Virginia Statewide Community Land Trust

Information for Lenders

The Community Land Trust: Inclusive and Affordable, in Perpetuity

Community Land Trusts (CLTs) are a common way to create affordable homeownership opportunities – there are over 350 active CLTs around the country. In Virginia there are currently two active CLTs (one in Charlottesville, one in Richmond); the VSCLT will be the third CLT in Virginia, but the first designed to operate statewide. We will operate in a large number of jurisdictions including Fairfax County, Fauquier County, Louisa County and others.

CLT homebuyers use conventional, fixed-rate mortgages common to most other homeowners. Because they are typically first-time or moderate-income (often under 80% of Area Median Income) homebuyers, they can often take advantage of Fannie and Freddie backed mortgage products that are designed specifically to support new and lower income homebuyers.

Any lender can be a CLT lender, but lenders will have to familiarize themselves and understand the terms of a CLT product. Once the basics of the model are understood, lenders should find that the underwriting of CLT loans is really no different than conventional, fee-simple home buying.

The key difference between fee-simple homeownership and CLT homeownership is the Ground Lease. The ground lease is the legally binding agreement that gives the lessee/homeowner the right to use the land.

This lease is between the land owner – in this instance the Virginia Statewide Community Land Trust (a 501c3 non-profit organization) and the homebuyer. The ground lease does many things but its primary purpose is to restrict the homeowner's resale price and thereby allow the home to be re-sold at an affordable price over and over again. **The lease balances the interests of the lessee as a homeowner with the long-term interests of the CLT and the community in which it operates.**

Key Components of the Ground Lease for Lenders

There are a number of critical agreements defined by the CLT's ground lease. In the case of the Virginia Statewide CLT, these agreements include:

- **Improvements -** The lessee owns all buildings, structures, fixtures and any other improvements (such as landscaping) on the land. The CLT, however, sets certain limitations on the use and sale of these Improvements.
- **Financing -** There is a provision in the lease that describes "permitted mortgages", which include those from regulated institutional lenders. These provisions deal specifically with

foreclosure proceedings designed to protect the interest of the lender, the borrower and the landowner.

- **Survival of Foreclosure -** The ground lease is not subject to foreclosure and the restrictions remain in place after foreclosure. Many CLTs will exercise their right to repurchase the property and pay off the mortgage if the property becomes subject to foreclosure action by the lender.
- **Taxes and Assessments** – The lessee is responsible for the payment of all real estate taxes on the land and on the Improvements.
- **Transfer to Income-Qualified Buyers** – The home can only be sold to an income qualified buyer –defined as percentage of the local median income, adjusted for family size – and not for more than a price that is capped by a specified "Resale Formula."
- **CLT's Preemptive Option** – MWCLT stipulates in the ground lease its preemptive option to purchase the Improvements in the event that the lessee/homeowner elects to sell their Improvements (rather than list the Improvements for sale on the open market).

For mortgage lenders, financing for the purchase of CLT homes involve factors that are not present in the case of conventional home mortgage loans:

- The collateral for the loan consists of the Improvements and the leasehold interest in the land, not the fee simple interest in the land;
- The restrictions on resale and occupancy affect the value of the collateral further; and
- The ground lease remains in place after foreclosure.

These factors do not prohibit mortgage financing for CLT homebuyers, but most residential mortgage lenders have little experience in dealing with the issues involved. While it is common for lenders in Virginia to maintain CLT loans in their portfolios (for CRA credit or other reasons), standard Fannie Mae and Freddie Mac Ground Lease Riders have been developed to accommodate sales of CLT loans on the secondary mortgage market.

The ground lease includes provision for the removal of certain restrictions, including resale restrictions, in the event of foreclosure or the taking of a deed in lieu, so that the collateral can be freely liquidated if necessary. As noted above, the CLT may exercise its right to purchase the property in order to avoid foreclosure. The ground lease also gives the CLT opportunities to cure a mortgage default by a lessee or otherwise work out a default situation. In fact, the presence of the community land trust/lessor as an interested third party to the lender-borrower relationship gives most mortgage lenders considerable comfort. National statistics on CLT property bears out the fact that **CLT borrowers are less likely to default on mortgages** than conventional, market rate borrowers.