So You Wanna Be a CLT?

Rachel Stone, GNDC TACDC Conference April 1, 2025



Hi, I am

Rachel

Stone

Assistant Executive Director

Guadalupe Neighborhood Development Corporation

(GNDC)

Community Land Trusts

How do they work?

Community Land Trust: **HOW DO THEY WORK?**



Land is owned "in trust" by a Community Land Trust (CLT).

A public entity or a non-profit organization owns the land & leases it for small fee to the owner of the improvements





Buildings (residential/commercial/industry) are owned by individuals or entity. Purchasing only the structure means an affordable initial purchase price



The CLT leases the land to a homeowner using a Ground Lease (GL).

The terms is usually for 99 years. The sale or transfer of the improvements requires a new 99-year GL.

The GL establishes affordable resale prices & many other requirements.



A **Resale Formula** in the Ground Lease keeps homes affordable for subsequent buyers.

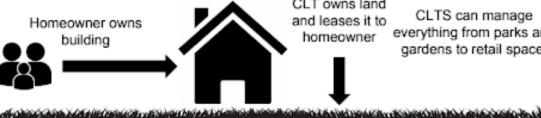
What is a community land trust? (CLT)

CLTs are nonprofits that promote community-driven land use by acquiring parcels of land and managing them according to member needs. CLTs are a proven, innovative model for providing affordable housing. To do this, CLTs:

- sell homes to buyers at a below market rate
- retain ownership of land and lease it to buyers use a resale formula that ensures affordability
- but still builds equity

Sacramento Community Land Trust will:

prevent displacement ensure perpetually affordable housing give residents a say in neighborhood development



CLT owns land and leases it to homeowner

CLTS can manage everything from parks and gardens to retail space.

CLTs shield parcels from market highs and lows, guaranteeing affordable housing for generations.



CLTs have a community governance model that gives residents a say on how their neighborhoods develop. Members vote to elect a board and decide key land use decisions.

Foreclosure

Sacramento CLT Draft Vision Statement:

CLT is a vehicle fighting to sustain and strengthen historically discriminated neighborhoods using a transparent, accountable, shared governance model to drive a sustainable, equitable, and empowered Metropolitan Sacramento.

How does a **Community Land Trust** work?



Community land trusts use various sources of capital to acquire/develop homes in a geographic focus area.

Funding sources include:

Foundations Public entities (federal, state, and local)

Financial institutions
Private donors

A new income-qualified resident buys and owns their house outright, but the CLT retains ownership of the land.

The homeowner leases the land beneath the house from the CLT, which maintains permanent affordability. As long as the homeowner stays in the house, they are building equity.

Residents have the opportunity to serve on the CLT board of directors

When they are ready to sell, the CLT sets a price that allows them to earn a portion of the equity while maintaining an afforable price.

The new resident is still able to buy a home at a price that's been kept affordable, and agrees to the same requirements around the resale.

63% of CLT homebuyers go on to buy a market rate home, using the equity they gained by being a CLT homeowner.

GNDC's journey to the first Texas CLT



ROFR (Right of First Refusal)

ROFR gives non-profit the opportunity to re-acquire the property when owner sells it sold for same price offered on the open market

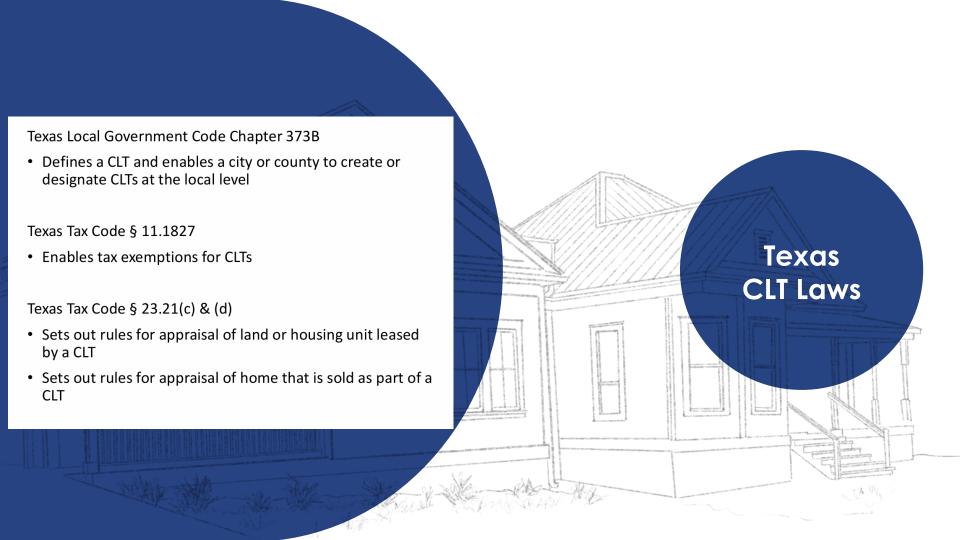
Shared Equity

Gives a Return on Investment (ROI) based on the % of assistance given by the non-profit to the homeowner towards the original price. Non-profit gets the same % of the "profit" or increased equity when property is so sold by the homeowner.



Community Land Trust

CLT keeps the land and establishes a set resale price for the home from the start. A ROFR allows CLT to purchase the home when sold and sell it to another eligible buyer



The Community Land Trust Law

Texas Local Government code 373B

CREATION OR DESIGNATION. The governing body of a municipality or county by ordinance or order may create or designate one or more community land trusts, including a housing finance corporation established under Chapter 394 or a land trust operated by a community housing development organization certified by the municipality or county, to operate in the municipality or county. A community land trust created or designated under Section 373B.002 must be a nonprofit organization that is:

- (1) created to acquire and hold land for the benefit of developing and preserving long-term affordable housing in the municipality or county; and
- (2) organized as: (A) a nonprofit corporation that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization under Section 501(c)(3) of that code; (B) a limited partnership of which a nonprofit corporation described by Paragraph (A) controls 100 percent of the general partner interest; or (C) a limited liability company for which a nonprofit corporation described by Paragraph (A) serves as the only member.

PURPOSES OF TRUST. community land trust are to:

- (1) The purposes of a provide affordable housing for low-income and moderate-income residents in the community;
- (2) promote resident ownership of housing;
- (3) keep housing affordable for future residents; and
- (4) capture the value of public investment for long-term community benefit. (*Put this or something like it in your bylaws.)

OWNERSHIP OF LAND AND HOUSING UNITS. A community land trust may retain title to land it acquires and may:

- (1) sell housing units located on the land and lease the land under ground leases with terms of at least 99 years; or
- (2) lease housing units located on the land.

Texas Local Government code 373B

(continued)

HOUSING UNITS. (a) QUALIFICATIONS OF PURCHASERS OR LESSEES OF A community land trust may sell housing units only to families with a yearly income at the time of sale at or below 80 percent of the area median family income, adjusted for family size.

- (b) Notwithstanding Subsection (a), for housing units located on one or more tracts of land owned by the community land trust that constitute a contiguous geographic area or are located in the same platted subdivision, the trust may sell not more than 20 percent of the housing units to families with a yearly income at the time of sale that exceeds the amount provided by Subsection (a) but does not exceed 120 percent of the area median family income, adjusted for family size.
- (c) At least 25 percent of the housing units sold by the trust must be sold to families with a yearly income at the time of sale at or below 60 percent of the area median family income, adjusted for family size. (d) A community land trust may lease housing units only to families with a yearly income at the time of lease at or below 60 percent of the area median family income, adjusted for family size.
- (e) Notwithstanding Subsection (d), for housing units located on one or more tracts of land owned by the community land trust that constitute a contiguous geographic area or are located in the same platted subdivision, the trust may lease not more than 20 percent of the housing units to families with a yearly income at the time of lease that exceeds the amount provided by Subsection (d) but does not exceed 80 percent of the area median family income, adjusted for family size

RELATION TO OTHER LAW. This chapter does not preclude the creation of a land trust by a nonprofit organization, including a community housing development organization, under other statutory or common law or the operation of that land trust inside or outside a municipality or county that has created or designated a community land trust under Section 373B.002

APPLICABILITY OF CHAPTER TO TRUST OPERATED BY HOUSING FINANCE CORPORATION. Section 373B.003 does not apply to a community land trust operated in the municipality or county by a housing finance corporation established under Chapter 394.

GNDC & 1313 Willow Street

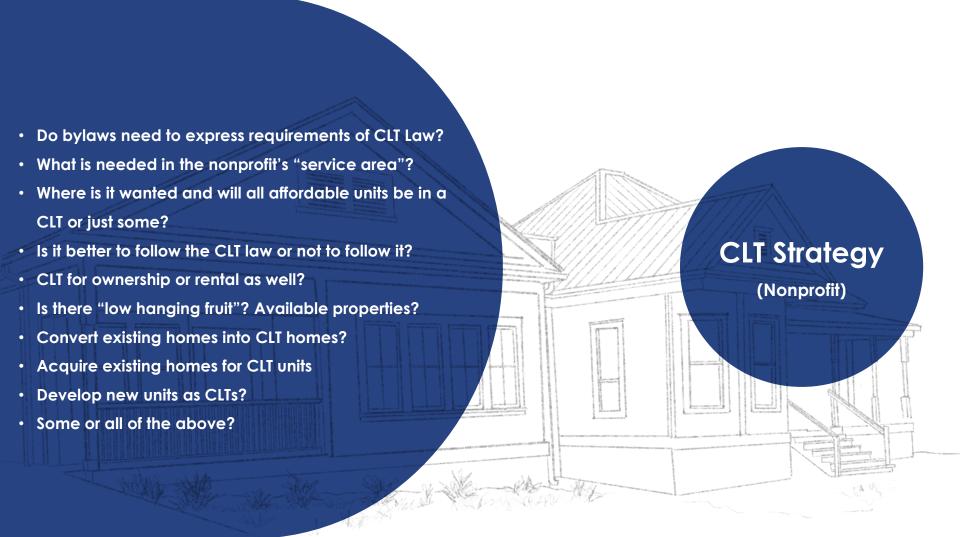
"First true CLT in Texas"

- GNDC & UT Community Law Clinic work 2010-11 to get City Council & TCAD on board with CLTs.
- CLT Law passed in 2011 becomes effective in 2012.
- 2011-12: GNDC is building a new home at 1313 Willow and intends to sell it to the former tenant.
- UT Community Law Clinic prepares options for CLT ownership, & GNDC board selects fixed appreciation & cap at 30 years,
- No CLT mortgages are available in Texas, so GNDC provides the mortgage. 1% appreciation. No interest. \$150,000
- Sold in November 2012.
- · Lack of clarity about how TCAD will assess values to the home and the land.

How will the CLT be taxed???

What is the process to create a CLT?

- 1 Develop a strategy
- 2 Explore financing options
 - 3 Explore resources that can help
 - https://www.burlingtonassociates.com/
 - https://groundedsolutions.org/
 - Local expertise



Single-Family

- One home on one lot. *No need for a condominium.
- Simple and relatively easy for an organization that has sold homes previously

*January 1, 1994. Chapter 82 of the Texas Uniform Condominium Act (TUCA). Prior to then, Chapter 81 of the Texas Property Code treated condos as "apartments" with many things determined by floors and ceilings.



Site Condominiums/Horizontal Condominiums*

Usually a single-family type of structure

- One to four detached homes on one lot
- Multiple detached single-family homes on one site (subdivision)
- Duplex or duplexes on one lot. Simple, but attached. Not as easy as detached.
- Townhomes: multiple <u>attached</u> units on one lot.
 *None stacked.

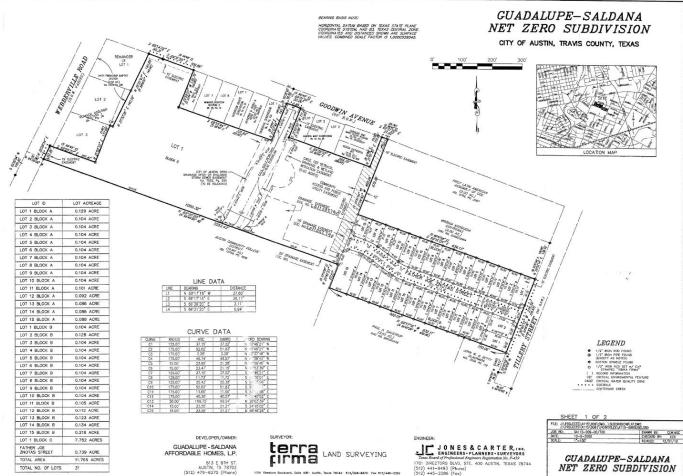
In the 2000s, site condos gained acceptance with the most being developed in Central Texas. Builders of single-family homes began selling more duplexes and primary units with an ADU to homebuyers.



*Texas Site Condominiums, Robert Burton, Esq., March 2020



201100006



GNDC's 11-acre Subdivision.

Block A, B & C.

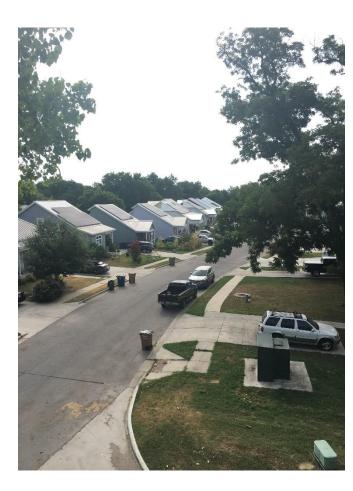
Block A & B have 29 lots with 30 units.

Block C is one 7.5 acre lot with 94 units.

- Single-family ownership on single lot
- Single-family with 2 detached condo units on one lot
- Duplex rental

C8-2009-0112.1A.SH

- 35-unit supportive housing
- 24 townhomes, duplex & single-family on one large lot

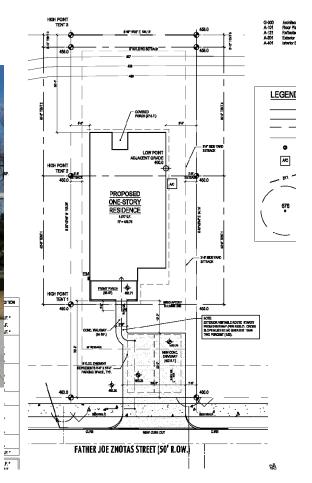


Single Family

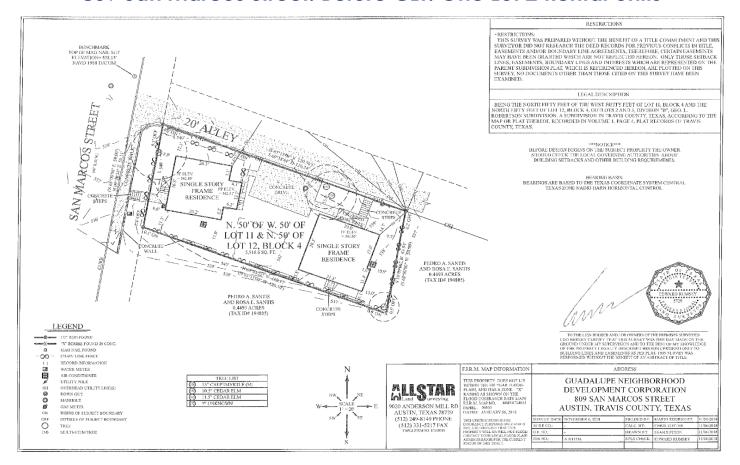
One home on one lot



3116 Father Joe Znotas Street



809 San Marcos Street: Before CLT. One Lot 2 Rental Units



Same Lot: 809 San Marcos Condominium. 1 Ownership & 1 Rental CLT Housing

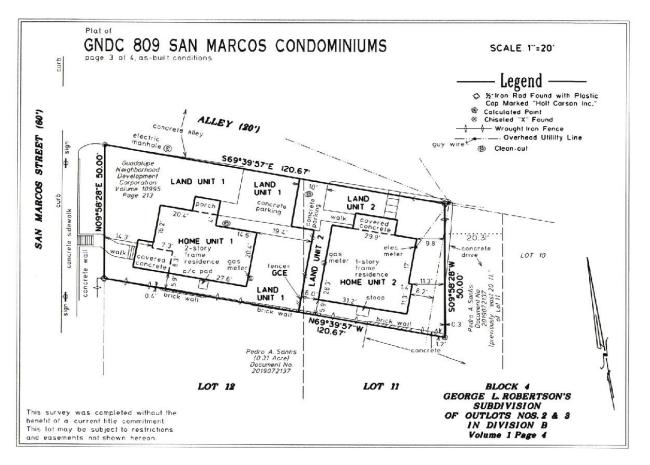


809 S. Marcos CLT Ownership Sold in 2023 for \$235,000 3 Bedrooms / 2.5 Bathrooms

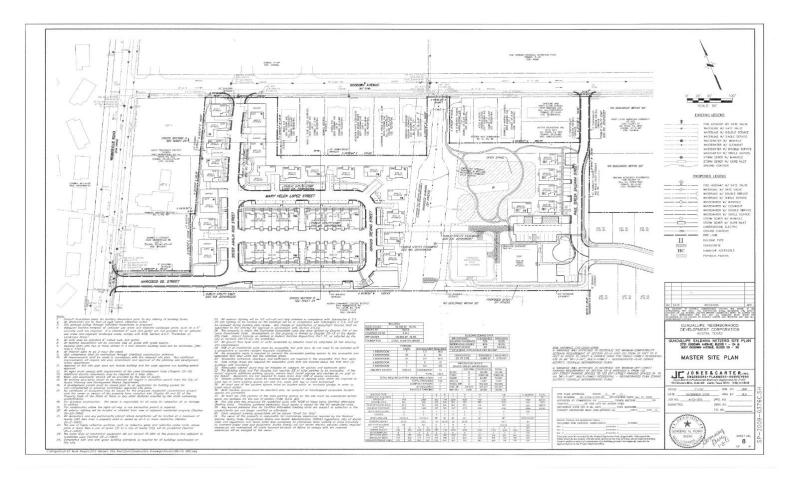


809 S. Marcos #1 & #2
CLT Ownership & Rental on the same lot.

809 S. Marcos Condo Plat: 1 Ownership & 1 Rental home on one lot



One Lot with 94 Units of CLT Housing



Mix of CLT Housing: Single Family Owner, Duplex, & Apartment Rental



Multi-family/Vertical Condominiums

The original condominium concept. "Apartment Condominiums"

Land is divided by percentage of ownership to each owner. The condo association may own common areas and common elements like parking lots or garages, pools, open space, etc.

Having a "Ground Lease," while not impossible, is rare and may not exist yet.

Deed restrictions can still create 99-year affordability, require subsequent owners to have low-to-moderate income, and include a resale formula.





Where it starts

Single-Family

- One lot with one house (not condo). Fee simple for the home.
- "Lease Hold Interest" for the Land.
- One lot with two or three homes (condominium). Attached or detached easy to have a Ground Lease as long as they are not stacked.

Sales Contract

GNDC uses a modified TREC (Texas Real Estate Commission)
It is a sale "For Improvements Only"
Exhibit added: "Outline of Ground Lease"



Buyer Education

Done "in-house"?
Third Party?
HUD Certified?



Single-Family

The nonprofit retains ownership of the land & leases it to the homeowner using a

Ground Lease



Ground Lease Fee

Usually a nominal amount.
In Texas, the fee amount determines the taxable value of the land.
Not typically viewed as a significant source of income for the non-profit.

Ground Lease Term Usually 99-years.

Inheritance often is allowed, but...
GL cannot be assumed- a new 99-year lease is usually needed even when the

home is inherited

Stewardship Fee

Usually based on condition and construction materials of the home

Resale Formula

Often based on a fixed appreciation off the original sales price. 1% to 2% a year, for example.

Can be capped after a time–30 years.

Never capped



Single-Family

Home

Homeowner buys the home at affordable amount.

Traditionally 30% to 35% of the buyer household's **gross income** is applied to the full mortgage amount. **Principal**, **Interest**, **Taxes** and **Insurance-PITI**

Determine affordable sales pricing: 30%- 35% of appreciation: 1%- 2%?

The City of Austin (AHFC) sets maximum sales prices for projects they fund

buyers' gross income.

This will impact property taxes & ability to keep the home affordable.

Place a cap or no- cap on the appreciation?

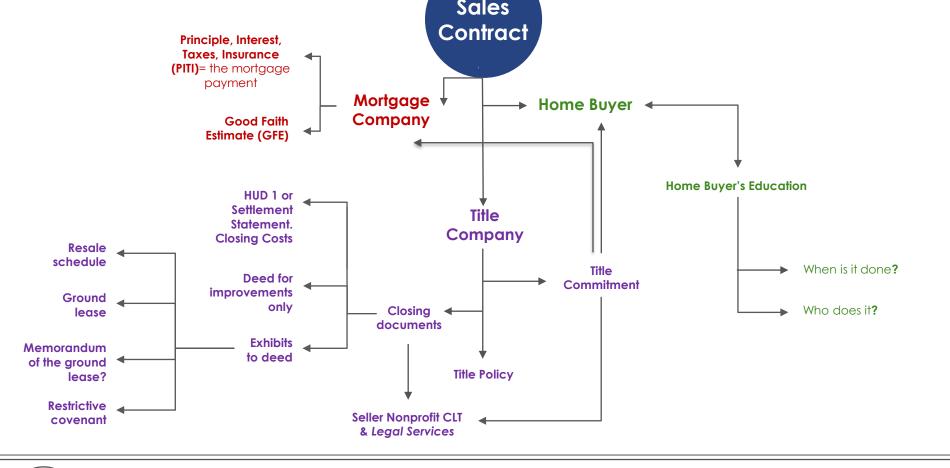
A cap can be an incentive for the owner to sell. It can ensure affordable resale.



Sample PITI Calculation

Household Gross Income 3-persons <70% MFI is \$78,000

```
33% of Gross Income = $25,740
   Monthly Affordable PITI = $2,145 ($25,740/12)
    Taxes will be $3,213 / year or $268 / month
         Likely insurance cost $80 / month
         $2,145 - $265 - $80 = $1,800 for PI
       6.5% Interest for a 30-year mortgage
              $1,800 \text{ for PI} = $284,000
Maximum AHFC 3-bedroom sales price is $248,800
                      *It's a deal!
```





Sales Contract: Exhibit A, Attachment A. Outline of Ground Lease

- The Lease term shall commence on the date the Improvements (including an Undivided Interest in the Common Elements) located on the Leased Premises are conveyed by GNDC to Lessees and shall extend for 99 years therefrom, unless terminated sooner.
- The Lease requires that the Leased Premises be used only for residential purposes. Any additions or alterations to the Improvements must comply with the terms of the Lease.
- The Lease requires the Lessees to make certain payments: (a) a one-time lease initiation fee, (b) a monthly lease fee for use of the land, and (c) a monthly stewardship fee to be held by GNDC and used for the purpose of preserving the physical quality of the Leased Premises. These payments may be periodically adjusted.
- The Lease prohibits any liens from attaching to GNDC's title to the Leased Premises.
- The Lease does not require GNDC to provide any services or facilities, including utility services.
- The Lease prohibits Lessees from mortgaging the Improvements and Lessees' interest in the Leased Premises without the consent of GNDC.
- The Lease requires that, in the event Lessees intend to sell the Improvements, Lessees shall notify GNDC of such intent; and that, thereupon, GNDC shall have the option to purchase the Improvements on the terms and conditions contained in the Lease. The Improvements (including an Undivided Interest in the Common Elements)

Sales Contract: Exhibit A, Attachment A. Outline of Ground Lease - continued

- The Lease stipulates a Resale Formula that restricts the sales price in the event Lessees intend to sell the Improvements. The Resale Formula is intended to preserve the affordability of the Improvements for very low to moderate income households.
- The Lease stipulates that the Lessees' interest in the Leased Premises shall not be assigned or subleased without the prior written consent of GNDC.
- The Lease requires Lessees insurance policy to list GNDC as additionally insured, providing a 30-day notice of cancellation and waiver of subrogation.
- The Lease required Lessees to keep the Home Unit continuously insured against loss or damage by fire and the extended coverage hazards, for the 100%, full replacement value of the Home Unit. The Lease also requires Lessees to keep the Home Unit and the Leased Land continuously insured in a dollar amount of not less than \$300,000.
- The Lease requires that the Lease be recorded in the official public records of Travis County, Texas.

CLT Tax Law

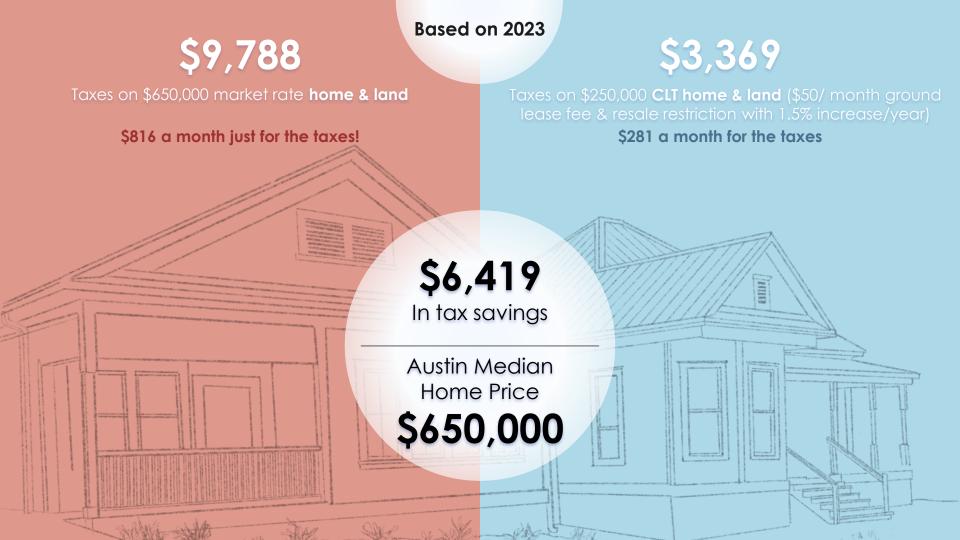
3.

In Texas, property tax laws specifically address Community Land Trusts (CLTs) in several sections:

- 1. **Texas Tax Code Section 11.1827**: This section grants tax exemptions to CLTs for land and housing units they own, provided they meet certain criteria: Tex...Pub..Law: Online Texas Law Library+3CoCounsel+3P O'Connor+3
 - Charitable Organization Requirements: The CLT must satisfy the conditions outlined in Sections 11.18(e) and (f) of the Tax Code. Texas Comptroller+4CoCounsel+4Findlaw+4
 - **Purpose**: The land should be owned for leasing and for selling or leasing housing units as specified in Chapter 373B of the Local Government Code. Austin Texas+6Tex...Pub..Law: Online Texas Law Library+6Findlaw+6
 - Activities: The CLT should focus exclusively on the sale or lease of housing and related activities, though it may also engage in developing low-income and moderate-income housing. <u>Austin Texas+4CoCounsel+4Tex..Pub..Law: Online Texas Law Library+4</u>
 - Adoption by Taxing Unit: The exemption must be adopted by the governing body of the taxing unit before July 1 in the manner provided by law for official action by the body. P O'Connor+3Findlaw+3CoCounsel+3
- 2. Additionally, the property cannot be exempted after the third anniversary of its acquisition unless the trust is actively offering to sell or lease it as stipulated. The CLT is also required to conduct an annual independent audit detailing its sources and uses of funds and provide this report to both the governing body that created or designated the trust and the chief appraiser of the appraisal district where the property is located.
- **Texas Tax Code Section 23.21**: This section addresses the appraisal of land or housing units leased by a CLT to income-eligible families. It mandates that chief appraisers consider the extent to which regulations or restrictions limiting the owner's right to sell the housing unit, including any price limitations, reduce the property's market value. This ensures that property valuations reflect the affordability restrictions inherent in CLT agreements.

Texas Tax Code Section 23.21

- (c) In appraising land that is leased by a community land trust...the chief appraiser shall use the income method of appraisal as described by Section 23.012 to determine the appraised value of the property. The chief appraiser shall use that method regardless of whether the chief appraiser considers that method to be the most appropriate method of appraising the property.
- (d) the chief appraiser shall take into account the extent to which any regulations or restrictions limiting the right of the owner of the housing unit to sell the housing unit, including any limitation on the price for which the housing unit may be sold, reduce the market value of the housing unit. If the sale of the housing unit is subject to an eligible land use restriction, the chief appraiser may not appraise the housing unit in a tax year for an amount that exceeds the price for which the housing unit may be sold under the eligible land use restriction in that tax year. For purposes of this subsection, "eligible land use restriction" means an agreement, deed restriction, or restrictive covenant applicable to the housing unit that:
 - (1) is recorded in the real property records;
 - (2) has a term of at least 40 years;
- (3) restricts the price for which the housing unit may be sold to a price that is equal to or less than the market value of the housing unit; and
- (4) restricts the sale of the housing unit to a family meeting the income-eligibility standards established by Section 373B.006, Local Government Code.



Two approaches to CLTs: DIFFERENCES

Following the community land trust law

- CLT must be a 501 c 3 non-profit or a non-profit public entity
- All buyers to have income at or below 80% MF
- And 25% of buyers with income below 60%
- Exception: on contiguous land, 20% of buyer may have income up to 120% MFI
- CLT org must be designated by a taxing authority. City Council or County Commission for example.
- 99-year Ground Lease fee (establishes restrictions, feetand land value)

Not Following the community land trust law (CLT-like)

- Some percentage (10%?), but not all of buyers required to have income at or below 80% MFI
- No requirement for 25% of buyers with income below 60%
- Resale restrictions can vary project to project with more flexibility
- Developer can be a for-profit (does not have to be a non-profit or public entity)
- Developer does not have to be designated by City Council or County Commission
- No need for a Ground Lease



- Very easy to know how TCAD will assess home & land values
- Easy for homeowners to know & understand what the property taxes will be each year
- CLT exemption on the land removes City of Austin taxes.
- CLT exemption limits taxable value to the resale price.
- CLT organization will serve lower income households (25% of buyers at <60% MFI) while being able to have some higher income (20% up to 120% MFI in some cases).
- Oversight and stewardship of the CLT program and homeowners.
 Community ties.

Two approaches to CLTs: SIMILARITIES

Following the community land trust law & Not Following the community land trust law (CLT-like)

- Typically, there's a 99-Year affordability period
- Homes are sold at below market price
- There are significant restrictions on resale price and future buyer eligibility
- Typically, a CLT-like homebuyer has income at 80% MFI or lower, but not usually or necessarily with 25% of them at below 60% MFI



- · Much more flexible.
- Developer can move on after sale. No need to help owners after the sale (stewardship).
- No Ground Lease.
- Most of units can be market rate, so more lucrative.
- Resale restrictions can be attached to the deed with a Restrictive Covenant, Deed Restricted.
- Can benefit (more profit) from most Density Bonus programs
- No need to be designated by City Council
- Works well (better?) with condominium projects than "traditional" CLT.



- CLT organizations provide the crucial element of long-term stewardship over the affordable homes.
- CLTs often provide the homeowner with support after purchase: warranty issues, property taxes & repairs.
- CLT organization typically establishes a Stewardship Fund where a small fee helps with maintenance of main systems & gets home ready for resale.
- CLT usually purchases the home when owner is ready to sell. Easy resale and assurance new owner will be eligible.

Questions?

GNDC Office Hours!