officials making decisions about how to use public funds, to donors who want to support the most effective model of affordable housing, to tax payers whose hard earned money is invested in these programs, to members of our community who care about families, and to families of modest means who want to become successful homeowners. Requiring such record keeping should be explored so that the most efficient and least intrusive way of accomplishing this goal can be realized.

10. Conclusion and Recommendations

Given Lexington's now critical affordable housing shortage, it is past time to embark on a bold new strategy on how affordable housing is delivered in Fayette County. The challenge is to begin using the LCLT, the Lexington-Fayette Urban County Landbank Authority (LFUCLA), and Lexington's Affordable Housing Trust Fund along with new development incentives to make a strategy cost effective and successful. The question is whether or not the establishment of a partnership between LCLT and LFUCG can be an appropriate, mutually beneficial strategy that will fulfill NPE-related project commitments and LFUCG's affordable housing goals. Through formation of such a partnership and by adopting the directives in *Imagine Lexington: 2018 Comprehensive Plan*, LFUCG's governing council has agreed emphatically that both NPE project goals and affordable housing goals can be reached.

Given the successes of the CLT model enumerated in the previous pages and the needs of Lexington's modest income households, time is of the essence. In order to accomplish this worthy and complex vision both focus and yes, funding, must be brought to bear.

To that end an implementation team should be established and properly staffed by LFUCG and the LCLT, not to determine *if* LFUCG should embrace and support the CLT model, but *how.* The team should have representation from modest income families who would qualify for and are interested in taking advantage of the CLT model — including residents of neighborhoods under pressure from gentrification, all affordable housing developers in Fayette County, and community leaders who are advocates of affordable housing and/or the CLT model. It would be advantageous if this implementation team supported the following recommendations:

Actions to be taken by LFUCG:

- Given the current budget for LCLT staff and program expenses, anticipated increases in the demands on both, and the impending shortfalls in the availability of affordable housing in Fayette County, it is recommended LFUCG and the LCLT jointly set a minimum goal of 600 residential units added to the LCLT's portfolio in the next 10 years. At least 400 of those units should be homeownership units. That amounts to a goal of adding a minimum of 60 homes per year for the next 10 years to the LCLT's portfolio. This will require an "all hands-on deck approach", so partnerships with other affordable housing developers must be strongly encouraged. With visionary leadership LFUCG can create an affordable housing team to accomplish this reality.

- Honor the language of the *2018 Imagine Lexington Comprehensive Plan* to assist the LCLT in reaching critical mass for self-sustainability. Commit at least half or more of LFUCG affordable housing resources into permanently affordable homeownership rather the majority of its resources into rental housing.

- Prioritize all affordable housing proposals that include permanent affordability rather than housing that uses traditional subsidy programs for affordability. If LFUCG allows for a bifurcated model using both the LCLT and a traditional affordable housing subsidy delivery system, it will create an unhealthy competition for funding and inadvertently subvert the goal of the LCLT reaching self-sustainability.

- Secure a commitment and method to fund the Affordable Housing Trust Fund at a minimum of 4 million dollars per year along with adopting policies and/or ordinances which, again, give preference to using these funds on proposals that include permanent affordability.

- Codify the current taxing strategy adopted by the Fayette County PVA for LCLT homeowners. This is consistent with Draft Consolidated Plan 2019, One-Year Action Plan, p. 46.

- Honor the language of the *2018 Imagine Lexington Comprehensive Plan* that calls for supporting and calling attention to LCLT's mission by using LFUCG communications staff to develop and implement a media campaign for introducing the LCLT's vision for Fayette County. This effort could include designing materials and strategies to educate community development, real estate, appraisal, and housing development professionals as well as the community at large about the LCLT. This can be coupled with membership drive efforts, thus contributing to the plan for self-sustainability. The goal is to have a strategy to build a broad base of awareness and support for the LCLT, but the process can also be the first introduction of the LCLT to neighborhood leaders who want to ask for assistance with protecting the affordability of neighborhood housing or putting vacant property into more desired community uses — crafting partnerships neighborhood by neighborhood.

- Provide office support staff for a period of time to the LCLT, affording their professionals the opportunity to focus on achieving self-sustainability.

- Conduct a critical examination of the existing array of municipally administered housing and community development programs and funding sources to determine their compatibility with each other and with the LCLT. Where necessary and allowed, modify the procedures/priorities of the program so that funding can be "stacked" as it is in surrounding counties, allowing different funding sources to be used in concert with one another. This effort should also ensure the LCLT can access these funding sources. For example: revise the regulations for its existing homebuyer loan programs to allow the program to make deferred payment and forgivable loans directly to the LCLT instead of loaning these funds to the individual homebuyer.

- LFUCG should either consider how use the Grounded Solutions' HomeKeeper software in its affordable housing program, develop new software that has good tracking functionality, or require record keeping from its affiliates that assists it and other funding sources to gauge the success of affordable housing programs. Measurements should include initial and permanency of affordability (including utility, tax and insurance costs), wealth building, term of tenure - including foreclosure rates, longevity of homeownership, and long-term home quality as indicated by home maintenance success. Requiring such record keeping should be explored so that the most efficient and least intrusive way of accomplishing this goal can be realized.

- LFUCG has rejected the practice of inclusionary zoning in the past, but it is worth reconsidering through the lens of a partnership between the LCLT and the LFUCLA.

- The LCLT and LFUCG should explore developing condominiums and/or LECs as an option for less expensive yet still permanently affordable owner-occupied homes that are not single-family dwellings.

- LFUCG should remain mindful of the need for the quality, durability, and energy efficient materials and systems during design and construction thereby creating future savings in operating and maintenance costs.

Actions to be taken by Lexington's Land Bank Authority:

- Honor the language of the *2018 Imagine Lexington Comprehensive Plan* by giving top priority to providing adequate staffing and funding and recreating the 2009 LFUCLA, consistent with 2017 state enabling legislation.

- Collaborate with local neighborhoods, the LCLT, and other affordable housing developers in the selection and acquisition of properties.

- Put Land Bank properties to work for developers including but not limited to developers of affordable housing, balancing that purpose with other community driven priorities for land usage. Houston Land Bank, Fulton/Atlanta Land Bank Authority, and Cuyahoga County Land Bank in Ohio could serve as examples. The Center for Community Progress is an excellent resource.

Actions to be taken by the LCLT:

- The LCLT should update the business plan set forth in the ROD and any subsequent amendments to more fully articulate the path to self-sustainability; this includes staff considerations and other operational and program costs. A sustainability assessment should be undertaken as part of this process. The various methods of CLT income reviewed in Chapter 3 of this report can serve as a beginning guide, but a fundraising plan should be incorporated into the business plan.

- The LCLT's business plan should include a commitment to LCLT becoming a HOME Community Housing Development Organization (CHDO) to expand its ability to qualify for funding.

- If it has not already done so, the LCLT business plan should direct the adoption of detailed stewardship policies and procedures. Policies should include how monitoring and enforcement of homeowner compliance with the land lease (responsible use, owner occupancy, payment of taxes, adequacy of insurance, timely payment of land lease fees, and how owner requests for capital improvements and equity financing) are handled. These policies should also identify additional resources which can support and assist each LCLT homeowner to encourage their success and prevent foreclosure.

- The revised LCLT business plan should also focus on creating a substantial membership base that is willing to assist the CLT as volunteers in addition to being a source of unrestricted funds via membership fees. This may require an investment in software to assist in organizing volunteers and tracking member information. The LCLT should also consider establishing a corporate membership with a higher membership fee. One goal of this effort could be funding at least 5% of its operating expenses from membership fees.

- The LCLT must also begin development of its commercial property as soon as title is transferred. While waiting on title to transfer, LFUCG could assist the LCLT in establishing professional, fair, and thorough vetting guidelines and policies for commercial development proposals that will put the commercial property into community-driven and profitable usage. Citizen participation should always be part of this process as should professional guidance. To that same end, the LCLT should expand its vision for the use of commercial properties in other areas of Fayette County.

- The LCLT should partner with other non-profit and for-profit developers who are willing to create permanently affordable quality housing and vibrant, inclusive, neighborhoods. Development options should not be limited to weak-market neighborhoods, or to housing. Developing commercial options desired by current residents of low-income neighborhoods in order to promote wise growth and, when possible, encourage locally owned businesses.

- As the LCLT expands, it should look for opportunities to sprinkle its holdings throughout the county, always pressing for its modest income families to live in neighborhoods that provide easy access to opportunity while affirmatively furthering fair housing by opening up affluent enclaves to affordable housing.

- The LCLT should explore how to best protect modest income families who live in neighborhoods at risk of or undergoing gentrification. One option would be to purchase the land from willing residents with some additional funds to be used for housing rehabilitation. The owner and the LCLT would become partners in determining how the house is to be upgraded when the home becomes a part of the LCLT portfolio. The owner enjoys an infusion of cash, lower taxes, and a home that is insulated against pressures of gentrification in a neighborhood that might have displaced them without such aid.

- The LCLT should explore developing condominiums and/or LECs as an option for less expensive yet still permanently affordable owner-occupied homes that are not single-family dwellings.

- A partnership with Lexington Habitat for Humanity would give the LCLT the ability to serve more families who are below 60% of AMI, thus expanding their service portfolio. It might also allow LFUCG to adopt the LEC model, which can serve families that may have more difficulty with moving into ownership of single-family homes.

- A partnership with REACH would allow the LCLT to expand into rehabilitation of existing housing, also expanding its portfolio.

- The LCLT should remain mindful of the need for the quality, durability, and energy efficiency of materials and systems during design and construction in order to create savings in the cost of operating and stewarding affordable housing in the future.

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Endnotes

[i] See FHWA, NPE, ROD, (2007, October 11), Attachment 4 – Community Land Trust Business Plan. No such assumption was made for the commercial/institutional lease fees.

[ii] See FHWA, NPE, ROD (2007, October 11), p. 27.

[iv] John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 50.

[v] See John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 51.

[vi] See John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 49.

[vii] John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 51

[viii] See FHWA, NPE, ROD, (2007, October 11), pp. 27-28.

[ix] See FHWA, NPE, ROD, (2007, October 11), Attachment 4, p. 5; and Lexington Draft Consolidation Plan, (2019, May 10), p. 45-46.

[x] See Imagine Lexington (2018), Equity Policy # 4, p. 46.

[xi] Imagine Lexington (2018), Equity Policy # 4, p. 49, see also p. 244.

[xii] See Lexington Draft Consolidation Plan, (2019, May 10), p. 47.

[xiii] See Carolina Katz Reid, (2004, April), p. 30.

[xiv] See Richard Rothstein, (2017).

[xv] John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 38.

[xvi] Fayette County Housing Demand Study, (2017, May), p. 22.

[xvii] Fayette County Housing Demand Study, (2017, May), pp. 22, 23.

[xviii] Lawrence Yun, and Evangelou, N., (2016), p. 9.

[xix] LFUCG, Affordable Housing Trust Fund, (2010, February), p. 47.

[xx] Lawrence Yun, and Evangelou, N., (2016), p 6.

[xxi] See Ruoniu Wang, Cahen, C., Acolin, A., and Walter, R. J., (2019, April), p. 22.

[xxii] See LFUCG, Affordable Housing Trust Fund, (2010, February), pp. 47 and 48.

[xxiii] See czb for the City of Lexington, KY, (2014, February).

[xxiv] See Taylor Shelton, (2017, October), p. *ii.*

[xxv] Jeffrey Lubell, (2013, August), p. 5.

[xxvi] Jeffrey Lubell, (2013, August), p. 5.

[xxvii] See John Emmeus Davis, (2006), p. 1-2 (*emphasis* added).

[xxviii] Kenneth Temkin, Theodos, B., and Price, D., (2010), p. *iii*.

[xxix] John Emmeus Davis, (2010), p. 260.

[xxx] John Emmeus Davis, (2010), p. 263.

[xxxi] John Emmeus Davis, (2017), p. 16.

[xxxii] Jacobus, Rick & Sherriff, R., (2009, June), p. 20.

[xxxiii] John Emmeus Davis, (2017), p.14.

[xxxiv] Ruoniu Wang, Cahen, C., Acolin, A., and Walter, R. J., (2019, April), pp. 35-36.

[xxxv] Kenneth Temkin, Theodos, B. and Price, D., (2010), p. 7.

[xxxvi] Rick Jacobus, & Sherriff, R., (2009, June), p. 8. For similar chart, see p. 9.

[xxxvii] See John Emmeus Davis, (2017), p. 48.

[xxxviii] See Ruoniu Wang, Cahen, C., Acolin, A., and Walter, R. J., (2019, April), Abstract.

[xxxix] Kenneth Temkin, Theodos, B. and Price, D., (2010), p. 10.

[xl] Kenneth Temkin, Theodos, B. and Price, D., (2010), p. 17.

[xli] Rick Jacobus & Davis, J. E., (2010), pp. 15-16, 23.

[xlii] See John Emmeus Davis, (2017), p. 32.

[xliii] See Carolina Katz Reid, (2004, April), p. 30 and Rick Jacobus and Sherrif, R., (2009, June), p. 21.

[xliv] Thomas P. Boehm, Schlottman, A., (2004, December), pp. *v. – vi*.

[xlv] Jeffrey Lubell, (2013, August), p.7.

[xlvi] Ruoniu Wang, Cahen, C., Acolin, A., and Walter, R. J., (2017), pp. *i-ii.*

[xlvii] John Emmeus Davis, (2017), p. 48.

[xlviii] See Kenneth Temkin, Theodos, B. and Price, D., (2010), pp. iv-v.

[xlix] See Rick Jacobus & Davis, J. E., (2010), p. 17.

[l] Rick Jacobus & Davis, J. E., (2010), p. 3.

[li] Rick Jacobus, & Sherriff, R., (2009, June), p. 15.

[lii] See Rick Jacobus & Davis, J. E., (2010), p. 19.

[liii] See Ruoniu Wang, Cahen, C., Acolin, A., and Walter, R. J., (2017), p. 46.

[liv] See Ruoniu Wang, Cahen, C., Acolin, A., and Walter, R. J., (2017), p. 48.

[lv] *See Shared Equity Housing by the Numbers*, https://groundedsolutions.org/shared-equity-housing-numbers.

[lvi] See Emily Thaden, (2010), p. 16.

[lvii] Emily Thaden, (2010), p. 16.

[lviii] See Emily Thaden, (2011).

[lix] Emily Thaden, (2011), pp. 14, 21-22, *emphasis* added.

[lx] See Carolina Katz Reid, (2004, April), pp. 20, 26.

[lxi] See Kenneth Temkin, Theodos, B. and Price, D., (2010), p. 29.

[lxii] See Jeffrey Lubell, (2013, August), pp. 9-10.

[lxiii] See Rick Jacobus & Davis, J. E., (2010), p. 23.

[lxiv] John Emmeus Davis, (2017), p. 52.

[lxv] Rick Jacobus, & Sherriff, R., (2009, June), p. 22.

[lxvi] See Shared Equity Housing By the Numbers

[lxvii] See Rick Jacobus & Davis, J. E., (2010), p. 3.

[lxviii] See Rick Jacobus & Davis, J. E., (2010), p. 20, footnote 14.

[lxix] See czb for the City of Lexington**,** KY, (2014, February).

[lxx] See John Emmeus Davis, (2017).

[lxxi] Interview with Rachael Childress, (2019, July 26).

[lxxii] John Emmeus Davis, (2006), p. 92.

[lxxiii] Rick Jacobus, & Sherriff, R., (2009, June), p. 21.

[lxxiv] See Jeffrey Lubell, (2013, August), p. 21.

[lxxv] John Emmeus Davis, (2017), pp. 49, 51.

[lxxvi] Jeffrey Lubell, (2013, August), p. 7.

[lxxvii] Emily Thaden, (2010), p. 27.

[lxxviii] Emily Thaden, (2010), pp. 4-5.

[lxxix] Taylor Shelton, (2017, October), p. ii. Locked Out also contains a discussion on the social and financial costs of evictions. But it is noted that while many CLTs, including the LCLT, have rental units, this report is limited in discussion to homeownership situations.

[lxxx] See John Emmeus Davis, (2017).

[lxxxi] See John Emmeus Davis, (2017), p. 12.

[lxxxii] John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 3. Also see: *Understanding Subsidy Retention,* http://www.burlingtonassociates.com/#.

[lxxxiii] John Emmeus Davis, (2010), p. 271.

[lxxxiv] Emily Thaden, (2010), pp. 3-4.

[lxxxv] Emily Thaden, (2010), pp. 3-4.

[lxxxvi] Taylor Shelton, (2017), p. *ii.*

[lxxxvii] James M. Libby, (2010), p. 554.

[lxxxviii] John Emmeus Davis, (2010), pp. 269-270.

[lxxxix] Carolina Katz Reid, (2004, April), pp. 28 and 32.

[xc] John Emmeus Davis, (2010), p. 275.

[xci] John Emmeus Davis, (2010), p. 269.

[xcii] Emily Thaden, (2010), p. 17.

[xciii] Emily Thaden, (2010), p. 20.

[xciv] See Emily Thaden, (2010), pp. 18-19.

[xcv] Taylor Shelton, (2017), p. 17.

[xcvi] See Emily Thaden, (2010), p. 19.

[xcvii] See Emily Thaden, (2010), pp. 20 and 23.

[xcviii] Emily Thaden, (2010), pp. 25 and 24.

[xcix] See Emily Thaden, (2010), pp. 25-26.

[c] Emily Thaden, (2010), p. 26.

[ci] Taylor Shelton, (2017), p. *ii.*

[cii] See John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 4.

[ciii] Emily Thaden, (2010), p. 19.

[civ] See Beth Musgrave, (2018, May 24). See also, Tom Eblen, (2017, February 12), for a discussion regarding gentrification and race.

[cv] Taylor Shelton, (2017), pp. 2-3.

[cvi] See Emily Thaden & Pickett, T., (2019, October 31), p. 1.

[cvii] Emily Thaden & Pickett, T., (2019, October 31), p. 3.

[cviii] See Emily Thaden & Pickett, T., (2019, October 31), p. 7.

[cix] John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 17.

[cx] czb for the City of Lexington, KY, (2014, February), p. 23.

[cxi] See Oksana Mironova, (2019, July 6).

[cxii] John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 45.

[cxiii] John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 44.

[cxiv] Rick Jacobus, & Sherriff, R., (2009, June), p. 19.

[cxv] See John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 54.

[cxvi] See John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 47.

[cxvii] See John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p 32.

[cxviii] Taylor Shelton, (2017), p. 20.

[cxix] See *Is a Land Bank the Same as a Land Trust?* https://shelterforce.org/2014/10/02/answer_land_banks_land_trusts/, specifically, the link to the Burlington Associates chart on Land Banking v. Land Trusting.

[cxx] See *Frequently Asked Questions on Land Banking*, https://www.communityprogress.net/land-bank-faq-pages-449.php, for Technical Assistance for establishing successful land banks. See also
Is a Land Bank the Same as a Land Trust?
https://shelterforce.org/2014/10/02/answer_land_banks_land_trusts/

[cxxi] See John Emmeus Davis, (2012, October 31).

[cxxii] Emily Thaden, (2010), p. *i*.

[cxxiii] See John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 30.

[cxxiv] See NPE Project, ROD, p. 29.

[cxxv] See John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), pp. 29-30.

[cxxvi] John Emmeus Davis, (2006), p.92.

[cxxvii] John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. *iii.*

[cxxviii] See John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 38.

[cxxix] Benjamin Orr, and Rivlin, A. M., (2011, July), p. 22.

[cxxx] John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 47.

[cxxxi] See czb for the City of Lexington, KY, (2014, February), p. 23.

[cxxxii] Commonwealth Economics, LLC, (February 2010), p.28.

[cxxxiii] See John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 35.

[cxxxiv] See John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 32.

[cxxxv] See John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 33.

[cxxxvi] See John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 34.

[cxxxvii] See John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 39.

[cxxxviii] See John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 40.

[cxxxix] See John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 52.

[cxl] John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 55.

[cxli] Rick Jacobus, & Sherriff, R., (2009, June), p. 15.

[cxlii] See John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), pp. 69-70.

[cxliii] See John Emmeus Davis, Jacobs, R., & Hickey, M., (2008), p. 71.

[cxliv] See Rick Jacobus, & Sherriff, R., (2009, June), p. 17. For a good review of resale formulas see Appendix A.

[cxlv] Rick Jacobus, & Sherriff, R., (2009, June), p. 18.

[cxlvi] Davis, John Emmeus, Jacobs, R., & Hickey, M,. (2008), p. 23.