

Tab 5

Local “Affordability Stewards” : Scalable Business Models for Marketing and Preserving Shared Equity Homeownership

1:15 - 2:45

Broadway IV, Plaza Level, Hilton Portland

The shared equity approach requires local servicing for long term success. Services include preparing new qualified homebuyers, assisting in refinancing, supporting home improvements, foreclosure prevention, and re-sales. How can these functions be supported through scalable fees? What impact does this have on the affordability and definition of the target market after factoring in full cost? What implications does this have for financing? For local policy?

Lead Presenter: Rick Jacobus, Burlington Associates In Community Development

Moderator: Ken Wade, NeighborWorks America

Panelists: Brenda Torpy, Champlain Housing Trust
Dena al-Khatib, Chicago CLT, City of Chicago
Matt Whelan, Catellus / A ProLogis Company

This page left blank.

Stewardship for Lasting Affordability: Administration and Monitoring of Shared Equity Homeownership

By Rick Jacobus
Burlington Associates in Community Development

November 2007

This research, made possible by the generous support of the The Ford Foundation, was prepared for the NeighborWorks® Symposium TAKING SHARED EQUITY TO SCALE: An Innovative Method to Grow and Preserve Affordable Homeownership co-hosted by NCB Capital Impact and NeighborWorks® America.

Rick Jacobus

Rick Jacobus, one of six partners in Burlington Associates, is a consultant specializing in neighborhood revitalization. His work focuses on strengthening low and moderate-income communities through the creation of permanently affordable homeownership opportunities and neighborhood retail development. His clients include the Local Initiatives Support Corporation, the US Dept. of Housing and Urban Development, The City of Santa Monica, CA, the City of Irvine, CA, The City of Palo Alto, CA, the California Community Foundation, The Center for Housing Policy, the Lincoln Institute of Land Policy, PolicyLink and several community based housing development organizations.

Executive Summary:

Shared equity homeownership is a relatively new and increasingly popular approach to affordable homeownership. Under this approach, a government agency or community organization provides assistance to lower-income homebuyers which makes it possible for these buyers to purchase homes. In exchange for this initial assistance the homebuyer agrees to limit their own ability to profit from market home price increases, either by reselling at an affordable price to the next buyer or by returning a share of the market appreciation to the agency that provided the initial assistance. By sharing equity in this way, the program balances the needs of homebuyers and the community. Homebuyers are able to purchase homes that they would otherwise be unable to afford and to realize potentially significant equity gains over time. The community, at the same time, is able to ensure that its investment keeps pace with the market so that a single investment today can provide ownership and asset building opportunities to many generations of buyers.

Local shared equity homeownership programs take many different forms but among the most common models are:

- Limited Equity Housing Cooperatives
- Deed Restricted Homeownership
- Community Land Trust Homeownership
- Shared Appreciation Loans

Shared equity homeownership has great promise as a strategy to confront America's growing housing crisis. However the ability of shared equity models to deliver on that promise and grow to a more significant scale depends on the success of these programs in meeting the challenge of ongoing monitoring and administration. Shared equity homeownership programs require active stewardship to ensure that affordable homes remain affordable for future generations. Improved capacity for monitoring and supporting shared equity homes may be a key to broader acceptance of this approach. This paper outlines many of the most important administrative and monitoring functions and describes the governance, staffing and funding approaches that successful shared equity homeownership programs use to ensure proper stewardship of scarce affordable housing resources over the very long-term.

Well designed programs play a number of key roles in order to protect the public investment in scarce affordable homeownership units. Among these roles the following are most common:

1. Overseeing **production** of new homes
2. **Pricing** units so that they are affordable, initially and at resale
3. **Marketing** homes to eligible homebuyers
4. **Educating** potential buyers about ownership and program requirements
5. **Screening and selecting** buyers who meet eligibility standards
6. Ensuring that buyers have access to appropriate **financing**
7. **Monitoring** units to ensure owner occupancy and payment of taxes and insurance
8. Managing the process of **resale** from one owner to the next
9. **Enforcement** of requirements (as necessary)

The basic stewardship can be accomplished through any combination of the following five strategies.

1. **Program of local government:** The local housing, planning or redevelopment department takes on ongoing responsibility for oversight and administration.
2. **Multi-jurisdiction collaboration:** Several local jurisdictions work together to form a joint powers authority, nonprofit or similar structure with which they each contract for ongoing stewardship of shared equity ownership units.
3. **Private company:** Some local governments contract with realtors or other local companies to perform key ongoing oversight functions on a fee for service basis.
4. **Nonprofit housing agency:** A local nonprofit housing organization plays an ongoing stewardship role either through a fee for service contract with local government or as a requirement for receiving project subsidy.
5. **Community land trust:** A CLT is a special type of organization that holds title to land under affordable ownership units and plays a permanent stewardship role monitoring and preserving affordability.

Recommendations:

Understand Administrative Impacts of Policy Choices

Program planners need to understand the administrative impact of key policy choices and be sure that their policy goals cannot be met without creating additional administrative roles. But, in many cases, more intensive administration may be the best way to balance community goals.

Plan for Administration

Many administrators stress the importance of early planning for long-term stewardship. Programs that are likely to grow should plan for that growth from the very start. On an ongoing basis every program must also spend some time on education and advocacy tasks to ensure that necessary resources grow along with the program's needs. While there is great variation in the level of staffing, it seems prudent to plan on staffing at the level of one full-time staff person (or equivalent) focused exclusively on *post purchase* monitoring and resale administration for every 150-300 affordable homeownership units. Programs that offer significant marketing assistance might need one person for every 100- 200 units. Smaller programs and newer programs should plan on significantly higher staffing requirements.

Build Dedicated Capacity

Programs that are responsible for more units may not only be more cost effective but may also be better managed. Dedicated staff, focused exclusively on the stewardship of shared equity homeownership programs are better able to build the systems necessary to balance the needs of homeowners against the broader community interest. Communities with fewer than 200-400 units should consider banding together or contracting with an independent stewardship entity. This can be done without greatly diminishing direct accountability to the local community.

Rely on Scalable Revenue Sources:

Because active stewardship involves permanent responsibility for affordable housing resources, funding for this role needs to not only be sustainable but *scalable*. The level of funding must grow over time as the number of units (or size of the loan pool) grows. Monthly oversight fees (or ground lease fees) and resale and refinancing fees seem to have the greatest potential to provide scalable revenue at a level high enough to sustain the necessary staffing. While it is likely that most programs will need some additional financial support, especially as the program is growing to scale, relying on revenue sources that grow along with the need can greatly increase the sustainability of a program and reduce the need to compete with other priorities for scarce administrative funding.

Stewardship for Lasting Affordability:

Administration and Monitoring of Shared Equity Homeownership

Shared equity homeownership represents a promising approach to America's growing housing crisis. Shared equity programs have grown in popularity over the past two decades in part because of the potential for shared equity homeownership to preserve today's investment in affordable homeownership as a long-term asset which can provide housing and asset building opportunities to future generations of homeowners. But, like any asset, shared equity homeownership must be managed and monitored over time if it is to deliver on that promise. Successful shared equity homeownership programs have developed systems for long-term stewardship which ensure that scarce housing resources are serving the population that they were intended to serve and that housing remains affordable to one generation after another.

Many communities have come to understand that the success of shared equity programs requires active stewardship. This paper attempts to outline some of the key functions necessary to protect, monitor and manage a portfolio of shared equity homes and describes some of the common governance, staffing and funding structures that communities have developed to administer these programs over the very long term.

I. What is Shared Equity Homeownership?

Shared Equity Homeownership represents a different approach to housing. Under this approach, a government agency or community organization provides assistance to lower-income homebuyers, which makes it possible for these buyers to purchase homes. In exchange for this initial assistance the homebuyer agrees to limit his own ability to profit from market home price increases, either by reselling at an affordable price to the next buyer or by returning a share of the market appreciation to the agency that provided the initial assistance. By sharing equity in this way, the program balances the needs of homebuyers and the community. Homebuyers are able to purchase homes that they would never otherwise be able to afford and to realize very significant equity gains over time. The community, at the same time, is able to ensure that its investment keeps pace with the market so that a single investment today can provide ownership and asset building opportunities to many generations of buyers.

Local shared equity homeownership programs take many different forms but among the most common models are:

- Limited Equity Housing Cooperatives
- Deed Restricted Homeownership
- Community Land Trust Homeownership
- Shared Appreciation Loans¹

¹ John Emmeus Davis in *Shared Equity Homeownership: The changing landscape of resale-restricted, owner occupied housing*, National Housing Institute, 2006 uses the term Shared Equity Homeownership to refer to deed restricted ownership, community land trusts and limited equity co-ops but he excludes shared appreciation loans. These loans programs are different from the other models in that they do not necessarily preserve the affordability of individual homes. However, they are similar to other shared equity models in that they attempt

While these different shared equity homeownership models are very different in many respects, they share a common promise: that today's investment in affordable homeownership will continue to serve one generation of homebuyers after another. Each of these models achieves this long-term impact by insisting that the public share in the equity growth that generally occurs in the housing market. Homeowners under each of these models receive real equity, which reliably grows over time, but, in each case, the homeowners agree to limit their return in order to make affordable housing available to future buyers.

II. The Need for Long-term Stewardship

Delivering on this promise, in each case, however, requires some level of ongoing **active stewardship**. Any lasting solution to the need for affordable homeownership will require an ongoing infrastructure to monitor and administer the public asset that is created through these programs. In the past, some programs were designed without any provision for long-term stewardship of this public asset. Affordability covenants or deed restrictions were sometimes seen as self-enforcing. Limited equity co-op residents were expected to increase their own monthly common charges and to enforce resale price limitations on themselves all with no ongoing oversight. The results of this approach were sometimes disappointing.

Today, there is a widespread recognition that long-term affordability requires some level of active oversight and management. However, many programs still greatly underestimate the extent of ongoing management requirements and fail to adequately plan and budget for the necessary capacity. Understaffing can jeopardize long-term affordability either because units are not adequately monitored or because there is not sufficient staff to enforce restrictions when problems arise. And this shortage of administrative capacity may be a key constraint standing in the way of taking shared equity homeownership to greater scale.

Established programs tend to spend more on ongoing administration and oversight not only because they monitor greater numbers of units but also because they tend to play a more active role in the resale and marketing of affordable units and more actively monitor affordability and occupancy. One common reaction among policymakers faced with the significant administration requirements that are common among successful programs is to wonder whether the benefits are worth all the trouble and expense. Some policymakers argue that while affordable ownership housing is desirable, the administrative burden of properly monitoring ownership units is too great. Affordable rental housing, they argue, is easier to administer. And it is generally true that programs administering both rental and ownership housing will spend far more staff time overseeing and managing ownership units than rental.

However this argument overlooks an underlying economic reality. Rental housing generally requires more, not less, active management. The difference is that in rental housing, property owners can be required to perform ongoing management tasks such as occupancy certification and marketing. The problem for affordable homeownership programs is not that

to preserve the public investment in affordable ownership housing over the long term by sharing market equity gains with homebuyers.

the workload is greater, but that the program can't generally rely on homeowners to perform many of the important tasks. In most communities there is no existing entity set up to play these roles for ownership units and no existing mechanism for funding these tasks. Building these systems requires careful attention and can be time consuming, but once systems are in place there is no reason to conclude that they need be burdensome and, in fact, these costs can largely be built into the cost of homeownership just as rental management costs are built into the cost of renting.

III. Key Stewardship Functions

Shared equity homeownership programs vary considerably in the range of roles that each program plays. Some programs offer a very extensive set of services and undertake detailed annual monitoring while others rely on homeowners and/or property developers to perform most services and only minimally monitor to ensure that the most important community benefits are realized. What follows is a comprehensive list of common roles that shared equity homeownership programs play but most programs perform only some subset of the functions described here.

1. Production: Overseeing the production of publicly-assisted, privately-owned housing.
2. Pricing: Ensuring that homes are affordably priced, including:
 - a. Setting initial prices that are affordable to the target households
 - b. Establishing and enforcing the formula resale price (or shared appreciation loan repayment formula)
3. Marketing: Marketing these homes through a fair and transparent process, including:
 - a. General outreach
 - b. Maintaining a list of interested homebuyers.
 - c. Providing education to realtors and other real estate professionals
 - d. Developing or reviewing affirmative marketing plans to ensure fair housing compliance
 - e. Marketing individual projects or units
4. Buyer Education: Orienting and educating the prospective buyers, including:
 - a. Preparing homebuyers for the responsibilities of homeownership
 - b. Ensuring informed consent for equity sharing and other restrictions
 - c. Postpurchase counseling including management and finance education
5. Screening/Selection: Selling the homes to income and credit eligible buyers, including:
 - a. Reviewing and documenting eligibility of prospective homebuyers
 - b. Managing a lottery or other selection process
6. Financing: Ensuring access to appropriate private mortgage financing for shared equity homes, including:
 - a. Identifying mortgage lenders with appropriate products and educating lenders about the terms of the shared equity program
 - b. Reviewing homebuyer loan documents to ensure that they are consistent with program rules
 - c. Reviewing and approving refinancing requests
7. Monitoring: Monitoring and enforcing compliance with all use restrictions, including

- a. Ensuring continuous owner occupancy and approving any temporary subletting
 - b. Verifying that homeowners maintain property insurance and pay all applicable taxes and common charges
 - c. Ensuring adequate home maintenance
 - d. Reviewing and approving any capital improvements
8. Resale Management: Managing resales to ensure that every home is transferred to another income-eligible household for no more than the formula-determined price, including:
- a. Receiving notice from homebuyers when they decide to sell
 - b. Assisting sellers in finding new buyers (see Marketing)
 - c. Evaluating the physical condition of the property at sale and establishing any credit for improvements or holdback for deferred maintenance
 - d. Calculating the resale price or payoff amount
 - e. Exercising a right of refusal (if applicable)
 - f. Coordinating repairs or renovations (if necessary)
9. Enforcement: Ensuring that program requirements are met, including:
- a. Preparing legal documents that contain clear and enforceable restrictions
 - b. Taking legal action when homeowners violate the terms of the legal documents
 - c. Taking action to protect affordability when homeowners face foreclosure

IV. Sources of Variation

The specific roles required for administration of any shared equity homeownership program will depend on a number of factors including the type of program and the specific design of that program.

A. Type of Program:

While the basic need for ongoing active stewardship is consistent across the many different varieties of shared equity homeownership programs, each program model has its own unique needs.

Shared Appreciation Loans

Like other shared equity models, these loan programs involve specialized marketing and buyer education, eligibility screening, ongoing monitoring and enforcement. Where other program models require formulas for pricing, shared appreciation loan programs rely on market determined prices but involve very similar formulas to determine the initial loan amount necessary to make a home affordable to a given income level and to calculate the share of appreciation due back to the program at resale.

One often cited advantage of shared appreciation loans, relative to other shared equity ownership models, is that resales may be easier to administer. Because the individual units can simply be sold on the market, loan program administrators don't have to concern themselves *as much* with the physical condition of the units that are sold. However, if recaptured loan funds are reinvested in other affordable units (as they should be) then some of the administrative burden of resale of a given unit is simply replaced with another burden,

namely finding and purchasing a comparable replacement unit. And when housing prices are rising quickly, it can be difficult to find homes whose market prices are low enough that they can be made affordable even with the recaptured loan funds. This dynamic can, in some cases, lead to concentration of assisted units in only the least expensive parts of town, undermining the goal of economic integration.

Permanently Affordable Housing

Many programs, rather than asking assisted homeowners to repay a share of equity when they sell, instead ask sellers to sell the home at an affordable price to another low or moderate-income buyer. The public share of equity simply remains invested in these units in order to maintain them as permanently affordable. Deed Restrictions, Community Land Trusts and Limited Equity Housing Cooperatives, are three of the more common approaches to permanent affordability. All three approaches require ongoing stewardship of not only the public investment in affordable ownership housing but of the buildings themselves. A portfolio of permanently affordable housing units are monitored and managed over the very long term as they pass from one income eligible owner to the next.

Deed Restrictions:

In the past, deed restrictions or affordability covenants have sometimes been promoted as “self enforcing.” Title companies are expected to notice and enforce the legal restrictions recorded against title. However, several decades of experience across the country has generally shown that deed restrictions require as much active stewardship as other shared equity homeownership models. Many programs that failed to actively manage units reported gradually losing affordable homes through sales that violated the restrictions, foreclosure or fraud. Deed restrictions require an active steward to participate in each sale and resale to ensure that the price restrictions are adhered to. Programs require ongoing staffing to monitor occupancy, respond to any problems and take steps to enforce restrictions. Even programs that rely on developers or sellers to market units, often find it necessary to provide training and support to realtors or others who are directly responsible for marketing.

Community Land Trusts:

Most Community Land Trusts play a very hands-on role in stewardship of homeownership units. CLTs frequently develop new homes, set the affordable prices, market them to income eligible buyers, train and screen buyers, work with lenders to ensure financing for buyers, and monitor units after sale. Most CLTs retain a purchase option for land trust homes and at resale the CLT will find a new eligible buyer and assign their option to the new buyer. Because the CLT leases land to homeowners, CLTs generally have more frequent contact with homeowners than deed restriction programs do. CLT homeowners generally pay a monthly ground rent to the CLT. While collecting this rent is an additional administrative responsibility, the direct relationship can cut down on some other responsibilities. For example most CLTs don't need to run title reports to ensure that owners have not taken out unauthorized loans because the CLT's ownership of the land generally ensures notice before new liens are recorded.

Limited Equity Cooperatives:

Oversight of limited equity co-ops can be far less staff intensive than other shared equity ownership models for the simple reason that most co-ops themselves handle the logistics of individual owner monitoring and resale of individual units. The co-op corporation itself will generally handle all marketing, buyer education, screening, monitoring and enforcement for individual homeowners. Most co-ops will calculate a seller's share price and negotiate any credits for capital improvements to the co-op unit. Nonetheless, many programs invest staff resources in monitoring and supporting the individual co-ops to ensure that they are performing these functions adequately. In addition, some community wide co-op programs involve centralized eligibility screening, ongoing education for resident boards or other services.

B. Program Design Choices:

The administrative workload of any specific shared equity homeownership program depends also on many choices made in the design of the program. Program designers can and should take administrative impacts into account when making policy decisions. However, in many cases additional administrative work is necessary to achieve local policy goals.

While there are literally hundreds of small program design choices that impact the administrative workload, there are a small number of key choices that tend to make the most difference. Perhaps the two most important factors are how a program approaches marketing units and the degree to which it is involved in ensuring adequate maintenance of units over time. In addition, programs differ significantly in terms of the level of ongoing monitoring that they perform and the extent to which they provide post purchase support services to homeowners.

Marketing Responsibility

There is great variety in how involved shared equity ownership programs are in the marketing of individual homes when they are resold². Some programs ask homeowners selling their unit to find a new income eligible buyer. These programs provide guidelines, and occasionally training, that homeowners and their realtors use to fairly market the homes and screen buyers. Problems finding qualified buyers have led many established programs to take on a more active role in marketing units. By building a central interest list, program managers can ensure a ready supply of willing buyers. Many programs now go a step further by taking primary responsibility for marketing units at resale. The program manager or a realtor working directly for the program will advertise the unit and show it to buyers, educate buyers about the program restrictions and screen them for eligibility. This more intensive approach avoids the potential for homeowners to arrange for side payments and ensures fair access to these units by all interested buyers. However this active engagement in sales is far more time intensive than merely monitoring sales. Among Community Land Trusts, a survey by the Lincoln Institute found that only 20% of CLTs relied exclusively on direct

² In inclusionary housing programs, managers face a similar choice related to the initial marketing of affordable homes - some leave it to the private builders while other programs take over full responsibility for all aspects of marketing these new units.

sales from sellers to buyers with no involvement of the CLT. The vast majority of CLTs played a more active role finding, screening and selecting buyers³.

Capital Improvements and Repairs

Another source of significant variation in the workload associated with administering different shared equity homeownership programs is the degree to which the program takes on responsibility for ensuring adequate maintenance and occasional improvement to assisted units.

Among shared appreciation loan programs, many pay little or no attention to the physical condition of units at resale. Better maintained units may sell for more creating an incentive for owners to invest in maintenance and upgrades. However, some loan programs allow owners to receive full credit for the value added by the owner's investment in improvements (rather than only a proportional share of appreciation). This creates the need for administrative systems to track and verify improvements. Many co-ops, CLTs and deed restriction programs also offer some kind of credit for capital improvements and require similar systems. However, some of these programs are also concerned about the potential that homeowners might "over improve" their units, rendering them unaffordable to the target income group. These programs either limit the type or cost of improvements or require advance approval before work is performed.

One of the most significant administrative challenges for many programs is ensuring that units are in good condition when they are sold. Many programs take steps to actively encourage homeowners to perform repairs regularly. Many programs require co-op or condominium boards to submit annual budgets to ensure that maintenance budgets and reserve contributions are sufficient to meet likely building needs⁴. It is more difficult to ensure that individual homeowners perform regular maintenance. While physical inspections are rare, some programs offer below market rate loans to ensure that lower income homeowners are able to afford necessary repairs. Most programs inspect units prior to sale and either require sellers to perform repairs or deduct the cost of repairs from the owner's equity. This will work for most sales but, in cases of serious deferred maintenance, more significant renovation may be necessary. Like many community land trusts, the **Champlain Housing Trust** in Burlington, VT sometimes purchases units and renovates them before reselling them to new buyers. CHT considers this kind of renovation a normal part of the life cycle of shared equity homeownership units and in addition to charging sellers for damage and deferred maintenance, CHT sets aside up to 3% of the sale price of each land trust home in a "stewardship fund" which allows them to help pay for upgrades when necessary.

³ A National Study of Community Land Trusts, Yesim Sungu-Eryilmaz and Rosalind Greenstein, Lincoln Institute of Land Policy, Working Paper. 2007.

⁴ When shared equity units are included along with market rate units in mixed-income projects, program managers often struggle to prevent the opposite problem. Investment in luxury improvements can drive monthly common charges beyond the means of the lower-income homeowners.

Level of Monitoring

Some programs perform only limited monitoring while others actively contact each buyer annually. A common practice is to send each owner a form annually requesting verification of owner occupancy and reminding the owner of key program restrictions. Some programs go a step further and perform routine title searches to ensure that no loans have been recorded against assisted units without approval.

Post Purchase Support

Some shared equity homeownership programs, in addition to monitoring and administration, offer additional services to support homeowners, homeowner associations or co-ops. Many community land trusts, for example, publish newsletters with home maintenance and personal finance advice and offer workshops on these topics. The **Clackamas Community Land Trust** in Clackamas County, OR established a homeownership resource center which offers home repair and personal finance classes, a collection of books and videos on home maintenance and a tool lending library. The **Urban Homesteading Assistance Board** created a group purchasing program to help co-ops in their program access building insurance policies at reasonable rates.

V. Identifying the Primary Steward

There are a number of options for structuring the delivery of the services described above. No two programs are quite the same. However, in every shared equity homeownership program one entity has primary responsibility for ongoing administration and monitoring of affordable homeownership units. This “**steward**” will serve as the face of the program and will establish relationships with homeowners, prospective buyers, lenders and other key stakeholders. These local stewards generally fall into one of the following five categories:

1. **Local Government Agency:** The local housing or planning department takes on ongoing responsibility for oversight and administration.
2. **Multi-jurisdiction Collaboration:** Several local jurisdictions work together to form a joint powers authority, nonprofit or similar structure with which they each contract for ongoing stewardship of shared equity ownership units.
3. **Private Company:** Some local governments contract with realtors or other local companies to perform key ongoing oversight and administration functions on a fee for service basis.
4. **Nonprofit Housing Agency:** A local nonprofit housing development company plays an ongoing stewardship role either through a fee for service contract with local government or as a requirement for receiving project subsidy.
5. **Community Land Trust:** A CLT is a special type of organization that holds title to land under affordable ownership units and plays a permanent stewardship role monitoring and preserving affordability.

In each case, the specific responsibilities of the stewardship entity will vary depending on the requirements of the program. For example, under each of these approaches, some communities place marketing responsibility on the shoulders of developers or homeowners,

offering varying levels of support, while other programs place full responsibility for all marketing in the hands of the stewardship entity whether it be a government agency, collaboration, nonprofit agency, private company, or land trust. Similarly, even when primary responsibility is placed in the hands of an outside agency, local government will often perform certain key functions. In some cases, for example, local government will retain responsibility for verifying eligibility while contracting out all other stewardship functions.

1. Local Government Agency

The default option in many communities is for the local government to take on ongoing stewardship of shared equity homeownership. In these communities the local housing department or sometimes the planning department, will either add specialized staffing or add new responsibilities to the workload of several existing staff in order to provide monitoring and administrative oversight for shared equity homeownership programs.

Some cities maintain staff dedicated exclusively to administration of the shared equity homeownership program while others divide responsibilities between several staff who also work on other programs. In **Boston** a staff of four people at the Boston Redevelopment Agency (BRA) are dedicated to monitoring and supporting over 600 affordable units. There is a program manager who supervises the program as well as two staff who handle income verification and another who is responsible for ongoing occupancy monitoring. They hire temporary staff occasionally to help with filing and research work. On the other hand in nearby **Somerville, MA** oversight for a portfolio of 41 shared equity ownership units is divided between six different staff positions. Two staff maintain primary responsibility for marketing affordable units. Another two support staff persons assist with processing initial eligibility certification and annual occupancy certification. These employees also review and approve refinancing requests from homeowners as requested. A city home inspector inspects each unit prior to the initial sale to certify that it is ready for occupancy as well as inspecting the units for needed repairs prior to resale. The inspector will provide a homeowner with a list of basic maintenance that must happen prior to sale of the home. Finally, a city attorney reviews and helps to prepare deed restrictions and other legal documents associated with the inclusionary units.

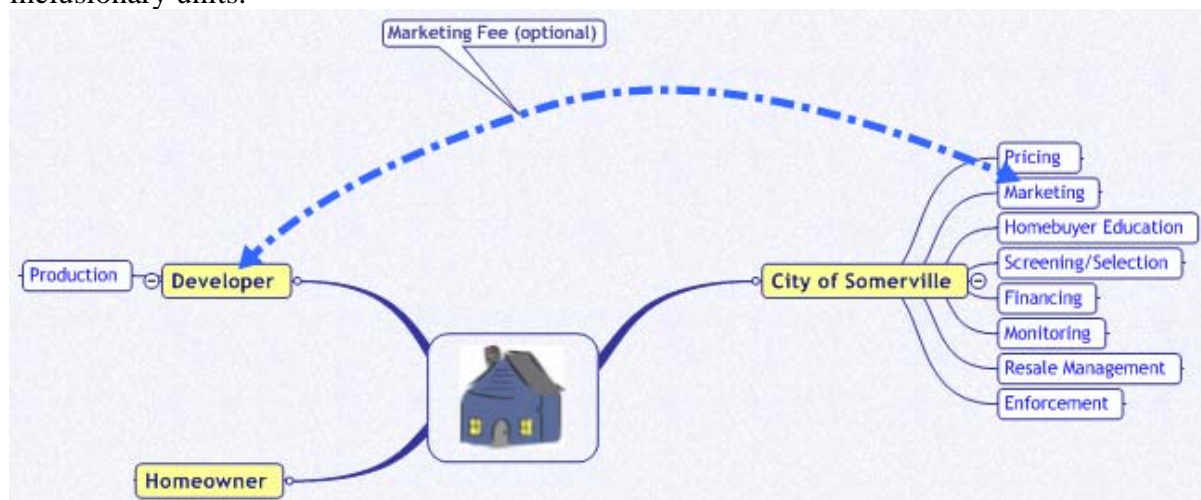


Figure 1: City of Somerville, MA

A detailed profile of Somerville’s program is included in Appendix A.

Local Government Agency	
Advantages	Disadvantages
<ul style="list-style-type: none"> ▪ Avoids the need to manage and monitor a contractor ▪ Direct accountability to elected officials ▪ Can divide responsibilities over several staff positions with different skill sets. 	<ul style="list-style-type: none"> ▪ Staffing and overhead costs may be higher than other options ▪ Lack of specialization can harm performance ▪ Difficult to hold staff accountable for multiple objectives ▪ Small programs lack economies of scale

2. Multi-jurisdiction Collaboration

There are obvious economies of scale in the stewardship of shared equity homeownership units. It is far more cost effective on a per unit basis to manage a large portfolio of units. Providing adequate oversight to a small portfolio can be challenging. In some places, existing multi jurisdiction entities have been charged with additional responsibility for stewardship of shared equity homes, while other communities with relatively smaller programs have chosen to band together to build shared stewardship capacity.

In Washington state, 15 cities in eastern King County joined together with the County government to form ARCH (**A Regional Coalition for Housing**⁵) in order to administer a regional housing trust fund which has funded over 2000 affordable housing units. As participating jurisdictions have begun creating shared equity homeownership programs, ARCH and has naturally taken on long-term stewardship of these units.

In Northern California, the **Tri Valley Housing Opportunities Center** was formed by five participating municipalities (Pleasanton, Livermore, Dublin, San Ramon, and Danville) to provide homebuyer education, marketing and waiting list management, eligibility screening, post-purchase monitoring, review of refinance requests and resale administration for affordable units created by the participating jurisdictions through their inclusionary housing ordinances.

Each of the five cities and towns provided a \$50,000 seed grant to establish the Tri-Valley Housing Opportunities Center. TVHOC supports its ongoing operations through individual fee for service contracts with jurisdictions as well as contracts with developers to assist in marketing affordable homes.

⁵ A profile of ARCH can be found in: John Emmeus Davis, *Shared Equity Homeownership: The changing landscape of resale-restricted, owner occupied housing*, National Housing Institute, 2006.

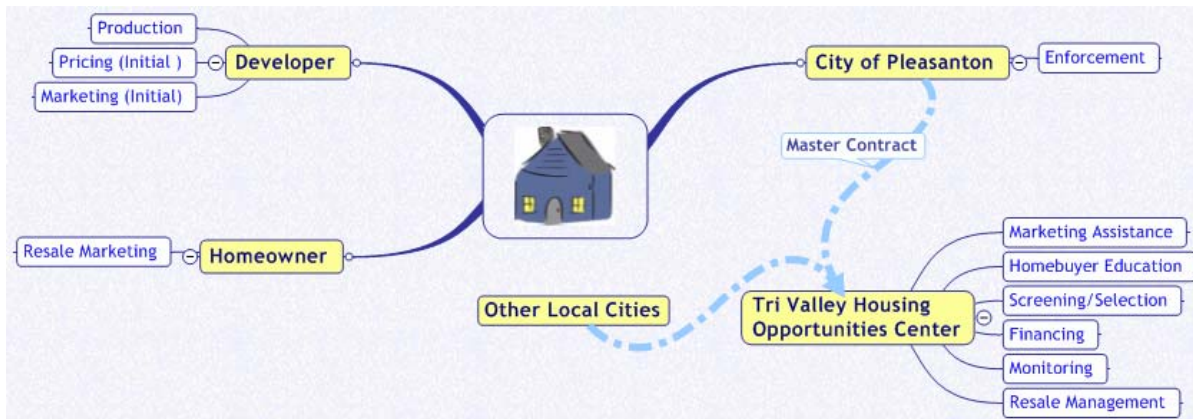


Figure 2: City of Pleasanton, CA

A detailed profile of the Tri Valley Housing Opportunities Center is included in Appendix A.

Mult-jurisdiction Collaboration	
Advantages	Disadvantages
<ul style="list-style-type: none"> ▪ Shared Staffing takes advantage of potential economies of scale ▪ Specialist organization can focus exclusively on homeownership programs ▪ Centralized interest list allows potential buyers to apply once and learn about opportunities throughout the local housing market 	<ul style="list-style-type: none"> ▪ Different jurisdictions may have different needs ▪ Managing multiple programs with different rules can be challenging ▪ Relies primarily on ongoing appropriations (fee for service) from each jurisdiction for sustainability ▪ Cost sharing must be renegotiated regularly

3. Private Company

In the City of **Salinas, CA**, City staff is directly responsible for ongoing monitoring and resale administration, but the City’s inclusionary housing ordinance places significant responsibility for marketing, screening, educating and selecting eligible buyers on the shoulders of private homebuilders. John Prader, a local consultant with professional experience in both the nonprofit and for profit real estate industry, has created a sustainable niche contracting with developers to provide these services for new affordable units. Without any direct contract with the City, Mr. Prader has developed a centralized mailing list of potential buyers and screening and selection systems which he uses in support of different projects constructed by different developers throughout the City. Unfortunately, because this consultant works directly for the developers, the City has no easy way to take advantage of these systems to support the resale of individual resale restricted units.

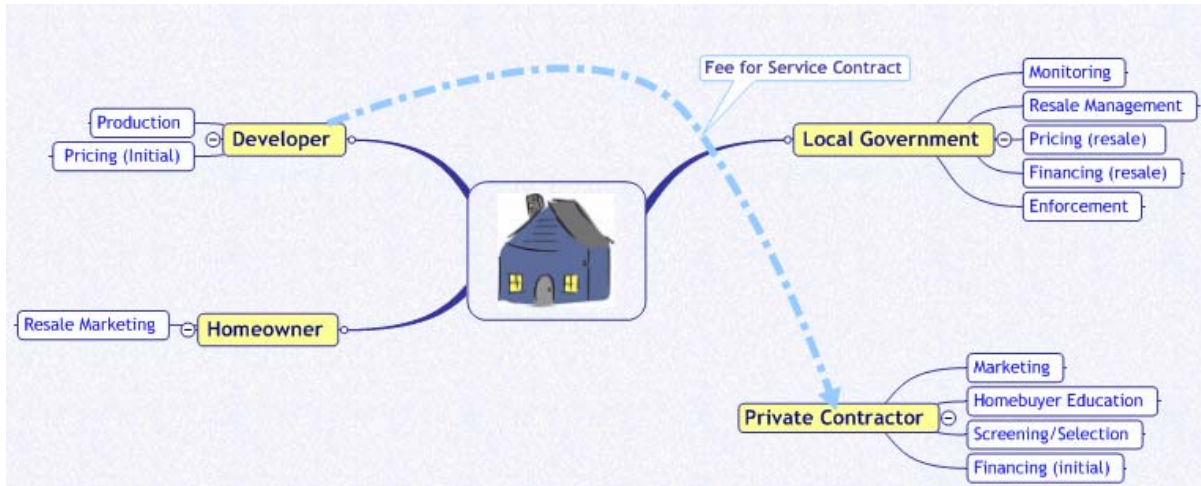


Figure 3: City of Salinas, CA

In contrast, the **City of Lafayette, CO** contracts directly with an independent consultant for a very similar range of services. Lafayette’s contractor also manages a central mailing list, helps market new development projects and screens buyers for eligibility. And as in Salinas, developers pay for this service. But in Lafayette the City charges the developers a fee of \$1,000 per unit for this assistance rather than encouraging developers to contract directly with the consultant. The same contractor is then able to provide ongoing monitoring services to the City’s 70 deed restricted homeownership units and to help find and screen buyers at resale (homeowners pay the same \$1,000 fee at resale). The City supplements these fees with other City funds and contracts for 20 to 25 hours per month of the contractor’s time for a total of roughly \$20,000 per year.

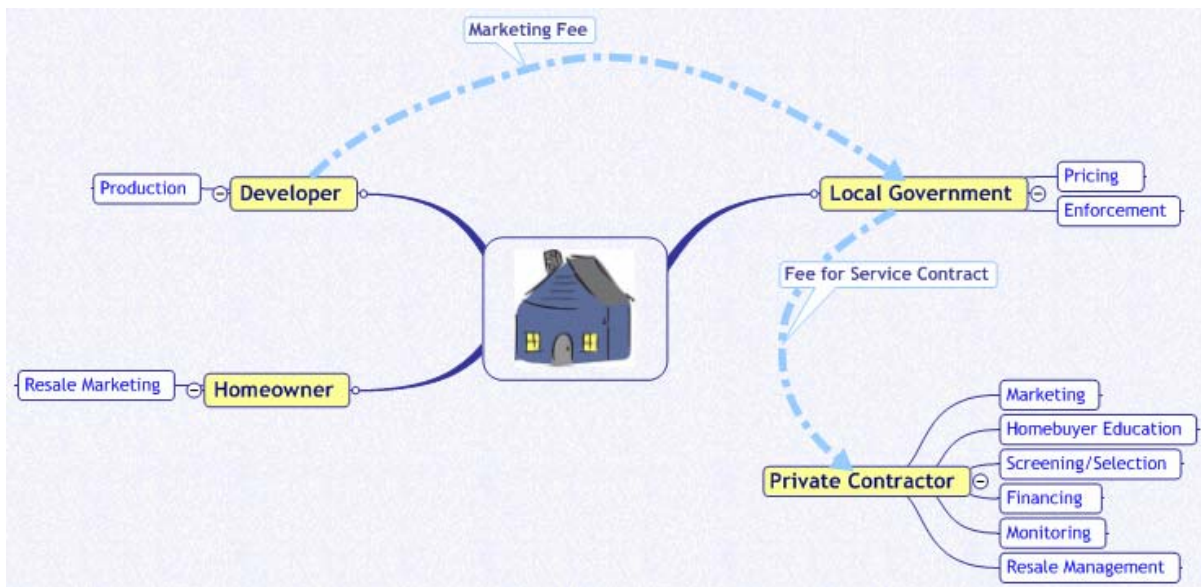


Figure 4: Lafayette, CO

In spite of the advantages of outsourcing, **Santa Barbara County, CA**, after contracting out administration of their program to several private firms decided to bring the program back in house. They found that their contractors made important mistakes that the County was ultimately held accountable for and decided that direct staffing would improve the effectiveness of the program.

Private Company	
Advantages	Disadvantages
<ul style="list-style-type: none"> ▪ Allows jurisdiction to access specialized skills without dedicated staff ▪ Level of work and budget can fluctuate over time as needs change ▪ Contract services <i>may</i> be less expensive than city staff ▪ It <i>may</i> be easier to hold contractors accountable for performance 	<ul style="list-style-type: none"> ▪ It is difficult for the contractor to lobby for increases in funding or guide the evolution of a program over time but no one else has detailed knowledge of program needs ▪ There is a risk of the program becoming too dependant on a single individual who becomes very difficult to replace

4. Nonprofit Housing Agency

A number of nonprofit housing organizations across the country are playing long-term stewardship roles monitoring and managing affordable homeownership programs. In some cases, these organizations are managing units that they built and sold to ensure that they remain affordable to future buyers. For example, **Burbank Housing Development Corporation** in Sonoma County, CA has developed hundreds of homeownership units working in partnership with jurisdictions throughout the county. In some cases local cities have required Burbank to play an ongoing oversight role. In other cases, Burbank has taken it on itself to record shared appreciation loans for the difference between the below market price and the market value of new homes. Burbank also typically retains an option to repurchase these homes and manages an active program to market these resales to new lower-income buyers. The homes sell at full market value but Burbank relends recaptured equity, which, together with below market loans from the state housing finance agency is often (though not always) enough to retain units which come up for sale.

In other cases, local governments have turned to local nonprofits to administer units produced by other developers through inclusionary housing programs. The City of **Palo Alto** contracts with the Palo Alto Housing Corporation for monitoring and oversight services for its Below Market Rate (BMR) homeownership program.

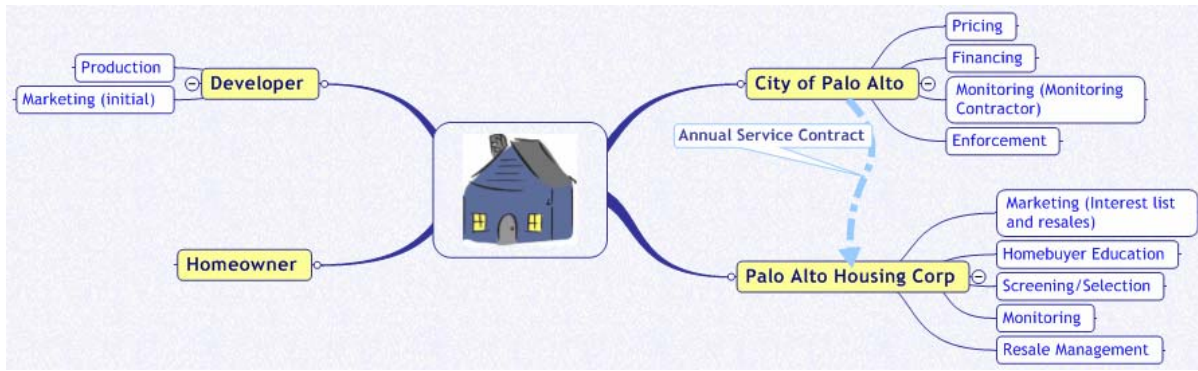


Figure 5: City of Palo Alto, CA

A detailed profile of Palo Alto’s BMR program is included in Appendix A.

Nonprofit Housing Agency	
Advantages	Disadvantages
<ul style="list-style-type: none"> ▪ A local housing nonprofit offers an institutional home for the program ▪ Allows jurisdiction to access specialized skills without dedicated staff ▪ Nonprofits generally have lower overhead which may mean cost savings for the program ▪ Nonprofit board may bring additional community accountability to the program ▪ Nonprofits can often be more entrepreneurial and can partner with lenders and others to deliver additional services 	<ul style="list-style-type: none"> ▪ If program revenues are coming from local government, it can be difficult for an outside agency to effectively advocate for necessary funds ▪ Local government may give up some direct control over the program by contracting with a nonprofit with its own housing mission and goals

5. Community Land Trust

Community Land Trusts are community based nonprofit organizations that are formed specifically for the purpose of preserving affordable housing for future generations. A CLT’s primary tool for achieving this goal is long-term ownership of land. Land Trusts retain title to the land under affordable homes selling the buildings to homebuyers. The land trust then enters into a 99-year ground lease which gives the homeowner day to day use of the land while preserving long term control over its use and disposition in the hands of the land trust. There are nearly 200 CLTs in the united states.⁶ While each organization plays a slightly different set of roles, most CLTs develop and market affordable units, monitor owner occupancy regularly, review financing, and actively manage resales. CLT ground leases

⁶ A National Study of Community Land Trusts, Yesim Sungu-Eryilmaz and Rosalind Greenstein, Lincoln Institute of Land Policy, Working Paper. 2007.

generally require homeowners to offer their units for sale to the CLT before marketing them to other eligible buyers. The CLT can then either purchase the unit or assign its purchase option to an eligible buyer from their waiting list.

Many CLTs perform this long-term stewardship only for housing that the CLT directly developed (either as new construction or through renovation of existing homes). But increasingly CLTs across the country are partnering with private developers and playing a stewardship role over units produced through local inclusionary housing requirements. In these cases a developer of market rate housing builds units which they sell to a CLT at a price designed to be affordable to the CLTs target homebuyers and the CLT resells the home but not the land. The CLT then relieves the developer of any long-term monitoring or support responsibilities.

Many CLTs play a similar role relative to Limited Equity Co-ops. The land trust will retain ownership of the land that sits under a building owned by a Co-op. Co-op residents control the management of the building but the land trust, by owning the land, can ensure that the property remains available as affordable housing over the very long term.

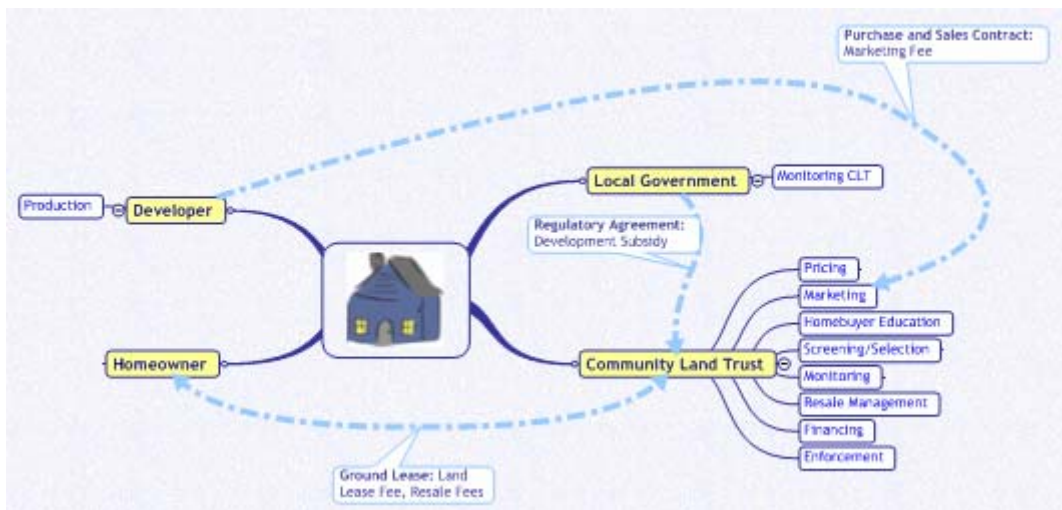


Figure 6: Community Land Trust

A detailed profile of the Northern Communities Land Trust is included in Appendix A.

Community Land Trust	
Advantages	Disadvantages
<ul style="list-style-type: none"> ▪ A CLT has housing preservation as its primary mission ▪ Community and homeowner involvement in governance can strengthen the program ▪ Ownership of land provides a strong legal position for ensuring ongoing affordability ▪ Ground lease fees can support ongoing administration costs 	<ul style="list-style-type: none"> ▪ Creating and sustaining a special purpose organization can be more expensive especially for a small number of units ▪ Local government may give up some direct control over the program by partnering with a CLT

VI. Governance and Policymaking

Shared Equity Homeownership programs all involve an active effort to balance the needs and interests of current homeowners with the community's need to preserve the opportunity for future generations. Program managers must wrestle with a set of related policy decisions that involve tradeoffs between these interests. Among the more controversial decisions are the following:

Resale formula: how should homeowner appreciation at resale be calculated? Should homeowners receive credit for improvements that they make to their units?

Occupancy and subletting restrictions: Are owners allowed to sublet indefinitely or only for some limited period of time? Is there a limit on how much an affordable unit can be sublet for?

Rules about allowable financing: Can owners take out second loans or lines of credit? How does the program ensure that they don't borrow more than their share of the equity? Are there limitations to prevent interest only loans, negatively amortizing loans or predatory lending?

Maintenance and replacement standards: Are units inspected at resale? What level of ongoing maintenance is required? How is this enforced?

Inheritance: Can homeowners leave their assisted units to any heirs or only to income eligible heirs?

Obviously the answers to these questions will directly and immediately impact homeowners. But they also impact the broader community and especially future buyers of shared equity housing. If today's owners don't maintain the homes, for example, they may not be available or affordable to future buyers. While some communities, in their zeal to protect the public assets, impose rules which uniformly favor the community's interest at the expense of the homeowners, it is not at all clear that these programs will actually be more effective in preserving affordability over the long term. One reason for this is that homeowners who face overly restrictive rules or overly bureaucratic procedures are liable to complain loudly and publicly. Press coverage of angry homeowners has, in some places, led policymakers to overturn reasonable restrictions, which were simply not being implemented well. Long-term preservation of affordable ownership opportunities requires some level of ongoing public support including support from assisted homeowners themselves. For this reason governance and policymaking in these programs tends to require greater attention than other housing programs.

Yet, in many communities, the City Council is the only body with authority to set policies related to the implementation of the shared equity homeownership program. While it is important that elected officials support the overall direction of the program, they often don't have time to weigh the tradeoffs involved in the many detailed policies that are key to

implementation of these programs. For this reason, many communities either set up advisory bodies focused on the needs of the homeownership program or rely on community land trusts or other community based housing nonprofits to set detailed policy guidelines.

Community land trusts tend to share a specific governance structure which was designed specifically to address this challenge. A CLT typically is governed by a board of directors made up of three distinct components

- **Homeowners:** One third of the CLT board is generally made up of homeowners, or tenants who live on land owned by the CLT.
- **General Members:** Another third is generally made up of residents of the CLT's target area who are not leasing land from the CLT.
- **Public Representatives:** A final third is typically appointed to represent the public interest. These board members may come from local government, or bring real estate, legal, financial or other essential skills.



This “Tripartate” governance structure allows CLT homeowners (or other CLT residents) to exert real influence over the policies that will impact them without giving owners the ability to take over the program and remove important restrictions. CLTs, like other affordable homeownership programs, still experience complaints from homeowners, even public complaints, but the real involvement of homeowners in setting program rules is a key to the CLT’s success in responding to those complaints.

Most land trusts can honestly respond that the restrictions seemed fair and appropriate to the homeowners who helped to develop and implement them.

Community Land Trusts are not the only shared equity homeownership programs that take community input seriously, however. Many publicly administered programs have advisory boards or committees that involve a range of community stakeholders including homeowners. Nonprofit housing organizations, also frequently involve low-income community members and assisted homeowners on their boards and committees.

In **Palo Alto, CA** the nonprofit Palo Alto Housing Corporation (PAHC) contracts to administer the City’s Below Market Rate (BMR) Purchase Program. As a contractor, PAHC is responsible for implementing policies established by the City. Nonetheless, PAHC maintains a standing committee (the BMR Program Committee) made up of PAHC board members and other community members committed to the program which makes policy recommendations to the City. While the PAHC BMR Committee has no legal authority to set policy, the Palo Alto City Council has historically relied heavily on their recommendations. City Council members have to attend to an enormous variety of different issues while this committee is focused exclusively on the health of this one program.

VII. Staffing

Nearly every program manager interviewed for this paper reported that their program was understaffed. Many reported that they would need twice the current level of staffing to do an adequate job of meeting their stewardship responsibilities - some reported needing three times the current staff level. And there is, in fact, considerable variation in the level of staffing per affordable homeownership unit in different communities. The City of **Palo Alto, CA** has a portfolio of 169 shared equity units overseen by one full time staff person at the Palo Alto Housing Corporation working closely with a City of Palo Alto staff person who also works part-time on the program. A single staff person provides the same basic mix of services to more than twice as many units (450) in **Santa Barbara County, CA** and in **Bedminster Township, NJ**, the single staff person at the Bedminster Hills Housing Corporation plays an oversight role only slightly less intensive for the town's 680 affordable homeownership units.

Table 1 summarizes the results of an informal survey of several large shared equity homeownership programs and confirms a fairly wide variation in the level of staffing.

Municipality	Shared Equity Ownership Units	Estimated staffing (FTEs)	Est. Units/FTE
Somerville, MA	41	2.5	16.4
Lafayette, CO	70	0.75	93.3
West Sacramento, CA	80	3	26.7
Palo Alto, CA	169	1.25	135.2
Housing Assistance Council of Cape Cod	250	0.25	1000.0
Boston, MA	400	3	133.3
Santa Barbara, CA	453	1	453.0
Bedminster Township, NJ	680	1	680.0
Denver, CO	700	1	700.0
Fairfax County, VA	1400	3	466.7
Montgomery County, MD	1976	6	329.3
NJ Housing and Mortgage Finance Agency	5000	10	500.0

Table 1: Staffing levels for various programs⁷

⁷ Adapted from Rick Jacobus, *Delivering on the Promise of Inclusionary Housing: Best Practices in Administration and Monitoring*, PolicyLink, 2007.

VIII. Funding Active Stewardship

Shared equity homeownership programs pay for ongoing stewardship with revenues from a wide range of different sources, including:

Local Government General Funds: The most common source of financial support for ongoing stewardship, unfortunately, may also be among the least sustainable. Many programs, particularly those managed inside local government, are funded through the local government's general fund. As they grow, these programs must compete with other city services for increased funding.

Montgomery County, MD's Moderately Priced Dwelling Unit program, one of the nation's first inclusionary housing ordinances, currently oversees 1,976 affordable homeownership units. The program is managed by a staff of 6 full time employees within the Division of Housing and Code Enforcement of the County's Department of Housing and Community Affairs. The division's \$400,000 annual budget is funded as part of the County's general operating budget.

Housing Funds: Many local government programs pay for administration with funds that have been set aside for affordable housing. These funds may come from local property transfer taxes, inclusionary housing in-lieu fees, federal or state housing programs or some other dedicated source. Generally, using these funds for ongoing administration reduces the funding available for production of new housing opportunities. And it is somewhat unlikely that the available housing funds will grow over time as the number of units monitored grows.

The City of **Palo Alto, CA** required developers to build affordable housing as part of any new market rate development. However, under certain circumstances developers can choose instead to pay a fee in lieu of building the affordable units. The City uses these fees to fund its annual contract with the Palo Alto Housing Corporation for monitoring and oversight of inclusionary homeownership units.

Application fees: Some affordable homeownership programs charge would be homebuyers a modest fee at the time that they apply for a unit. This fee can then be used to offset the cost of processing applications and verifying eligibility.

The City of **Pleasanton, CA** charges applicants to their affordable homeownership program a one-time fee of \$45 - \$75. These funds are passed through to support staffing costs of the Tri Valley Housing Opportunity Center, the local nonprofit which administers Pleasanton's program. **Santa Barbara County, CA** charges a \$25 application fee.

Refinance Fees: Most programs require homeowners to seek approval from the program whenever they refinance their shared equity homes. Some communities charge homeowners an administrative fee for reviewing the refinance request to ensure compliance with program rules (including ensuring that the loan amount does not exceed the homeowner's share of home equity) and, if necessary, subordinating the program's lien on the home.

Sale/Resale related fees: Among the most sustainable dedicated sources of revenue are fees charged as part of the sale or resale of restricted units. Programs that take on the lead role in marketing restricted units frequently charge sellers a fee between 1% and 4% of the sales price to cover administrative expenses. This fee is generally well below 6% commission which owners would pay a private realtor for similar service. Even some programs that expect sellers to engage realtors will charge more modest administrative fees at resale.

The State of New Jersey requires all jurisdictions to produce affordable housing units and has created Uniform Housing Affordability Controls to ensure that these units are kept affordable over time. The Uniform controls require each jurisdiction to identify an administrative agent for their affordable units. Recognizing that administrative capacity was uneven across the state, New Jersey created the **Housing Affordability Service (HAS)**, a quasi-public entity within the New Jersey Housing and Mortgage Finance Agency. The HAS serves as the default administrative agent for jurisdictions that don't identify a different agent and currently oversees 5000 resale price restricted affordable homeownership units on behalf of 70 municipalities. The agency is funded through a variety of fees but because most of their responsibilities relate to resale of affordable units, they receive much of their revenue from resale fees. HAS charges a fee of 3% of the affordable resale price when they are asked to coordinate marketing and 1.25% when they are only screening buyers and certifying that the seller has complied with the State's Affirmative marketing requirements.

Monthly Fees: Agencies which monitor affordability of rental housing sometimes charge monthly monitoring fees. For some reason these fees are less commonly applied to affordable homeownership units. The notable exception is Community Land Trusts, which generally charge a monthly ground lease fee. While this fee is technically rent for the CLT's land, the fees are almost always set far below the comparable market rent and are used to offset some of the CLT's costs of administration and monitoring. These fees generally range from \$25 to \$100 for single-family homeownership units. Many CLTs also support their costs related to monitoring Limited Equity Cooperatives through ground lease fees as well. This regular source of revenue, combined with other sources such as resale fees, can provide significant financial stability to the program

Thistle Community Housing in Boulder CO, for example, reports that 32% of the cost of running their Community Land Trust program is paid by ground lease fees. Although Thistle only charges an average lease fee of \$30 per month, over \$75,000 per year is generated by the 211 units of resale-restricted, owner-occupied housing currently under Thistle's stewardship.⁸

A growing number of community land trusts have been asked to perform ongoing stewardship for deed restricted condominium units in mixed income buildings where the land trust does not own the underlying land. In these cases, some CLTs have nonetheless imposed monthly fees analogous to the CLT ground lease fee. The **Chicago Community Land Trust**, for example, charges a \$25 monthly "covenant

⁸ John Davis, Rick Jacobus and Maureen Hickey. *Municipal Support for Community Land Trusts*, (Cambridge, MA: Lincoln Institute for Land Policy, forthcoming).

fee” to each condo owner to support their ongoing monitoring and administrative work.

The **Urban Homesteading Assistance Board**, in New York City charges an annual monitoring fee of \$1,500 to \$4,500 for each Limited Equity Cooperatives that it monitors. UHAB uses these fees, together with contract income from the City of New York to provide a comprehensive set of monitoring and support services to these co-ops.

Operating Grants: Some nonprofit programs receive significant support in the form of donations from foundations, corporations and individuals. A survey of Community Land Trusts conducted in 2006 by the Lincoln Institute revealed that foundation grants make up 10% of CLT revenues while donations by individuals and corporations provide an additional 15% of the revenue of the average CLT⁹.

First Homes, a public-private collaborative in Rochester, NY was initiated by the Rochester Area Foundation and funded initially by a \$7 million grant from the Mayo Clinic, a portion of which was set aside to pay for operating costs.

IX. Recommendations:

The organizations and individuals charged with long-term stewardship of shared equity homeownership share a common set of challenges. In discussions with program administrators the same concerns arise over and over again.

1. Understand Administrative Impacts of Policy Choices

Shared equity homeownership programs all attempt to balance the interests of the homeowners with the broader community interest. In many cases the easiest programs to administer are the ones which serve one of these two interests but not the other. Balancing interests more fairly can create additional oversight responsibilities. For example many programs, in order to protect the public interest, prohibit all subletting because of the potential that some owners will rent their units out for profit. Homeowners may have legitimate reasons that they need to be away temporarily. Balancing these interests leads many programs to develop policies that allow owners to sublet for limited periods of time, with advance approval. Some programs even monitor the rent charged when units are temporarily sublet. These program choices will require far more day-to-day administrative work than either prohibiting subletting entirely or allowing it without restriction. Program planners need to understand the administrative impact of these policy choices and be sure that the policy goals cannot be met without creating additional administrative work. But, in many cases, more intensive administration may be the best way to balance community goals.

⁹ A National Study of Community Land Trusts, Yesim Sungu-Eryilmaz and Rosalind Greenstein, Lincoln Institute of Land Policy, Working Paper. 2007.

2. Plan for Administration

Many administrators stressed the importance of early planning for long-term stewardship. Once a program is operating and homes have been sold it may be too late to make key design choices which would facilitate better administration.

- Program planners should identify an appropriate stewardship entity before the first homes are sold and develop documents that allow the specific entity playing this role to change over time without altering the *role* itself.
- While there is great variation in the level of staffing, it seems prudent to plan on staffing at the level of at least one full-time staff person (or equivalent) focused exclusively on *post purchase* monitoring and resale administration for every 150-300 affordable homeownership units.
- Programs that offer significant marketing assistance might need at least one person for every 100- 200 units.
- Smaller programs and newer programs should plan on significantly higher staffing requirements.
- On an ongoing basis every program should also spend some time on education and advocacy tasks to ensure that necessary resources grow along with the program's needs.

3. Build Dedicated Capacity

Realizing the potential of shared equity homeownership and taking this approach to a greater scale will require improved stewardship capacity. Programs that have invested in building dedicated capacity focused exclusively management of shared equity homeownership appear to not only be more cost effective but may also be more successful in balancing the needs of homeowners against broader community interests. It is very difficult for program staff to create the necessary policies and administrative systems when stewardship of the shared equity program is one of several competing responsibilities.

The number of legal and administrative systems necessary to be effective can be quite imposing. Communities with fewer than 200-400 units should consider banding together or contracting with an independent stewardship entity, which is managing additional units. This can be done without greatly diminishing direct accountability to the local community.

4. Rely on Scalable Revenue Sources

Because active stewardship involves permanent responsibility for affordable housing resources, funding for this role needs to not only be sustainable but scalable. The level of funding must grow over time as the number of units (or size of the loan pool) grows. While it is likely that most programs will need some additional financial support, especially as the program is growing to scale, relying on revenue sources that grow along with the need can greatly increase the sustainability of a program and reduce the need to compete with other needs for scarce administrative funding.

Programs funded primarily with fees tied to the affordable units themselves seem better positioned to survive and thrive over the very long term. Monthly oversight fees (or ground lease fees) and resale fees seem to have the greatest potential to provide scalable revenue at a

level high enough to sustain the necessary staffing. For example a program monitoring 300 units which charges a \$50 monthly monitoring fee and 1% of the sales price at resale would likely generate around \$200,000 in stewardship fees annually - possibly enough to support 2 or more staff people. As the program grew, the revenue would grow and staffing could grow at the same pace.

Appendix A: Program Profiles

Profiles written by Maureen Hickey, Burlington Associates in Community Development

Somerville, Massachusetts Manages Inclusionary Units In-House

Somerville, Massachusetts, a city of roughly 75,000 residents, adopted an inclusionary zoning ordinance in 1990, but the first units did not become available for sale until about 1997. To date, 10 affordable rental units and 41 affordable ownership units have been completed through this program. The City requires permanent affordability, which is protected through deed restrictions as well as proactive administrative and monitoring by staff in Somerville's Mayor's Office of Strategic Planning and Community Development.

Roughly six staff members dedicate a portion of their time to administering and monitoring both the rental and ownership portions of the inclusionary program. Two staff maintain primary responsibility for marketing both rental and ownership units. Another two support staff persons assist with processing initial eligibility certification, annual income recertification for rental units, and annual occupancy certification of ownership units. These employees also review and approve refinancing requests from homeowners as requested. A city home inspector inspects each unit prior to the initial sale to certify that is ready for occupancy as well as inspecting the units for needed repairs prior to resale. The inspector will provide a homeowner with a list of basic maintenance that must happen prior to sale of the home.¹⁰ Finally, a city attorney reviews and helps to prepare any deed restriction and legal documents associated with the inclusionary units. The City's Director of Housing is involved in the initial negotiations with individual developers about which units will be affordable and which income group to target, but she does not usually get involved in issues of project design.

While the City is willing to provide comprehensive marketing and sale services to both developers during the initial sales process or homeowners during the resale process, the City's responsibility for such task is at the option of the current owner. If a developer is interested in having the City market and sell the inclusionary units, then the developer must pay a \$2,500 fee per unit to the City for this service. Individual homeowners are not required to pay a fee to the City for providing this service. If either a developer or a homeowner chooses not to use the City's marketing services, then a homebuyer selected through an external process will merely need to be certified for eligibility by the City prior to closing. A couple of developers have decided to undertake marketing and sale themselves, but individual homeowners tend to rely on the City to provide these services.

City of Somerville staff believes that it is most effective to maintain administration and monitoring of these units within the government entity because the City is ultimately responsible for the maintenance of affordability of these units. It seems effective to allocate responsibility for small segments of the administration to various existing staff so that no one staff is burdened with too many additional tasks. This system allows the staff costs related to administration of the inclusionary program to be covered through a mix of federal grant

¹⁰ In one instance where major repairs were needed and it was clear that the homeowner did not have the funds to undertake these repairs, the City sold the unit to the subsequent buyer as is and provided a \$25,000 rehab loan for needed repairs. The resale price of the home was not lowered to account for deferred maintenance. The city reports that this system seems to be working as the new owner was able to make upgrades that she specifically wanted instead of having to live with the improvements chosen by the former owner.

money and City general funds as the program offers housing opportunities for households at or below 80% or 100% of Area Median Income. The City has adequate staff for these responsibilities, but finds it difficult when a number of properties come up for resale at the same time. Managing the resale process usually takes more time than managing the initial sale of each unit and additionally there is no way for City staff to allocate time in advance to handle the tasks associated with resales. For these reasons as well as the fact that the resale units often remain on the market longer than new inclusionary units, City staff indicated that the biggest challenge is administering the resale process.

Municipal Governments Collectively Establish a Monitoring and Counseling Agency

The Tri-Valley Housing Opportunities Center (TVHOC) was established in September of 2005. The idea to establish this independent, non profit agency was proposed by the Tri Valley Affordable Housing Committee, a group of elected officials and staff from seven local governments including the cities of Dublin, Livermore, Pleasanton, and San Ramon, the Town of Danville and the counties of Alameda and Contra Costa. The committee recognized the need for increased capacity to provide homebuyer education and administrative services for local affordable housing programs. Municipalities particularly needed assistance monitoring their local inclusionary housing programs which are expected to produce a large number of units because of the fast pace of growth in this section of the Bay Area.

The committee proposed creating an organization which could contract for services with the local governments and support itself through these contracts as well as grant funding from private sources. Each of the five cities and towns provided a \$50,000 seed grant to establish the Tri-Valley Housing Opportunities Center. In addition, an Advisory Committee with representatives from each municipality was established to guide the formation of the organization. While this Advisory Committee still provides guidance, the organization is governed by a Board of Directors comprised of residents and business representatives from each community. No seats with voting rights are reserved for any of the partnering jurisdictions.

TVHOC provides a wide variety of services including homebuyer education and counseling, as well as contracting with municipalities and individual developers to market and administer inclusionary housing units. While TVHC administers both rental and homeownership units, the bulk of their work is related to homeownership, but they are working with the local governments to try to establish a larger supply of affordable rental units in the region. The specific services provided vary depending on the needs of the municipality and the requirements of the various inclusionary housing policies. A sample of services provided include:

- homebuyer education classes and individual credit counseling;
- marketing below market rate units;
- verifying eligibility of potential homebuyers or renters;
- facilitating closings of below market rate units;
- monitoring owner occupancy annually;
- coordinating resales of below market rate units;
- and responding to refinancing requests from BMR owners.

TVHOC negotiates fee-for-service contracts individually with each municipality. Examples of fees include \$75–150 per application for review and income processing and a percentage of the sales price to manage each closing which usually works out to about \$1,000 per closing. In addition, TVHOC will contract with individual developers to identify buyers for inclusionary development units and/or help the developer draft an affirmative marketing plan. The cost for these services depends on the number of units in the development and the package of services that TVHOC offers the developers. The existence of TVHOC is helpful for developers who are not skilled at marketing to lower income buyers and often seek advice and support from the municipalities.

The TVHOC has developed a Below Market Rate (BMR) Resale Program in response to expressed needs of the Cities of Dublin and Pleasanton. This program works to educate real estate brokers in the region about the inclusionary program requirements because the organization did not want to be perceived as competition to local real estate brokers. TVHOC has identified some brokers who are willing to work for the lower commissions associated with BMR units in exchange for the marketing and public relations benefit to the broker of working with TVHOC. Depending on the homeowner's situation, brokers often work for commissions of 2% or a relatively low flat fee to cover broker costs. One of the goals of TVHOC is not to add significant cost which will impact the affordability of a unit or decrease the equity of lower income households. They have been fortunate to have established a strong relationship with the regional real estate associations and have access to a good list of interested brokers.

The organization currently has 3 full time staff and an annual operating budget of roughly \$225,000. This revenue primarily comes from municipal contracts as well as grants from federal and private sources. At present, the model seems to be working quite well. The cities and the developers in area are satisfied with the services that TVHOC can provide. And other governments in the region are looking to the TVHOC for guidance on how to establish similar programs.

Palo Alto Housing Corporation Administers the City's Deed Restricted Units

Since 1974, the City of Palo Alto has had an inclusionary housing program which has produced roughly 169 permanently affordable homeownership opportunities primarily for local residents earning 80-120 % of Area Median Income. Deed restrictions which limit the resale price maintain the affordability for 59 years, but since this restriction is renewed at each sale, for practical purposes most units are expected to remain affordable in perpetuity.

When the inclusionary policy was first passed, the Palo Alto City Council worked to devise a system of administration which would provide for sufficient oversight, but limit the impact on their relatively small government staff. The City decided to contract out the majority of the administrative duties to the Palo Alto Housing Corporation (PAHC), a local non-profit affordable housing developer and property manager. For over 30 years, PAHC has administered the city's affordable homeownership program, known as the Below Market Rate (BMR) Purchase Program. PAHC's contract involves responsibility for maintaining a waiting list of eligible buyers, marketing units for initial and resale, monitoring sales, enforcing deed restrictions, and educating the community and waiting list about shared equity homeownership opportunities. This structure allows the city to dedicate only a small amount of direct city staff resources to the homeownership program; city staff are responsible for negotiating the inclusionary units in proposed housing developments and monitoring the provision of administration services from PAHC. PAHC initially relied on a part time program administrator working 24 hours per week plus a few hours of clerical support per week, but recently PAHC has had to increase the administrator position to full time because the responsibilities, including addressing maintenance challenges and handling the ever-growing waitlist, requires more staff time than before.

PAHC's contract is negotiated every two years, with the fee that PAHC receives based on the estimated number of units which are expected to come online in the coming years. PAHC's current contract is for \$140,000. The PAHC contract fee is paid from the Residential Housing Trust Fund, which is funded with in-lieu fees from the inclusionary housing ordinance. There is limited money available for program administration because no fees are charged at the time of sale or resale. Additionally, Palo Alto has successfully discouraged payment of in-lieu fees and as a result the Housing Trust Fund is shrinking.

PAHC reports that one of the more time consuming aspects of the administering the BMR program is the number of phone calls received from potential homebuyers or current homeowners. In an effort to reduce staff time and program cost, PAHC has worked to provide extensive information and resources about the program, upcoming purchase opportunities, and the waitlist on their web site¹¹. Additionally, in an effort to defray mailing and administrative costs as well as limit additions to the wait list, PAHC has imposed a \$15 annual fee for households interested in joining or remaining on the waitlist. PAHC also invests time in ensuring that the units are owner occupied. They run title searches on all of the BMR units each year, investigate the occupancy of any units from which mail is returned, and follow-up on tips from other owners that a BMR household may be renting out their unit.

¹¹ <http://www.paloaltohousingcorp.org/bmr/>

The City and PAHC work together to manage the resale process. When the seller informs the City of their intent to sell, a representative from both PAHC and the City inspect the unit for deferred maintenance and or to confirm capital improvements for which a homeowner will receive credit on the resale price. The City determines the resale formula price including credit for improvements and PAHC helps the owner identify an interested, qualified buyer from the waiting list. The owner is responsible for hosting open houses to show the unit to households on the wait list. The City takes responsibility for preparing all of the necessary documents to ensure affordability when the unit transfers.

The resale process can be very time consuming for both City and PAHC staff. Resales are particularly difficult when the units have not been properly maintained. Recently, in a number of units, there has been extensive deferred maintenance because homeowners don't have the extra funds to maintain and/or renovate their units. The City of Palo Alto is in the process of amending its deed restrictions to not only increase the rate of appreciation, but also improve the City's ability to enforce the program rules.

Northern Communities Land Trust Develops and Stewards Permanently Affordable Homes

The Northern Communities Land Trust (NCLT) has been using the community land trust model to provide affordable homeownership opportunities in the Duluth, MN region for over 15 years. In 2007, NCLT has nearly 150 homeownership units in its portfolio which will remain permanently affordable to low and moderate income households.

NCLT expands its portfolio of housing by developing new units and rehabilitating older housing stock in partnership with a local development firm. NCLT also partners with the local Housing and Redevelopment Authority to help income-qualified, first-time homebuyers purchase existing houses at affordable prices via downpayment subsidy and rehab assistance. These units then become part of the NCLT portfolio monitors for permanent affordability. NCLT ensures that all homes in its portfolio are resold to qualified buyers at affordable prices and that they are owner occupied.

NCLT has a wholly-owned subsidiary, Northern Communities Realty, which provides licensed real estate brokerage services to buyers and sellers. NCLT collects up to 6% of a sales price of the home for the services provided at resale. If Northern Communities represents both the buyer and the seller then they will take the full fee, but if the buyer contracts with an independent broker then, NCLT will pay a 3% commission to the buyer's representative as well as help these brokers assist their clients in purchasing a land trust home. In either case, NCLT certifies the eligibility of the applicant household to ensure that it is going to an income-qualified household. NCLT markets the units via their website, organizational outreach, and the Multiple Listing Service.

NCLT maintains five and half full time equivalent staff to support all programs of the organization including both development and stewardship. The organization has an annual operating budget of roughly \$395,000 per year. This budget is collected through development fees of \$10,000 per unit and ground lease fees of \$24 per unit per month among other sources. NCLT collects about 4% of its operating budget from individual membership fees which range from \$1 - \$350 per year and another 14% from grants and fundraising events.

Urban Homesteading Assistance Board Supports and Develops Limited Equity Co-ops

The Urban Homesteading Assistance Board (UHAB) is an independent, non-profit organization in New York City that provides a range of services to low-income, limited-equity cooperatives. This organization has been providing training, technical assistance, and monitoring support to co-ops for nearly thirty years. Through the Tenant Interim Lease (TIL) program, a program of the New York City Department of Housing Preservation and Development, tenants of city-owned buildings receive training and support in building management before they purchase the units as part of a limited equity co-op. UHAB helped to create this program in 1978 and have been providing technical assistance to residents ever since. UHAB has an annual contract of over \$1 million dollars with New York City to provide services to all of the TIL co-ops city-wide.

UHAB provides technical assistance to roughly 1,300 cooperative buildings which include over 27,000 units. In addition, there are about 100 buildings which UHAB is presently developing as co-ops. UHAB also provides monitoring and third-party oversight for over 85 buildings which have mortgages through the State of New York. When these loans were originated in the mid-1980's external monitoring was a condition of funding and UHAB was selected to provide this service. Andy Reicher, Executive Director of UHAB, indicated that the monitoring requirement is a very good thing because their experience is that buildings with required monitoring are more successful than those without any consistently required oversight.

UHAB provides a wide range of services to cooperatives including their technical assistance and monitoring services. Some commonly provided services include:

- Assist the co-op in implementing their financial and organizational plan to meet lender or City obligations
- Assist the board of directors in managing the property and making decisions
- Review quarterly financial reports
- Annual review of all financial and operational projects, including funding reserves and schedule of maintenance charges
- Review annual financial statement and corporate tax report
- Review certificate of insurance
- Provide annual walk-through to discuss maintenance of the building
- Meet with board of directors at least once per year
- Attend and certify the annual election of directors

For this specific range of monitoring services, UHAB charges between \$1,500 - \$4,500 per building depending on the size and type of building. UHAB takes a very proactive approach to monitoring buildings and encourages board members to let UHAB know early if there are any problems. They try to identify problems early on and implement strategies to address them.

While initially the co-op boards were skeptical of having oversight, they have grown to really appreciate the monitoring services, particularly because UHAB prepares an annual report for both the board and the bank that details the major occurrences, financial and otherwise, of the cooperative during the previous year. Elements of the annual report include:

- Annual financial statement Audit
- Certification that the Audit was distributed to all shareholders
- Past actual income & expenses and projected budget for next year
- List of apartment sales including selling price, name of the buyer, # of dependants and family income.
- Certification from the lawyer who did the transfer of shares, stating that the sale complied with the requirements of the Regulatory Agreement
- Bank statements from Reserve Account showing the monthly contribution to Reserves
- Certificate of Insurance
- Copy of the rent Roll showing Apt #, name of shareholder or tenant, current rent and arrears
- Certification of annual election with name, address and telephone # for all Board members and Officers

UHAB has found that is far more time consuming and challenging to fix problems when a building is in serious trouble than to notice problems or potential problems early on through consistent monitoring.

With respect to co-ops which are part of New York City's TIL program, UHAB has developed a very substantial database of information on all of the buildings, units, and turnovers over the years. While UHAB has had the contract to provide training and support to most TIL buildings throughout the three decades of program operation, the extent of services provided and involvement in training varies to some degree depending on the city administration and priorities. Additionally, there were brief periods of time when other organizations competed successfully for technical support contracts with co-ops in certain sections of the city. While UHAB seeks to work collegially with partner organizations, they think it is important that buildings and record keeping have a certain level of consistency. Also UHAB is able to provide quality services at very reasonable prices precisely because they support so many units and benefit from economies of scale.

In addition to technical support and monitoring, UHAB has developed a wide range of services for limited-equity co-ops. For example, UHAB provides insurance brokerage for property and liability insurance and participates in a fuel purchasing program which is available to help co-ops access heating fuel at below-market prices. Additionally, they have developed an online building program which facilitates accounting and record keeping. UHAB also continually offers educational seminars and leadership development trainings on a variety of issues specific to co-op management. In addition, if buildings are having internal management issues, UHAB will support conflict resolution and help develop strategies for effective management. And, if buildings are struggling financially, UHAB will work to help them identify solutions as well as access low cost loans through the City or the state.

Notes