

# Keeping Property Affordable for Generations with a CLT



AFFORDABLE HOUSING CONFERENCE  
**HOME MATTERS**  
 IN FLORIDA



# Community Land Trusts: Keeping Housing Affordable for Generations!

Florida Housing Coalition Annual Affordable Housing Conference  
August 27, 2019



# Today's Agenda

- What is subsidy retention
- What are community land trusts
- Interest in CLTs and public sector role
- Support for CLTs in lending community

# Subsidy Recapture or Subsidy Retention?

- Subsidy recapture
  - Repayment of the subsidy alone will not be enough
  - Reasonable return on public investment to provide same level of assistance to the next household
- Subsidy retention
  - One-time subsidy in unit
  - Creates permanently affordability

# Why should we consider Subsidy Retention?

- Housing prices generally increasing at greater rate than income
- Diminishing value of public assistance
- Helps meet obligations of Housing Elements in Comprehensive Plans
- Affordable housing promotes stability
  - Community
  - Family
  - Economy

# Subsidy Retention and Permanent Affordability

- Uses mechanisms in legal documents to retain public subsidy in the housing unit
- Can implement with all housing types
- Creates permanent inventory of affordable housing available to the community

# Local Government Perspective

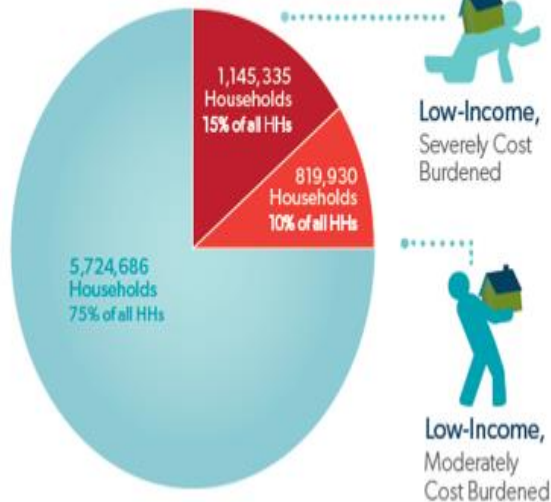
Every jurisdiction in Florida has the obligation to provide for housing its entire current and anticipated population, including the most vulnerable, such as those with special needs and farmworkers.

- Chapter 163.3177(6)(f)

# The Need for Affordable Housing

A subsidy retention approach permanently protects investments in affordable housing and increases the affordable housing stock

**25%**  
of Floridians  
**Struggle**  
to Pay for Housing



# What is a Community Land Trust?

- The vehicle of separating ownership of the land from the building
- The nonprofit that holds title to the land and administers a ground lease



# How Does it Work?

- A CLT acquires and retains ownership of land
- The improvements are sold or leased to income eligible households
- Owners have the right to use the land by virtue of a 99-year lease agreement with the CLT (functional equivalent of ownership)

# How Does it Work for Homeownership?

- A CLT acquires and retains ownership of land
- The improvements are sold to income eligible households
- Owners have the right to use the land by virtue of a 99-year lease agreement with the CLT (functional equivalent of ownership), requiring them to sell to other income-eligible purchasers at an affordable price

# How Does it Work for Rental?

- A CLT acquires and retains ownership of land
- The improvements leased to income eligible households
- Owners have the right to use the land by virtue of a 99-year lease agreement with the CLT requiring rental to income-eligible households for duration of the lease

# How is permanent affordability accomplished?

- Resale restrictions
  - Income eligibility of subsequent buyers
  - Limit on resale price
- Use restrictions (must be primary home)
- Reduced property taxes
- CLT right to repurchase

# Retaining the Subsidy for Permanent Affordability

## Initial Purchase

\$175,000 TDC  
- \$ 40,000 Land Value  
\$135,000 Sales Price  
- \$ 25,000\* Purchase Asst.  
\$110,000 Base Price

\*Assumable

## Resale

\$110,000 Base Price  
1.5% Comp. Rate  
5 Resale Year  
**\$118,501 New Price**  
+\$ 25,000 Purchase Asst.  
\$143,501 CLT Purchase  
Option Price

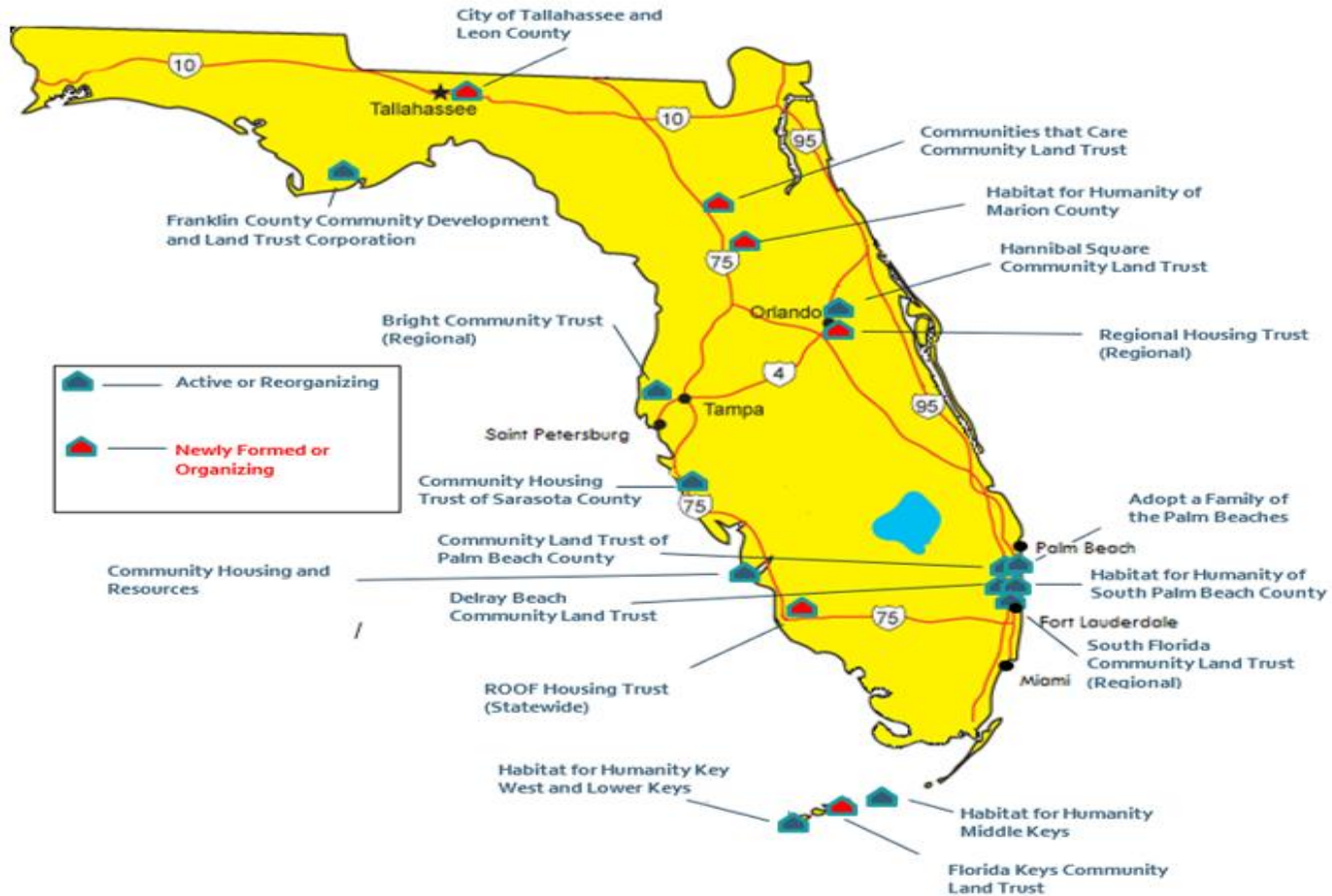
# CLTs for Rental

- Permanent affordability vs expiring LURA
- Minimum Affordability Periods
  - SHIP/SAIL 15 years
  - LIHTC 50 year
  - other FHFC programs vary
  - HOME 5-20 years



Garden Trail, Clearwater, FL

# Growing Interest in CLTs



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# Key Benefits of the CLT: for the Public

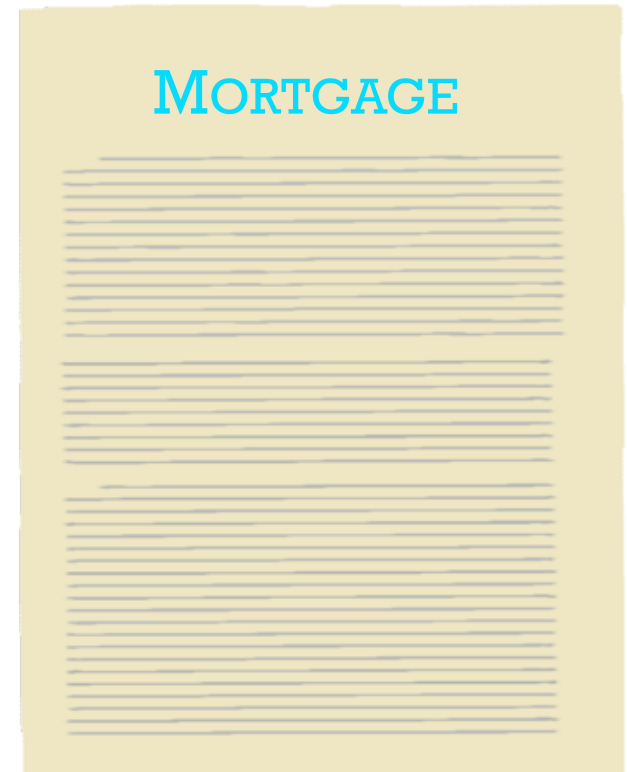


- Permanent stock of affordable housing is created
- Reduces the amount of subsidy needed to serve the same number of households
- A nonprofit is providing stewardship to help the homeowner to be successful
- Reduces the rental crisis by moving renters into CLT homeownership

# Key Benefits for the Home Buyer



- Price of the home is now more affordable
- Staying in the community without being a renter means:
  - Mortgage payments instead of rent payments
  - Mortgage interest payments are deductible



# Key Benefits for the Home Buyer (continued)



- Return of equity upon resale
- Financial stability— able to save without fear of rent increases or loss of housing

# CLT Homeowner's Responsibilities

- Making monthly lease payment to CLT
- Making monthly mortgage payment to bank
- Paying tax bill for land and improvement (on resale restricted value)
- Making repairs – no landlord to call
- Receiving CLT approval before making certain improvements
- Notifying CLT when they intend to sell.

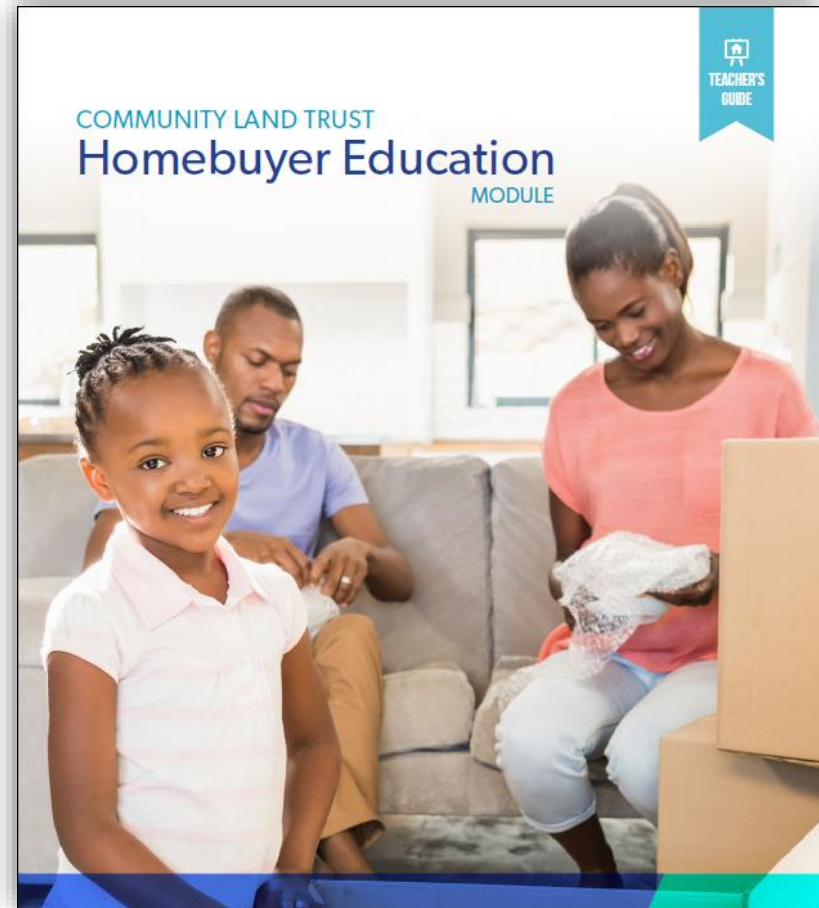
# CLT Homeowner's Responsibilities

- CLT homebuyer must understand the difference between fee simple and CLT homeownership
- Specifically, understanding what money to expect upon resale
- And that depends on the resale formula
- So...ensure that the CLT homebuyer understands the resale formula that your CLT is using

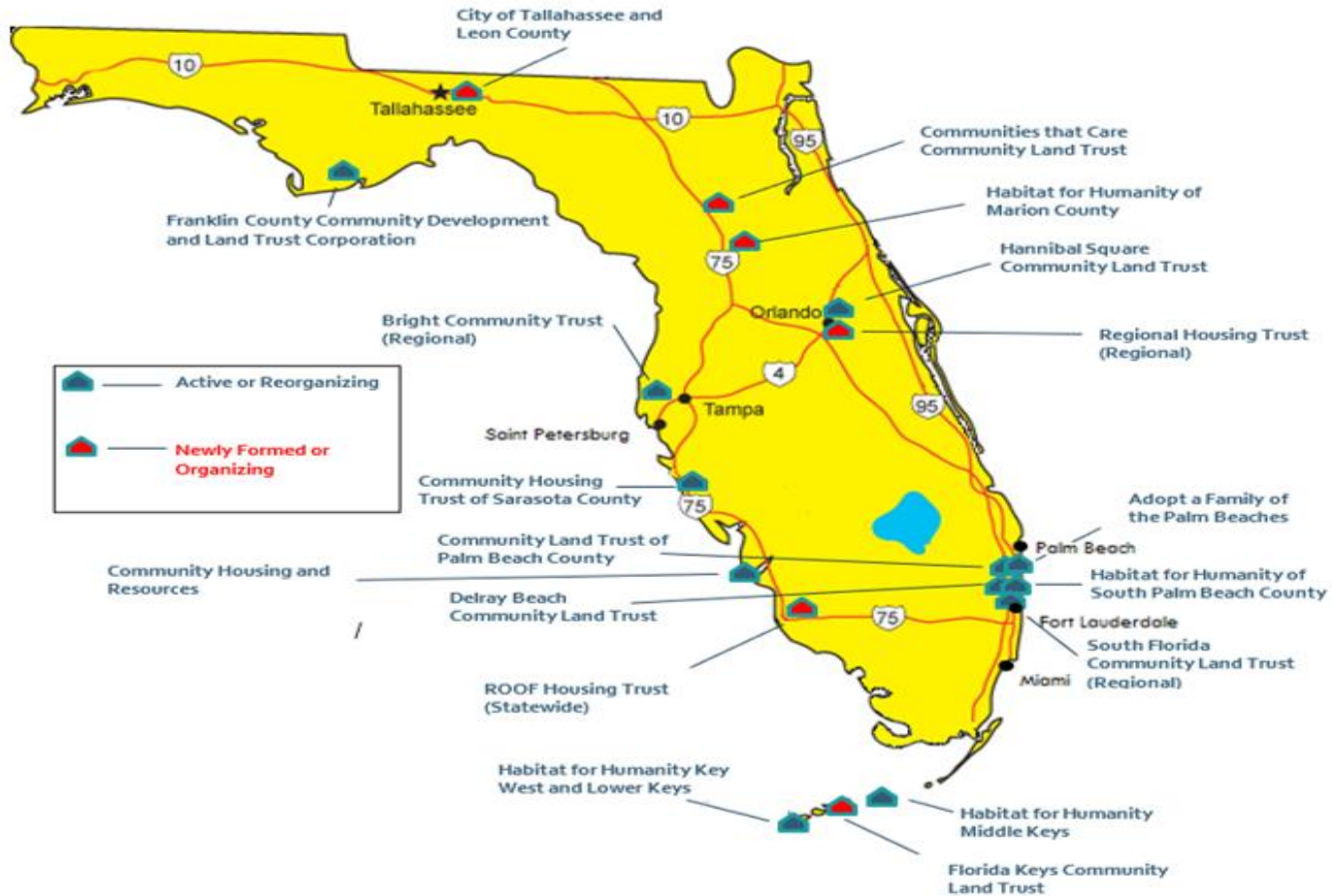
# Homebuyer Education

## Highlights:

- Teacher's Edition  
Available Now!
- Supplements general homebuyer education
- Understanding ground lease
- Transitioning to fee simple homeownership



# Growing Interest in CLTs



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# Community Discussion:

## What is the unmet need?

### Need: Very-Low Income Rental Housing

- Potential role of Local Government: Donate surplus land to CLT
- Potential role of CLT: Hold ground lease for land on which rental is developed

### Need: Very-Low Income Ownership Housing

- Potential role of Local Government: Donate surplus land to CLT
- Potential role of CLT: Serve as developer and hold ground lease for land on which homes are developed

# Local government's role in supporting a CLT

## No CLT currently serving your community

- Does a CLT work for your housing market?
- What role should you play in launching a CLT?
  - Funding?
  - Land?
- Is a new organization needed?
  - Incorporation of a 501(c)(3)
  - Board Composition?

## Existing CLT serving your community

- How can the CLT complement your other affordable housing tools?
- How can you help to scale up the CLT so that it is sustainable?

# Key Local Government Strategies

- Allow down payment assistance for community land trust purchases
- Require or prefer permanent affordability with surplus land
- Incorporate permanent affordability with inclusionary programs



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# Support for Community Land Trust Lending

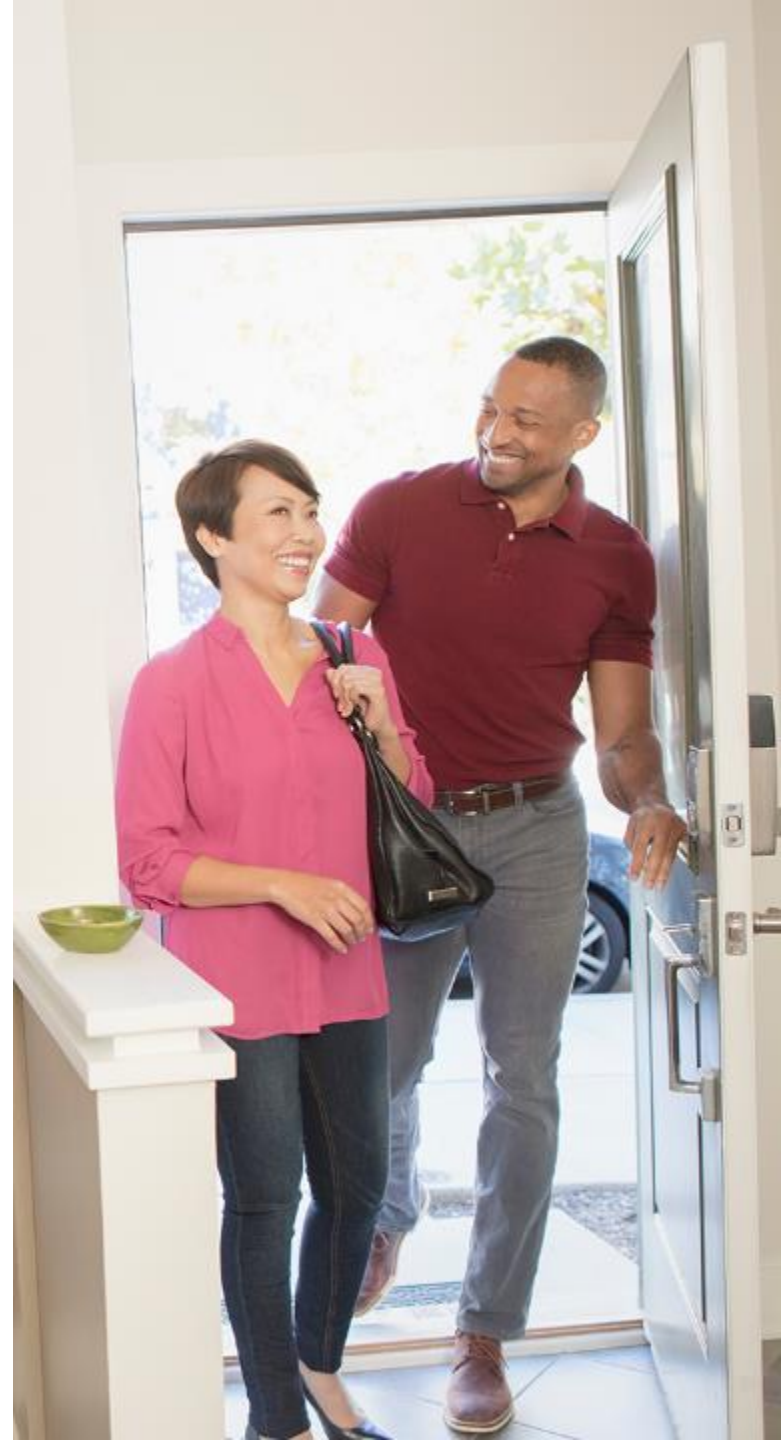
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# Community Land Trusts and Fannie Mae

August 2019



# An important note about the seminar content

While every effort has been made to ensure the reliability of the session content, Fannie Mae's *Selling* and *Servicing Guides* and their updates, including *Guide* Announcements and Release Notes, are the official statements of Fannie Mae's policies and procedures and control in the event of discrepancies between the information in this seminar and the *Guides*.





How we'll  
spend our time  
together today:

- Fannie Mae Policies on CLTs
- Eligibility Parameters
- Appraisal Process
- Loan To Value Calculation
- The CLT Ground Lease and Form 2100
- Third Party Notification
- Resources



# Eligibility for the Community Land Trust

## Eligible community land trusts must:

- Be nonprofit organizations or public entities, such as state or local governments, counties, school districts, universities, or colleges.
- Have the capacity to administer leasehold mortgages.
- Have at least 2 years of experience in successfully managing affordable housing.

## The lender must:

- Review staff resumes, experience and skills to insure that the CLT has the experience necessary to manage the housing program.
- Review the most current annual report to confirm successful performance of the CLT in the most current year.
- Review the CLT's ground lease to ensure it meets our eligibility criteria, which we will cover later in this presentation.

***A CLT checklist document is available at [fanniemae.com](https://www.fanniemae.com) to assist lenders in this review.***



# General Fannie Mae Policies for Community Land Trusts

- Fannie Mae purchases or securitizes first mortgage loans secured by a property located in a community land trust (CLT) with eligible ground leases.
- The CLT product is available to lenders as a standard *Selling Guide* product feature.
- Eligible properties include 1 or 2 unit owner occupied properties.
- All property types\* are eligible except for units in co-ops or manufactured homes (unless located in a Fannie Mae-approved condo or PUD project)

\*Refer to *Selling Guide* for more details on eligibility guidelines for property types



# General Fannie Mae Policies for Community Land Trusts (cont.)

- The leasehold estate created by the community land trust ground lease must constitute real property under applicable law.
- The lender must confirm that all ground lease rents and other payments or assessments that have come due have been paid before it delivers the mortgage to Fannie Mae.
- The borrower must not be in default under any other provisions of the ground lease, nor may the ground lessor have claimed such a default.
- Loan products include standard fixed rate and ARM products.



# Loan Purpose Requirements

Eligible loan purposes include:

- Purchase
- Limited cash-out refinance (LCOR)\*
- Cash-out refinances\* are permitted, but CLT may limit the cash out to protect the subsidy invested in the property

\*Lender must document that the CLT approved either a LCOR or a Cash-out refinance



# Insurance Requirements

- Standard MI coverage applies
- Hazard insurance must be in-effect at closing.
- Lender's title insurance policy or endorsement to the policy must confirm these six elements:
  - Recording of CLT ground lease or ground lease memorandum
  - Recording of [Form 2100](#)
  - The CLT mortgage is a first lien on the leasehold estate and all improvements
  - No existing mortgages or other liens on fee estate
  - Ground lessor's revisionary interest is subordinate to the CLT mortgage
  - No other occupancy or resale restrictions, or covenants that "run with the land," exist or have been recorded apart from the ground lease, except those permitted by Form 2100.



# Appraisal Guidelines

- The lender must ensure the appraiser is knowledgeable and experienced in appraisal techniques related to community land trusts.
- The appraiser must analyze the property subject to the land lease, understanding that the price may be significantly less than market value of the leasehold estate.
- To develop the opinion of value, the appraiser must use a three-step process and determine:
  - Fee simple value of the property by using comparable sales of similar properties owned as fee simple estates.
  - Applicable capitalization rate which converts income from ground lease into a leased fee value.
  - Leasehold value by reducing fee simple value by the lease fee value.
- The appraiser must attach an addendum to the appraisal report to provide any information that cannot otherwise be presented on the appraisal report form.
- The land records for the subject property must include adoption of the terms and conditions that are incorporated in this ground lease rider. Fannie Mae's approval is required if the rider is modified or is not executed.



# Determining Appraised Value

The following demonstrates Fannie Mae Treatment of a property with a market value of \$250,000 and a sales price of \$200,000:

Fee simple (market) value = \$250,000

Annual ground lease = \$500

Market derived capitalization rate\* = 5.75%

Sales price = \$200,000

\*Cap rate should be provided/derived by the appraiser.

- Divide Annual Rent by Cap Rate
  - $\$500 / 5.75\% = \$8,695.65$ , and round to \$8,700
- Subtract leased fee value from fee simple value \$8,700 from \$250,000 fee simple value
  - $\$250,000 - \$8,700 = \text{Leasehold/Appraised Value of } \$241,300$



# Determining LTV

- LTV is based upon leasehold/appraised value of the subject property

Appraised value = \$241,300

Sales price = \$200,000

Effective LTV = 83%

CLTV = 100%

- The \$41,300 subsidy via the land is equivalent to a 17% down payment and substitutes for the required 3% down payment.
- Therefore, the borrower is not required to provide a down payment.



# Loan Documents

## Ground Lease

- Must be valid, enforceable, and in full force and effect.
- Term of the estate created by the ground lease must extend for at least five years beyond the maturity date of the mortgage.
- May include resale restrictions and third party notification requirements (see next slide).
- Must be based on either the *National Community Land Trust Network (NCLTN) 2011 CLT Network Model Ground Lease* or the *Institute for Community Economics (ICE) Model Ground Lease*.

## Fannie Mae Form 2100 (Ground Lease Rider)

- Must be used as part of the transaction.
- Ensures that the ground lease is in conformity with Fannie Mae requirements.
- Removes restrictions that may be included in the ground lease that could affect property value.
- Must be executed by the borrower and recorded with the ground lease to remove applicable restrictions from the ground lease.



# Form 2100: Ground Lease Rider

## Community Land Trust Ground Lease Rider

[For use with CLT ground leases substantially based on either the Institute for Community Economics or the National Community Land Trust Network model ground lease as identified in Fannie Mae's *Selling Guide*]

THIS COMMUNITY LAND TRUST GROUND LEASE RIDER (the "Rider") is made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and amends and supplements a certain ground lease (referred to herein as "the CLT Ground Lease") dated \_\_\_\_\_ that is by and between \_\_\_\_\_ as lessor (herein referred to as "the Lessor" but may otherwise be referred to in the CLT Ground Lease as the "CLT") and \_\_\_\_\_, as lessee (herein referred to as "the Lessee" but may otherwise be referred to in the CLT Ground Lease as "Homeowner"). This Rider shall be deemed incorporated into the CLT Ground Lease, and the CLT Ground Lease as amended by this Rider, shall hereafter be referred to as the "Lease," unless otherwise indicated.

The CLT Ground Lease is a long-term lease of the Lessor's fee interest in the land located at \_\_\_\_\_, referred to herein as the "Leased Land," as improved by a residential structure or unit, referred to herein as the "Improvements." The Leased Land and the Improvements are collectively referred to herein as the "Leased Premises."

This Rider amends the CLT Ground Lease for the purpose of enabling the Lessee to obtain Fannie Mae financing in the form of a mortgage or deed of trust given this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by Lessee to \_\_\_\_\_ (the "Specified Mortgage"), and the interest of the Specified Mortgagee in the Leased Premises as secured by such mortgage or deed of trust may be referred to herein as the "Leasehold Estate." The Specified Mortgage is recognized by Lessor as a "Permitted Mortgage" (or as such concept is otherwise defined) under the CLT Ground Lease, and the holder of the Specified Mortgage (the "Specified Mortgagee") is recognized as a "Permitted Mortgagee" (or as such concept is otherwise defined) under the CLT Ground Lease.

**ADDITIONAL COVENANTS.** Notwithstanding anything to the contrary contained in the CLT Ground Lease, and in addition to the covenants and agreements made in the CLT Ground Lease, the Lessor and the Lessee further covenant and agree, so long (but only so long) as the Specified Mortgagee, its successors and assigns shall have an interest in the Leased Premises, as a holder of the Specified Mortgage or as an owner of the Lessee's interest pursuant to any sale after or in lieu of foreclosure, the following provisions shall apply to the CLT Ground Lease as modifications thereof:

**A. No Assignment or Transfer.** The making of the Specified Mortgage shall not be deemed to constitute an assignment or transfer of the Lease or Leasehold Estate so as to require the Specified Mortgagee to assume the performance of any of the Lessee's obligations under the Lease.

**B. Status of the Fee Estate.** The Lessor represents and warrants that there is no existing mortgage on the fee estate, and so long as the Specified Mortgage shall remain on the Leased Premises, the Lessor and the Lessee shall not subordinate the Lease to any mortgage or lien that may hereafter be placed on the fee estate. Notwithstanding the foregoing, a state- or local-government entity ("Government Entity") may hold a prior recorded interest (represented by recorded covenants, a mortgage or deed of trust, other lien) on the fee estate if the Government Entity has agreed that in the event it (including its successors and assigns) succeeds to the interest of the Lessor under the Lease by any remedy available to the



# Resale Restrictions and Third Party Notification

## Resale Restrictions

- May be used to limit future property purchasers to low and moderate-income families, selected types of workers (teachers or nurses, for example) or limit the maximum sales price of property.
- Must terminate automatically on foreclosure (or expiration of any applicable redemption period) or acceptance of a deed-in-lieu of foreclosure for the leasehold mortgage.
- Once terminated, they may not be automatically reinstated for subsequent purchasers of the property.

## Third Party Notification

- CLTs can require the lender to notify a third party, such as a housing authority or government agency, upon the borrower's default or property foreclosure.
- Lender must ensure that proper notification is provided, as required by the community land trust ground lease.
- Servicer is still responsible for adhering to Fannie Mae's established foreclosure time frames.



# In Summary:

**Fannie Mae will purchase mortgages on CLT properties in accordance with our eligibility guidelines.**

- Fannie Mae purchases or securitizes first mortgage loans secured by a property located in a land trust as long as it utilizes an eligible ground lease.
- All approved lenders can deliver loans on CLT properties but must perform oversight to determine that the CLT and its policies are eligible.
- Appraisal guidelines are different for CLT loans and are documented in the Selling Guide.
- LTV ratios are based on the appraised value, not the lesser of sales price or appraised value.
- Loans can be underwritten in DU or manually.
- Standard pricing and committing rules apply but certain loan delivery steps, including a submitting SFC 054, are required.



# Thank you for attending.

For more information, please visit our Fannie Mae team here at the conference, or go to [www.fanniemae.com](http://www.fanniemae.com) for more information.





# A Lender's Perspective on Community Land Trusts

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