THE PRIVATE-INVESTMENT COMMUNITY LAND TRUST

by Dan Sullivan,
director
Incentive Tax League
of Pennsylvania
3243 Parkview Avenue
Pittsburgh, PA 15213
(412) 431-LAND

5

2747

THE PRIVATE COMMUNITY LAND TRUST

The private community land trust is an alternative system for private land holding and for generating community revenues. Essentially it means that land is leased, rather than purchased, from a community corporation. The community then uses lease revenues to pay investors and to provide community services. Taxes and other community dues are not necessary under such a system. Lease revenues can even be used to pay off taxes levied against community members by larger taxing bodies.

There are distinct advantages to this system compared with private land ownership and public taxation. Before enumerating these specifically, this paper will examine some problems which grow out of systems where land is privately owned and where taxes are levied on improvements, wages, and other sources.

PROBLEMS ARISING FROM UNLIMITED OWNERSHIP OF LAND

There are two basic reasons for owning land. One is to use it--to live on it, farm it, or operate a business on it. The other is to hold it as an investment--to purchase land with the intention of making it pay off some time in the future.

Some land investors make their land available at reasonable lease costs, sometimes developing their land and renting it, and sometimes leasing undeveloped land to builders, homesteaders and ambitious tenant farmers. Others ask prices which are too high, or they don't bother to make their investment property available at all. It is these "idle speculators" that cause most of the problems referred to below.

Like gold and other natural resources, land is fixed in supply. When too much land becomes hoarded by investors a shortage develops, and, as with gold, the price of land goes up until people who have legitimate uses for land can't afford any. Orgies of land speculation have always occurred preceding major depressions, and are believed to be one of the causes of the inflation/depression cycle.

Besides aggravating large scale economic problems, idle land speculation is a drag on the quality of life in local communities. Unused, neglected properties contribute almost nothing to the community, and are often eyesores, fire traps, and health hazards. Because they are usually vacant, under-developed or deteriorated, these properties don't even generate a decent share of property taxes.

Newspeak

Meanwhile, the conscientious homeowner who takes a piece of land and improves it has to pay much higher taxes. Property tax, wage tax and other local taxes penalize active members of the community--people whose efforts make the community a better place in which to live. The taxes are used to make civic improvements--

improvements which play into the hands of the speculators by increasing the value of their idle holdings.

Such a system generates a "you-first" mentality, wherein landowners are reluctant to improve their property unless they expect their neighbors to do the same. These negative attitudes can be so counter-productive that even the speculators suffer, as land values in blighted areas come crashing down due to lack of reconstruction. Yet the landowner who acts alone and improves his blighted property suffers even more than his neighbors if they do not follow his lead.

THE COMMUNITY LEASE ALTERNATIVE

Instead of being owned as individual parcels, land is held by a community corporation. Investors hold stock in the corporation, and land users hold perpetual and transferable fair-market leases instead of deeds. The essential difference is that leases are not offered for a simple purchase fee, but for a monthly, quarterly, or annually collected rent which is assessed according to an established procedure.

Rents are used to administrate the leases, to pay dividends to the investors (or repay loans to creditors), to provide for community services, and, ideally, to shield community members from local taxes and to provide a fund for the purchase of additional land for expansion.

The community lease system is superior in a number of ways to taxed private property systems. With a well-designed lease system, leaseholders, investors and other community members can all find advantages over conventional private property systems.

HOW THE PRIVATE INVESTMENT LAND TRUST OPERATES

The private investment land trust is created out of a contractual agreement between an investors' corporation, a leaseholders' association, and a non-profit community corporation. The land is owned by the investors' corporation, but the deeds are held in escrow to guarantee the security of the leaseholders and other community residents.

An independent real estate appraisor determines the fair market rent of each land parcel based on real estate statistics. If the investors' corporation and the leaseholders' association are both satisfied with the quality of county tax assessments, they can be used for determining rents.

Every four years, parcels are re-appraised, with particular attention given to separating the value individual improvements made by the leaseholders and residents from the value of the parcels themselves.

Lease rents are determined by the unimproved values of the parcels using a predetermined formula. Between appraisals, lease rents are adjusted according to a general inflation index or by a land price index for the area.

Leases are administered by an independent real estate agent, or, if agreed upon, by a member of the community.

The rents are collected, and the costs of administering the leases are deducted. Also, all property taxes accruing to land values are deducted.

The remaining proceeds are divided according to an established formula. A portion goes to the community corporation, a portion to the investors' corporation, and a portion into a fund for future land purchases.

The funds allocated to the community corporation are used first to pay property taxes on improvements owned by the community and by community members. Additional revenues can be used to finance community improvements and services. Any funds still remaining are used to pay other taxes incurred by the tenants.

The portion sent to the investors' corporation is distributed as dividends to the investors after necessary corporate expenses have been paid.

The portion allocated for future land purchases is put in a fund held jointly by the community corporation and the investors' corporation. When both groups agree, the fund can be used to purchase land adjacent to the community, which then becomes a part of the community.

If the fund reaches an established limit and no adjacent land purchases are agreed upon, the investors' corporation can use the funds to purchase another tract of land elsewhere, where another leaseholding community will be established.

Land for expansion can be acquired in other ways as well. Additional investors can be invited to join the corporation and be issued stock commeasurate with the value of their investment. They can invest with money, which is placed into the expansion fund, or with suitable land, which becomes a part of the community upon being invested in the corporation. Occupants of the land are offered priority in taking leases.

ADVANTAGES TO THE LEASEHOLDER

There are several advantages which accrue to the leaseholder. First of all, he does not have to make an initial purchase to acquire land. His funds can be directed toward making property improvements. He does have to pay a fair market rent, but this costs far less than a mortgage on the land would cost.

Mortgage costs include interest plus "amortization" of the purchase costs; land rent reflects interest value alone. Also, the purchase price of land is artificially high due to the presence of land speculators who bid up prices. However, leases of this type are not attractive to speculators. Land rent, therefore, does not reflect "speculative" value.

Although land rents will continue and gradually increase, while mortgage payments end after thirty or forty years, the most difficult financial period for most homeowners is while their house is still being paid for. Being able to defer land payments by leasing helps them get through this critical period. A leaseholder who wants to make higher payments and have equity in his share of land in the community can become an investor as well by purchasing stock in the landholding corporation.

The leaseholder is just as secure in his lease as he would be holding a deed. The leases are fully transferable, and the rents are guaranteed not to exceed fair market value.

Conventional landowners can lose their property for failure to pay any number of taxes imposed upon them--taxes which can be selective, arbitrary, and unfair. Some leases shield leaseholders from discriminatory taxation, and are, therefore, better security than a conventional deed. Under a tax-sheltering land lease system, leaseholders can build homes, earn wages, etc., without being taxed for these activities by local governments.

Also, leases are not subject to the deed transfer tax, which takes two percent of the purchase price from conventional property owners every time title is transferred. Leaseholders can sell their property improvements and transfer their leases without anyone having to pay transfer taxes.

The community corporation can and should co-endorse home improvement and construction loans, since some banks are reluctant to issue mortgages on leased property. However, more credit is available to community-backed leaseholders than to conventional landowners. The community corporation can even start a credit union for improvement loans with revenues in the expansion fund. Such a policy greatly increases the opportunity for leaseholders to acquire funds for property improvements.

The leaseholder's biggest advantage is the assurance that adjacent properties in the community will not become derelict. Because land rent is collected by the community corporation, it is not profitable to hold leased land out of use. Negligent absentee landlordism is virtually non-existant in land-lease communities.

ADVANTAGES TO THE COMMUNITY

Advantages which accrue to responsible, energetic leaseholders translate into advantages to the community and to all of its members.

When the lease system and other considerations are designed to create a particular set of advantages, the community attracts people interested in those advantages. People who like a particular kind of community will like a particular kind of lease, for the lease provisions embody the essense of the community structure.

A lease system that gives advantages to conscientious homeowners is not particularly attractive to exploitative landlords or to demoralized and unambitious squatters. Even if such people find their way into a leasehold community, it is likely that they will either become productive community members or that they will leave.

Because the land is not owned as separate parcels, the community is not torn by conflicts of interest that arise between private landowners. And because the land is leased, and property improvements privately owned, the community does not have to depend on rigid structures and strong leadership, which are often necessary in communities where common ownership goes beyond ownership of land.

The land lease community does not have to resort to taxation to pay for community improvements. This guarantee against taxation makes the leases more attractive. Moreover, using land rents for financing community improvements provides sound criteria for judging whether an improvement is worthwhile: a worthwhile improvement makes the community a more desirable place in which to live; a more desirable community commands higher land values and, therefore, higher rents. The increase in rents to the community fund automatically pays for most economically sound community improvements. In fact, leaseholders who benefit most from a community improvement pay the most for it, as their benefits from the community are part of the basis of their assessed rental obligations.

Because the community is run as a private corporation and not as a municipality, it has greater flexability than local governments. It can be run by town meetings, elect officials within the structure of its choice, and even choose leaders by lottery. It can operate like a private condominium development, or it can take on what are considered to be municipal functions. If revenues permit, it can even provide for private education without interference from the state.

The Fairhope Single Tax Colony, for example, created the still thriving community of Fairhope, Alabama in 1894. Fairhope is like any other municipality except that it has no taxes; all municipal services being paid for out of lease revenues. Because all the property in Fairhope is listed on a single deed, the corporation was able to have all public utilities delivered directly to the corporation at reduced rates available only to large users. The corporation is able, therefore, to provide utility services to community residents at a savings.

The amount of services a land-lease community can provide for its members depends on how much revenue it collects and on what portion of that revenue is allocated for community services. But the absence of idle speculation creates advantages in all land-lease communities, even if they defray no taxes for the leaseholders and allocate no revenues for community services.

ADVANTAGES TO INVESTORS

Investors in the community corporation are essentially landowners who have pooled their resources and have given up control over land use to the community and to the leaseholders.

Because they have invested their money, they are entitled to dividends. As with any growth investment, dividends are lower at first, but increase with the growth and development of the community. If the lease agreements allocate a large portion of lease revenues to the community fund and expansion fund, initial dividends are even lower, but the growth of the community is faster, yielding higher dividends in the future.

By owning shares in a community instead of parcels within the community, investors know they will not be indifferent to one another's desire for a return on investments. Stockholders in a community have a natural harmony of interests, compared to the often conflicting interests of investors in land parcels.

Private land speculators have a natural tendency to want to see their neighbor's land developed first. By the same token, anyone investing in land next to a speculator's land will find his speculating neighbor to be a drag on community development. In a lease community there is no such drag. Investors in such a community can be confident that the community will grow smoothly and evenly.

In communities that shelter residents from property tax and other taxes, community members are even more eager to improve their properties, making the community grow even faster. In the long run, this means higher returns to investors.

Investors can also transfer their holdings without having to pay transfer taxes and without disrupting the lives of the leaseholders.

Investing in a private community land trust is every bit as sound as investing in land directly. In the long run it will pay more; it is easier and more convenient to sell shares in the trust than to sell real estate directly; and it is certainly more ethical and prestigious to invest in a community land trust than to be a land speculator.

The fact that the land trust is such a good deal for leaseholders and residents makes it a better deal for long term investment as well. Leases are accepted quickly, people tend to develop their properties more fully, and as the community develops a reputation for being a fine place in which to live, rental values automatically increase.

gentrification?

OTHER ADVANTAGES

There is a growing number of people who believe in the land trust concept as crucial to the vitality of social development. If invited, many of these people would eagerly invest in a land trust community like the one outlined above. Some people have even expressed an interest in bequeathing portions of their estates for the promotion of land trusts. Indeed, many land trust communities have been at least partially funded by bequests of this kind.

Investment in the land trust does not have to be for private gain. Investments can be made naming charities as beneficiaries, and investments can be made by the charities themselves. The community fund itself can be the beneficiary of investment dividends, or dividends can be placed in the expansion fund.

The unique and progressive features of a private-investment land trust community make it a suitable subject for many alternative publications, and generate opportunities for free publicity. Such publicity attracts potential investors as well as potential leaseholders.

STARTING A LAND TRUST CORPORATION

Starting a land trust corporation requires careful planning and sound legal judgement. Fortunately there are a number of organizations interested in land trusts which can be helpful with problems of designing leases, developing community structures, etc. Also, there are existing land trust communities which can serve as models for future communities.

Most land trusts are non-profit and have no provision for expansion, and some are radically different from what is outlined above. Still, information about these trusts can be helpful to anyone starting a land trust community.

A worthwhile book on non-profit land trusts, The Community Land Trust, is available from the International Independence Institute, West Road, Box 183, Ashby, Massachusetts. Additional information can be obtained by contacting The Incentive Tax League of Pennsylvania, 3243 Parkview Avenue, Pittsburgh, PA 15213.