

**Community Land Trusts and Land Banks:
Understanding the Opportunities and Barriers to Affordable Housing and Placemaking**

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Introduction

While the nation has experienced a robust housing market in which supply has not kept up with demand, the effects of the housing and financial crisis in 2007 have lingered on in legacy cities posing a set of unique challenges for the remaining large inventory of foreclosed homes and related vacant land (McCoy, 2013). Increased tax foreclosures led to the land banking movement in Michigan in 2004 as former Genesee County Treasurer Dan Kildee (now U.S. Representative for Michigan's 5th District) helped create the Genesee County Land Bank, the first of its kind in Flint, MI. Despite this innovative mechanism to deal with foreclosed properties, new partnerships are necessary to deal with the long-term management of these lands while providing affordable housing and vibrant neighborhoods with desirable placemaking amenities. This study explores the challenges and opportunities of Land Banks coupled with Community Land Trusts to address housing affordability and placemaking of vacant and abandoned properties. The scope of the research is national but focuses primarily on the issues present in legacy cities and land bank properties in Michigan.

Presently, Michigan is in a unique position when it comes to the potential coordination between Community Land Trusts (CLTs) and Land Banks, in that it contains a far more expansive Land Bank presence than every other state ("National Land Bank Map," 2022). While Land Banks generally represent a quick and efficient process for obtaining and demolishing blighted or unproductive property, Community Land Trusts typically favor a long-term approach to solving issues of land conservation and affordable housing. A collaboration between these two avenues of redevelopment could provide an enduring solution to pressing community needs in affordable housing. This concept is explored through research starting in the context of Flint, the home of the modern land bank movement, by interviewing staff with the nonprofit community

development corporation, Communities First, Inc., an entity that has over a decade of experience with placemaking programming as well as mixed income housing development in the Flint area (*About | Communities First*, n.d.). Additional interviews were conducted with key organizations on the use of this concept. In addition, national and state case study examples are explored.

What are Community Land Trusts?

Community Land Trusts are not trusts in the traditional sense of the word but are built and function more as nonprofit corporations. These entities can be defined as “community-led, nonprofit organizations designed to hold land in trust for the benefit of the community” (Grannis, 2021). There are many kinds of land trusts that utilize this corporate structure. Some focus on environmental protection by procuring land or conservation easements to protect water quality, natural habitats, or scenic views. On the other hand, Community Land Trusts are distinct in that their focal point is typically on meeting housing needs, particularly in low-income affordable housing (Bartley et. al., 2017). The goal of a CLT is to acquire and develop land to provide a permanent low-cost housing option to members of a community who demonstrate financial need.

How does a CLT accomplish its objective of offering affordable housing options in perpetuity? The answer is by separating ownership of the land from the home and other improvements to it. Generally, CLTs acquire and retain ownership of the land while selling off the home at an equitable rate. The home buyers then enter a lease with the CLT, giving up a significant portion of the future appreciated value in the home in exchange for the right to occupy the underlying land. These leases are typically for a term of 99 years and can be inherited through will or intestacy to direct family members. The duration of the leases enables purchasers to enter long-lasting contracts for affordable housing, while simultaneously building some equity in the home if/when they wish to

sell their interest. Setting aside most of the appreciated value of the home ensures the price remains affordable for the next buyer. For example, a typical CLT ground lease includes a resale formula that allows the homeowner to retain a portion (typically 25 percent) of the appreciated value of the improvements on the property, while the CLT retains any accrued land value (Grannis, 2021). In addition, a CLT might consider qualified buyers as individuals whose household income is no greater than 200% of the local poverty level. This system ensures homes located on CLT property remain affordable for as long as the non-profit corporation retains ownership of the underlying land.

While there is no legislation dictating a specific corporate structure required of a CLT, most follow either basic IRC 501(c)(3) charitable corporate structure, or a three-tiered approach. Under the 501 (c)(3) model, it is possible for CLTs to be established as “successors, affiliates, or programs of an older nonprofit” (Davis, 2007). Either a pre-existing nonprofit transforms itself into a community land trust or grafts selected elements of the CLT model onto its own structure and programs. Sometimes, when a new CLT is established within the corporate shell of a pre-existing nonprofit, the CLT becomes a permanent part of the nonprofit’s on-going operations (*Creating a CLT: Organizational Issues & Options*, 2012). However, most CLTs are not incorporated as a sub-unit of an existing entity but are made from scratch and follow the three-tiered model. Under this approach, the CLT board of directors is comprised of three groups of equal membership that represent a cross-section of the community in which the CLT operates: leaseholder representatives, general representatives, and public representatives (*The Diverse World of Community Land Trusts*, n.d.). Leaseholder representatives are individuals who are currently living on CLT property. General representatives are board members who live within the CLT service area but are not parties to a CLT land lease. Public representatives are local government officials, non-profit workers, or

social service providers, who are in-tune with community housing needs. The board is responsible for making major decisions concerning CLT operations, the biggest of which are whether to grant a lease to a qualified buyer and whether to sell the underlying property if the affordable housing goals of the CLT are no longer feasible for a given parcel. The structure and operations of CLTs emphasize their long-term approach to planning for the affordable housing needs of a community. However, without specific legislation there is no method for enabling CLTs to get priority access to land which becomes available for purchase. It can be difficult for these land trusts to acquire and develop property in a manner that make their affordable housing goals financially possible.

What are Land Banks?

The Department of Housing and Urban Development defines Land Banks as “a governmental or non-governmental nonprofit entity established, at least in part, to assemble, temporarily manage, and dispose of vacant land for the purpose of stabilizing neighborhoods and encouraging re-use or redevelopment of urban property” (*Department Of Housing And Urban Development, 2010*). The primary activities of Land Banks are to “purchase properties that have been foreclosed upon and maintain, assemble, facilitate redevelopment, market, and dispose of land-banked properties” (*Department of Housing and Urban Development, 2010*). Although CLTs represent a protracted approach towards community planning, Land Banks often focus on demolition of unsafe structures (out of necessity) as a quick solution of solving property issues.

Michigan has one of the most robust Land Bank systems in the entire country. According to the Michigan Department of Labor and Economic Opportunity, there are 46 active Land Banks operating around the state (*Mich. Dept. of Labor and Economic Opportunity, 2022*). Unlike CLTs, which are frequently private corporations and require no legislative authority, Land Banks are

commonly created by state or local governments under the authority of an enabling statute. In Michigan, that authority is the Land Bank Fast Track Act (LBFTA), codified as M.C.L. §§ 124.751–774. The Land Bank Fast Track Act demonstrates both the role the legislature envisioned for Land Banks and how these entities are authorized to operate.

Under the LBFTA, the Michigan legislature specifically denoted its desire for a more streamlined process of acquiring and transferring empty or blighted property (*Michigan Legislature - Section 124.752*, n.d.). In pursuing this goal, the LBFTA imbued Land Bank authorities with broad powers, including “all things necessary or convenient to implement the purposes, objectives, and provisions of this act” (*Michigan Legislature - Section 124.754*, n.d.). Among these powers is the ability to “control, hold, manage, maintain, operate, repair, lease as lessor, secure, prevent the waste or deterioration of, demolish, and take all other actions necessary to preserve the value of the property” (*Michigan Legislature - Section 124.756*, n.d.). This authority encompasses the capability to take *any* action to clear or quiet title on the property. Importantly, Land Banks are not limited to whom they may transfer property after the blight has been removed. Unless the property itself represents a threat to public health safety or welfare, the Land Bank may “convey, sell, transfer, exchange, lease as lessor, or otherwise dispose of property or rights . . . to any public or private person for value determined by the authority” (*Michigan Legislature - Section 124.757*, n.d.).

Land Banks most often acquire property through tax-foreclosure, as they are the default recipient of any foreclosed property which goes unsold at auction or unclaimed by the state. While Land Banks are an effective tool for efficiently making property marketable, and have priority access to many abandoned land parcels, they are less concerned than CLTs with *how* the property they transfer is used by the buyer. Demolitions and sales are the most common activities performed

by Land Banks. For example, since 2009 the Kalamazoo County Land Bank conducted 276 residential demolitions and 174 residential side lot sales, but only constructed 44 new buildings on vacant or demolished land (*Quantitative and Qualitative Impact Assessment of Land Bank*, 2018). While Land Banks can, and frequently do, transfer property to non-profit developers, they are under no obligation to do so. A realignment of Land Bank priorities or coordinated transfers of Land Bank properties to CLTs could “create a pipeline of low-cost properties that could be redeveloped as permanently affordable housing or other community serving amenities” (Grannis, 2021).

Case Studies: Coordinating Efforts Between CLTs and Land Banks

Land Bank authorities have broad powers to control, hold, manage, maintain, and preserve the value of a property and frequently acquire a wide variety of properties. According to the Center for Community Progress, 250 land banks and land banking programs exist in a range of communities, from “Legacy Cities” to suburban and rural towns that were hit hard by the mortgage foreclosure crisis (“National Land Bank Map,” 2022). According to Grounded Solutions Network there are over 225 community land trusts in the United States (*Community Land Trusts*, 2022). Further investigation reveals that there are only about half a dozen known and active Community Land Trusts operating in Michigan, and most are relatively new. Despite the imbalance in number of Land Banks compared to CLTs in Michigan, the goals of the two entities have the potential to complement each other and fill a necessary gap in affordable housing and placemaking objectives. Two examples from Michigan and one example from Texas demonstrate how the combined effort between these two entities can help alleviate housing affordability concerns within a community.

Dwelling Place Regional Land Trust

The Dwelling Place is a non-profit development organization in Grand Rapids, MI that provides affordable housing and other essential support services. Dwelling Place established the Dwelling Place Regional Land Trust (DPCLT) in 2020 and now sells housing through a CLT model in Grand Rapids as well as in south and southwest Michigan. According to David de Velder, Director of Community Land Trust at Dwelling Place, “The CLT model is a way to preserve housing while creating equity for low-income families” (D. de Velder, zoom interview, July 13, 2022). Prior to the establishment of the community land trust, Dwelling Place owned real estate properties long before heavy investment started taking place in downtown Grand Rapids. “Dwelling Place had been looking at the CLT model as an additional tool to preserve housing prices in the economic forces at work in Grand Rapids,” said de Velder.

Dwelling Place has a history of working with the Michigan State Land Bank and the former Kent County Land Bank (now disbanded) on creative funding sources such as Brownfield Tax Increment Financing (TIF). Currently, the Dwelling Place has three projects using a CLT model. One example is the 2080 Union SE project, in which the Dwelling Place is working with the Michigan State Land Bank to retain the property while it is being developed. This enables the Dwelling Place to get all the eligible financing available. For example, it is likely that the City of Grand Rapids will not agree to the sales price discount as an eligible expense after the 2080 Union property is transferred to the State Land Bank. However, the Dwelling Place will be working with the Grand Rapids Brownfield Authority to claim interest on the TIF eligible costs, which is likely to generate a similar benefit to the sales price discount. The 2080 Union SE project is five acres of vacant land on the southeast side of Grand Rapids, MI. The DPCLT

portion of the plan proposes 42 single family homes, with green spaces, and drive access using public street. Properties on 2080 Union project will remain in the state land bank until a homeowner purchases a home on the land, then that property will be transferred to the Dwelling Place Regional Land Trust where it will remain.

Dwelling Place uses the traditional CLT model and sells the home between 25%-75% of the appraised value of the property. Gap subsidy comes from Brownfield TIF, foundations, philanthropy, or Dwelling Place. Dwelling Place has also recently applied for MSHDA's (Michigan State Housing and Development Authority) Missing Middle grant funding for 2080 Union. Dwelling Place charges a monthly ground lease fee of \$50 and a repair reserve fee \$50 for the family to live on the property. That money goes into an account the homeowner can pull from in the future for any needed repairs. When a CLT homeowner wants to sell the home, the homeowner keeps their mortgage principle paid, plus 25% of the increased market value. The home is then resold for 25% above the previous owner's discounted purchase rate. de Velder stated, "even in a downturn they (the homeowner) get their equity share."

Dwelling Place puts money into a cash reserve every time they sell a home. The cash reserves will be used to buy back homes in the event of foreclosure, homeowner death, or other reasons to sell quickly. The homeowner will not get equity back if the home has depreciated below mortgage balance. However, Dwelling Place policy prevents foreclosures on CLT homes. This means Dwelling Place would need to pay off the mortgage balance and purchase the home from the homeowner, rather than the bank taking the home.

Grand Haven Community Land Trust: Robinson Landing Project

The City of Grand Haven, MI set up a municipal community land trust in 2021, which manages 16 affordable homes in the Robinson Landing project under a CLT model. The Robinson Landing project is a 30-home development that involved key partnerships to create affordable housing through a municipal community land trust. The City of Grand Haven partnered with Housing Next, a pilot initiative group that works with non-profits and local governments with an interest in increasing quality of life and access to housing of all types (*Housing Next*, n.d.).

The process began in 2017 when the City of Grand Haven created and approved a new zoning ordinance to address the availability of housing options for all incomes. In addition, the Grand Haven Community Foundation committed to supporting housing opportunities in the West Michigan area. The City of Grand Haven owned 7.58 acres of vacant land that were transferred to Ottawa County Land Bank. The Ottawa County Land Bank then sold the land to non-profit developer, Michigan Community Capital in late 2021. Michigan Community Capital consulted with Grand Rapids area attorneys who have experience working with community land trust projects. The Robinson Landing neighborhood consists of 30 lots, 16 of which are sold on a 99-year ground lease with the newly formed Grand Haven Community Land Trust. The homes built on these lots are sold to qualified buyers. The CLT buyers cannot exceed 80% of the Area Median Income (AMI), must have acceptable credit, down payment, and proof of income to satisfy the lender that will provide the mortgage (Robinson Landing Home, 2021). The homes are sold at approximately 75% of the appraised value. In addition, restrictions on resale will ensure long-term affordability. The Grand Haven CLT owns the land and screens the process of homeowners. In addition to a monthly ground lease fee, the CLT gets a small transaction fee on any sales and the CLT obtains local grants to sustain future costs.

Houston Community Land Trust

In 2017, the Houston Land Bank was looking at ways to stabilize and revitalize Houston neighborhoods particularly given the scale of vacant, abandoned, deteriorated, and storm damaged property (Houston Land Banks and Community Land Trusts, 2021). In addition, median home prices in Houston in the last decade have increased by 67 percent, while income has increased by only 20 percent (*Land Banks and Community Land Trusts Partner to Unlock Affordable Housing Opportunities*, 2020). Facing these challenges, the New Home Development Program (NHDP) was launched in 2018 as a collaboration of the City of Houston, the Houston Land Bank, and the Houston Community Land Trust. NHDP provides newly constructed, affordable single-family homes to homebuyers with a household income of 80% or less of the area median income (AMI) through the CLT model. Two non-profits, Community Progress and Grounded Solutions Network ran a 36-month program with initial funding from Wells Fargo. The two nonprofits have also worked with other communities, including Albany, New York, to explore similar potential collaborations between community land trusts and Land Banks.

State and Regional Programs for CLTs and Land Banks

In the state of Ohio, a governmental program was established to aid the transfer of vacant land bank land to a municipal community land trust and construct affordable homes. In 2021, the Ohio governor announced the launch of the Ohio Building Demolition and Site Revitalization Program, administered by the Ohio Department of Development, which provides about \$150 million in grants to remove dilapidated buildings and revive properties (*COCIC - The Land Reutilization Corporation of Franklin County*, n.d.). A key component of the program states, “In

counties where a land bank has been established, the land bank will serve as the lead entity. Lead entities may enter into sub-recipient agreements with known end-users of any awards (*COCIC - The Land Reutilization Corporation of Franklin County*, n.d.).” The Central Ohio Community Improvement Corporation (COCIC), which is the Franklin County Land Bank, has partnered with Franklin County and the City of Columbus to establish the Central Ohio Community Land Trust (COCLT), as a subsidiary of COCIC. COCLT works with non-profit housing developers to build newly constructed single-family residential homes currently on land bank owned lots in areas with high housing costs. They sell these properties to eligible buyers through the Central Ohio Community Land Trust model (*Affordable Housing | Central Ohio Community Land Trust*, n.d.).

Another national model worth mentioning is the Champlain Housing Trust in Burlington, VT. The Champlain Housing Trust (CHT), formed in 2006, has become the country’s largest land trust as of 2019 (*Community Land Trusts (CLTs)*, 2012). It is a Northwest Vermont-based nonprofit organization promoting strong, vital communities through the development and stewardship of permanently affordable homes and associated community assets. CHT was formed in 2006 from the merging of two Vermont community land trusts, the Burlington Community Land Trust, and the Lake Champlain Housing Development Corporation. In the region, CHT owns or manages “over 2,569 apartments, stewards 650 single family shared equity homes, owns 140,000 sq. ft. of commercial space and two motels and provides services to five housing cooperatives” (Network, 2022). CHT also has loan fund programs which support rehabilitation of single-family homes throughout the state of Vermont. CHT has won numerous awards, including the 2008 UN World Habitat Award for the Global North (*Champlain Housing Trust – Affordable Housing For All*, n.d.). In addition, they have a range of housing development

and community programs including housing and financial counseling, community and economic development, single-family for-sale development, multi-family for-sale development, multi-family rental development, single-family rental development, commercial development, and asset management. CHTs financing strategy uses federal, state, and local government grants as well as private investment, donations, and foundation grants. Although CHT does not coordinate with Land Banks to acquire property for housing, because the state of Vermont does not have Land Banks, they still serve as a national model for Community Land Trusts. CHT was mentioned by several organizations as an influential entity working in community land trusts and housing.

Interviews

Interviews were conducted to understand how communities can redevelop vacant land while providing affordable housing and placemaking amenities using the potential tools of CLTs and Land Banks. In addition, a general understanding of housing, placemaking, and policy challenges and opportunities are explored through interviewing experienced stakeholders from a range of organizations in Michigan. In total, nine individuals were interviewed. Interviewees include three individuals from Community Land Trusts, four individuals working with Land Banks in different capacities, one individual from Michigan State Housing Development Authority (MSHDA), and an individual from a planning and advocacy non-profit. Interviewees were asked, “what do you see as the challenges for affordable housing in Michigan? What do you see as challenges for placemaking/parks? Do you see opportunities for Land Banks and Community Land Trusts to work on affordable housing/placemaking in Michigan? What do you see as the policy/administrative barriers for CLTs and Land Banks to work together on

affordable housing/placemaking in Michigan?” A qualitative summary of the nine interviews is presented in the following section. The summary highlights the challenges and barriers to CLTs and Land Banks working together to provide affordable housing and placemaking solutions.

Affordable Housing: Challenges and Opportunities

Challenges

Some of the main challenges to affordable housing that were identified include: zoning, availability and quality of housing stock, funding, and politics. Six out of the eight interviewees considered zoning as a major challenge to affordable housing. Several interviewees identified exclusionary and archaic zoning policies as a major challenge in providing affordable housing. One example mentioned was, “we do not have inclusionary zoning legislation in Michigan,” that is mandated or incentivized in other states. However, another interviewee indicated that inclusionary zoning has not been as successful as overall zoning reform, which allows for more types of housing to be built. Another interviewee stated that zoning densities and ordinances force developers to continually build in neighborhoods and communities that are not in high opportunity areas. In addition, zoning laws about parking minimums, minimum lot size requirements and outdated zoning policies on density requirements are seen as challenges to building affordable housing. This poses a challenge particularly to Land Bank entities. Jake Parcell, Deputy Director for the Wayne County Land Bank explains, “Most of our properties are in low density single family traditional housing neighborhoods. Affordable housing options including larger structures, condos, apartments, or row houses are most likely not a compatible land use in these residential neighborhoods” (J. Parcell, zoom interview, July 14, 2022).

The availability and quality of housing stock is an additional challenge but is contextual depending on the market. In ‘hot’ real estate markets such as Grand Rapids, there is a lack of available affordable housing. However, interviewees working in more depressed markets, such as Flint or Detroit mentioned that the lack of quality housing stock and the abundance of blighted and poor housing quality inventory as a challenge to attainable affordable housing. This is a challenge for both cost and livability. For example, Jake Parcell from the Wayne County Land Bank states, “Most of our inventory is vacant land or just foundations, and the livability of some of these structures is not ideal (J. Parcell, zoom interview, July 14, 2022).”

Another issue identified revolved around the funding aspect of developing affordable housing. Interviewees saw high construction costs, competitive grant application processes, limited availability of funding, and bureaucratic ‘red-tape’ as challenges to affordable housing. Several interviewees explained the poor incentivization of some affordable housing grants and other available funds. For example, an interviewee described that the low-income housing tax credit (LIHTC) gives higher points for developers building in areas with amenities, which can cause a cycle of disinvestment. As LIHTC incentivizes building in places with amenities, truly underserved neighborhoods are neglected. The LIHTC grant is a very competitive application process in which higher points result in more funding. However, in some instances the point system incentivizes development in areas that people may not want to live. Additionally, another interviewee pointed out the difficulty building housing in these areas that do not have an opportunity for growth. In addition, an interviewee described that both LIHTC and other grants from the United States Department of Housing and Urban Development (HUD) only stipulate housing affordability for a certain number of years until they begin to go to market rate. This poses an issue for long-term affordability of housing. Jan van der Woerd, Vice President of Real

Estate Development & Management at ICCF Community Homes states, “the HOME Federal program is intended to serve one family. It is a great thing for one family, but it does not help long term affordability” (J. Woerd, zoom interview, July 13,2022).

Interviewees identified political challenges in providing affordable housing. One example was the negative language surrounding affordable housing used by not only community members, but from local government officials. In addition, large affordable housing projects often get push back from the community. Interviewees described that community members are often worried about density and maintenance of properties, and that developers often face NIMBYism. In addition, one interviewee mentioned the former redlining policies in some major cities that have created major divides by class and race that persist to this day. For example, data gathered by the Michigan State Land Bank Authority illustrates that past patterns of inequality are observed in nearly all present Land Bank Authority land. This data shows that in urban areas across the state of Michigan, between 81% and 96% of State Land Bank parcels are in formerly redlined areas (Woodin, 2021).

Opportunities

An opportunity for affordable housing financing that came up in multiple interviews was the Brownfield Tax Incremental Financing (TIF). Through the Brownfield Redevelopment Financing Act, Brownfield TIF allows applicable taxing jurisdictions to receive property taxes on the property at the current level and capture the incremental increase in tax revenue resulting from a redevelopment project, in which they seek reimbursement from state and local property taxes for eligible non-environmental activities (*Brownfield Tax Increment Financing | MiPlace*, n.d.). Michigan Land Banks have around 10,000 orphan parcels all over the state of Michigan, many of which are contaminated (E. Doerr, zoom interview, July 18, 2022). This creates an

opportunity for potential financing through land bank parcels around the state. Another opportunity identified by multiple interviewees is the potential for willing cities to change their current policies and practices working to support affordable housing. Brian Larkin, Director of the National Land Bank Network, states, “land banks that are best positioned to help with [the] affordability crisis are the ones that can acquire property during the times when the market is recessed, and the best way that land banks can influence affordable housing is by staying ahead of the curve” (B. Larkin, zoom interview, July 7, 2022).

Placemaking: Challenges and Opportunities

Placemaking is the process of creating quality places where people want to live, work, play, shop, learn, and visit (Wyckoff, 2015). Enhancing placemaking amenities can bring added value to a community. The widespread presence of vacant properties in a community creates a potentially undesirable place to live. Several communities have used various strategies to transform vacant properties and reverse negative perceptions engendered by widespread vacancy. Though some Land banks are working in the forefront to utilize vacant parcels for placemaking, the collaborative effort between Land Banks and CLTs can minimize the challenges centered around improving deteriorated neighborhoods and enhancing amenities to make them desirable locations.

Challenges

The most common responses to the challenges of placemaking are the costs and expenses related to purchase of amenities and maintenance of properties. Several previous examples have shown that nonprofit organizations cannot afford to maintain the property for placemaking in the

first place and after improvements are made, there are questions of financial and legal liabilities to improve and maintain the land. Finding a suitable organization who has resources to maintain these places as a park or community garden or anything for community benefit over time is difficult (J. Parcell, zoom interview, July 14, 2022).

Another significant issue is the location of the vacant properties used for placemaking. Nearly half of our interviewees state that there is no strong desire to live in communities where the housing inventory is within blocks of foreclosed properties and deteriorated parcels. This situation has a negative multiplying effect. As people start leaving delinquent properties in a community it becomes increasingly difficult to find a buyer because it is undesirable to live in a mainly abandoned neighborhood. Emily Doerr from the Michigan State Land Bank mentioned other aspects that contribute to placemaking challenges as well. According to Doerr, “LIHTC developers will develop on the cheapest parcels of contiguous land. However, these are typically areas of disinvestment and may not have the best school districts” (E. Doerr, zoom interview, July 18, 2022). Hence, the association between affordability and the quality of life is paramount. It is not necessarily always expensive to have a place to live in the legacy cities, but aging housing stock along with areas of disinvestment and lack of amenities can contribute to barriers of placemaking in the communities. In addition, one interviewee stated that placemaking projects do not bear any direct economic benefit to the organization as a whole particularly in the short term.

Opportunities

When asked about the opportunities of placemaking, most of the interviewees see the availability of land and the unique power of Land Banks to acquire, activate and transfer of

properties in furtherance of community interests as a key resource. According to Brian Larkin, Director of the National Land Bank Network, “Land banks have the ability to activate spaces and there is no limit on what they can do on the spaces. It's just about the resources and partnerships that are provided to help make it possible” (B. Larkin, zoom interview, July 7, 2022).

With resources being the major obstacle in the placemaking effort, the interviewees see the liaisons with the city governments who will advocate for placemaking projects as another opportunity. Entities looking to transform vacant sites must adapt to and maneuver around regulatory barriers such as site control, obtaining certificates of occupancy, and insurance requirements (*Creative Placemaking on Vacant Properties* | HUD USER, n.d.). Some cities, such as Kalamazoo and Newburgh, MI, have used temporary installations to avoid such regulatory barriers (“Kalamazoo Fare Games,” n.d.). Several interviewees noted partnering with nonprofit organizations is expected to go a long way in placemaking. Placemaking requires participants to form and maintain cross-sector partnerships. Successful partnerships bring in varying perspectives and ideas that help move the community forward. However, since these partnerships involve cooperation among different groups with competing interests such as local government, nonprofits, local businesses, and community residents, they can be difficult to manage. To combat this difficulty, all parties involved must make a concerted effort to clearly communicate with one another. Eric Schertzing from Michigan Association of Land Banks (MALB) mentioned about the opportunity of grant funded conservancies to aid Land Banks in Placemaking as well (E. Schertzing, zoom interview, July 8, 2022). Analysis on how conservancies can work within the urban context and be a supporting tool to land banks is an opportunity worth exploring.

Policy and Administrative Barriers

Interviewees were asked what they saw as policy and administrative barriers to CLTs and land banks working together. An initial challenge is the willingness for a city to work with land banks. For a state or county land bank to work within a city, there must be an invitation letter. Although there are opportunities for land banks to work with CLTs and cities to set up TIFs to receive funding, this requires cities willing to give up tax revenue, something a city may not be financially or politically willing or able to do. Several interviewees working with land banks, expressed the challenges of administrative costs. Land banks have high operating cost to maintain vacant parcels of land, so they are inherently incentivized to release property from their inventory as quickly as possible. Not only do land banks pay for maintenance to maintain property, but they must also pay additional fees. Although the State Land Bank is working on legislation to release land banks from paying certain fees, relief has not yet been adopted by the state as of this interview. Emily Doerr explains, “stormwater and drainage fees are not assessed to [land banks]. If we're paying fees, then it is in our best interest to get property off our books as fast as possible and that's not going to help the community with sustainable development” (E. Doerr, zoom interview, July 18, 2022).

Interviewees identified several networking and informational challenges. There is a limited number of entities in Michigan working in this space. Our research revealed that there are about half a dozen operational CLTs in Michigan. Given the small number of CLTs, there is limited information and data on land banks and CLTs working together. This poses challenges such as understanding taxation, especially if the CLT is operating in different counties, as well as limited networking opportunities. With a lack of information available, communities may be reluctant to start a CLT and/or work together with land banks. In addition, zoning was another

policy barrier previously identified, as well as the transfer process for land bank property. Brian Larkin explained, “One of the biggest indicators of success is how easy the transfer process is. Costs may be added, and it slows down the transfer process. So, places that don’t have policies to ease transfer, or ease of disposition, slows the transfer process down and makes it more cumbersome” (B. Larkin, zoom interview, July 7, 2022).

Interviewees also identified a policy barrier that incurs costs on a CLT homeowner. Currently, a CLT landowner does not get the full principal residential exemption (PRD) on a property sale. Despite a CLT’s 501(c)(3) status, the land is still taxed because it is leased to a private entity. CLTs are required to pass this onto their income-limited homeowner. The improvements are also taxed at their full market value, despite the land-lease restricting future sale prices. This makes underwriting CLT mortgages more difficult. However, at the time this paper was written, two legislative bills have been introduced in the Michigan Legislature to change taxation of CLT property (SB 1141 & SB 1142) (*Policy & Advocacy*, n.d.).

Additional Issues Facing Community Land Trusts and Land Banks

Both Community Land Trusts and Land Banks have proven to be useful tools for community planning and redevelopment. However, they are not immune from various legal issues. One frequent matter which arises in CLT leases is tax liability. Generally, CLTs are exempt from state and federal income tax as a “charitable organization” Under IRC 501(c)(3). For example, Dwelling Place Regional Community Land Trust in Grand Rapids was issued a L947-income tax letter of exemption from the IRS because it was classified as a “public charity.” While CLTs can be sub-units of an existing 501(c)(3) corporation, to be eligible for tax exempt status the CLT as a distinct entity must also meet certain charitable requirements under the

Internal Revenue Code. CLTs cannot operate for-profit under the umbrella of a larger non-profit corporation (White, 2011).

Although various tax exemptions are provided by the IRS and the state, CLTs and homeowners are not exempt from all tax liability. One or both parties to a CLT lease may be subject to local taxes, such as public-school tax. Typically, the homeowner receives a bill for the value of the home and improvements while the CLT receives a bill for the value of the land. In the case of the Dwelling Place, their CLT lenders escrow the property taxes on the land and home. General rules of tax liability under a lease agreement apply, and the CLT will be responsible for paying local property taxes unless it assigns such payments to the homeowner through the terms of the lease (*Wycoff v. Gavriloff Motors, Inc.*, No. 29, 1961). Furthermore, the action of a CLT homeowner selling the home to another lessee qualifies as a “transfer” under Proposal A. Mich. Const. 1963 art. 9 §3. However, “because of the restrictions imposed on the sale of property by the CLT lease, the increased taxable value resulting from the sale is limited in accordance with the resale formula in the ground lease” (Bartley et. al., 2017). This makes underwriting CLT mortgages difficult. However, as mentioned above, two legislative bills have been introduced in the Michigan Legislature to change taxation of CLT property (SB 1141 & SB 1142).

Another issue that can arise out of the long-term lease relationship is in distributing traditional tort and negligence liability between the homeowner and CLT. This complication is mainly due to the muddled waters of mixed ownership between the land and improvements. It is common for CLT leases to require the home buyer to obtain homeowner insurance to insulate the CLT from potential liability. Recent legal trends have given landlords much more extensive duties in maintaining the living conditions of properties they lease. However, CLT leases are not

traditional leases. The home itself is sold directly to the buyer with the CLT only retaining rights of ownership, but not possession, of the land. Further, the extreme length of CLT land leases, and the fact that the leases usually impose duties upon the homeowner to care for and sustain the home and property, counsel that the lease operates more as a sale of property for the purposes of homeowner liability (*Shackett v. Schwartz*, 77 Mich. App. 518 |, 1977). Michigan courts have consistently recognized the common law rule that, absent express contractual duties, tenants are bound to keep a leased premise in good repair and the owners are not liable for injuries to other parties that arise from the neglect of the tenant (*Sholberg v. Truman*, 852 N.W.2d 89, 2014). Even with the more demanding duties imposed on lessors in modern landlord-tenant law, M.C.L. § 554.139(2) expressly permits parties to a residential lease, lasting more than one year, to modify obligations between the lessor and lessee (*Michigan Legislature - Section 554.139*, n.d.). However, there is a notable lack of jurisprudence on the precise liability of CLTs based on conditions of the CLT property that arise either before or after the combined sale/lease to the buyer.

In the case of Land Banks, given clear statutory authority for when and how they operate, most of the issues originate from practical rather than legal concerns. The first issue many Land Banks must overcome is the lack of data accurately recording properties that have become vacant or tax-delinquent. Although tax delinquency is the main avenue Land Banks acquire property, it can lead to the property becoming unusable. “If tax foreclosure enforcement proceedings are not initiated promptly upon occurrence of delinquency, multiple years of delinquency combined with interest and penalties can result in aggregate outstanding liens that are greater than the fair market value of the property” (Alexander, 2005). Additionally, outdated zoning codes precluding most economically viable uses of land might be the reason the property was abandoned in the

first place, and as mentioned in multiple interviews, Land Banks may have a difficult time finding a buyer if the parcel is located within an unfavorably zoned area. Despite these issues, CLTs and Land Banks have experienced success in pursuing each of their respective goals. They remain effective instruments by which communities can solve problems of vacancy, blight, and housing affordability. This effectiveness can be amplified with greater coordination between these two mechanisms.

Conclusion

This study lays out the groundwork for a better understanding of the challenges and opportunities regarding CLTs and Land Banks working together to provide affordable housing and placemaking goals. The Grounded Solutions Network and the Center for Community Progress have produced valuable information regarding coordinated efforts between CLTs and Land Banks. However, the application of this tool has barriers. Although this research is limited in scope, results highlight that there is limited information available on land bank and CLT partnerships, especially in Michigan. The research revealed that there are only about a half a dozen CLTs in Michigan. Moreover, a major challenge in operating a CLT is the start-up cost and the long-term financial viability. Within dynamic housing markets, the Dwelling Place and ICCF Community Homes in Grand Rapids, MI are successful newly formed examples of non-profit CLTs providing affordable housing options. These two non-profits have diverse revenues streams that may help buffer negative financial consequences in the event of an economic downturn. The City of Grand Haven identified housing affordability as a community need and went on to form a municipal CLT in collaboration with multiple non-profit entities. The results led to the Robinson Landing Project which now holds 16 properties under their community land

trust model. However, these are all newly formed Community Land Trusts. Further in-depth research is needed on national examples of successful long-term CLTs like the Champlain Housing Trust, but with a focus on coordinating with Land Banks. Lack of available information and research on this topic may leave communities and entities reluctant to take the risk of starting a CLT or coordinating with Land Banks.

A major challenge identified in almost every interview was zoning. Exclusionary zoning and rigid zoning requirements pose challenges on the viability and creation of affordable housing for both Land Banks and CLTs. In addition, cost burdens on Land Banks to pay fees and maintain properties incentivize them to off-load properties quickly and the slow transfer process makes resales burdensome. The Central Ohio Community Improvement Corporation (COIC) is an example of a state governmental program that has partnered with a Land Bank to aid the transfer of vacant land bank land to a municipal community land trust to construct affordable homes. This serves as a potential replicable policy model, particularly given the extensive Land Bank Network in Michigan. A funding opportunity identified in several interviews was using Brownfield Tax Incremental Financing to develop affordable housing. This creates a vast opportunity for contaminated Land Bank sites to receive funding. In addition, respondents noted that tax relief legislation is being proposed in Michigan and is necessary for the financial viability for CLTs. Shedding light on the common issues faced by both CLTs and Land Banks is a notable action step. Strengthening a path forward with a common goal of repurposing vacant land bank property for affordable housing and placemaking with the help of CLT long-term ownership and management is an opportunity worth exploring.

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