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How Have Community Land Trusts Used the Low-Income Housing Tax Credit?
Case Studies from Athens, GA and Park City, UT

A Thesis

Submitted to the Graduate Faculty of the
University of New Orleans
in partial fulfillment of the
requirements for the degree of

Master of Urban and Regional Planning

By

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Table of Contents

List of Tables

Abstract

Public and private actors have suggested using the community land trust (CLT) model as a remedy for a number of housing related issues. This is based primarily upon the documented successes of CLT homeownership programs. Some caution that the growth of CLTs and the increased use of the CLT model beyond homeownership may stretch organizations beyond their capacity or force them to consider how to provide stewardship and community control. The Low-Income Housing Tax Credit (LIHTC) has been used by a handful of CLTs and there are reasons to believe that more CLTs may utilize it in the future. This thesis explores the opportunities and challenges that using LIHTC may present for CLTs through case studies with two different types of organizations--a grassroots CLT in Athens, GA and a nonprofit housing developer with a CLT program in Park City, UT--that have used it as a funding source.

Keywords: Community Land Trusts, CLTs, Low-Income Housing Tax Credit, LIHTC, permanent affordability

Part I: Introduction

Although they represent a very small segment of the affordable housing industry, community land trusts (CLTs) have gained recognition for their approach to permanently affordably housing supported by ongoing stewardship and a philosophy of community control. Proponents of the CLT model argue convincingly that it is able to produce the highest and longest returns on public investments in affordable housing through *subsidy retention* (Davis, 1995; Cohen, 1994). This fiscally conservative approach has gained the interest of cities[1] and foundations seeking to address issues ranging from gentrification to vacant land management, especially given that government subsidies for affordable housing have dwindled in recent decades. CLTs are now considering ways of "bringing the model to scale" (increasing the production of units) and cite identifying "reliable sources of funding" as one of the major obstacles the sector faces (McCarthy, 2012). Meanwhile, Agnotti (2007) argues that there are reasons to be "wary of major new increases in CLT production" as "the history of CDCs is littered with the remains of community-based developers that tried to leap into large scale development without the management capacity to do so" (p.2). Jacobus and Brown (2007) add that municipal involvement in CLTs is likely to "increase the number of CLT units nationwide and raise the profile of the CLT approach" but warn, "that very visibility will stretch the nascent CLT movement in new and untried directions."

Although the bulk of the literature on CLTs focuses on the benefits of the CLT model of homeownership, nationwide, CLTs also own and operate *more* units of rental housing than they do homeownership units[2] (Sungu-Eryilmaz & Greenstein, 2007; Thaden, 2012). It has been shown that the owners of CLT homes weathered the recent housing market meltdown much better than the owners of non-CLT homes (Temkin, Theodos & Price, 2010), but there is good reason to believe that policymaker's faith in affordable homeownership has been shaken. Mortgage underwriting guidelines have become more stringent, the real estate market is soft and the CLT model of homeownership is still unfamiliar to many lending institutions (McCarthy, 2012). Considering that the need for affordable rental housing never abated when homeownership rates soared in the early 2000s and may now be more severe than ever (Joint Center for Housing Studies, 2012), CLTs seem likely to expand their affordable rental holdings in the future to best serve the greatest need in the communities where they operate.

The question of how CLTs fund this expansion is critical. One possibility is the expanded use of the Low-Income Housing Tax Credit (LIHTC). A handful of CLTs—10 according to my research—have already used LIHTC to finance affordable rental housing. In her *Results of the 2011 Comprehensive CLT Survey,* Thaden (2012) found that just 2% of CLTs cited LIHTC as a source of funding in 2010. It can be expected that as the CLT model matures and as other sources of funding for affordable housing dwindle, more will follow suit. LIHTC is currently the

[1] Jacobus & Brown (2007) note that governments have "taken the lead" in sponsoring CLTs in the following cities: Irvine, California; Chicago, Illinois; Austin, Texas; Delray Beach, Florida; Highland Park, Illinois; and Chaska, Minnesota.

[2] The Sungu-Eryilmaz & Greenstein (2007) survey revealed that 95% of CLTs reported having homeownership units in their portfolio while 45% of CLTs reported having rental units in their portfolio.

largest source of federal funding for affordable rental housing and is estimated to play a role in financing between 50-70% of all new contractually affordable housing produced annually (Smith, 2002). Units financed with LIHTC must remain affordable for a period of at least 15 years[3] at which point market-rate conversion becomes a possible outcome and a cause for concern. Because of their commitment to permanent affordability, CLTs can render this point moot. This, in turn, can lead to higher and longer returns on public investments.

If the need to find the best use of the limited financial resources for affordable housing is important, the question of how CLTs have used LIHTC—and fared while doing so--deserves to be explored. LIHTC is a complex source of funding that produces large multi-family developments, requires rigorous compliance monitoring and invites competition between nonprofit and for-profit developers for a limited annual allocation of awards. The complexity of the program often makes partnerships between less experienced nonprofit developers and for-profit developers a necessity (Bratt, 2007). Using LIHTC also has the potential to create forms of property ownership (in the form of development partnerships in which CLTs do not necessarily own the land underlying a rental project) and tenant-owner relations that are unfamiliar to CLTs whose development experience is limited to homeownership. This, in turn, may force CLTs to question how to best align their operations with key CLT ideologies such as stewardship and community control. This thesis is intended to spur though and conversation by exploring the opportunities and challenges that the use of the LIHTC has for CLTs. The goal is to provide CLTs that are considering scaling up (or organizations interested in employing the CLT model) with a series of "lessons learned" from those experiences.

This is achieved through case studies based on interviews with the executive leadership of two very different CLTs that have used LIHTC. Athens Land Trust is a grassroots CLT that used LIHTC to fund its first rental housing development: a 120-unit mixed income complex that effectively tripled the size of its real estate portfolio. Mountainlands Community Housing Trust is a more traditional nonprofit affordable housing producer with a CLT program that has used LIHTC to fund both preservation and new construction. Its leadership is interested applying the CLT model ground lease to future LIHTC projects in order to generate income and maintain site control. During the interviews, I addressed the following fundamental questions:

1) How have CLTs used LIHTC to increase the production of permanently affordable housing?
2) What are the difficulties that arise during the development process?
3) How are CLTs planning to keep their LIHTC projects affordable at Year 15 or 30 and beyond?
4) Is stewardship extended to the tenants of CLT-owned LIHTC projects? If so, how?

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[3] Beginning in 1989, IRS rules changed the required affordability period from 15 to 30 years. Although after 15 years, monitoring responsibility shifts from the IRS to state HFAs, which can pursue legal action if projects fall out of compliance, but lack the authority to reclaim tax credits.

The case studies show that there is no one-size-fits-all approach for CLTs that use LIHTC and that the rental component of an overall affordable housing strategy is viewed differently by different types of CLTs. Anecdotal evidence indicates that the documented difficulties of using LIHTC seem to persist no matter what an organization's structure or capacity and that CLTs overcome them in much the same way as traditional nonprofit affordable housing producers do. Permanent affordability is viewed as a given by both organizations though a lack of firm long-range financial plans persist. Athens, the grassroots CLT, takes a much more hands on approach to stewardship than Mountainlands, though the latter is beginning to recognize the importance of stewardship for homeowners and for tenants.

This thesis is composed of 6 parts. In Part II, I begin with a literature review that explains the CLT model, discusses the concept of "permanent affordability" and examines the LIHTC program. I discuss the merits of and current interest in the CLT model and explain how those are complementary to the design of the LIHTC Program. In Part III, I explain my research methodology and case studies selections. In Parts IV and V, I introduce my case studies: Athens Land Trust based in Athens, GA and Mountainlands Community Housing Trust based in Park City, UT. Part VI is a discussion and comparison of the case studies incorporating lessons learned from both the positive and negative experiences that they encountered when using LIHTC.

Part II: CLTs and LIHTC: A Pathway to Permanent Affordability?

This research fits into the broader literature on the opportunities and challenges facing CLTs as they attempt to increase the output of permanently affordable housing. The purpose of this literature review is to examine the implications that LIHTC may have for CLTs that use it as a tool for development. This section begins with a description of the CLT model and the LIHTC program and then covers literature on CLTs as owners of rental housing with the goals of scale and permanent affordability in mind. I conclude with a list of CLTs that have used LIHTC and a more in depth examination of the characteristics of the LIHTC program that may be of special interest to CLTs.

The Community Land Trust Model

The CLT model is an innovative means by which to expand and preserve the stock of affordable housing on a permanent basis. When compared to other nonprofit affordable housing producers, the defining feature of a CLT model is its commitment to "permanent affordability" or the tendency to think of land as a public good or community asset that should be held in perpetuity for the common good (Davis, 2010). Proponents of the CLT model view it as an effective way to keep land in a community affordable for low- and moderate-income individuals[4] in spite of factors such as rising land prices and real estate speculation. CLTs also have a role in revitalizing and stabilizing areas with "weak markets" with "high foreclosures"

[4] The CLT model can be used to provide owner-occupied housing for any income level; however the majority of CLT housing is for low and moderate-income households. (Thaden, 2012)

where issues related to gentrification may not be the overarching concern (Corey, 2009). The CLT model of affordability can trace its roots back to Henry George and Ebenezer Howard and was designed to address issues surrounding community control and the affordability of land and housing. A lack of community control and affordability can be viewed as symptoms of our private system of land ownership (Davis, 2010) or as stemming from neoliberalism (DeFilippis, 2001 & 2004).

Though a CLT may operate in much the same way as a traditional community development corporation (CDC)—and indeed some of the largest and most successful CLTs began as CDCs—there is one fundamental difference between the two types of organizations that should be explained. Davis (1994), argues that it is important to "draw some distinction between non-market forms of housing tenure that preserve affordability and a non-profit mode of housing production that relies primarily on community-based organizations for its impetus and implementation. A true third sector housing policy will always include the first; it will often include the second" (p.8). The difference is the CLT commitment to making land a permanent affordability community asset and is the feature of the model that is of predominant interest to municipalities and funders interested in establishing a new CLT or scaling up an existing CLT (Jacobus & Brown, 2007).

CLTs achieve permanent affordability through dual-ownership of land. The CLT removes the cost of land from the price of housing by separating ownership of the two. The CLT (taking the form of a private, nonprofit 501(c)3 corporation acquires parcels of land in its operating area with the intent of retaining ownership of the land for the long term. The CLT then provides the land for private use through long-term (typically 99-year) ground lease agreements.[5] Leaseholders may own the structures (homes, multi-family buildings, commercial structures, etc.) but the resale of these structures is restricted in terms of price, buyer eligibility, occupancy and use in ways that retain the subsidy for the next owner. The idea of the "locking the subsidy in place" (Davis, 2007) is what makes CLTs so attractive when budgets are tight at all levels of government and federal housing policy has largely moved to a model of devolution where housing in concerned.

The CLT is also thought to "enhance the mobility" of low-income people by "inserting new rungs into a locality's housing ladder" (Davis, 2007). If the top of the ladder is market-rate homeownership and the bottom of the ladder is market-rate rental, CLT-owned homeownership and rental properties or other limited and shared equity arrangements fall somewhere in the middle. The idea is, the more rungs on the ladder, the easier it is to move up (or down) should an individual choose to do so.

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[5] In the case of rental housing a CLT may own the land or the land and the structure. They may rent individual units in a building to tenants via traditional 1-year leases or may rent an entire building to a third-party who then leases units to individuals. It should also be noted that the CLT-model ground lease is a legal mechanism available to non-CLT affordable housing producers.

The second feature that sets CLTs apart from other nonprofit housing providers is the notion of stewardship, which can be thought of as the ongoing and supportive relationship they maintain with their homeowners or tenants (White, 2011). CLTs require and often provide, pre- and post-purchase homeowner education, "oversight and support to preserve affordability, promote sound maintenance, prevent foreclosures and ensure the longevity and success of the homeownership opportunity" (Thaden, 2011: 2). These "backstopping" measures have enabled many first-time homebuyers to become and remain successful homeowners. Temkin, Theodos and Price (2010) found that more than 50% of low-income, first time homebuyers transition back to renting within five years of purchasing a home, because they are unable to keep up with the terms of their mortgages, cannot afford rising property taxes and insurance or fail to plan for unforeseen repairs and maintenance. CLT homeowners have lower rates of default and foreclosure compared with national, conventional mortgage loan holders, largely due to the security and investment provided by the CLT model (Thaden, 2011).

The National Community Land Trust network explains that in addition to providing affordable housing to individuals who may otherwise lack access, CLTs also have the purpose of increasing community control of neighborhood resources and empowering residents through involvement and participation in the organization (National Community Land Trust Network, n.d.). Diverse community interests are balanced by the election of a tri-partite board of trustees composed of CLT leaseholders, non-lease holding community members who reside in the CLT's service area and professionals representing the public interest (Davis, 2010). However, not all CLTs are governed this way and many CLTs do not have a single resident who lives in a CLT-owned unit on its board of trustees (Thaden, 2012:13).

The CLT model certainly has not gone "mainstream" since the first CLT was established in 1968. McCarthy (2012) notes that less than 2% of the nation's housing stock is in shared-equity (and an even smaller portion of that in CLT-owned housing). Today, there are over 250 CLTs operating in 45 states and the District of Columbia (Thaden, 2012) up from approximately 160 in 2005 (Greenstein & Sungu-Eryilmaz, 2005). Most of the literature on CLTs focuses on the benefits of single-family, owner-occupied housing under the CLT model. However, nationwide, CLTs collective own and operate a stock of rental housing that is larger than their homeownership portfolio (Sungu-Eryilmaz & Greenstein, 2007; Thaden, 2012). According to a national survey of 186 CLTs in 2007, 45% of portfolios included at least some rental housing (Sungu-Eryilmaz & Greenstein, 2007). The same survey noted CLTs that serve lower-income people (those making less than 50% of the AMI) provide more rental units than CLTs that serve more moderate-income people (ibid). This indicates that CLTs are able to modify their housing portfolios based on the needs of individual communities and that they have a role in housing that goes beyond shared-equity homeownership. Many CLTs are mixed-purpose models, dedicating units to both homeownership and rental. This approach can broaden the reach of CLTs in low- and moderate-income communities where some families are not yet ready or able to transition to homeownership. CLTs operating rental housing can provide residents with training to improve financial literacy, help build savings accounts or work on issues with their credit history. In this way, CLTs that develop both forms of tenure are able to create a "pipeline" of potential homeowners.

The Low Income Housing Tax Credit

For the last 25 years, the primary policy response to the shortage of affordable housing has been the Low-Income Housing Tax Credit (LIHTC). It provides financial incentives in the form of tax credits to invest in low-income rental housing. Since its inception in 1986, the LIHTC program has helped finance over 2.4 million housing units (Affordable Housing Finance, 2011). It is estimated that LIHTC plays a role in financing between 50-70% of all new contractually affordable housing produced annually (Smith, 2002). Additionally, LIHTC developments now accommodate more households than public housing (Schwartz, 2010: 103). Given these facts, CLTs looking for ways to scale up production of permanently affordable rental housing cannot help but to consider LIHTC as a potential source of funding. The LIHTC program specifically invites nonprofit producers of affordable housing to participate in the program via a mandated 10% set-aside. In reality, nonprofits own roughly 30% of the housing produced by the LIHTC program (Schwartz, 2010). There are concerns about maintaining long-term affordability in projects financed with LIHTC, which will be discussed in greater detail later. Nonprofits have been identified as more likely to have the "motivation," but "lack the resources" required to preserve affordability than their for-profit counterparts (Achtenberg & Norton, 2002; Bratt, 2007).

How does LIHTC work?

The federal government issues tax credits to housing finance agencies (HFAs) annually on a per-capita basis.[6] Each year, states update their qualified allocation plan (QAP), which provides developers or "sponsors" with the "ground rules" of the competitive process they must partake in if they wish to receive tax credits. Sponsors can be nonprofit or for-profit entities with a range of organizational structures, including joint ventures. Developers with projects that score the most points are awarded the credits, which are usually sold to investors in exchange for equity. Investors get ten years of tax credits based on a project's total development costs. In return, properties financed with tax credits must remain affordable for at least 15 years. Projects that fall out compliance during the first 15 years will have their tax credits recaptured by the IRS. (Since 1989, owners must agree to keep units affordable for a period of at least 30 years. However, after year 15, compliance monitoring becomes the responsibility of the state HFA and tax credit recapture is no longer a consequence). The amount of the credit depends upon the cost and location of the development and the proportion of units that are occupied by low-income households (Schwartz, 2010: 103).[7] LIHTC can be used for new construction or to acquire and rehabilitate rental apartments, townhomes, single family homes and single room occupancy apartments.

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[6] Schwartz (2011) notes, "In 2010, states could allocated $2.00 per capita per year with the amount adjusted for inflation."(p. 103)

[7] IRS rules require that LIHTC developments must meet one of the following conditions: 1) At least 20 percent of the units are occupied by households whose income is less than 50 percent of the metropolitan area's median family income, or 2) At least 40 percent of units are occupied by households whose income is less than 60 percent of the metropolitan area's median family income.

Scaling Up With Rental Housing: Why Now?

Even after a decade of continual growth, CLTs still represent a very small fraction of all non-profit affordable housing producers.[8] Cities and foundations are interested in using the CLT model to achieve a wide variety of housing-related goals including increasing the production of multifamily housing in cities (McCarthy, 2012; Agnotti, 2007). This is motivated by the documented successes of CLT homeownership programs and the perception that CLTs make the best use of limited affordable housing resources (Jacobus & Brown, 2007). The concept of *permanent affordability* is getting more attention than it has in the past and has become an important policy goal in places like California, New York and Boston (AHND, 2009). The CLT model is considered a possible pathway to that goal.

According to the Joint Center for Housing Studies of Harvard University's *State of the Nation's Housing 2012* report, there is currently a shortfall of over 5 million affordable rental units nationwide, and this number is anticipated to grow in the coming years (p.25). In their examination of trends in household expenditures for housing between 1960 and 1990, Quigley and Raphael (2004: 136) note that "among poor households, 77 percent devoted more than 30 percent of their income to housing costs, while 57 percent spent over half their incomes for housing." These figures rose after 1980 and continued to accelerate thereafter. Widrow (1994) points out "most policymakers applaud rising rents and falling vacancies… as signs of a growing economy, which benefits everybody. What is not discussed is how tenants will pay large rent increases without equally large increases in income" (p.148-149).

Despite the demonstrated need for affordable housing for low- and very low-income households, the federal government has favored ownership over rental since the creation of the Federal Housing Administration and has invested significant resources to ensure it remains the dominant form of tenure (Shlay, 2006). Policies that promote single-family homeownership for low- and moderate-income individuals have come under fire in the wake of the financial crisis. This is not surprising, given the consequences of the crisis were disproportionately concentrated in low-income and minority communities (Mallach, 2011). Policies that promote low-income homeownership are embedded with expectations of accompanying increases in neighborhood stability, property values, employment and civic participation as well as lower rates of crime and juvenile delinquency (Shlay, 2006) to name a few. Numerous studies suggest that these benefits—although positive—are limited and accrue primarily to homeowners at the upper end of the low-income bracket (DiPasquale & Glaeser, 1999; Rohe & Stewart, 1996; Hebert & Belsky, 2006). A thorough discussion of what went wrong in low-income homeownership (exotic financial instruments, predatory lending, the overbuilding of housing, etc.) is beyond the scope of this literature review. However, it can be said safely that fee simple

[8] There are 242 CLTs operating nationwide today (Thaden, 2012). The National Congress of Community Economic Development reported that some 4,600 CDCs—80% of which count "housing development" as one of their primary activities--existed nationwide as of 2005 survey, although Bratt (2007) believes this number may be somewhat overstated because it fails to account for organizations that have stopped functioning since earlier surveys.

homeownership is not a sound strategy for housing a large portion of the population (Shlay, 2006; Davis, 2006 & 2008; McCarthy, 2012).

Davis (2008) explains the rationale for stewardship under the CLT-model of homeownership by examining the federally mandated stewardship that is already in place for affordable rental housing—including the housing produced by LIHTC. Thus, it provides a useful lens for examining the synergies that exist between the ideology behind publicly assisted rental housing and the philosophy that guides most CLTs:

> Taking precautions to cope with such cyclical crises, public policy began long ago making corrections in the way rental housing is structured and operated. As a result, we have gradually created an expanding stock of publicly assisted, privately owned rental housing with three protective features:
>
> - Affordability is perpetuated for many years, either through nonprofit ownership of rental housing or through long-term regulatory agreements between public agencies and private landlords by which rent increases are moderated and income eligibility is maintained;
> - The safety, soundness and condition of rental housing is preserved through the imposition of housing quality standards and through mandated replacement reserves; and
> - Security of tenure is enhanced by careful screening of prospective tenants, by requirements for just cause eviction, by vacancy reserves that insulate owners against financial hazard if tenants default, and by periodic third-party review of the records and practices of private landlords receiving public money to provide affordably priced rentals for lower-income people. (Davis, 2008, p.564)

The problem is not that federal policy ignores the issues of affordability, quality and security altogether. Federal housing policy, and LIHTC especially, is structured in a way that states administering programs and organizations that compete for funding are encouraged to innovate in ways that make the program work best based on local needs. The problem, which CLTs attempt to address, is that these policies *alone* do not create forms of housing that ensure that these crises are addressed on a *permanent* basis.

While the concept of permanent affordability may be growing in popularity, sound strategies to *ensure* permanent affordability are somewhat more elusive. In October, 2009 thought leaders and practitioners from around the country working in the affordable housing industry met at a convention in New York City sponsored by Capital One and the Ford Foundation "to engage in a discussion of challenges and opportunities related to ensuring permanent affordability in subsidized housing" (AHND, 2009: 4). Notes from the conference reveal that, "much discussion occurred around the definition and implication of 'permanence' in affordable housing (ibid: 5)." Some defined permanence as "'as long as possible' given the economic challenges of underwriting a project for the very long term," citing specifically that expenses tend to increase at a higher rate than rents.

CLTs Experience as Rental Housing Developers

Ciardullo (2012) neatly unpacks the reasoning that CLTs may use when deciding to develop rental housing. He argues that by including rental housing in their portfolios, CLTs may be able to serve a greater portion of the population. While CLTs provide subsidies to potential homeowners, they still require credit checks, debt-to-income requirements and other obstacles to mortgage qualification. This may be a barrier to entry for some households. He points out, "CLTs historically have understood that one of their roles is to stave of gentrification and the displacement of low-income people." Thus, rental units may be best suited to meet the needs of community members who are most vulnerable to displacement. Ciardullo (2012) also points out that the literature about CLTs has overwhelmingly focused on "affordability and security of tenure," rather than on "member involvement and control" (p.16).

Tom Agnotti (2007) compared CLT rental housing in New York City to market rate housing and other affordable housing in the immediate area. Using case studies, he argues that multi-family developments can help CLTs achieve "economies of scale while helping to promote smart growth and sustainable innovative approaches to dense urban development," all at a lower cost than traditional city-supported homeownership endeavors. He also points out that concentrating development in a small geographic area may lend itself to more effective community building and organizing. Multi-family rental housing, by nature, is more likely to be concentrated in a small geographic area than the scattered-site owner-occupied housing that many CLTs produce. He does, however, point out the need for CLTs to develop and expand according to their capacity and the importance of community and political support and that in some cases success hinged upon the acquisition of land at a very low cost.

Another study of CLT rental housing evaluates the experience of tenants living in housing produced by the Champlain Housing Trust in Burlington, VT. It appears to be the only existing study focusing on tenants of CLT owned rental properties. In it, Gent et al. (2005) find that CLT tenants had lower incomes relative to homeowners and spent a lower share of their income on housing but lived in smaller units and tended to have more children. The also found that residents were more satisfied in their CLT owned apartments than in their previous market rate rentals. They reported being happier and safer, saving more money and living in larger, better quality housing overall. Champlain Housing Trust owns nearly 1,500 units of rental housing and is a partner in 38 tax-credit deals (Champlain Housing Trust, 2012).

Ciardullo (2012) found that a handful of CLTs have developed rental housing using the LIHTC, but those tended to be larger and "more established" CLTs. Often, the parent organization of a CLT program began using tax credits before the CLT was established (p. 41). Of the larger CLTs that developed rental housing, "availability of funding" through LIHTC was cited as a motivator and was used extensively by those organizations (p. 44). Some CLTs have developed rental housing in response to the fact that some community members would probably never qualify for mortgages (Ciardullo, 2012; Stangle, 2013). If CLTs are wishful in thinking that their approach to homeownership can make it affordable to a wider range of people than fee simple homeownership, they are practical in their acknowledgement that even subsidized homeownership is not for everyone. In some cases, they are development partners in an area where affordable rental housing is in short supply and no other developers are providing it (Stangle, 2012). Ciardullo found two main reasons that CLTs give for providing rental units: "to meet the housing needs of very low income people who cannot qualify for mortgages and to seek out alternative sources of development funding and income to support the organization's operations" (p.69).

Walker (2005) explains that while the CLT model itself can be adapted to the production of multifamily housing, "the scale of resources required for multifamily properties (the inherent complexity of multifamily transactions in the first place) can preclude active use of community land trust arrangements for multifamily properties (p. 8)." As Agnotti (2007) suggests, there is valid concern that these successful experiences with CLT owned rental housing may not be easily replicable in different housing markets. New York City has one the largest, most complex housing systems in the country and tenant-organizations there have been well organized for decades (Agnotti, 2007). Similarly, the Champlain Housing Trust is the largest and oldest CLT in the nation and enjoys a high degree of municipal support.

CLTs with LIHTC Experience

Table 1, below is a list of organizations that have used LIHTC, based on my research. I developed the list using Ciardullo's (2012) inventory of CLTs with rental experience, shortening it to include only CLTs with LIHTC experience based on websites and archival information of the individual organizations. To my knowledge, no other such list exists. Drawing on a typology Ciardullo developed, I grouped the organizations into four types of CLTs:

- *Original CLTs* are nonprofits that began their work in affordable housing as CLTs. Although, it should be noted that original CLTs may have grown out of other grassroots organizations (as in the case of the Sawmill Community Land Trust) but in all cases, a new nonprofit 501(c)3 organization was formed. They are distinguished from other affordable housing organizations by three characteristics: 1) an original focus on homeownership, 2) the use of a land-lease to permanently preserve affordability, and 3) their structure as a membership-based community controlled organization. (Ciardullo, 2012:35)

- *Program CLTs* operate as programs of nonprofit affordable housing developers such as a CDC or CHDO. The parent organization tends to do all the rental development and property management, while the CLT program applies to homeownership. The organization may not operate with a democratically-run, membership based program and a tripartite board structure. (ibid:36)

Table 1: CLTs with LIHTC Experience

Name	Location	Age*	Staff**	Rental Units	Total Units***
Original CLTs					
Athens Land Trust	Athens, GA	18	11	120	167
Champlain Housing Trust	Burlington, VT	29	65	1,500	2,343
Irvine Community Land Trust	Irvine, CA	7	1.5	66	67
Sawmill Community Land Trust	Albuquerque, NM	19	6	106	194
Program CLTs					
Mountainlands Community Housing Trust	Park City, UT	20	5.5	229	340
Neighborworks Blackstone River Valley	Woonsocket, RI	26	17	282	311
Thistle Communities	Boulder, CO	27	24	766	1,037
Women's Community Revitalization Project	Philadelphia, PA	26	28	238	238
Crossover CLT					
Tenants to Homeowners, Inc.	Lawrence, KS	21	4	50	104
Foundation CLT					
California Community Foundation Land Trust	Los Angeles, CA	10	3	125	126
**As of 2013*	**Mean:**	20	17	348	473
***Full-time equivalents*	**Median:**	21	9	177	181
	Range:	7 to 29	3 to 65	50-1,500	67-2,343

Source: Author's own research based on Ciardullo's (2012) CLT Typology and Appendix of CLTs
****Ciardullo's original figures did not include units that were not on CLT owned land.*

- *Crossover CLTs* are CLTs that began as more traditional affordable housing developers but later transitioned to community land trusts. (ibid:36)

- Foundation CLTs resemble Program CLTs, except that neither it, nor its parent foundation actually does much housing development. Instead, the CLT focuses on investing in large rental developments and has no membership base. (ibid:37)

Compatibilities Between CLTs and LIHTC

Aside from the fact that LIHTC figures in so prominently in the financing of all affordable rental housing and LIHTC projects are contractually obligated to remain affordable for 30 years, the program may be attractive to CLTs and their proponents for a few reasons. First, since LIHTC is a tax credit controlled by the IRS and not a line item controlled by Congress, it is not impacted when austerity measures are discussed. Thus, it may be viewed as a "reliable" source of funding that McCarthy (2012) identifies as an "obstacle to scaling up." Thaden (2012) found that very few CLTs are covering a majority of their operating costs through internally generated sources of revenue. In fact, more than 70% of the CLTs in her sample (96 organizations) cover less than 50% of their operating budget through internally generated sources (p.31). Second, it is administered at the state level through a transparent process that allows public input. In many ways, HFAs use the QAP process to address Davis's (2008) concerns about "affordability, quality and security." They do so, for example, by prioritizing projects agreeing to extended affordability periods, incentivizing high quality construction and ensuring that projects have adequate vacancy reserves. Finally, it is mandated by the IRS that at least 10% of tax credits be set aside for use by nonprofit project sponsors. The fact that nonprofits have received over twice the mandated amount of tax credits over the life of program (Schwartz, 2010) may indicate the strength of the non-profit system of housing delivery that has been built up around the program (O'Regan & Quigley, 2000).

LIHTC is a Durable Source of Funding

Smith (2002) describes LIHTC as a "durable" financing source that has been "producing and preserving for over two decades (p. 4)." He believes the durability of LIHTC can be attributed to its "legislative countercyclicity" and the fact that it lies within the federal tax code and not the traditional appropriation cycle (p. 4). LIHTC is outside of the scope of Congressional housing committees and experiences changes less frequently than other housing programs. In spite of increased concerns about tax reform[9], LIHTC has become a tool that states, municipalities and developers can more or less depend on. There are debates about the efficiency of the LIHTC program as a means to produce affordable rental housing (McClure, 2000) and the program is not untouchable, but it is the way that most units are being built

[9] Discussion about federal tax reform has increased since I began writing this thesis. While the prevailing belief is that LIHTC will not be completely dismantled, there are concerns that the program will be heavily scrutinized as both parties try to come up with ways to close gaps in the budget. (For a good discussion of the issue, see Kimura, 2013)

today. If one of the obstacles that CLTs face is "identifying reliable sources of funding" as McCarthy (2012) says, they may be drawn to LIHTC to help them overcome it.

Compared to other federal programs, (or the way that audits are done in the private sector), compliance with the LIHTC program is costly (Lewis, 2012). However, compliance monitoring has demonstrated its effectiveness: the LIHTC program has experienced "extremely low levels of tax credit recapture during its history" (Novogradac, 2011). Compliance boils down to three factors: resident selection, rent caps and documentation (Smith, 2002:49). Because federal regulators are concerned only with outcome and not procedural compliance, administrative costs of the LIHTC program are lower than other HUD-sponsored affordable properties. Essentially, owners of LIHTC properties must ensure that they rent units only to income eligible individuals at agreed upon prices and that they have all of the necessary documentation in place to prove they did so. This procedure places the compliance burden squarely on the owner, with large and enforceable financial penalties—namely tax credit recapture--for non-compliance. This ensures that investors remain involved in keeping the property in good financial condition and that the conditions of the affordability are met as agreed upon. However, this performance is guaranteed only through year 15.[10]

State Level Administration and the QAP Process

Schwartz (2010) notes that one the major strengths of LIHTC is that it is "flexible enough so that states can tailor the program to their individual needs and priorities" and is "virtually devoid of scandal or impropriety" (p.116). QAPs must give priority to projects that serve the lowest-income tenants and those that ensure affordability for the longest period of time (O'Regan and Quigley, 2000: 299). Additionally, according to the Internal Revenue Code, states are required to ensure that the credits are allocated to a property "only to extent that the property has an economic need for the credit"[11] (Novogradac, 2011:11). Aside from those rules, states are free to incentivize goals in their QAP as they see fit, "ensuring that the program is sensitive to local needs and political differences" (ibid: 12). HFAs integrate a wide variety of goals such as smart growth, transit-oriented development, green building standards and universal accessibility into their QAPs.

QAPs are drafted and then adopted via a transparent process that includes input from a variety of stakeholders. HFAs solicit input from various stakeholders such as developers, local governments and community development corporations in order to formulate the point system that developers must use in order to obtain tax credits. Smith (2002) notes that "QAPs are among the most public resource-allocation processes used in affordable housing" and that the process "attracts an intense kind of permanent, recurring, almost professional focus from knowledgeable local stakeholders" (p. 17). The QAP process is open to all types of affordable

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[10] Beginning in 1989, IRS rules changed the required affordability period from 15 to 30 years. Although after 15 years, monitoring responsibility shifts from the IRS to state HFAs, which can pursue legal action if projects fall out of compliance, but lack the authority to reclaim tax credits.

[11] In other words, that the property would not be feasible without the credit.

housing advocates, including CLTs. They can use the process to advocate for changes in the allocation of points that would make them more likely recipients of tax credits. The fact that allocations are made at the state, rather than federal level, may be particularly beneficial to non-profits, especially in states where a solid nonprofit system of housing delivery has been developed (O'Regan and Quigley, 2000, p. 303).

10% Set-Aside for Non-Profit LIHTC Projects

IRS program rules require HFAs to allocate at least 10% of all tax credits to nonprofit housing developers, however the literature indicates that nonprofits receive a substantially larger portion of LIHTC funding than required. O'Regan and Quigley (2000) found that nonprofits have received a larger portion of LIHTC funding compared to "other historically important sources of low-income housing production" (p.313). In a profile of all tax credit projects placed in service between 1987 and 2006, Schwartz (2010) finds that non-profit sponsors account for 23% of all developments and 21% of all units annually (Schwartz, 2010:111). Schwartz also notes a tendency for nonprofits groups to produce smaller developments than their for-profit counterparts (ibid, p. 112). This may be attributed to the fact that nonprofit developers generally have fewer resources to develop or manage large projects than similar for profit counterparts (Bratt, 2007).

Criticisms and Weaknesses of LIHTC

The LIHTC program has also endured its share of criticism. Early critics of the program charged that too large a portion of the subsidy goes "not into bricks and mortar but into transaction costs and investor profit" (Schwartz, 2010: 116). Stegman (1991) criticized the program for making the underwriting process extremely complicated and cumbersome. "It simply doesn't make sense to have a national housing policy in which the deeper the targeting and the lower the income group served, the more costly and complicated it is to arrange the financing" (p. 363). Despite the complexity of the LIHTC program, research reveals it operates more efficiently than it once did. In the early years of the program, only $0.42 of every tax-credit dollar went toward bricks and mortar development whereas this amount increased to an average of $0.80 by 2003 and as high as $1.00 in 2006 (Schwartz, 2010: 116). There are a handful of criticisms that are of particular interest to CLTs: the lack of income mixing in projects financed with LIHTC, the need for additional sources of subsidy and the Year 15 issue. These are discussed in more detail below.

Lack of Income Mixing

The ground rules of the program state that at least 20 percent of the units are occupied by households whose income is less than 50 percent of the metropolitan area's median family income (AMI), or at least 40 percent of units are occupied by households whose income is less than 60 percent of the metropolitan area's median family income.[12] Numerous studies, however, show that the overwhelming majority of LIHTC developments are 100% affordable (Schwartz, 2010; Cummings and DiPasquale, 1999; O'Regan and Horn, 2012). Schwartz (2010) adds that the regulatory requirements of the program make moving tenants between units designated for different income levels "especially burdensome" (p.117).

This is of special interest to CLTs for a few reasons that may impact their ability to create multiple forms of tenure or to create a "pipeline" of homeowners. More than forty percent of LIHTC units house extremely low-income households, defined as those households earning less than 30% of the area median income (O'Regan and Horn, 2012) and the reality is that some of these households may never be able to transition to homeownership. This represents a challenge and an opportunity for CLTs that must be considered before moving forward with a decision to use LIHTC. It is important for a CLT to consider who their beneficiaries are. On one hand, more resources may be available to serve lower income populations. On the other hand, higher income individuals may require less stewardship than lower income individuals and thus be less costly to serve (Davis, 2007). The key question for the organization to consider would be whether it is more important to serve a low-income population permanently with rental housing or to devote its resources to projects that would expand opportunities for homeownership.

The Need for Additional Sources of Subsidy

The LIHTC program is considered a complex source of funding and multi-family housing is inherently more complex than single-family housing at any stage in the development process. By design, the LIHTC program is not intended to produce affordable housing on its own (Joint Center For Housing Studies, 2009). Thus, it requires its users to layer sources of funds. This involves time and energy spent tracking those funds down and knowledge required to utilize them.

McClure (2000) found that three-quarters of LIHTC developments relied on public sector support to make the financing possible (p.108) and 85% had at least one layer of subsidy in addition to LIHTC (p.109). Khadduri, et al (2012) reported on the kinds of subsidies that LIHTC projects layered in addition to their tax credit equity: 22% used tax exempt bonds, 32% used project based Section 8, 23% used HOME funds and 5.6% used CDBG funds (p.74). A CLT using tax credits is likely to find the need to layer a variety of federal, state, local or private funding sources. Each may have its own restrictions or affordability requirements. This raises concerns about the capacity of a CLT to use tax credits without taking on additional staff members or reducing the attention it devotes to another line of business. Glickman and Servon (1999) define the "capacity" of nonprofit organizations as a multidimensional term, consisting of

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[12] McClure (2000) notes that these requirements suggest that "the program intended for developers to set aside some, but not all, of the units in a development for income-eligible households, leaving the remainder to be offered at market rates" (p.97). He attributes the lack of income mixing to the fact that tax credits enable developers to create affordable units where the financing would not otherwise be available (p.98).

"resource, organizational, networking and programmatic elements" (p.2). That is the definition of capacity that will be used throughout the remainder of this thesis.

Affordability and Sustainability at Year 15 and Beyond

As a means to protect public investment, IRS rules dictate that properties financed with tax credits must remain affordable to low-income individuals for 15 years. Projects that fall out of compliance are subject to tax credit recapture. Beginning in 1989, IRS changed the mandated affordability from 15 to 30 years. However, investors still have the ability to opt out at year 15 using the qualified contract process. Many states force developers to waive their right to the qualified contract process in order to be eligible for tax credits at all.

Still, there remains concern about what happens to tax credit projects at year 15. Khadduri, et al (2012) report that because so many states require a waiver, qualified contract sales are "not common" and "concentrated in a few states" (p.xii). When this does occur, properties are at risk of market-rate conversion. However, the overwhelming majority of properties with a non-profit sponsor experience a change in ownership where the investor (or equity partner) sells its interest to the nonprofit (general partner) (ibid: p.xiii). Properties may continue to operate the same way they have for the last 15 years, although they may have capital needs that may require them to refinance or re-syndicate (recapitalize with new tax credits), depending on the extent of capital needs. Khadduri, et al. (2012) note that "nonprofit owners usually continue to operate properties as affordable housing beyond the term of any regulatory requirements b*ecause it is their mission to do so*" (p. xiv) (emphasis added).

Applying the CLT model of permanent affordability at the front end of a tax credit deal could render concerns about market rate conversion moot.[13] However, a CLT's presence in a tax-credit deal will not change the fact that after 30 years, these properties may require substantial systems upgrades and rehabilitation. Khadduri, et al. (2012) predict that while most nonprofit-sponsored LIHTC projects placed in service in 1990 and beyond (thus carrying 30 year affordability restrictions) will probably still have the original nonprofit owner, most will have "large, unmet capital needs." They speculate, "regardless of their financial condition or market location, few—if any—properties will be able to cover their capital needs from reserves." (ibid, p.69). This highlights a need for proactive asset management and a plan for permanent affordability that goes much further than staying true to an organizational mission statement.

Fortunately, there are mechanisms built into LIHTC that make it possible for forward looking partners in a well-structured deal to plan for—if not ensure--affordability in perpetuity. A CLT acting as a general partner in a LIHTC deal would typically be afforded one of several

[13] Brandenburg (personal communication, February 27, 2013) stated that the presence of CLTs in LIHTC partnerships "does not appear to have materially influenced the controls on affordability, beyond what one would expect from other types of community based non-profit organizations." Brandenburg is the former director of the Year 15 program at Enterprise Community Partners.

options when the 15 year affordability period comes to an end: they may enact their right of first refusal to purchase the property at an established formula price; they may buy out the interest of the limited partner (investor); or they may be *forced* to purchase the property because of the terms of the partnership (Enterprise, 2007). Further, if a LIHTC project were located on CLT owned land, there would be no concern of it returning to the market after 15 years. Since the cost of land is not factored into the value of tax credits, developing on CLT-owned land does not have a negative impact on eligible basis of a project (and thus the amount of tax credits that investors receive).

Alternately, there are precedents of developments funded with LIHTC being converted to tenant ownership at the end of the initial 15-year affordability period. The success of one such program, administered by the Cleveland Housing Network is probably due—at least in part—to the fact that it is structured that way up-front (see Immergluck & Schaeffing, 2010). Utah operates a lease-purchase program using LIHTC that will be discussed in the Mountainlands Community Housing Trust case study. Nelson & Sorce (2013) add "given most LIHTC projects are multifamily developments, which may not lend themselves to homeownership, it can be difficult to convert LIHTC units that were not originally intended for lease-purchase" (p.6). They found that 44 states incentivize LIHTC projects that provide homeownership opportunities to tenants after 15 years through their QAPs (ibid:7), although with the exception of the aforementioned examples it is unclear how many developers choose to pursue this option in their LIHTC applications. Further, it should be noted that the aforementioned programs have an equity building focus and do not retain any of the initial public subsidy that is used to construct them.

Part III: Research Design and Methodology

In selecting case studies for this thesis, I looked for CLTs that had used LIHTC and had different types of organizational structures upon their founding. My goal was to include one of each type of CLT that I outlined above but because of time constraints and a lack of responses from some organizations, I chose the two most common types of CLTs (an original CLT and a program CLT). Athens Land Trust (ALT) fits the description of an original CLT. On the other end of the spectrum, Mountainlands Community Housing Trust (MCHT) is an established nonprofit housing developer that recently began integrating the CLT model ground lease into its homeownership program. ALT was selected in part because it was the first example of a CLT using LIHTC that I came across and part of the inspiration for this research.

ALT was founded in 1994 in Athens, Georgia with the goals of land preservation, affordable, energy efficient housing and neighborhood revitalization (Athens Land Trust, 2012). The organization became the non-profit sponsor of a 120-unit mixed-income LIHTC project with

no prior rental experience while it had only one full-time employee. The case study of ALT demonstrates how a small, grassroots organization with very little capacity becomes a part of a complex real estate deal and the highlights the importance of actors committed to making a project work.

Mountainlands Community Housing Trust (MCHT) was founded in 1993 and owns a considerable portfolio of affordable rental and resale-restricted homeownership units in Summit and Wasatch Counties in Northern Utah. It was founded as nonprofit affordable housing producer rather than a CLT, but has come to use the CLT model for its homeownership units because of the affordability and flexibility it offers. Mountainlands has participated in 5 LIHTC projects in the capacity of primary developer. Another LIHTC project, currently in the pipeline, will attempt to utilize the CLT model ground lease as a revenue generating mechanism.

Taken alone, each case can be considered anecdotal evidence of the kinds of practical and ideological challenges that original CLTs interested in growing or non-CLTs interested in applying the CLT model ground lease may encounter. Side by side, they show two dramatically different approaches that CLTs can use to create permanently affordable rental housing using LIHTC. While solid evidence of permanent affordability can only be achieved through time, both organizations viewed their developments as assets that would be with their respective communities forever. These case studies were based on open-ended interviews and intended to spur thought and discussion about the implications that using LIHTC.

In the interviews, I discussed the following fundamental questions with the executive directors of these two CLTs: 1) How have CLTs used LIHTC to increase the production of permanently affordable housing? 2) What are the difficulties that arise during the development process? 3) How are CLTs planning to keep their LIHTC projects affordable at Year 15 or 30 and beyond? 4) Is stewardship extended to the tenants of CLT-owned LIHTC projects? If so, how?

The open-ended interviews were conducted by telephone and were approximately 60 minutes in length. Additional, follow-up information was obtained through e-mail correspondence. Questions related to the founding of the organization, the decision to pursue LIHTC as a source of funds and what using LIHTC has meant for the organizations in terms of opportunities and challenges. Additional information was obtained during a similar interview with the former director of the National CLT Network. I also reviewed available organizational documents including newsletters, tax returns and interviews done for other publications to gain a better understanding of how the organizations operate. Additionally, I consulted materials developed by the Utah Housing Corporation and the Georgia Department of Community Affairs including their QAPs, lists of tax credit applicants and local housing plans for Park City and Athens-Clarke County in order to assess overall characteristics of the housing markets and local affordable housing goals.

Part IV: Athens Land Trust – Athens, GA

History, Founding and Early Activities

The Athens Land Trust (ALT) was founded in 1994 by a group of Athens-Clarke County residents that envisioned creating a “conservation subdivision” in their own neighborhood. The founders chose the CLT model in part because they thought it could address the “competing” goals of housing development and open space preservation (Stangle, 2013). They learned about the CLT model from a now defunct organization that was operating in the Atlanta area around the same time.

ALT is the only Community Housing Development Organization (CHDO) in Athens-Clarke County—a HUD entitlement community--and it focuses all of its housing development programs there. Athens-Clarke County is also the smallest county in Georgia, which has been cited as an “obstacle,” impacting the availability of land on which to develop affordable housing (Athens-Clarke County Human & Economic Development Department, 2011). According to the 2000 census, Clarke County was home to 101,489 residents (In 1990, the census reported 87,594 people). ALT is also involved in a statewide land conservation program. It holds conservation easements on 8,000 acres in 20 counties all throughout the state.

Stangle (2013) indicated that the founders of ALT were initially concerned about the “pressures on affordability” that a newly created demand for “luxury student housing” was causing in the local housing market.[14] The University of Georgia’s main campus is located in Athens. Its student body is equal to roughly 1/3 of the entire population of the town (33,078 students were enrolled in 2009). Conversions of multi-family buildings to luxury student rentals and a city administration that was “uninterested in building affordable housing” exacerbated the already existing shortage and led to gentrification in the Historic Hancock Corridor, a largely African American community (Stangle, 2013).

The problem came to a head when a mobile home park located close to downtown was purchased by an out of town developer who intended to build student housing. ALT got involved in advocacy work surrounding the issues, trying to provide relocation services for mobile homes and housing alternatives for its residents. Their goal was to establish a resident-owned and controlled mobile home park (Stangle, 2013). This advocacy work and a growing recognition by the founders that affordable housing should be built close to services, near downtown (thus, avoiding sprawl) led ALT to develop single-family homes using the CLT model (ibid). Some of their homes were built on land acquired through donations from the city. ALT also partnered with Habitat for Humanity on a volunteer-build project that carried the traditional CLT resale-restriction. The decision to develop single-family homes rather than rental may have been influenced by the fact that the Mayor of Athens and county managers at the time had no interest in bringing in any affordable housing projects (ibid).

[14] Changes in the way students could spend their scholarship awards and no requirement to live on campus meant that students suddenly had excess money for housing (Stangle, 2013).

The Unlikely Decision to do Rental with LIHTC

Athens Land Trust used LIHTC to finance the construction of 4th Street Village, a 120-unit, mixed-income apartment complex[15] to help meet the affordable housing needs of a low-income community. Construction began in 2006 and was completed in 2008. The development has a stream running through it and won awards from the Athens-Clarke County Department of Human and Economic Development as well as the Grow Green Coalition. With one project, ALT effectively tripled the size of its real estate portfolio and was able to "provide a greater impact on the community than traditional single-family development" (Stangle, 2013). 4th Street provides "safe, decent, affordable housing" for close to 300 people, "fills a need for affordable housing in the community" and give tenants a place where they can work on credit building, budgeting and other steps on the path toward homeownership (ibid). ALT offers services to the tenants and 4th Street Village that are similar to those offered to its CLT homeowners. She also points out that, "some of the people at 4th Street Village will always be renters" and their "incomes will never enable them on their own to purchase a house"[16] (Ibid.). This illustrates that CLTs see themselves as having a role in providing an array of options along Davis' (2007) "housing continuum."

During the development process, ALT found themselves "way beyond their experience and capacity." Similar local agencies said there is no way an organization of the size of ALT should be able to get a project like this done. Prior to developing 4th Street Village, its first and only LIHTC project to date, ALT had no experience developing rental housing.[17] ALT had never considered using LIHTC as a development tool prior to being approached by a nonprofit developer (with multiple LIHTC projects under its belt) that was interested in developing a project in Athens. According to Stangle (2013), it is unusual for such a developer to initiate a LIHTC deal with an organization as small as ALT, who only had 1 full-time employee at the time. Part of the nonprofit developer's mission was to "build the capacity of smaller non-profit organizations to enable them to take on larger projects in their own communities" (Stangle, 2013). The developer had picked out one of the few available sites in Athens zoned for multi-family housing and wanted to partner with an nonprofit that had strong ties—politically and personally--to the local community. ALT was the only nonprofit in the neighborhood that was doing any significant amount of housing development (with the exception of Habitat for Humanity, which does not generally do rental projects).

[15] Seventy percent is set aside for those earning less than 50% of the AMI, 10% are set aside for those earning less than 30% and the remaining 20% of the units are considered market rate. Stangle (2013) notes that the market rate units are typically rented to families or individuals earning between 50-80% of the AMI. In total, 96 units are considered affordable and 26 units are considered market rate.

[16] According to the Athens-Clarke County Human & Economic Development Department (2011) 28.3% of Athens residents live below the poverty threshold, 70% of all households are renters and 56% of renters spend 30% or more of their income on housing.

[17] An ALT board member had worked with an organization that had "a bad experience with LIHTC projects" elsewhere in Georgia.

The local ties meant that ALT had community—though not necessarily governmental[18]—support and was able to "bring local partners and funders to the table." This earned the development partners additional points on their tax credit application (Stangle, 2013). ALT used HOME funds to pay for the application process and perform pre-development work. In addition to the extra points awarded for non-profit involvement in the project, the development partnership tried to maximize its score by using green building features, agreeing to extended affordability (30 years) and serving individuals earning less than 60% of the AMI. Georgia's Department of Community Affairs (Georgia's HFA) denied the application the first year it was submitted.[19] The partnership decided to rework its application and try again for funding the next year because so much time and energy had already been invested in the process. Part of what won them the tax credits was an agreement with the Athens Housing Authority that gave clients on its 800-person waitlist preference for some of the units at 4th Street Village.

Expectations vs. Reality

ALT also endured difficulties due to events that are difficult to plan for, regardless of an organization's level of commitment or capacity to undertake a complex real estate project. According to Stangle (2013), the bankruptcy of a large construction firm that worked on LIHTC projects had a "domino effect" on other developers in the area. Their partner had ties to this organization, which created doubt on the part of the equity investor about the non-profit developer's financial health. ("The investor was unwilling to fund the project if the non-profit developer was a part of the deal.") At the equity providers request, ALT moved into the majority ownership (51%) of the general partnership and the non-profit developer stepped out of the deal altogether. Upon departing, the original nonprofit developer suggested that ALT partner with a local for-profit developer, Ambling Development Company. Changing development partners mid-stream was an unforeseen event and a challenge that Stangle (2013) described as "hair-raising," but a "commitment" on the part of the equity provider to getting the project done "kept it on track."

When ALT was approached about the LIHTC deal initially, the original nonprofit had explained that there were two ways for a nonprofit organization to be funded: either through traditional forms of grant seeking and fundraising, or "to become a developer yourself." ALT funds its programming through memberships (2,000-2,500 annually), grants and fundraising. Additional funds are generated from project fees from landowners that donate conservation easements. ALT did not earn development fees on the many single-family homes it developed

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[18] Georgia's QAP requires "local political support" for LIHTC projects. Stangle (2013) noted the county managers did not recommend the project for approval but--in an unusual move--were overruled by the county commissioners.

[19] The application missed being awarded tax credits by 2 points. One of the points it lost was because the development was located too close to a blighted building. (It is common for QAPs to award or subtract points for proximity to desirable or undesirable land uses). Ironically, the blighted structure was a HUD-subsidized property that had fallen into disrepair but had been purchased by a developer for conversion to luxury student rental housing prior to the application being submitted (Stangle, 2013).

because it receives HOME funds to finance its operations. Unlike many CLTs, ALT also does not use ground lease fees to fund operations[20]. Stangle (2013) notes that ALT went into the 4th Street project with the expectation that they would earn a developer's fee. However, ALT was forced to defer its development fee, which Stangle (2013) attributed to a "bad economy." She notes that the project has not been a great financial benefit to the organization. Instead, she believes the biggest benefit that ALT has gotten from doing 4th Street is "legitimacy" as a developer in the community. (I elaborate on this concept in the following section).

Another point that deserves some examination is ALTs relationship with the tenants of 4th Street Village. Georgia's QAP requires an "experienced management company" to manage LIHTC projects that it funds. This means that ALT never had the option to do its own property management, even if its leadership may have felt that arrangement would be best for residents. Stangle (2012) notes that with respect to renters, "in some ways, CLT is less involved" and "we don't know all the residents as well as we know our homeowners." ALT makes itself available to the tenants to answer questions about LIHTC requirements or to resolve issues with the property management agency (which happens to be a subsidiary of the for-profit developer). Although ALT offers many of the same services to the tenants of 4th Street Village that it does to its CLT homeowners, there is an indication that tenants and homeowners are viewed differently by the organization. Whereas CLT homeowners are represented on ALTs board, tenants do not currently have a place there, although Stangle (2013) indicates that this may be a possibility in the future. Currently ALT takes the view that "homeowners should be able to make decisions about the land that their homes are sitting on" and that "4th Street is a little different" (ibid).

Plans for the Permanent Affordability

ALT's long-term strategy for 4th Street Village provides insight as to how CLTs view permanent affordability. When asked about plans for 4th Street after 15 or 30 years Stangle (2012) noted that the 30-year mark is "irrelevant" and that "this project will be with the community in perpetuity. ALT retains an option to buy out the equity provider in Year 15 and plans to assess the needs the needs of the community in the future in order to determine whether the project will remain rental, transition to homeownership or take on some mix of tenures.[21] "At 30 years, as an organization, we will see if its time to look at homeownership or whether the community will still need affordable rental" (Stangle, 2013). One former 4th Street Village resident has already transitioned into CLT homeownership and others are working toward that goal, illustrating that by developing multiple forms of tenure, CLTs can create a "pipeline" of homeowners.

As for the question of whether ALT would partake in another project, Stangle (2013) says, "Yes. Depending on the circumstances." She explained that ALT would need to partner

[20] ALT keeps its ground lease fees small--$5 per month—as part of its founding philosophy.
[21] Stangle (2013) does note that multi-family buildings do not lend themselves well to homeownership in Athens, where the general preference is for single-family detached homes.

with the "right partner on the right project" and mentioned there is a need to build or rehabilitate senior housing in the Athens area. However, she also notes that QAPs "do not currently support" rehab, indicating that the available resources may not line up to meet that community need at the present time. On any of ALTs future LIHTC projects or she were offering advice to CLTs thinking about a LIHTC deal, Stangle mentioned several things. Most importantly, LIHTC developments "should not just be about getting units built, but making them great places to live" (ibid). Part of making that happen is to "make sure that the mission statements" of the development partners "line up." She suggests visiting other projects that potential development partners have built to see how they are managed and stressed the importance of working with a partner "that looks at more in a project than just the bottom line" (ibid).

If Stangle could do one thing differently, it would be a "much more conservative pro-forma" especially when it comes to "estimating property taxes and vacancies" (2013). She notes that financial projections for 4th Street were made before the housing market collapse and that some tenants have had more issues than expected in making their rent payments. On the subject of how to get more CLTs involved in the LIHTC program, she offered, "a QAP set-aside for permanent affordability would be great because it would send for-profit developers looking for CLTs" (ibid.). As far as the challenges of using the LIHTC program, she thinks it is a "stressful process, but overall worth it" and that CLTs would face the same challenges as any other nonprofit housing provider looking to fund development.

Part V: Mountainlands Community Housing Trust – Park City, UT

History, Founding and Early Activities

Mountainlands Community Housing Trust (MCHT) was founded in 1993 and owns a diverse portfolio of affordable rental and homeownership units in Summit and Wasatch Counties in Northern Utah. MCHT was not founded as a land trust, but uses deed restrictions and (more recently) ground leases to achieve permanent affordability. According to its website, "MCHT is based on the belief that a safe affordable home is often a family's first step toward economic self-sufficiency. MCHT addresses the dual problems of housing affordability and availability on three fronts: acquisition and new construction of affordable housing, direct assistance in securing housing and basic services, and education and advocacy to promote housing policy" (Mountainlands Community Housing Trust, 2013). MCHT's target demographic is 80% of AMI and below, although their rental projects tend to target households at 25-40% of AMI and some of their homeownership units are open to families earning up to 120% AMI. Generally, their developments cater to the needs of service sector employees, single parent families, seniors and the mentally disabled.

The cost of housing in Summit and Wasatch counties is high in part because of the proximity of Park City (a high-priced resort community within Summit County) and Salt Lake City (30 miles west of Park City). Although poverty rates are under 10% in each county, many service and public sector employees earn substantially less than the median household incomes

($84,752 and $64,651, respectively, according to the most recent American Community Survey 5 Year Estimates). In Utah, childcare workers, teachers' aides, food service providers, housekeeping workers and home health aides have an average median annual wage of between $17,000 and $18,000 (Utah Workforce Housing Iniative, 2008:7).

Utah, according to MCHT's Executive Director, Scott Loomis (2013), is progressive in its approach to affordable housing. The Utah Housing Corportation (Utah's HFA) implemented 99-year affordability requirements on projects financed with competitive tax credits after the conversion of some older LIHTC-financed projects to market rate housing. In 1996, the Utah state legislature passed HB 295, which mandated that all communities and counties in the state include an affordable housing element as part of their general comprehensive plan.

An examination of Park City's housing plan reveals that city officials see affordable homeownership as an opportunity to alleviate pressure on the rental market:

> Renters paying close to Fair Market Rents for two and three bedroom units have sufficient income to buy condominium units priced at about $180,000 and $250,000 respectively. About 750 or 60 percent of all renters in Park City have incomes above 50 percent of AMI. If a fraction of these higher income renters were induced by favorable interest rates and market conditions to move to homeownership a significant number of rental units would be freed-up thereby offsetting and alleviating some supply constraints and pressures on the local rental market (Park City Municipal Corporation, 2012: 11).

This illustrates the opportunities for affordable homeownership in Park City and explains MCHT's decision to use donated land and deed restrictions to write down the cost of the single-family homes they develop.

MCHT has a staff of 7 and each is focused on one of the many programs that the organization administers. In addition to developing affordable housing, MCHT monitors the mortgage payments and sales of its resale-restricted homes and engages in advocacy work on an ongoing basis. MCHT is the local sponsor of the USDA's Mutual Self-Help Housing Program in Utah. The program helps low-income participants who are unable to buy decent affordable housing through conventional methods achieve homeownership through "sweat equity." Six to twelve participants work together under the supervision of a construction supervisor to build approximately 65% of their homes. The savings from the reduction in labor costs acts as the down payment, reduces the price of the home by approximately 20% and allows otherwise ineligible families to own their homes. If families cannot meet their mortgage payments during the construction phase, the funds for these payments can be included in the loan (Mountainlands Community Housing Trust, 2013). Additionally, MCHT runs a transitional housing program, which prevents homelessness by providing 9 temporary housing units and supportive services for families and individuals lacking access to housing.

Preservation and Development Using LIHTC

MCHT has used LIHTC to both preserve and develop affordable rental housing. MCHT undertook only two small real estate projects in its first few years of operation: the founding of a domestic violence shelter and an 8-unit development of affordable apartments through a workforce housing obligation with nearby Deer Valley Resort called Washington Mills. Washington Mills was developed using LIHTC in 1996[22] and is located within the National Register Historic District in Park City. In 2011, the initial 15-year compliance period ended. The limited partner in the project (Zions Bank) donated their ownership interest to MCHT, which will ensure it remains affordable in perpetuity. As full owner of the project, MCHT can now realize revenue from the project as well as the benefits of any depreciable expenses.

The organization won the Fannie Mae Maxwell Foundation Award for Excellence in 2003 for the acquisition and rehabilitation of the 80-unit Holiday Village Apartment complex located in the center of Park City. The units at Holiday Village are reserved for tenants with "very low incomes," defined as those earning less than 50% of AMI. The project cost a total of $7.8 million and was financed with a tax-exempt bond issue (which qualified it for "as-of-right" 4% tax credits), and loans from the Park City Municipal Development Corporation, USDA Rural Development and the HOME program. USDA Rural Development also subsidizes rents at Holiday Village so that residents pay only 30% of their incomes. MCHT subsequently purchased and rehabilitated a 42-unit development in 2005 in a deal that involved many of the same funding sources and partners. Both projects were built under the USDA Rural Development Section 515 program. In both deals, the project's owners contacted MCHT about the opportunity. The original owners wanted to opt-out but were required to offer the projects to a qualified purchaser (a nonprofit, a public entity or the tenants) before they could sell it on the open market.

MCHT has acted as the primary developer in new construction projects utilizing LIHTC. The choice to be the primary developer was enabled in part because of the technical expertise possessed by Loomis. Loomis was a lawyer for 20 years and routinely involved in complex real estate transactions (Loomis, 2013). Most organizations do not have built in access to such a skill set. The prior director of MCHT possessed no LIHTC experience and got the organization involved in a tax credit project which incurred legal, consulting and accounting expenses of $240,000, the highest for any tax credit project in Utah state history (Loomis, 2013). Loomis (2013) believes that LIHTC projects are so complicated, with so much to keep track of, "you

[22] The project cost $1,156,405 and was financed with state and federal housing tax credits, a HOME loan, a State Housing Trust Fund loan, an equity contribution from Deer Valley Resort. Park City Municipal Corporation waived $24,000 in fees (Mountainlands Community Housing Trust, 2011).

can't spread it around too much." MCHT's LIHTC experience has not been without any pitfalls. The organization was forced to defer its entire development fee on an $11 million project undertaken in 2012 because of a loss of tax credits due to construction overruns and late delivery.[23]

As an overarching philosophy, MCHT's commitment to permanent affordability appears to take precedence over equity building, although it has participated in programs that emphasize the latter. MCHT was selected by the Utah Housing Corporation to participate in its CROWN (CRedits-to-OWN) lease-to-purchase program. CROWN is an innovative use of LIHTC where tenants can purchase their home after a fifteen-year rental period. During the rental period, tenants pay 50-60% of fair market rents each month. At the end of 15 years (the initial LIHTC affordability period) tenants become homeowners by purchasing the home for an estimated $110,000 to $120,000. MCHT used CROWN to construct 8 single-family homes at cost of about $185,000 each (including land and construction). At least 50% of the cost of the project was paid for by LIHTC (Loomis, 2013). Participants in the program stand to come away with a significant amount of equity after 15 years. In the 8 years since the homes were built, Loomis (2013) estimates they are worth "at least double, if not more." This highlights a tension that comes up when an organization committed to permanent affordability uses a lease-to-own program with tax credits. While most tax credits projects in Utah create units with 60 to 99 years of affordability, the CROWN program only offers 15. At the end of 15 years, the units are no longer affordable housing. Loomis has been in the process of negotiating with state officials to modify the program via a ground lease arrangement in order to ensure ongoing affordability in the projects. At th e end of the 15-year rental period, the potential homeowner would enter into a long-term ground lease with resale restrictions with MCHT, thus extending the life of the initial public subsidy. He has proposed using donated land to bring the up-front cost of the projects down even further.

Looking Ahead

MCHT plans to continue to working toward its mission statement on all three fronts, but is likely to use the CLT model ground lease more often in the future because of the flexibility it affords. According to Loomis (2013) MCHT is in the process of putting together a LIHTC deal that will utilize a ground lease to "maintain control of land" donated by the city and help to "generate income" for the organization. The land has been valued at $578,000. Rather than contributing the land directly to the deal, MCHT would enter into a land lease with the development partnership and charge an upfront lease fee of $20-25,000 (which would cover the construction period) and a monthly fee while the development is in operation. He envisions the arrangement generating a 3% return on the land (and thus income to MCHT) "forever" (Loomis, 2013). He adds that land leases are always a "dilemma" in terms of pricing: Charging too much reduces the funds available to pay debt service and charging too little

[23] According to Loomis (2013), organizations "live for" developer's fees and they are "great if you can get them." However, he says that they function as a "second contingency" and can be subject to deferral when projects run into difficulties.

defeats the purpose of the arrangement. He is not aware of any other organizations that have used a similar financing mechanism and was provided with the ground lease by his tax credit syndicator (ibid).

Loomis also offered that until recently, MCHT's notion of stewardship was limited to monitoring mortgage payments and re-sales. Lately, however, there is a lot more discussion about services for tenants and homeowners in terms of education, credit building and proactively maintaining units. Loomis (2013) suggests that using a land lease has allowed MCHT to become "much more involved" in the managing the properties they sell. The land leases allow MCHT to inspect the properties and collect a reserve, should the homeowner need access to capital for upgrades and improvements. MCHT was recently awarded a Cornerstone Homeownership Opportunity Program (CHIP) grant, which will "substantially increase outreach to potential homeowners, increase stewardship of existing and new units and expand MCHT's service to its stakeholders and target market" (Mountainlands Community Housing Trust, 2013).

Finally, in addition to acting as developer and steward, MCHT also sees itself having a role as an educator within the local development community at large. Relatively new inclusionary zoning ordinances require developers to set-aside portions of subdivisions as affordable rental or homeownership units. Loomis (2013) says that MCHT has a stake in making sure those developments are successful and their principle role is showing for profit developers how those units are financed. He also states that there are ongoing opportunities to educate the public about resale-restricted homeownership and that some people still tend to view it as "punishing poor people" by preventing them from taking all of the equity out of an affordable home (ibid).

Part VI: Comparison & Lessons Learned

The ALT and MCHT case studies demonstrate the ways that organizations with different approaches to the development of permanently affordable housing have used LIHTC to expand their portfolios. ALT was founded as a CLT, while MCHT was founded as a more traditional non-profit affordable housing producer and has recently come to utilize the CLT model ground lease because of the flexibility and control it offers. While both organizations view LIHTC as a pathway to permanent affordability, they differ in their views of stewardship and community control. In the following section, I highlight a number of findings or lessons learned from these case studies and group them according to my initial research questions.

How have CLTs used LIHTC to increase the production of permanently affordable housing?

The organizations studied have collectively used LIHTC for preservation and development, as part of a lease purchase program and as a component of a lease-purchase program. There are clearly many ways for CLTs to utilize LIHTC to increase the supply of permanently affordable housing. Based on the stories of what could potentially go wrong in a tax credit deal and the significant amount of time, money and energy that goes into the process, the extent to which LIHTC represents a “good opportunity” for a CLT to do so depends upon the resources of the organization. MCHT’s acquisition of Parkside Apartments took 3 and half years to complete because of all of the funding sources involved. It took ALT over 3 years from the start of the application process to get 4th Street Village built. It is possible that in doing their respective LIHTC deals, the organizations passed up other development opportunities by choosing to do their respective LIHTC deals but they met an important community need in the process.

1. *LIHTC projects should not be undertaken solely for the sake of a development fee.*

Organizations can use LIHTC to increase the supply of rental housing in their service areas (and the size of their portfolios) rather quickly, but based on these case studies, they should not do so with the expectation they will earn a development fee. ALT went into their 4th Village project with that expectation and has yet to see a development fee 4 years after the project was completed. Even MCHT, with an experienced real estate attorney at their helm, was forced to defer most of their development fee on their most recent LIHTC project even after completing 4 previous LIHTC projects. As Stangle (2013) acknowledged, 4th Street Village has not been a great financial benefit to the organization but it has given them “legitimacy” as a developer in the community. 4th Street Village is an attractive, award winning development that has performed well. It also met a very important need in a community where no one else was building affordable rental housing. If legitimacy means the ability to attract more funds for development, there may be some value in forgoing a development fee in exchange for the development experience and opportunity to increase the output of affordable housing in the future.

2. *There is no standard CLT approach to LIHTC development.*

The CLT approach to rental housing financed without LIHTC seems relatively straightforward. A CLT may own the land or the land and the structure. They may rent individual units in a building to tenants via traditional 1-year leases or may rent an entire building to a third-party who then leases units to individuals. However, it would appear that there is no CLT model of LIHTC development that has been widely applied by organizations interested in maximizing permanent affordability, integrating stewardship and maintaining community control of land. The lack of a standardized approach points to the fact that LIHTC is such a flexible source of funding to allow for and even encourage multiple forms of development partnerships, site control and outcomes as far as the ultimate form of tenure when the mandated affordability period expires. It is possible that MCHT’s forthcoming tax credit project using the CLT model ground lease could serve as blueprint for LIHTC projects undertaken by CLTs. While its application may be limited to specific situations, it is promising in terms of the site control it offers (many CLT-sponsored LIHTC projects are not necessarily developed on CLT-owned land) and its revenue generating potential. By owning the land under the project, a CLT has the opportunity to collect a ground lease fee from the development partnership. Successful application of this mechanism may offset foregone development fees.

There was an acknowledgement from both ALT and MCHT that there would always be a need for affordable rental housing in the communities that they serve. Each organization sees affordable rental housing as a public good that should be kept with the community in perpetuity. This would be expected of an organization like ALT, which was initially founded as Community Land Trust and possibly implied by MCHT's mission statement. It could be that MCHT's commitment to permanent affordability is influenced by Utah's 99-year land use restriction on projects financed with tax credits. However, it has moved toward the CLT model ground lease in its homeowner project because it is "more flexible" and offers "more control" than the deed restrictions that it used previously (Loomis, 2013).

What are the difficulties that arise during the development process?

Using Glickman and Servon's (1999) definition of the "capacity" of nonprofit organizations as a "multidimensional term, consisting of resource, organizational, networking and programmatic and political elements," it can be said that a LIHTC project requires an organization to utilize and increase at least several facets of its capacity. ALT formed a partnership with an experienced developer to make up for its lack of tax credit experience and also received some pro bono legal services, which is consistent with the way that Bratt (2007) explains why development partnerships are formed. MCHT had a significant in-house resource in its executive director, whose background as a real estate attorney has enabled the organization to play the role of lead developer on several deals.

The political attitudes toward affordable housing in each case were at opposite ends of the spectrum. Whereas MCHT's efforts have enjoyed support at the state and local level for some time, Athens initiated the 4th Street project when a mayor hostile to the development of affordable housing was in office. Any number of internal and external factors could have influenced the success of the projects. The commitment to seeing the projects succeed on the part of a few key actors cannot be understated, but it is difficult to measure. It is also likely that once tax credits are awarded, the threat of recapture that Smith (2002) outlines takes effects and that the actors (and investors especially) have an incentive to make the project work. All of the intangibles aside, both Stangle and Loomis agreed that good development partnerships could result in a successful project.

3. *Development partnerships should be about more than the bottom line.*

Loomis (2013), Lewis (2012) and Stangle (2013) all suggest that organizations without tax credit experience but considering LIHTC as a source of development funding co-develop with an experienced organization and split the development fee. Loomis (2013) suggests looking for a partner who has done multiple projects and have been successful in terms of compliance and project performance. According to Loomis (2013), the major pitfall to avoid is committing to things during the application process for the sake of getting QAP points that will cause the project hardship down the line. In 2012, Loomis was approached by a tax credit investor that was interested in having MCHT co-develop a 23-unit senior living project financed using LIHTC with the Wasatch County Housing Authority. Drawing on his prior experience, Loomis was able to correct errors in the application process that he believes “would have lived with the project forever” (Loomis, 2013). For example, he adjusted targeted income levels on several units upwards (from 25% AMI to 40%) and brought a proposed 62+ age restriction down because these stipulations would have made it difficult to lease up the building (ibid). He stressed the importance of an accurate market study, noting a tendency for a developer to do a market study that makes things look good on paper. He assured that “tax credit investors always do a third party market study” (ibid). One of the major challenges of using LIHTC is that tax credit investors are usually interested in doing larger (75-100 unit) projects, whereas organizations like MCHT (smaller organizations or those operating in rural areas) are often interested in doing smaller (20-30 unit) projects.

LIHTC projects are extremely complex and can get costly in terms of legal, accounting and consulting fees. A lack of experience would like drive those costs upwards, as Loomis noted was the case under MCHT’s prior executive director. Working with a developer who had tax credit experience could help contain those costs. Stangle (2013) and Loomis (2013) agree on a few other features that CLTs should look for in a development partner: a portfolio of well-performing projects, high-quality construction and an organization whose mission statement aligns with a CLT. Stangle (2013) said that in the future, she would look for a development partner whose primary concern was building not “just apartments, but great places to live.” Making a LIHTC development a great place to live might involving the addition of amenities that would both score extra QAP points while improving the physical appearance and quality of the apartments. Loomis (2013) warns that developers must walk a tight line when it comes to committing to extra project amenities, as they can make a project too expensive to finance. Partnerships with organizations who own well performing projects could help CLTs with limited capacity to avoid these pitfalls.

4. *Community control is not necessarily achieved through the direct ownership of land in a LIHTC deal.*

If control of land within a community is paramount to a CLT, it must be noted that it is not automatically achieved by developing affordable housing using LIHTC. The project and the land it sits on is almost wholly owned (typically by a margin of 99% to 1%) by the tax credit investor until such time as the investor chooses to sell or convey its interest to the nonprofit partner. It is very common for nonprofits to assume full ownership after 15 years (Enterprise, 2007; Khadduri, et al, 2012) but due to the initial ownership structure and the rules of the LIHTC program, they have very little control over what happens to a project before then. ALT does not own the land where 4th Street Village was developed, although they have the option to purchase the entire project at year 15. Loomis (2013) is unaware of other CLTs that use a ground lease in a LIHTC project.

This also means that there is potential for conflict between the CLT, the property management company and the community at large. Investors are required to keep the property in good financial order or they risk losing tax credits. They do so, in part, by passing off some of the compliance monitoring and day-to-day tenant relations to a property management firm. Neither the investor nor the management firm can afford to be a sympathetic landlord due to their fiduciary responsibilities and the risk of tax credit recapture. ALT mitigates this tension by extending stewardship services to the tenants of 4th Street Village, but also incurs additional expenses to do so (Stangle, 2013).

How are CLTs planning to keep their LIHTC projects affordable at Year 15 or 30 and beyond?

5. *Permanent affordability is presumed but not necessarily planned for.*

For both organizations, permanent affordability of their LIHTC projects (as well as their homeownership projects, for that matter) was a foregone conclusion. ALT and MCHT are obligated by their mission statements to keep their projects affordable in perpetuity. However, neither mentioned any specific financial mechanisms or solid plans for the projects when mandated affordability periods expired. ALT kept the options for the future of 4th Street Village open and explained that the direction that the project would take would depend upon the future needs of the community. On the other hand, MCHT believed that their rental housing would always remain rental housing. In a resort economy, there will always be a need for affordable rentals and further, all of MCHT's rental projects are multi-family attached buildings that would probably never easily lend themselves to homeownership options. Also, most have mandated affordability periods of 50 to 99 years.[24] It appears that CLT sponsored LIHTC projects do not differ materially from projects sponsored by other nonprofit organizations in terms of guaranteed affordability.

Is stewardship extended to the tenants of CLT-owned LIHTC projects? If so, how?

ALT and MCHT both offer rental and homeownership opportunities within their service areas. Inherent in this dual approach to affordable housing is the recognition that CLT homeownership is not for everyone and that there will always be a need for affordable rental housing. ALT offers stewardship services to its 4th Street Village tenants that are similar to the services offered to its CLT homeowners, which shows an interest in strengthening the community by improving the self-sufficiency of its members. Since ALT was founded as a CLT, a commitment to stewardship would have been an integral part of the organization from the beginning. On the other hand, MCHT has only recently recognized the importance providing stewardship services. Originally, it felt that it was doing enough if mortgage payments were made on time and resale restrictions were enforced. MCHT was recently provided a grant that will increase its capacity to undertake stewardship activities for its homeowners. It remains unclear whether it will offer similar services to renters or will attempt to create the "pipeline" of homeowners via its tenants. This may be traced back to the fact that MCHT is not a CLT by design but uses a CLT model ground lease in its operations. It may be that the organization incorporates more proactive stewardship into its programming as it matures.

[24] In Utah, projects financed with competitive 9% tax credits are required to remain affordable for 99 years, while projects financed with "as-of-right" 4% credits are required to remain affordable for at least 55 years.

In both cases, tenants do not enjoy any special representation on the boards of the organizations. This is not surprising, given that Thaden (2012) reports that many CLTs do not count the owner of a CLT owned home as a board member. If the empowerment of homeowners via a spot on a board of directors is still somewhat elusive, it is probably even further off for renters. Stangle (2013) indicates that ALT's belief is that "homeowners should be able to make decisions about land their home is sitting on" while for renters it is "a little different." Even in a CLT-owned rental apartment, tenants and homeowners are viewed somewhat differently. Empowerment activities are put in place to move tenants out of renting and into homeownership, which affords them a stronger voice in land-related decisions. MCHT is not a classic CLT and does not have a tripartite board structure. Neither homeowners nor tenants are represented on its board.

Conclusion

Davis (2010) offers an observation about the future of the CLT movement that serves as an appropriate starting point for the conclusion of this thesis:

> As the number, size, and diversity of CLTs grow, the model is being pushed beyond the ideological, organizational, and operational boundaries that once defined it. As the number, size, and diversity of CLTs grow, the model is being pushed beyond the ideological, organizational, and operational boundaries that once defined it. By cultivating a shared understanding of the model's origins, including the ideas and values underlying its many variations, we make it easier for distant CLTs to find a common identity and pursue a common agenda (Foreward).

The LIHTC program is one source of funding CLTs can use to substantially increase their rental portfolios. The case studies presented here show that there is no one-size-fits-all approach to using LIHTC, but that it is complicated and requires a significant investment of other financial and non-financial resources. The main limitation of this thesis is that more case studies of different types of CLTs were not presented. More case studies may have revealed additional commonalities in the positive and negative experiences that CLTs tend to have when using LIHTC. A second limitation is the lack of uniformity in the interviews. A lack of uniformity is be expected when examining multi-family affordable housing development processes but may be further complicated by the fact that LIHTC is administered at the state level resulting in what Khadduri, et al (2012) dubbed "50 flavors of process." To reiterate, I argue that this feature of LIHTC makes it attractive and demonstrates how flexible the program can be in accommodating innovation. As CLT-led innovation within the LIHTC program occurs, it should be documented and shared among professionals via the National CLT Network, which both executive directors pointed to as a valuable resource. This will also give CLTs the credibility they need to argue the case for permanent affordability at the state level in order to compete more effectively for tax credit allocations in the future.

This thesis highlights a gap in the existing literature on CLTs by showing that mechanisms to ensure permanent affordability, stewardship and community control are not necessarily built in features of LIHTC deals undertaken by CLTs. The use of a funding source with so many strings attached will force CLTs to consider how they simultaneously branch out into new forms of tenure *and* adhere to their founding principles. There a number of disposition strategies available to non-profit partners in LIHTC deals that will result in full ownership of a project after 15 years, but less is written about how to keep these projects financially healthy on a permanent basis. Additional research that addresses some of the best practices in long-term sustainable asset management is needed to expand on this topic. Most LIHTC projects undertaken by CLTs are probably not old enough to for researchers to conduct a robust analysis of how CLT-sponsored projects tend to perform over the long term, but there is room to examine the ways in which other organizations are planning for the idea of permanence. The impacts of stewardship on residents of CLT owned rental housing is also an area of study that could be expanded upon.

Finally, the notion of community control is a defining feature of CLTs, but it is unclear how it plays out in LIHTC projects especially in light of the fact that projects can be developed on land that is not CLT-owned. How would voting members of a CLT make decisions about a development that is partially owned (by very wide margins) by a corporate investor that has no ties to the community? While this question is theoretical and unrelated to the physical output of affordable housing units, defining the ways that community control is achieved deserves attention if CLTs are to distinguish themselves from CDCs and other well-intentioned non-profit producers of affordable housing.

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Vita

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