Ground Leasing for Housing Affordability: An Ancient Land Tenure Form Reinvented

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Abstract

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In times and places of escalating land costs, removing land from the speculative market may be one way to stem its rising costs in the housing cost equation. Bifurcation of property ownership – separating ownership of the land from ownership of the housing atop it - has been touted as an effective land reform measure that can engender durable affordability. A ground lease ties the land owner to the user. In terms of affordable housing, the land owner imposes affordability controls on the user, including the prospect of lease term renewals for continued affordability. Ground leasing's roots are embedded in English common law dating back to feudalism, the Norman Occupation, and the Magna Carta. An ancient land control device, ground leasing today has been reinterpreted as a modern land reform strategy that can convert subsidy to a form of community equity. This thesis examines the effectiveness of ground leasing, or a variation thereof, as a mechanism to promote durable housing affordability especially for lower and moderate income workforce households. Five factors for assessing ground leasing's effectiveness are developed: affordability; efficiency (fiscal); "security, equity, and legacy"; community; and multiplicity (scale). Four ground leasing models are examined against the five evaluation factors. The four models, structured with 99-year ground leases, form a continuum of sorts: two of the models are small private nonprofit community land trusts based in the San Francisco Bay Area; one focuses on affordable homeownership (Housing Land Trust of Sonoma County); the second is a hybrid model involving master leasing of multifamily rental-type units with the goal of creating limited equity coops or nonprofit resident-ownership (San Francisco Community Land Trust); the third and fourth models involve public ground leasing – one is a public housing authority with the aim of privatizing its public housing units (San Francisco Housing Authority working with the Mayor's Office of Housing and Community Development); and the other is an international model, the Singapore public housing system, which boasts an impressive portfolio of mostly ownership housing. The conclusion reached is that ground leasing is effective though not perfect in creating long-term, if not perpetual affordability. Overall, continued housing affordability is generally maintained. Fiscal frugality is not necessarily achieved, though the land component, having been removed from the market, no longer requires additional subsidy for future transactions. The prospect of wealth accumulation is possible in the homeownership models, which are able to provide some degree of economic mobility. The development of social capital and community capacity requires an on-going commitment to stewardship to be successful. And scale may be seen as having been achieved in the public ground leasing models, but their replication to other venues remains open. An ancient land tenure form reinvented, ground leasing through innovative models that strive for perpetual affordability continue to evolve.

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I. Introduction

Statement of the Problem

Ground leasing has emerged as an important tool in the development of various schemes to encourage and sustain long-term housing affordability in the United States. Ground leasing creates two sets of owners – an owner of the land and a separate owner of the physical residential structure that sits on the land. This bifurcation of ownership allows the land owner to develop various affordability controls that govern the use of the land for residential purposes over a timeframe that can stretch from long-term to technically permanent affordability.

This thesis proposes to evaluate ground leasing as an effective tool to sustain long-term housing affordability. The hypothesis underlying this aim is that ground leasing plays a critical role in efforts to achieve long-term, even durable affordability through modern tenure models around ground leasing. Ground leasing becomes important in those situations in which the land or property owner desires to achieve and maintain housing affordability on a mass scale in conjunction with other goals that may otherwise work at cross-purposes. For example, the owner may desire to create continued homeownership that can retain affordability in a market economy and yet provide equity for both initial and subsequent homebuyers. The owner may not want to deal with the daily issues of property management. The owner may not be adept at or be in the best position to do effective on-going building upkeep and maintenance, or to garner public and private funding to rehabilitate the existing housing, or even develop opportunities for new housing. Lastly, the owner may want the residents to feel and be empowered as enfranchised owners of their homes within a collective sense of community.

Ground leasing is used by various affordable housing models. Ground leasing is pivotal to the community land trust model, especially in terms of sustaining long-term affordable homeownership. In terms of rental housing, more and more local public agencies are leasing land to private entities for the development and/or operation of large-scale affordable rental units. Other large institutions, like universities, have looked to ground leasing as a way of maintaining a level of housing affordability as an incentive to recruit and retain teaching and administrative staff.

With deep roots in English common law of property rights, ground leasing today has been rediscovered and reintroduced through the lens of land reform in the name of housing justice. Under the rubric of affordable housing, ground leasing removes land from the speculative market. Land no longer becomes a commodity that can be bought and sold at the highest market price. Ground leasing as such restructures the institutional framework of land ownership and tenure.

Background and Need

Taking land off the market becomes particularly important in high cost areas like the San Francisco Bay Area where housing costs, both home purchase prices and rental rates, compete as the highest in the nation. The effects of high housing costs are obvious: for low income households and vulnerable populations in particular, high housing costs can lead to social and economic instability, for example, negatively affecting children's school performance or forcing parents to commute long distances to work, or even relegating persons to live in unhealthy substandard housing. (California Dept. of Housing & Community Development et al. October 2014, 5).

For one to appreciate the enormity of the housing affordability issue, metrics can provide an understanding. The HUD 2014 median household income for a family of four in San Francisco and two adjacent counties of Marin and San Mateo was $97,100. The 2014 median purchase price of a home in San Francisco was $999,400 according to Zillow, the website that tracks property values. (Zillow.com 2014). While San Francisco's median income seems high relative to other parts of the country, the purchasing ability of a household with the median income is clearly too low to afford the median-priced San Francisco home of approximately a million dollars without a substantial down payment well in excess of 20 percent. In terms of the rental market, the 2014 median rent of a two-bedroom apartment in San Francisco was $3,925, (Landes 2014) representing 48% of the 2014 monthly median income, well beyond the acceptable rent affordability measure of 30% of household income.

The need for affordable housing overall is poignantly highlighted in the National Low Income Housing Coalition (NLIHC)'s annual report, *Out of Reach 2014.* While this publication focuses exclusively on the rental housing gap, renters as a group tend to have household incomes lower than that of owners and to experience greater housing problems. In this recognition, NLIHC is dedicated to "achieving socially just public policy that assures people with the lowest incomes in the United States have affordable and decent homes". The Report found:

> There are over 40 million renter households in the U.S., making up 35% of all households nationwide in 2012. This is a 1.1 million increase over the previous year and double the rate of growth in previous decades. Renting has become more attractive to people in all demographic groups, appealing across age and income groups. While some opt for rental housing because of the flexibility it provides, many others are boxed out of homeownership …. With the demand for rental housing growing, the U.S. vacancy rate, which hit 8% in the aftermath of the financial crisis [in 2008], fell to 4.1% in the fourth quarter 2013 …. Landlords continued to raise rents in reaction to this trend…. Rent increases surpass the average inflation rate and translate to higher cost burdens and housing instability for millions of Americans. … Finding a decent, affordable home is a challenge for all renters, but the poorest households have very few options. For every100 extremely low income (ELI) renter households, there are just 31 affordable and available units. … In 2010, there was a need for 6.8 million units affordable and available to ELI households; this figure rose to 7 million by 2012. (National Low Income Housing Coalition 2014, 4)

The report affirmed California and New York, respectively, as the third and sixth states with the most expensive rental housing in terms of the housing wage needed to support a two-bedroom unit at the HUD Fair Market Rents (FMR).[1] (Only Hawaii and the District of Columbia beat California.) When the

[1] FMRs are HUD-estimated rent payment standards for the Section 8 Housing Assistance Payments Program. FMRs are gross rent estimates set by HUD annually, and takes into account the shelter rent plus certain tenant-paid utilities. This standard is calculated on the 40th percentile of all market rents of standard quality rental housing units occupied by recently moved-in tenants in a designated market.

report looked at a finer granularity, the San Francisco HMFA[2] and the Silicon Valley (San Jose-Sunnyvale-Santa Clara HMFA) ranked first and third respectively as the most expensive jurisdictions. (Honolulu MSA[3] came in second.) On the county level, the San Francisco Bay Area ranked supreme in unaffordability – the Counties of Marin, San Francisco, and San Mateo ranked first through third, respectively. Even as such, the Report found that the 2014 two bedroom Housing Wage is higher than the proposed federal minimum wage of $10.10, in every state except in Arkansas, Kentucky, and Puerto. (National Low Income Housing Coalition 2014, 4).

Overall, the United State continues to reel from a housing crisis in which increasing income inequality coupled with increasing housing costs in high cost areas like California and New York City have rendered affordable housing even more out of reach for many lower income residents. Clearly the need for decent affordable housing has intensified while the availability of public funds to close the gap has dwindled. This situation requires that policymakers look to pragmatic solutions. One such solution calls for moving away from dependence on subsidy toward one emphasizing fiscal frugality. This strategy embraces renewed ways of structuring land tenure, especially using the ground leasing mechanism to create separate ownership parties, with the land ownership component tightly associated with controls that establish long-term affordability.

Purpose of the Study

Noted at the outset of this thesis, this aim of this paper is to examine the effectiveness of ground leasing to maintain and sustain housing affordability. The hypothesis underlying this aim is that ground leasing plays a critical role in efforts to achieve long-term, and even lasting affordability through certain housing models guided and crafted by forces of social justice.

To test the hypothesis, this paper will look at current evolving applications of ground leasing in both homeownership and rental models to determine if ground leasing is the essential linchpin that ensures durable affordability and hence improved quality of life for present and future generations of households. This paper will undertake a comparative analysis of four intriguing ground leasing models: (1) Two San Francisco area-based community land trust models; one model follows more the classic structure focusing on single family home ownership; the other, a hybrid model with a portfolio of small multifamily structures has as its mission the creation of limited equity cooperatives; (2) Public ground leasing of existing rental housing via the San Francisco Housing Authority, a public housing agency; and (3) the Singapore public housing model, an international model, which will be investigated more to uncover any transferable instructive elements; Singapore owns 4/5 of all its land and as such has rendered ground leasing a fundamental operating tenet of its public housing policy since the 1960s soon after it became its own sovereign country; starting out with building rental housing for its impoverished citizens, Singapore's public housing policy quickly shifted to an emphasis on ownership housing, which ushered in a huge middle class ascendancy.

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[2] HUD Metro Fair Market Rent Area; this is distinguished from HUD Fair Market Area (HFMA) in that the former represents a portion of the HFMA.

[3] Metropolitan Statistical Area.

Research Questions

Consistent with the logic and layout of a formal thesis endeavor, a number of questions followed from the problem statement. These questions are enumerated below:

- How does ground leasing work in affordable homeownership and rental development models? How are they different?

- Land reform is a term typically used to describe tenure and property rights in developing countries pertaining to land redistribution to benefit economically vulnerable and disenfranchised populations. How might ground leasing, which evolved from common law dating back to English medieval times, fit under the modern rubric of land reform in the United States?

- For a more complete understanding of ground leasing, how did ground leasing develop and evolve in English common law history?

- In order to assess the effectiveness of ground leasing as a tool to ensure long term housing affordability, a definition of "effectiveness" must be developed within the larger context of housing justice. What might constitute the evaluation factors of effectiveness? How do the four models fare under these measures, and are there discernible differences in affordability effectiveness between ownership and rental models?

Overview of Thesis

This thesis is divided into five formal sections or chapters, including the Introduction above. Following will be chapters focusing on a brief history of ground leasing; a literature review; research methodology; and finally the results and conclusion.

Chapter Summary/Conclusion

This chapter introduced the notion of ground leasing as one way to address the issue of housing affordability in this country. Ground leasing separates ownership of the land from the housing atop it. Separate land ownership removes land from the forces affecting housing market transactions. Ground leasing models become especially relevant in geographic areas, such as the San Francisco Bay Area, where housing costs, a large part due to high land costs, are astronomical and continually escalating. While an ancient land control mechanism, ground leasing has emerged and in a sense been rediscovered as a new tenure form that can create long-term if not permanent affordability. The next two chapters will provide a primer of the basics of ground leasing including its history, followed by an analysis some of the existing relevant papers and studies associated with either the concept of land reform within the context of housing justice, or affordable housing models involving ground leasing.

II. Basics of Ground Leasing

Common Law Historical Roots[4]

If one has ever wondered why a long-term lease period is typically 99 years rather than 100, or why a lease term cannot legally be structured in perpetuity, the answer is embedded in the history of English common law. The modern concept of ground leasing can claim its roots in medieval period feudalism, the beginnings of English common law.

Feudalism flourished in medieval Europe from the 9th to the 15th centuries, and was structured as a hierarchy in which social relationships were defined by the holding of land in exchange for service or labor, originally involving military service obligations. Land rights as we know it today evolved and was codified over several centuries starting with the Norman Invasion of England in 1066 when land control became more systematized as a way of developing a military system and for the collection of taxes. While feudalism had been already prevalent throughout Europe, including England, it was not until the Norman Invasion that certain concepts of land control became more formalized and took root. All land was required to be forfeited to the king. All land became controlled by the Crown.

Feudal society developed in response to a need for defense through the development of an intricate social system. If one were to see the human body as a metaphor to describe feudalism, then "the clergy are its spirit, or soul, having predominance over the whole body. The monarch is the head providing direction. The military class corresponds to the arms and hands, providing defense. The tillers of the soil are like the lower limbs and feet "ever cleaving to the ground"; the peasants, like the feet, support the weight of the whole body, keep it erect, and enable it to move." (Hogue 1966, 82)

While the king could provide some monetary compensation or fee, he typically granted land to a vassal, who would then be knighted by the king in return for military and other services of loyalty. The king also granted land to certain lesser vassals in return for services related to homage and fealty. These vassals were granted title to land, typically as a tenant. In general the terms of vassalage service and fealty were memorialized in agreements and covenants. Overall, vassalage was an honorable position and equated a status of nobility. Vassals were known as a warrior class, a "free man-at-arms," as distinguished from the peasant class who cultivated the land and who were not free. Over time, vassals or lords in turn granted or leased portions of their land to others for service, and these subsequent land holders leased part of their land holdings to even more others. This chain of land tenure and sub-tenures continued to such an extent that it eventually became unclear as to what was due the king.

While the king technically held title to all property, the increasing complexity of the land tenure system led to political machinations among the lords and barons who were able to force the king to grant the Magna Carta in 1215. This landmark English charter formed the foundation of common law documents codifying the rules, practices and customs of land holding.

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[4] This discussion is taken from the following sources: Black's Law Dictionary, 7th edition, West Group, St. Paul, MN, 1999, Bryan A. Garner, Editor in Chief; Arthur R. Hogue, Origins of the Common Law, Indiana University Press, Bloomington, London, 1966; "Property Before Property: Romanizing the English Law of Land," Thomas J. McSweeney, Buffalo Law Review, date?; "Homes Affordable for Good: Covenants and Ground Leases as Long-Term Resale-Restrictions Devices," James J. Kelly, Jr., St. Louis University Public, April 8, 2010; Wikipedia: Common Law; History of English Land Law; Rule Against Perpetuities; Freehold (law); 99-year lease; 999-year lease; Ground rent; (accessed respectively April 2014); Magna Carta (accessed May 7, 2014) (Wikipedia: Common Law; History of English Land Law; Rule Against Perpetuities; Freehold; 99-year lease; 999-year lease; Magna Carta 2014).

Feudalism's swath has been both extensive and pervasive. It has deeply influenced the development of legal systems not just in England but in countries the world over that were either former colonies or under the sphere of influence of the British Empire. These include the United States and Singapore, among others. (Wikipedia 2014). In the United States, real property transactions are governed by state law influenced by English common law. Forty-nine of the 50 states have adopted, incorporated or grafted elements of English common law into their legal systems. Only Louisiana, a French possession sold to the United States in 1803 (Louisiana Purchase) did not formally adopt English common law, and instead adopted a similar code derived from continental Europe. (Wikipedia 2014).

Common Law Land Holding Concepts

This discussion looks at certain land holding concepts behind property rights and tenure that evolved from common law and affect the limits of ground lease structuring. These concepts include the axiom that land is immovable and distinct from chattel, which is movable. The term used to establish the nexus between people and land was "holding":

> The verb *tenir* [to hold, in French] was used to describe a person's control over land, as the noun, *tenement* could be used to describe the land he held. Indeed, the word *tenant* was used far more often than vassal in both England and Northern France to describe a person who held land of a lord. Before he held land, the tenant needed to be placed in control of it, and for this a different metaphor was used. The old French verb *saisir,* etymologically related to a word meaning "to sit," meant "to invest" or "to put in physical control. … England's French-speaking elites [the Normans] thus spoke of being seated on their land and afterwards of holding it. (McSweeney 2012, 1145).

Land holding rights allowed control and use of the land, but did not necessarily constitute ownership of the land estate, held originally by the Crown and later granted to a lord. During medieval times, other landholding concepts were beginning to take shape, including the meanings of *heritage* and *inheritance;* a person who inherited land had a stronger claim than someone who acquired it by other means. For example, the eldest son would generally be the one to inherit the land, and therefore had greater claim than whoever was the landholder, .i.e., the tenant. (McSweeney 2012, 1145-46). Differences and disputes arose over use and rights to the land. These disputes would be adjudicated by the royal courts, and their cumulative rulings led to a body of precedents shaping the common law. Terms such as the "lease for a term" came into usage, which eventually led to the modern principle that leaseholds are considered non-freehold estates, that is, ownership interest for a defined length of time. (McSweeney 2012, 1152). A freehold estate became one in which the land could be transferable to the holder's heirs, and also known as a fee simple estate. A fee is now defined as an estate in land or an ownership in land that cannot be defeated by the previous owner or owner's heirs. It is the greatest interest in a parcel of land that one can possibly own. (Wikipedia 2014).

Another important evolution in common law development of land rights is the concept of alienability, or the right to no longer own, or the right to sell. (Kelly, Jr. 2010) This is known as the rule against unreasonable restraints on alienation. (Kelly, Jr. 2010, 26) Associated with this concept of alienability is the "rule against perpetuities" or RAP, which states that "no interest is good unless it must vest, if at all, not later than 21 years after the death of some life in being at the creation of the interest." (Wikipedia 2014). A property interest "vests" when it is given or transferred to a person or "life in being" (someone who is currently living or in gestation/has been conceived). This rule limits the vesting time period to a maximum of 21 years after the death of the last identifiable individual living at the time the interest was created. The rule is important because it specifically prohibits tying up property so that it cannot be transferred or vest title in another forever, for several future generations, or for a period of centuries. In other words, a current owner cannot attempt the sale or other transfer of real property either forever (in perpetuity) or for an extremely long period of time, as such an arrangement would be deemed a restraint on the freedom to transfer property.

The 99-year lease term is yet another common law legacy. Ninety-nine years was considered the longest possible term of a lease of real property tied to 100 years as the maximal life span of an individual. While in modern times, 99-years has been used as the customary legal maximum lease term and is the maximum lease term in many states in the US, lease terms in some situations have been longer. That notwithstanding, curiously, English common law has allowed 999-year leases, but such terms exist today mainly in Britain, some of its former colonies, and the British Commonwealth. (Wikipedia 2014).

Ground Leasing Structure[5]

Fundamental to ground leasing is the separation of land ownership from the use of the land. Two separate estates or interests are created. Each interest is owned by a different entity. A ground lease, which is a legal agreement or contract, is the mechanism that defines the bifurcation and links the two interests. The landowner or landlord, leases land to the user, the latter also known as the tenant or leaseholder. The ground lease establishes parameters for use of the land. Ground rent or ground lease fees are paid periodically by the tenant for use of the land. The duration or term of ground leases is typically long, from 21 years to 99 years.

Historically, from as early as the 6th century Roman civilization period and through and beyond the 11th century Norman England period, leased land was used mainly for agricultural purposes. The advent of the industrial revolution in the 18th through 19th centuries expanded the use ground leases to land in cities. Today, ground leasing in urbanized areas is typically often between land owners and tenant-developers to build commercial ventures, such as shopping centers and office buildings.

Advantages exist for both landowners and tenants to enter into ground leases. For the land owner, typical reasons include retention of the land for the long term and if the lease does not prohibit it, reserving the opportunity to use the land for some other future purpose than the use permitted under a current lease. For tax planning purposes, the owner may also not want to be immediately saddled with capital gains taxes resulting from a sale of real property. For a tenant or leaseholder interested in real estate development of the land, a major advantage is not having to come up with a large initial outlay of cash to buy the land. From a business perspective, land is not depreciable tax-wise, but improvements are. Ground rent is deductible as an ordinary business expense. A memorandum of ground lease is usually recorded on the land. Its effect is like a lien or monetary claim on the land, affecting the title and hence its value should the property transfer to another entity.

A ground leasing transaction is much more complicated than a straight land purchase-sale, especially if the transaction involves real estate development on the leased real property. Most real estate developments involve financing, or obtaining a loan from a lender, and it is issues related to financing that complicates the transaction that much more. In a standard real estate development project, the

[5] Research for this section is primarily from: The Truth About Ground Leases, http://www.pli.edu/product_files/booksamples/642_sample1.psf; and "Ground Leases: Basic Legal Issues," Florence P. Mayne, J.D., Association of University Real Estate Officials, The University of Texas System, 22nd Annual Meeting, 9/24/2002.

construction loan is typically secured as a recorded lien collateral on the real estate title. In other words, if the borrower has defaulted on the loan, that is, the borrower is unable to make payments due on the loan, the lender may foreclose through set legal proceedings to assume ownership of the property and sell it to get the loan paid off.

In a leasehold transaction, the lender is typically limited to security on the leasehold interest only, though the lender would prefer the land itself as collateral; the landowner would have to approve this latter arrangement of "subordination of the fee interest"; the loan is then recorded as a lien on the land. Should the tenant-developer default on the loan, subordination of the fee would permit the lender to foreclose on the land to recoup repayment on the loan, and the owner loses the land. But subordination of the fee by the land owner is generally discouraged and not common in affordable housing transactions.

Regardless, voluminous documents are required to be generated, negotiated, and vetted for even the simplest leasehold transaction. Ground leasing involves the negotiation of a host of terms and provisions, including various default issues in addition to financing, permitted uses, liability, damage and destruction, subletting and assignment, duration of the lease, commencement, lease payments, and escalation clauses among the more typical considerations. The duration of ground leases should be longer than the term of the financing. As noted elsewhere, the typical ground lease term is for 99 years, but may be longer or shorter. A 99-year term provides the leaseholder with an interest equivalent to fee ownership estate (ownership rights equivalent to the landowner's).

Chapter Summary/Conclusion

Ground leasing is complicated, far more than straight-forward acquisition of land. As a basic primer on ground leasing, this chapter offered both historical context and nuts-and bolts discussion of ground leasing. The common law practice of the 99-year and the principles pertaining to the rules against perpetuities and against unreasonable restraint on alienation affect how ground leases are structured, as will become evident later in discussion of the four housing models in Chapter IV. Meanwhile the next chapter attempts to provide a critical review of pertinent literature related to the subject of ground leasing as either a mechanism, metaphor, or motor to further affordability within the affordable housing arena.

III. Literature Review

Overview

A paucity of literature exists on the direct impact of ground leasing as a specific tool in furthering affordable housing, but pertinent literature does prevail on housing models that employ ground leasing, particularly the community land trust. In terms of other models utilizing ground leasing, critical discourse have tended to focus on social outcomes, with ground leasing taking a demure role. Review of the pertinent literature, either directly or indirectly involving ground leasing, may be understood along dual perspectives - one within a philosophical context, and other, within a practical nuts and bolts context.

The overarching argument advocating for a civil society for all its members frames the philosophical contours of this thesis. This argument acclaims a civil society builds and strengthens caring communities; ensures economic security; and promotes social investment by directing resources toward the development of people and encourages the creation of partnerships and collaborations. Citizens are encouraged to become active agents of change in their communities. Governments have a role in supporting citizen-involvement and community problem-solving. Governments should take an active role in income redistribution and social investment. (Torjman 1997).

In the quest to further the development of sustainable affordable housing, it has been argued housing advocates and policy planners should be cognizant of certain inevitable tensions, the recognition of which may facilitate policy and program innovations. (Bryne and Diamond, 2006). One such tension is premised on the belief that housing is a fundamental human need, and as such, adequate and affordable housing is a necessary element for escaping poverty. In structuring affordable housing programs, advocates and policy planners need to balance the following: how best to provide affordable housing – through deregulation or through subsidy? If it is asserted "paternalism favors the housing subsidy," then should the subsidy go to the developer of affordable housing or directly to the resident? Should the affordable housing be concentrated in efficient enclaves or dispersed in economically diverse neighborhoods? When providing housing at below market costs to lower income beneficiaries, to what extent should the beneficiaries enjoy wealth accumulation for themselves and to what extent should the wealth be preserved for future residents? It has been further argued these various tensions be worked out against elemental objectives of subsidized housing: decent shelter; wealth creation; social integration; urban vitality; civic engagement; resident training; institution-building; and efficient use of funds. (Byrne and Diamond 2006).

Appropriate responses to the above questions demand that they be formulated within a like-sense of housing justice. Along this vein, there exists compelling literature advocating for serious consideration of policy embracing a uniquely American land reform which restructures the tenure and property ownership system, with affordable residences recast as social housing, or shared equity housing when structured as ownership housing.

John Emmeus Davis, a fierce affordable housing advocate, has written extensively on the idea of alternative non-market housing based on a new American form of tenure, what he termed as a "third sector" of private, nonmarket housing. In a 1994 paper, he wrote that the on-going process of innovation and experimentation with new housing tenure forms taking place has been motivated by three factors: perpetual affordability; accountability; and mutual aid. He classified the emerging continuum of such social housing into to six basic models. This spectrum, ranging from homeownership models on one end to rental models on the other end, comprised the following types (and described later below or later in this paper) : (1) deed restricted owner-occupied housing; (2) community land trust (CLT), in which the land and the housing are each owned separately, with the land owned by a nonprofit and the housing owned by the occupant; (3) limited equity condominium; (4) limited (or zero equity) cooperative, in which residents buy shares in a nonprofit corporation which operates the affordable housing; (5) mutual housing association (MHA), housing owned collectively by a resident-controlled nonprofit governing the housing management; and (6) various forms of nonprofit rental housing. He acknowledged that four of the six models carried inherent organizational design defects that allowed for the potential removal or loss of continued affordability. A fifth model, the MHA, was in effect a permutation of the four models. The sixth model, the CLT, emerged as the only definitive model with enforceability measures for long-term affordability. (Davis, Reallocatin Equity: A Land Trust Model of Land Reform 1994). The CLT form was the only structure specifically involving ground leasing, a bifurcated ownership of land separate from the housing.

Other studies, while they did not call out benefits of ground leasing per se, did review three shared equity housing types within the scenario of alternative non-market housing against desired social and economic outcomes. The models are: the (1) limited equity coop (LEC); (2) the mutual housing association (MHAs); and (3) the community land trust (CLT). Tentative conclusions reached included: All three models are posited as part of a system that attempts to forge a new relationship between individuals and the community in the name of collective ownership; the community becomes an economic partner of sorts; all these models allow for some degree of local control and autonomy; all permit some amount of wealth generation by the resident-occupants; all are emblematic of an economic institution that is participatory and democratic; and capital accumulation is locally owned and controlled. (DeFilippas 2004) (Bratt, Diamond and Hartman 2006) (Davis 1982).

Community Land Trust Model

Of the three model types, the CLT is purported by advocates as the definitive land reform archetype to perpetuate affordable housing longevity, particularly in the ownership situation, but this model can work for other tenure forms as well. The CLT model reallocates equity and ownership, and has as its goal to provide for permanent affordability that transcends generations. The ground leasing structure is at the heart of this model. To social and housing justice advocates such as Davis, the CLT is emblematic of an economic institution that facilitates a transformation of power relations. This success of this structure is heavily intertwined with a stewardship that in its ideal form, includes a collaborative membership consisting of residents, the community, and perhaps even government. (Davis 1982) (Mattei 1992). This stewardship is seen as absolutely critical to maintaining durable affordability and building a system that enhances social cohesion among the residents and community.

In separating ownership and equity, the CLT model removes land from the speculative market. The value of the land is captured permanently for a public or community interest, though maintained privately and in perpetuity through the vehicle of the land trust. A portion of the housing equity is transferred to individual leaseholders who own their own home or housing unit, and accrue wealth in measured increments. (Davis, 1984) (2010).

The CLT model is seen as achieving three housing objectives associated with the creation and maintenance of a civil society: (1) provides decent affordable housing to those who most need it, and with the essential benefits of homeownership where appropriate; (2) preserves the affordability of these units without requiring an endless succession of subsidies; and (3) builds an economic base in their communities and enables the residents to meet a greater share of their own needs. The CLT model is touted as an effective mechanism to shift and transform subsidy to equity. (Mattei 1992).

In 2003, the CLT activist John E. Davis and a collaborator published a study corroborating his assertions on the benefits of CLTs. (Davis and Demetriwitz 2003). Resale data were examined from one of the early modern CLTs, the Burlington Community Land Trust (BCLT) in Vermont. They found that between 1984 and 2002, of the 259 moderately-priced homes under BCLT's control, 97 homes (37%) switched hands. This study showed that the CLT-imposed affordability controls resulted in: (1) preserving affordability; (2) retaining community wealth (ie, public subsidies to lower purchase price); (3) enhancing residential stability and expanding homeownership opportunities for yet another generation of low income households (with incomes below 80% of area median); (4) creating individual wealth, albeit not substantial; and (5) enabling residential mobility, comparable to that of market-rate home sellers. While the study was admittedly limited in terms of sampling, place and time, Davis was surprised to find a majority of the home sellers (at least 60 of the 97 sellers) transitioned to purchasing market-rate homes. Also interesting is that while CLT housing technically removes land, a significant component of home sales equation, outside the capitalist market system, home resales are nevertheless tightly tethered to the vagaries of the speculative market, especially in terms of the equity upside a home seller may garner, the interest rate on a conventional mortgage at time of purchase by a new qualified buyer, the time frame to secure a subsequent qualified buyer, and of course, affordable income levels of lower income buyers.

A central contradiction regarding human resource allocation is triggered in the attempt to achieve scale with the CLT or any model that emphasizes local autonomy and control, and fiscal self-sufficiency. (DeFilippas 2004) (Byrne and Diamond 2006). Providers of these housing types largely rely on developer fee earnings generated from continued successful housing developments to sustain on-going operations of the stewardship organization. These organizations typically operate with a small staff and must balance the needs for development of physical capital with development of social capital (e.g., organizing of residents and the community to build capacity). An inverse relationship may exist between staffing for new development activities and staffing to build commitment and organization for local control and autonomy. That notwithstanding, seeking ways to balance competing demands and to work effectively in both the worlds of "profitability and social change" are critical to the perpetuation of these social housing models on mass level. (DeFilippas 2004).

Other Models

Whether characterized as land reform initiatives or social ownership of housing, advocates of social housing are articulating for an expanded social housing agenda to include the development of policies and programs that ensure security of tenure and permanent affordability for a larger segment of lower income groups, regardless of their tenure relationship. (Bratt, Diamond and Hartman 2006). Shared equity ownership models, particularly CLTs, are conspicuous on the agenda. Of late, emergent discussions are surfacing on land reform prototypes involving rental housing and hybrid variations, particularly important in high cost urban jurisdictions where multifamily housing abound.

CLT and Limited Equity Coops (LECs)

Superimposed on the CLT which owns the land, limited equity coops allow for the resident to own a share in the nonprofit corporation, which owns the overall housing. This type of housing is known as zero-equity or limited equity coops if upon resale the resident's return on their initial investment is limited by some formula. Calculations may be based on increases in the area median income or Consumer Price Index (CPI), or in the case of zero-equity coops, the return may merely be the resident's downpayment/security deposit (indexed to some interest rate).

A February 2013 report sponsored by the National CLT Network undertook a feasibility assessment of this hybrid model by looking at five case studies on the East and West Coasts. (Ehlenz 2013). (One of five CLTs, the San Francisco Community Land Trust evaluated, was also one of the models evaluated for this thesis.) The report found this LEC model served a gap in the lower income homeownership spectrum, particularly for those households who would not qualify for individual mortgages on their own and in localities where land costs were especially high. These hybrid LECs provided a collective approach to homeownership. While collaboration was key, it was not without its attendant challenges associated with self-management.

Public Ground Leasing via Public Housing Authority (PHA) "Privatization" Model

An argument for public ground leasing was made in a June 2013 report on the state of the San Francisco Housing Authority public housing inventory, "SFHA Re-Envisioning: Recommendations …on how to transform the San Francisco Housing Authority." This report spoke of the housing authority's overreliance on decreasing federal funds and the need to envision an enhanced public-partnership involving several players: City government, HUD, affordable housing developers, community-based organizations, and public housing residents. The report specifically called for "using a public-private land trust model within 3 years" to upgrade a minimum of 2,000 homes out of some 6100 units in the public housing portfolio. (Kelly and Lee 2013) . The report highlighted poor social outcomes in the Housing Authority's current approach to public housing management, most notably an organizational weakness in fostering resident and community empowerment and the persistence of inter-generational poverty. (Kelly and Lee 2013).

In terms of PHA privatization efforts, critical papers have been written on the social effects of public housing transformational efforts on the residents (Popkin, Levy and Buron 2009). One paper of note involves an examination of HUD HOPE VI redevelopment efforts in the early 2000s. HOPE VI efforts encouraged a palette of bold initiatives, including demolition and renovation, relocation of residents to other public housing as well as to market rate housing with vouchers in hand. While the paper does not directly reference ground leasing per se, this paper is instructive for understanding the complex relationship between privatizing public housing, which involves ground leasing, and its building of social capacity. This study found that on the whole residents fared better when they moved into private rental housing, though it was acknowledged these residents were also those that tended not to be the "hard-to-house" residents. This study, however, was limited to private rental housing off-site. In contrast, San Francisco's current efforts focus is on converting and privatizing existing public housing inventory without displacement in a city severely limited by availability of rentals in the private market for voucher holders amid overall escalating housing and land costs.

Singapore Public Housing Model (International Model)

The public housing model in Singapore appears as an outlier in the grander discussion of ground leasing to advance affordable housing. It is an international model involving ground leasing scaled at great proportions. But there may be some parallel comparisons and provocative lessons, notwithstanding that over 80% of its city-state's five million-plus residents reside in public housing, of which 95% are now owner-occupants. The land is held by the government, and in the case of its ownership housing, ground leased to individual household occupants who hold title to their housing unit. Once a concentration of substandard poverty housing, Singapore now boasts a stalwart middle class buttressed by the government's epic public investments in housing, much of which is multifamily high-rise in nature.

Numerous studies continually to be undertaken on Singapore's housing model and its transferability to other regions of the world. While none of the studies focus on the mechanism of ground leasing itself, two studies are noteworthy. One examined the city's upwardly mobile aspirations toward private housing outside the public ground leasing model. (Wong and Guillot 2005). This study provides an exhausting historic backdrop of the development of public housing morphing from rental to ownership in the span of Singapore's 50+ year history. The second study looked at the government's provision of social housing and the impact of Singapore's welfare approach in tweaking various benefits in response to economic fluctuations, as catalysts for maintaining and improving the quality of life of the residents. An important underpinning of economic self-sufficiency of Singaporeans is the government's requirement of forced savings of the country's labor force. This forced savings system, known as the Central Provident Fund (CPF), can be used for limited purposes, including education, health, and retirement, and for purchasing and financing a home. (Phang 2014).

Chapter Summary/Conclusion

The available literature on the afore-mentioned comparative models – two versions of CLTs, public ground leasing via PHA privatization, and the Singapore public housing model – did not directly investigate ground leasing as a land reform mechanism, but did explore, as in the CLT model (Davis), the effectiveness of ground leasing controls essential to a particular model's uniqueness, or the socio-economic effects on residents' lives facilitated by the ground leasing models (DeFilippas 2004) (Wong and Guillot 2005). Some of the literature have ventured to delineate specific criteria in the name of social equity and/or housing justice, and these criteria can be used in further evaluating the relationship between affordable housing, land, and tenure. (Torjman 1997) (Byrne and Diamond 2006). All of the referenced literature have touched in some fashion on desired outcomes or evaluation elements toward strengthening this intersection of housing, land, and tenure. These elements span the following objectives: creating decent affordable housing, especially for lower income groups; efficient use of public funds; preserving long-term affordability; wealth creation (if ownership housing); social integration; urban vitality; civic engagement; building social capital and capacity; fostering partnerships and collaboratives; building durable institutions; and social mobility. It is this very enumeration that informs the aim of this thesis – to define and evaluate the effectiveness of ground leasing in further affordable housing, particularly its longevity and durability. The next chapter provides a discussion on the research design approach to investigate the effectiveness of ground leasing in furthering long-term affordability in selected affordable housing models.

IV. Research Approach & Method

Overview

The aim of this thesis was to examine the effectiveness of ground leasing as a land reform mechanism to achieve long-term, if not durable, housing affordability. Ground leasing separates ownership of the underlying land from the dwelling sitting on it. The hypothesis is that ground leasing can be effective so long as other controls or ancillary mechanisms are set in place. A working definition of effectiveness based on five factors was developed to test the hypothesis. Effectiveness can be filtered through the following five factors of: (1) affordability (2) efficiency; (3) security, equity, and legacy (Davis 2010); (4) community; and (5) multiplicity. These factors are defined further later.

Four models using were examined. Research involved interviews of a representatives from each of three different Bay Area entities; the fourth model, the Singapore public housing model, was researched via only existing written materials and the internet. Information gleaned from research of the four models fed into a comparative analysis, focusing on ground leasing's effectiveness in achieving long-term affordability. The four models represent a continuum of sorts. Three models involve ground leasing and one involves a slightly different leasing mechanism - long-term master leasing. A master lease is structured such that upon expiration of the lease term, the entire control of the property reverts back to the owner. In terms of land ownership of the four models, two of the models are small nonprofits, and two are government entities. Two focus on homeownership housing, and two deal with either rental or a tenure form resembling rental. The table below summarizes their attributes.

Model	Organization/Entity	Org. Type	Mechanism Separating Land From Dwelling	Tenure & Housing Type
Community Land Trust	Housing Land Trust of Sonoma County (HLTSC)	Nonprofit (Lessor)	Ground Lease (99-year to Homeowner Resident)	Homeownership of single family or townhouse units
Community Land Trust	San Francisco Community Land Trust (SFCLT) (SF-based)	Nonprofit (Lessor)	Master Lease to Limited Equity Coop or 3rd party NP (99-year term)	Collective ownership via LEC or resident-owned NP - Existing small apartment bldgs (</= 25 units)
Privatization of PHA Units	City of San Francisco Mayor's Office of Housing (in partnership with SF Housing Authority) (SF-based)	Govt [local] (Lessor)	Ground Lease to designated nonprofit affordable housing developers/operators (75 plus 24 yr-term, for total 99- year term)	Rental - Existing multifamily units (PHA units)

Model	Organization/Entity	Org. Type	Mechanism Separating Land From Dwelling	Tenure & Housing Type
Singapore Public Housing **(state welfare model)**	Housing Development Board (International-based - Singapore)	Govt [Internat'l] (Lessor)	Ground Lease to homeowner of multifamily unit (99 year term). [Also Number-of-Years-Remaining lease]	Mostly ownership – new and existing high-rise units (flats). Rental – existing high-rise units (flats).

Figure 1 Summary of Ground Leasing Models

Effectiveness Factors

Five factors were developed to examine durable affordability via-a-vis ground leasing. These factors are: affordability; efficiency; "security, equity and legacy" (Davis, Origins and Evolution of the CLT in the United States 2010, 23); community; and multiplicity. These evaluation factors are described in greater detail below:

1. Affordability – To what extent does ground leasing through the different models provide for affordability depth and length? In terms of length, how durable is the affordability? Can there be permanence, allowing subsequent lower income occupants to benefit? Affordability is defined by HUD criteria. HUD has established affordable income levels for lower income households at 30%, 50%, 60%, and 80% of area median income (AMI), adjusted by household size. Depending on the federal housing program, a lower income household should generally not pay more than 30% of household income for housing costs pegged at levels of 30%, 50%, 60%, and 80% AMI. Housing costs consist of either rent or mortgage payments, including utilities, and if applicable, homeownership association dues, taxes, and insurance. Affordable rental programs tend to serve the lower end of the lower income spectrum while homeownership programs tend to target the upper end; some state and local programs target households as high as 120% AMI.

2. Efficiency – How efficient are the use of public subsidies? Efficiency will be defined by the extent to which public subsidy investments to maintain continued affordability are non-recurrent. The establishment of affordability typically requires, at minimum, some amount of initial public subsidy. The rental model tend to require on-going subsidization in the form of rent subsidies. To what extent is/are the public investment(s) protected? How does ground leasing through the various models, ensure public accountability?

3. Security, Equity, and Legacy– In terms of the homeownership model, one of the few opportunities to accumulate wealth for households with limited resources is through equity build-up in their homes. This may be considered a type of forced savings, though somewhat illiquid. That notwithstanding, asset-building via homeownersip is the premise of the American Dream and viewed, particularly by lower income households with few other resources, as a critical element to attaining self-sufficiency and economic security. Since the homeownership models limit equity build-up, to what extent can these models provide for socioeconomic mobility for present and future generations?

4. Community – It has been posited that since ground leasing as a tool requires maintenance and monitoring and a degree of stewardship, these activities seed the growth among residents of community empowerment and re-connection to community. Also, to what extent can a nexus be made linking the establishment of ground leasing housing models to greater neighborhood rejuvenation and stabilization, especially in communities beset by disinvestment and/or gentrification?

5. Multiplicity – Are the models scalable? To what extent are there opportunities for replicating the ground leasing models and scaling up? In terms of the Singapore model, what elements in the Singapore model are transferrable to American soil?

Housing Models

A. Housing Land Trust of Sonoma County (HLTSC or HLT)

Context/background. Formed in 2002 as a nonprofit corporation, HLTSC is based in Sonoma County (approximately 40 miles north of San Francisco). The County comprises 9 small cities plus the unincorporated areas. HLTSC's mission focuses on single family home ownership opportunities for low and moderate income working families (with household incomes from 35% to 120% AMI). Its board consists of 6 members of the community with particular expertise or interest representation, and none of whom are land trust residents. The table at the end of this discussion summarizes HLTSC's portfolio of some 65 homes.

HLTSC's housing land trust holdings have been primarily acquired through local city inclusionary housing requirements of large subdivisions. The inclusionary housing units are constructed by builders in conjunction with the market-rate housing. To date, HLTSC has created or facilitated the development of 42 completed homes in three subdivisions. Another 21 units are underway in two subdivisions, for a total of 65 homes in 5 cities in Sonoma County. Ten homes have gone through resales.

1. Affordability. The homes are targeted to families with incomes as low as 35% AMI up to 120% AMI. The intermediate income groups are 50%, 80% AMI. When homes are resold (as of 12/2014, 10 homes have gone through re-sales), the homes are targeted to the original target income group associated with the home. HLTSC's first six homes were built by the local Habitat for Humanity, and targeted households at 35% AMI.

   HLTSC's ground leases are for 99-year terms. Each time a home is resold, the lease term is reset to another 99 years. All homes must be owner-occupied. HLTSC monitors own-occupancy through efforts at building personal contacts, including monthly emails. Monthly ground lease payments range from $10-$15 month for the earlier homes, to $95/month, for the more recently acquired and resale homes.

2. Financial Efficiency. The homes are built by third party builders or developers. HLTSC does not see itself as a developer. Through various legal mechanisms, inclusionary housing instruments and agreements, the properties are generally deeded to the City, which in turn conveys them to HLTSC.

Conveying the property to the City guarantees the builder a charitable tax donation in the process. Upon completion of the houses by the builder, HLTSC acquires the homes essentially fully subsidized. The entire process is consummated by voluminous legal documents, including three-party agreements with City and developer required to facilitate the various transactions. The various legal documents include one with the City that provides for land to revert to the local city jurisdiction in the event the HLT ceases operations.

HLTSC is charged with the responsibility of selling the homes to income-qualified buyers and executing a ground lease between with the homebuyer. Consistent with the classic CLT model, HLTSC has not had to rely on additional subsidies in the resale phase of their 10 homes.

3. Security, equity, legacy. Since CLT homes are not volume-generated, most lenders don't understand the mechanics of CLT home ownership. A mortgage is required to purchase the home, not the land. On CLT homes, the mortgage loan is secured by the long-term leasehold interest instead of the land. But HLTSC has been fortunate that a local loan broker has championed the model and facilitated loans for the various home buyers. (Many HLTSC homebuyers have benefited from loans under the Fannie Mae My Community Loan Program, which allows down payment as low as 3% and more flexible underwriting for certain workforce buyers – eg, teachers, police officers, firefighters, health care workers.) Working in conjunction with HLTSC which imposes income requirements, the loan broker qualifies the buyer's income using conventional mortgage underwriting criteria. The homeowner pays property taxes on just the value of the home itself. HLTSC has had to develop relationships with each affected municipality to negotiate separate assessments for the land and the homes.

   As noted above, 10 home have gone through re-sales. HLTSC's resale formula offers a modicum of wealth accumulation for its home sellers. The formula is indexed to increases in the HUD median income for the county and takes into account the capitalized value of capital improvements. Homeowners must obtain CLT approval to install improvements exceeding $2,000. Among other stipulations, the ground lease states that if outlandish improvements, such as zebra carpeting is installed, the home seller becomes responsible for restoring the home to standard condition at resale ("zebra carpet clause").

   Homes have been successfully re-sold to new qualified buyers. As in private market, the homes are sold from home seller directly to homebuyer (though the ground lease does provide for the HLT to purchase the home as necessary in the event a qualified buyer cannot be found in a timely manner). Home resale prices are based on a formula indexed to area median income. Marketing for both new and resale homes are done through local newspapers, HLTSC's website, and direct outreach to local employers, including government employees, the school district, etc. All marketing is done in compliance with fair housing requirements.

   In terms of mobility data of recent home sellers, homeowners are expected to become upwardly mobile as most residents are local workforce. Two moved on to market rate homes, with one having inherited a market-rate home. One head of household joined the military. One sold the home due to divorce. (Data are unavailable for rest of the home sellers.)

4. Community. HLTSC's board is committed to stewardship – management of long term affordability and building social capacity. Stewardship is considered the underpinning for perpetual affordability. HLT performs annual income certifications, but residents only need to income-qualify at time of

purchase. A quarter-time full-time employee (FTE) is responsible for day-to-day tasks of stewardship, including on-going monthly contact with the homeowners. HLTSC's work includes establishing and maintaining individual relationships with residents and building resident relationships. Residents are encouraged to become CLT "ambassadors," by speaking out at city council meetings, and being interviewed (for marketing videos and news articles) about virtues of CLT home ownership.

HLT's governing board of directors consists of 6 members, with two founding members still on board, including the executive director. While no resident is on the board to date, HLT is not opposed to it. According to the HLT, many residents are local workforce constituents and are very busy with their daily lives. (Goetschius 2014). To build and maintain community spirit and activism, HLTSC sponsors various community events which foster residents to mingle and work together on community activities.

5. <u>Multiplicity</u>. HLT does not do housing development, hence cannot depend on developer fees. Instead, time is spent on structuring and facilitating the deals, each being different. According to the HLT, financial breakeven requires it to have at least 150 homes in its portfolio, at an average ground lease fee of $55/month. (Goetschius 2014). This translates into just under $100,000/year. Staff currently consists of the executive director plus 0.25 FTE. The executive director also is a CLT consultant for Burlington Associates which pays her a consultancy fee for her work. HLT is currently sustained by annual fundraising events, receipt of program administration of two City homeownership programs.

   Organizationally, HLT also is supported by City fees from two local cities to administer local homebuyer programs. HLTSC also collects fees for capitalizing improvements at some sites. But these revenues are set aside for specific physical improvements and not for CLT sustainability.

Housing Land Trust of Sonoma County (HLTSC)

	Project	CLT Units	Location*	Total in Devt	Notes
	Completed				
1	Kali Subdivision	10	Santa Rosa	10	6 built in partnership with HH/4 by for-profit builder. Land owned by HLTSC
2	Frates Square/ Southgate	26	Petaluma	~ 200	Inclusionary units required by City\part of Southgate Subdivision, built by Delco Brothers
3	Existing workforce units: Ioli Ranch	2	Cloverdale	NA	City of Cloverdale partnership - to preserve 2 units as affordable workforce housing
4	Sonata Subdivision	6	Healdsburg		Partnership - City & D.R. Horton developer
	Subtotal	***44***			9 have gone through re-sales. 52 families served to date.
	Under Development				
5	Local subdivision	10	Healdsburg		Partnership with City (with inclusionary housing requirement); 2 of the 10 units have been completed as of 12/2014.
6	Local subdivision	11	Cotati		Partnership with City (with inclusionary housing requirement)
	Subtotal	***21***			
	TOTAL	**65**			

✳ Cities in Sonoma County: Cloverdale; Cotati; Healdsburg; Petaluma; Rohnert Park; Santa Rosa; Sebastopol; Sonoma, and Windsor

Figure 2 Housing Land Trust of Sonoma County Portfolio

B. San Francisco Community Land Trust (SFCLT)

Context/background. Formed in 2003, SFCLT is a membership-based, nonprofit corporation with the mission of creating permanently affordable, resident-controlled multifamily housing for low- to moderate-income residents (incomes up to 120% AMI) in San Francisco through community ownership of land. This is explicitly achieved by removing land from the resale market, thereby rendering the units affordable in perpetuity. The table at the end of this discussion summarizes SFCLT's portfolio of 54 units with another 13 in negotiations, for a total of 67 units.

Initially SFCLT formed in response to proposed legislation that would allow tenants to buy their own apartments as limited equity condominiums. (Condos are defined as individually owned units in townhome developments or multifamily housing developments. The concept of limited equity condos involves limiting the return on one's homeownership investment at resale to create affordability for subsequent buyers.) Only CLTs would be able to undertake these conversions and the apartments would be offered to tenants at an affordable price. In 2005, SFCLT changed its purview to conversion of rental buildings to limited equity coops rather than condos. Their stated vision is "to preserve San Francisco's diminishing affordable housing stock by acquiring and converting rental buildings into permanently affordable, limited equity housing cooperatives – an alternative form of homeownership."

SFCLT's charge is unique in that it fills an important void in the San Francisco affordable housing market by targeting existing smaller buildings that other affordable housing developers have deemed not financially feasible to upgrade and/or manage due to their small size and scattered-site location. SFCLT's current portfolio consists of properties ranging in size from 4 to 21 units. None are over 25 units. Most of the buildings acquired have been in response to appeals by low income tenants threatened with loss of their home due to eviction, including Ellis Act evictions (The Ellis Act is California State law permitting legal tenant evictions if the owner desires to get out of the rental business).

Different than the classic CLT model, SFCLT has found that master leasing versus ground leasing, is better suited to its housing type and needs. As their properties are all multifamily and given State regulations regarding property taxation, master leasing better accommodates the management of separation of housing from land in perpetuating affordability. The CLT executes 99-year master leases of the properties to the coops or, as the case may be, to the tenant-owned nonprofit corporation. Under California law, leases for properties with terms of 35 years or more are considered "owned" by the lessee. (California State Board of Equalizaton 2015). As such, the nonprofit corporation gets to claim below market rate property tax deductions (welfare tax exemptions). To date, the CLT's only limited equity coop is benefiting from discounted property taxes due to a negotiated tax structure based on the original limited equity downpayments of the low income buyers. According to the "LEC Report," prepared by the National CLT Network (Ehlenz 2013), SFCLT has found "that LECs can be more costly to develop and operate with fewer benefits in CA than resident-operated rental properties. A resident-operated non-profit allows the property to take advantage of tax exemptions available to rentals."

1. Affordability. Most of SFCLT's acquisitions were assisted with City funding, which requires that an affordability covenant be recorded. The occupants are predominantly low and moderate income (incomes at or below 80 and 120% AMI). While residents' incomes may rise over time, the properties need to have an average overall income not to exceed 80% AMI to stay in compliance with City funding.

SFCLT's master leases also impose an affordability requirement for initial qualifying incomes of low and moderate income. SFCLT monitors for compliance through annual income certifications.

To engender and sustain a level of continued financially feasibility of its properties, the CLT has marketed vacant units at rents catering to households earning up to 120% AMI, a category indicative of moderate income as opposed to low income. As noted earlier, the average household income should not exceed 80% AMI in order to stay in compliance with City financing affordability requirements.

2. Financial Efficiency. Of its five properties, the CLT has formed to date only one limited equity coop, and another separate nonprofit owned by the tenants to manage their own building. In pursuit of durable affordability, the CLT's website explains:

> A limited equity housing co-op creates bylaws that limit the maximum resale prices of co-op units, which limits each unit's equity appreciation. Typically, this strategy is employed in order to maintain long-term co-op housing affordability and retain the value of any public subsidy that may have been used in financing the creation of the co-op. Because of their potential for offering long-term affordable housing, limited equity co-ops are attractive recipients for government and no-profit grants and loans. (San Francisco Community Land Trust 2015).

Funds to acquire and/or rehab the CLT's properties have been leveraged by public financing. The City's Small Property Acquisition Loan Program has been recently expressly established to address the needs of nonprofits to acquire small apartment buildings. SFCLT has taken advantage of this program to acquire its latest property, a 4-unit building.

As the CLT units are legally considered rentals, they may be also assisted with housing authority-administered rental subsidies, which essentially bridge the difference between 30% of a tenant's ability to pay and the market rent. These on-going rent subsidies help stabilize a project's cash flow to ensure sustainable operations. Currently none of the CLT units have project-based vouchers (Section 8 rent subsidies attached to the unit versus the tenant), but a couple of the residents are on housing choice vouchers (housing authority Section 8 rent subsidies attached to the tenant). The CLT has indicated it would not mind benefiting from more rental assistance and has registered with housing authority as being interested in being qualified to receive residents with tenant-based/housing choice vouchers. (Zekas 2014).

To support CLT operations, the CLT charges an on-going asset management fee on its properties. (Typical master fee arrangements also charge a master lease fee, but it is unclear if the CLT in this case charges a master lease fee over and above the asset management fee.) At this point, property management is handled by a contracted third party. Limited information on this structure suggests a potentially precarious sustainable financial arrangement. For their projects undergoing rehabilitation, the CLT does charge a developer's fee to pay for staff time and resources.

3. Security, equity, legacy. The CLT has experienced some resident turnover of its units. At resale/turn-over, residents of the limited equity coop will be able to receive back their original down payment investment plus an increase in accordance with increases in the Consumer Price Index (CPI). For units that will not be structured as "zero-equity" coops, the residents can expect to get a moderate appreciation as a limited equity owner. The Indexed appreciation along with the

affordable monthly housing costs are structured to enhance a resident's sense of economic security and the ability "to participate in the process of family asset development as a means of economic mobility." The CLT's website proudly asserts:

> Land Trust affordable housing units enable their resident-owners to enjoy the benefits of homeownership at price points calibrated to their actual financial capabilities, often at income levels significantly below standard inclusionary zoning BMR units, and with the possibility of indexed appreciation that creates a long term "nest egg" and asset base. (San Francisco Community Land Trust 2015)

As with the Sonoma land trust, the SFCLT has a "zebra carpet" clause which says if residents install something that adversely affects the marketability of unit, the resident will be responsible for its removal/replacement to a standard condition.

4. <u>Community</u>. Member engagement and community stewardship are key. Membership fee is currently $24/year. Education and training for resident self-management are at the nucleus of the CLT's philosophy of effective democratic self-management. Toward embracing the idea of community stewardship, the CLT governing board comprises 12 members, of which 1/3 are residents, 1/3 other nonprofit representatives, and 1/3 community members. The board has formed various committees to help bring focus and develop community capacity and connection. These committees are tasked to undertake such activities as outreach and organizing; project review and coop development; education; fundraising; and organizational finance.

   The CLT acknowledges that coop formation is a process in itself, requiring considerable investment of time and effort to organize and prepare low-income residents for self-management. The CLT admits that some properties are not good candidates for coop conversion. A couple of their small acquisitions (4-unit properties) will not be converted into coops and instead SFCLT will own and administer the units as rentals. Typically once the CLT vets a building for acquisition based both on its physical condition and the will of the residents, it will work to prepare the occupants for eventual collective self-management and ownership of their units through various trainings and community activities, both which the CLT views within the lens of larger community-building objective:

   > Once a family has secured an affordable, stable housing payment, they are able to focus on paying down debt, building credit, starting a small business, or saving for education or retirement. Land trust affordable housing enable their resident-owners to enjoy not only the benefits of an affordable home, with the possibility of gaining indexed equity appreciation that creates the benefits of a long term nest egg" and asset base, but also the benefits of a democratic structure for self-management. This creates a stable and capable community-building base that can extend beyond just property ownership to a more complete opportunity for resident empowerment. The process of cooperatively managing a building provides a starting point for engagement in the larger community and civic affairs. (San Francisco Community Land Trust 2015).

In addition to its unique niche in forming limited equity coops, the SFCLT is also a valuable resource to other CLTs in the Bay Area. Its Stewardship Coordinator is responsible for managing a bay area-wide data base of CLTs and their units.

5. <u>Multiplicity</u>. Sustainability breakeven is projected at least 100 units (Zekas 2014), supported by a combination of on-going asset management and project-based developer fees. The CLT's current operations are also supported by City Community Development Block Grant (CDBG) funding from

the City to support CLT's education sessions and trainings to prepare residents for self-management. Notwithstanding that the CLT has acquired some 54 units distributed among 5 buildings, only one building (21 units) has been formally converted to a limited equity coop and another (a 10-BR house) to a stand-alone resident-owned nonprofit. Both require continual guidance and support. This CLT hybrid model of either LECs or resident-owned nonprofits owning small apartment buildings is an especially challenging and ambitious one. Other CLTs have acknowledged the difficulty of organizing low income persons to do collective self-management. Also a noble endeavor, this model warrants careful watching and nourishing to ensure long-term success.

SF Community Land Trust (SFCLT) (Fig. 3)

	Project	Completed	SF Neighbor-hood	# Units	Tenure Type	Other	CLT Acq	Coop Formation Completion	Age Range of Residents	Notes	Who owns land/bldgs?
1	Columbus United Coop A/R	53 Columbus Av.	edge of Chinatown	21	limited equity coop (LEC)	Mixed use: ALC occupies ground floor.	2005	2011	seniors (mostly Asian)	LL was Community College District whose intention was to demolish bldg. CLT owns land, and bldg owned by tenant coop. Grand opening June 2009. Resident upfront equity $10K to $15K.	CLT - 99 master lease to LEC
2	The Purple House	966 Oak St.	Western Addition	10	Co-Hsg (10 BR House)	(resident-owned NP)	May 2012	1/1/2013	~21 - 70 years	Jan. 2013 - resident-operated NP coop (zero-equity coop). Purchased with funding asst. from MOH, SFFdn, Levi Strauss Fdn; mortgage from Clearninghouse CFDI; bridge loans. Resident security deposit $ 1,000. Currently no kids residing.	CLT - 99 yr master lease to NP owners
3	Natoma St. A/R	534-536 Natoma St.	SOMA	5	Rental		2013	NA	older residents, inc. disabled sr.	Residents facing Ellis Act eviction. Funding from SOMA Stabilization Fund. Bldg will not convert to Coops. CLT to maintain as rental hsg w/ outside property mgt	CLT
4	Merry Go Round House	2676 23rd St.	Mission	14	Rental (14-BR house)		May 2014	Underway	some younger	Acq. Loan from Boston Private Bank & Trust; & carry-back from Seller. (Name due to circular layout; in & out of residents; etc.) Resident approached CLT to own. Currently no kids residing.	CLT – to do 99-yr master lease
5	Duboce Av.	151 Duboce Av.	Mission	4	Rental		12/23/ 2014	NA	~ 20 - 60 yrs	Acq. Closed 12/23/2014 to counter Ellis Act eviction of 3 Low/Mod Income tenants. CLT's 1st acq. via City's Small Prop. Acq. Prg. To operate similar to Natoma St. One opening until recently - looking for tenant at/below 120% AMI.	CLT
		Subtotal		***54***							
	Baker's Dozen	733 Baker St.	Western Addition	13	Coop		Underway	Coop pre-formed already (CLT helped set up)		CLT in process of acquiring (from CLT in East Bay; bldg. has existing City/State financing).	to be owned by CLT w/ master lease to coop.
		TOTAL		**67**							

C. San Francisco Housing Authority – Mayor's Office of Housing & Community Development: Privatization of PHA Units

Context/background. In response to the San Francisco Housing Authority (SFHA) continually garnering low marks from HUD on the management and condition of its public housing inventory, the San Francisco Mayor commissioned the June 2013 report, "SFHA Re-Envisioning," (Kelly and Lee 2013) which called for greater collaboration of two public agencies that focus on housing the City's low income constituents. This collaboration would involve the San Francisco Housing Authority (SFHA), the Mayor's Office of Housing and Community Development (MOHCD), and private developer to develop partnerships with the aim of privatizing the public housing agency (PHA) units. The HA housing stock would be transferred to private, mostly nonprofit developers to be owned, upgraded and managed. MOHCD, whose role is to administer the City's affordable housing development finance programs, is coordinating and managing the process. SFHA would continue to administer rental assistance vouchers. An underlying goal of this collaboration is to integrate public housing residents within the fabric of the larger affordable housing swath, which would provide the residents with more resident choice.

Though both MOHCD and the SFHA are public agencies that administer particular affordable housing programs, the former is an agency of the city bureaucracy, and the latter a separate autonomous public corporation formed under state charter in accordance with HUD regulations governing public housing agencies. Both agencies are governed by their own governing board – the MOHCD via the San Francisco Board of Supervisors, and the HA by a housing commission whose members are appointed by the Mayor.

The 17th largest PHA in the country, SFHA holds a portfolio of 48 properties with some 5,383 public housing units and 1,149 HOPE V[6] mixed income units, still under redevelopment. SFHA also administers some 8,652 Housing Choice Vouchers (under Section 8 of the National Housing Act). (Kelly and Lee 2013). The "SFHA Re-Envisioning" Report specifically urged upgrading of a minimum of 2,000 PHA units over three years utilizing a public-private land trust model. SFHA's portfolio includes some 3,340 family units in 19 developments, and some 2,043 senior and disabled units in 23 developments. (Of the 3,340 family units, 1,819 are part of the HOPE SF initiative.) (Kelly and Lee 2013, 5).

Ground leasing is not new to City-sponsored or assisted affordable housing. Though integral to the proposed public-private land trust model, ground leasing has been incorporated into the HA's earlier-initiated HOPE VI projects. However, the structure of the new initiative model would rely heavily on HUD's new Rental Assistance Demonstration (RAD) Program. Put simply, RAD converts federal funds previously allocated for HA operations and modernization into long-term (20-year) project-based vouchers. This guaranteed revenue stream would allow for developers to leverage RAD funding for

[6] The roots of PHA privatization, HOPE VI is a HUD program that started in 1992 to assist local PHAs to redevelop distressed public housing and replace it with mixed income new construction and/or rehab of existing PHA housing. Reduction of density and number of units were permitted to improve neighborhood conditions, and residents were offered housing choice (section 8) vouchers to be able to move to market rate housing elsewhere or they could move back after redevelopment. Of the six projects with HOPE VI funds, private developers took the lead in the HOPE VI redevelopment while the HA is acting as either the managing general partner or member in each of the limited partnership ownership entities. For all 6 projects, the land has been ground-leased by the HA to the limited partnerships.

rehab with upfront equity and/or debt financing from third party sources (including tax credits and public/private loans). Project-based vouchers would also help sustain more efficient project operations over time. Under the new model, HA would relinquish its role in the ownership of the housing component, whereas in the HOPE VI projects, HA remained a legal part of the ownership structure of the housing component.

To date, MOHCD has selected the participating developers, most of whom are nonprofit affordable developers and operators, to assume ownership, rehab, and management of some 3,500 units comprising eight clusters throughout the City. (See table at the end of discussion of this model). An intricate process is currently underway to complete the RAD milestones. These encompass consummating negotiation, development, and execution of a plethora of City and HUD documents, including the ground lease. Phase I projects (1,425 units) are expected to close in Fall 2015, and Phase II (2,070 units) in Summer 2016. (Ely 2014). Respective project completions would occur a year after closing. (California Housing Partnership Corporation 2015).

1. Affordability. Consistent with HUD and PHA parameters, all the HA units in the RAD-assisted portfolio are targeted to households with incomes not exceeding very-low (50% AMI) and extremely low-income residents (35% AMI). Over 3,000 project-based vouchers provided by a combination of RAD (1448 vouchers) and other PBVs leveraged with HA reserves (to create 1600 vouchers) will ensure continued affordability for most of the residents along with sufficient project operating income. (California Housing Partnership Corporation 2015). As the land owner or lessor, SFHA will execute a ground lease with the selected developers requiring that an affordability covenant be recorded to ensure long-term affordability. The ground lease template, still under development, may likely mirror other City and HA ground leases - 75 year term plus an additional 24 years, for a total of 99 years.

2. Financial Efficiency. Continued affordability of PHA residents will require on-going subsidies. While RAD leverages upfront other dollars for the physical rehab, the project-based voucher (PBV) subsidy will be on-going via 15 and 20 year renewable contracts. PBVs pay the owner-operator the difference between either 30% of the household income and the "reasonable" market rent for the unit, or some amount equal to the difference between what a lower income tenant should pay (based on income and family size) and the reasonable market rent. If the latter, the tenant is required to pay a portion to bridge the difference between the HA voucher subsidy and the actual rent. The HA portion constitutes a dependable revenue stream to assist in sustainable project operations. Unless the project has senior, disabled, or family units receiving supportive services, RAD vouchers will cover up to 50% of the units in a project. (Tenant-based vouchers are permitted but cannot be used to underwrite project income in determine a supportable mortgage.) The "Re-Envisioning SFHA" Report does recommend applying to HUD for designation as a "Moving to Work" agency, which would allow it certain flexibilities, such as formulating local authorization to undertake 100% project-basing. That notwithstanding, the City recently negotiated with HUD to provide additional RAD funding to leverage HA reserves to create a system of PBV to provide sufficient operating income. Increased rental income will also allow the developers to leverage additional upfront financing for needed project upgrades.

3. Security, equity, legacy. The separation of ownership of land from the housing component will have little impact on a current resident's ability to grow a nest egg. However, project-based vouchers will ensure durable affordability for affected residents for a minimum of the next 15 to 20 years so long

as the occupant's income qualifies and until the PBV contract is renewed. Contract renewals for project-based vouches are never guaranteed and subject to federal appropriations.

As renters, RAD-assisted residents will not have the opportunity to own their units, but some may have the opportunity to participate in a program to encourage saving for the future. Local housing authorities sponsor self-sufficiency programs that prepare tenants for participation in economic prosperity, including homeownership opportunities, but this component does not seem a major component of the SFHA RAD conversion.

The high price of homes in the San Francisco and Bay Area make such self-sufficiency homeownership programs challenging to administer successfully. This task is complicated by the fact that the typical HA resident has been "isolated from the broader prosperity experienced by nearly every other San Franciscan" (Kelly and Lee 2013, 7) due to an array of issues, including untreated mental health (Ely 2014) and other socio-economic factors affecting intergenerational poverty. Currently, the extent of an proactive "housing ladder" to provide for social and economic mobility focuses on opportunities for special needs and formerly homeless residents to move from specially designated housing to more mainstream-type housing. (Ely 2014).

4. <u>Community</u>. To date, MOHCD has limited its efforts to working with the HA and the developers to facilitate the privatization of the units. While the process of building social and community capacity is an evolving one, the "Re-Envisioning SFHA" Report has enumerated specific goals toward strengthening its resident services and building resident leadership to improve connections to the City's services infrastructure. This effort falls within the City's larger plan to integrate the existing public housing stock and its residents within the fold of its affordable housing development unit pipeline of some 9,000 units.

   At a minimum MOHCD is required to monitor the private operators for affordability compliance during the term of the ground lease, and will intervene as necessary to enforce affordability. The HA is required to monitor the use of PBV. While building resident capacity and leadership are stated goals associated with this privatization effort, it is unclear at this point what other resources than continued affordability for all current residents in good standing the City and/or HA will seek to foster meaningful resident and community empowerment to address issues of intergenerational poverty endemic to much of SHFA's public housing.

5. <u>Multiplicity</u>. This initiative seems to at scale, but its ground leasing model replication to other PHAs has not been proven. Regardless, the City's emerging philosophy is moving toward greater public ownership of land for affordable housing. This has become especially attractive in the current climate of ever escalating land costs. Public ownership of land would allow the City the public purpose of perpetuating affordability.

   It is the goal of the City to eventually transform all its PHA units and to increase resident choice by incorporating the public housing stock into the City's larger affordable housing development pipeline. This would reverse the long-standing isolation of public housing residents, offering them robust access to greater housing choice.

						RAD PHASE I						RAD Phase II				
#	Cluster Name	SFHA Project Manager	SFHA Project Manager Contact	Developer	Co Developer	Property Name/Address	Units	Pop. Served	Building Type	Scope of Work	General Contractor	Property Name/Address	Units	Pop. Served	Building Type	General Contractor
1	Chinatown	Miguel Paltao	Paltaom@sfha.org	Chinatown Community Development Center	NA	**227 Bay**	51	Senior	Low rise		AmOne	**Ping Yuen**	234	Family	Mid-rise	
		415-715-2025				**990 Pacific**	92	Senior	Mid-rise		BBI	**Ping Yuen North**	200	Mixed	Mid-rise	
2	Western Addition 1	Jasmine Kuo	Kuoj@sfha.org	Related California	Tabernacle CDC	**Robert B. Pitts 1150 Scott Street at Turk**	203	Family	Walk up		Nibbi	**Westside Courts**	136	Family	Walk-up	
3	Western Addition 2	Kendra Crawford	Crawfordk@sfha.org	Tenderloin Neighborhood Development Corp	Community Housing Partnership - 1750 McAllister	**939 Eddy**	36	Senior	Mid-rise		Transworld	**1750 McAllister**	97	Senior	Highrise	Fineline
		415-715-3811				**951 Eddy**	24	Senior	Mid-rise		Transworld	**Rosa Parks**	198	Senior	Highrise	Cahill
4	Tenderloin / SOMA	Kendra Crawford	Crawfordk@sfha.org	Tenderloin Neighborhood Development Corp	Community Housing Partnership - 666 Ellis	**666 Ellis**	100	Senior	Highrise		D&H	**350 Ellis**	100	Senior	Highrise	D&H
		415-715-3811				**430-440 Turk**	89	Senior	Highrise		Fineline	**320-330 Clementina**	276	Senior	Highrise	Fineline
5	Bernal Heights	Alicia Sisca 415-715-3265 (w) 415-306-4672 (c)	Siscaa@sfha.org	Bernal Heights Housing Corporation (BHHC)	BRIDGE Housing Corporation	**Holly Courts 100 Appleton**	118	Family	Townhome		Fineline	**Alemany**	158	Family	Townhome	
6	Mission Castro	Alicia Sisca 415-715-3265 (w) 415-306-4672 (c)	Siscaa@sfha.org	Mission Economic Development Agency (MEDA)	BRIDGE Housing Corporation	**25 Sanchez**	90	Senior	Mid-rise		Fineline	**3850 18th St**	107	Senior	Mid-rise	
						462 Duboce	42	Senior	Mid-rise		Fineline	**Mission Dolores**	92	Senior	Mid-rise	
						255 Woodside	110	Senior	Highrise		Fineline					
7	California Corridor	Twima Earley 415-715-2012	Earleyt@sfha.org	Mercy Housing California	John Stewart Company	**1880 Pine**	113	Senior	Highrise		Nibbi	**1760 Bush**	108	Senior	Highrise	Nibbi (Phase I)
						345 Arguello	69	Senior	Mid-rise		Nibbi	**Kennedy Towers**	98	Senior	Highrise	Nibbi (Phase I)
						491 31st St.	75	Senior	Mid-rise		Nibbi	**2698 California**	40	Senior	Mid-rise	Nibbi (Phase I)
8	Bayview	Miguel Paltao 415-715-2025	Paltaom@sfha.org	San Francisco Housing Development Corp.	John Stewart Company (JSCO), Related California, Ridgepoint Non-Profit Corp.	**Hunters Point East/West**	213	Family	Scattered Townhome		Cahill	**Westbrook Apts.**	226	Family	Scattered Townhome	
						TOTAL PHASE I	**1,425**					**TOTAL PHASE II**	**2,070**			
								3,495			**TOTAL UNITS BOTH PHASES**					

Figure 4- San Francisco Priviatization of PHA Units (source: SF Mayor's Office of Housing & Community Development, December 2014)

D. Singapore Public Housing Model (International Model)

Context/background. An understanding of Singapore's public housing system requires a grasp of this island city-state's history. Located at the tip of the Malay Peninsula in Asia, Singapore started out in 1819 as a British colonial outpost, gained self-government in 1959, joined the Federation of Malaysia in 1963, and finally became its own country in 1965. In 1959, Singapore was characterized by typical third world traits of abject poverty, including massive squatter slums, overcrowding, a severe housing shortage, unemployment, and inadequate infrastructure. Its population has grown from 1.7 million in 1960 to 5.4 million people today. Present-day Singapore has emerged as a modern world class city, with an overall homeownership rate of an impressive 90.5%. Ranked third in the world, (Wikipedia 2014) Singapore's homeownership rate, buttressed by a strong middle class economy, was accelerated by deliberate government intervention in affordable housing development within the policy context of housing as economic development.

It has been said, "Arguably, the greatest potential legitimacy that can be gained by a government is through its direct provision of housing because its efforts and results would be most visible." (Chin 2004, 2). Singapore's local housing authority *cum* redevelopment agency, the Housing Development Board (HDB), formed in 1960, has been responsible for building, managing, and monitoring approximately 900,000 public housing units, mostly in high-rise developments, serving 81% of the country's population. Of the 900,000 or so public housing households, an impressive 95% are homeowners (L. Wong 2013).

As early as 1964, Singapore embarked on a homeownership initiative to begin converting its low rent low cost public housing rental units into homeownership opportunities for its citizens and residents. Singapore is proud that by 1970, in just 10 years since the formation of the HDB, it was successful in addressing its housing shortage. Once quantity was achieved, Singapore shifted its focus to include housing quality, and to embrace overall quality of life for residents through new town development of high-rise living. A densely populated country comprising about 25 self-contained new towns built over the span of the last half century, Singapore has been able to successfully re-invent itself as a sleek world class city. Its population of 5.4 million residents reside compactly on about 700 square kilometers in size (equivalent to 270 square miles).

A country known for its heavy hand in social engineering, Singapore has implemented a set of unique social-economic measures that are leveraged in varying degrees at different times to support the country' housing agenda for its workforce of low-, middle- and upwardly mobile middle-income families. Singapore's commitment to homeownership is based on the notion that homeownership gives people a propertied stake in their society, thereby encouraging them to stay employed and less apt to participate in activities that disrupt the existing social and political fabric. Measures unique to Singapore's housing agenda include the fact of the government as the primary landowner in the country, a mandatory saving program, and an ethnic integration policy enforced in the public housing developments.

(a) Singapore government as major land owner. In arguing to meet the needs of an emerging society, Singapore in 1966 abolished its eminent domain provisions with the enactment of the Land Acquisition Act. Singapore justified public land ownership on the need for planning efficiency, fiscal and social equity, and the provision of services. (Wong and Guillot 2005, 113). By 1985, Singapore owned more than ¾ of the land in Singapore. (Third World Network 2015). The Land Acquisition Act facilitated Singapore's ability to purchase land at a below market rate prices. As such, Singapore was able to price and sell its newly built housing at below market prices on land it ground-leases at 99-year terms to homebuyers. Buyers purchase both the unit plus the present value of the long-term lease. The government is also a major leaseholder on private land with ground lease terms ranging from 103 to 999-years. On these properties, Singapore also develops affordable housing sold to qualified home buyers with 99-year ground leases. (Wong and Guillot 2005, 202). As a public land owner, the 99-year ground lease policy was implemented to allow the government to more easily resettle and provide compensation to homeowner lessees should the government see a need to redevelop the land. (Third World Network 2015, 20).

(b) Compulsory pension savings through the Central Provident Fund (CPF). A carryover from the British, the CPF started as a simple pension savings program. The CFP is a mandatory Singapore mainstay for its salaried workforce, the majority of the working population in Singapore. Originally pegged at 5% of salary, the CPF requires that both the employee and employer make monthly retirement contributions. While the contribution requirements have been as high as 25% of salary from both the employee and employer, currently the rate is 20% from employee and 13% from employer. The CPF's use has been liberalized over time. In addition to retirement, the CPF can now be used to finance a home purchase mortgage or to make mortgage payments, as well as for health care, insurance, and higher education purposes. By 2013, over 70% of public housing owners service housing loans solely with CPF savings. (L. Wong 2013, 4).

The CFP not only can be tapped for a home mortgage, but also for the 20% down payment. The CPF will also provide renovation loans. On a macro-scale, the government borrows funds from the CPF to construct the public housing itself, including having it purchase government bonds to construct housing on a mass scale.

(c) Ethnic Integration Policy (EIP). Established in 1989, this policy limits the ethnic/racial mix of each housing block or neighborhood to a set quota akin to the general distribution of Singapore's diversity mix, made up of Chinese (74%), Malays (13%), and Indians (9%). The EIP's goal is to ensure "social stability, racial harmony and religious tolerance, and keep Singapore safe, secure and prosperous for all races." (Houisng Development Board of Singapore 2014) . Overlaid on the EIP is the Singapore Permanent Resident quota, applicable to non-Malaysian permanent residents buying resale flats. Developed specifically to "prevent the formation of racial enclaves by insuring a balanced ethnic mix among the various ethnic communities living in public housing" (Houisng Development Board of Singapore 2014), these policies were deliberately designed to dissipate the rise of political agitation by rival government groups.

Evaluation factors. Much have been and will be continue to be written on the Singapore public housing model and, in particular, its exportability or transferability. An imperfect model borne out of a welfare capitalist state, this model is intriguing as it is complex and singular. Its sheer epic sweep of targeting almost an entire nation, albeit confined by its geography to an island of some 270 or so square miles, would seem to disqualify this model from the continuum of models under evaluation in this thesis. Size may matter, but Singapore's ground leasing feature, its focus on housing affordability, and its robust embrace of homeownership, render this model worthy of inclusion within the thrust of this thesis – evaluating the concept of separation of land ownership from dwelling ownership within the context of advancing long-term affordability.

1. Affordability. Singapore's public housing units, typically high-rise flats, are open to its citizens and permanent residents. New home prices are set at subsidized prices in accordance with unit size– whether they be 3, 4, or 5-room flats. The units are targeted to a range of buyers who may be lower or middle income homebuyers. All newly constructed homes are sold with 99-year leases.

   Rental public housing is currently aimed at the small percentage of households who cannot afford to purchase. These units are typically 1- or 2- or 3-room existing flats with rents indexed to 30% of market rents rather than at some median household income standard as in the US. This rental policy is in keeping with Singapore's policy of discouraging lower income households from having large families. Rent control, once in effect, has been phased out. Low income renters may receive a government grant to afford the rent.

   In response to an emerging trend of upwardly mobile middle income households desiring to own a home in the private market (with a freehold versus leasehold interest), the government has begun to partner with private developers, auctioning land to build for-sale "executive condominiums". This is a new housing type aimed at the more affluent middle income buyer, who must still qualify income-wise and purchase a 99-year lease with the private developer instead of the HDB. The minimum occupancy period is 5 years before an owner can sell their unit, and other 5 years if the owner wants to sell the unit to a non-citizen/non-permanent resident buyer.

   Resale units are sold at market rate prices to income-qualified buyers who receive a government grant to afford the purchase price. The minimum occupancy period before one can resell is also 5 years to prevent speculation.

2. Financial Efficiency. In addition to landowner, the government, through the HDB, plays a multi-faceted role in the larger housing development process, including planner, designer, financier, fabricator of some building materials, facilitator and monitor of the resale of flats and executive condominiums. Regardless, home resale prices may still be out of reach for many homebuyers. As such, the government provides home purchase grants to bridge the gap between the down payment and the purchase price of new homes as well as for purchase of resales, the latter price of which is influenced by the speculative market forces of supply and demand. The supply-side grants have been sized and adjusted during different economic periods to meet both the affordability needs of homebuyers and the market demand pricing of the resales.

   As noted earlier, low income households who cannot afford to purchase resort to renting. As the HDB no longer builds new rentals, low income renters can only rent existing 1- 2-room flats/units. To bridge the affordability gap of low income households and to promulgate the social policy of keeping their families small (ie, up to two children), these low income renters have been offered rental and/or utility rebates, college grants for their children, and even "top-ups" in the Central Provident Fund accounts to purchase the larger 3- or 4- room flats (Phang 2014, 34), in spite of the fact that Singapore does not see itself as an ostensible welfare state, which if so, according to the Prime Minister in 2005, would "erode our incentive to achieve and sap our will to strive." (Phang 2014, 18).

3. Security, equity, legacy. Homeownership is viewed by the government as essential to maintaining social and political stability. The importance of homeownership is evidenced by its extremely high public housing ownership rate of 95%. Originally non-existent before 1971, the resale market evolved and developed over time to allow home sellers to benefit from market determined equity

accumulation. To prevent speculation, home sellers are required a minimum occupancy period of currently five years before they can put their units up for sale to qualified buyers meeting the HDB's income and other social requirements as age, marriage status, and its Ethnic Integration Policy. The provision of home purchase grants through a subsidy deposit into the buyer's CPF in various economic cycles have been used a regulating influence of the market. In the 1990s the subsidies incentivized transactions by encouraging home sellers to put their flats on the market when there were ready buyers. To promote strengthening family connections, the early CPF grants were also structured to incentivize the purchase of resale homes near parents or a married child's residence.

Senior households tend to be asset-rich and cash-poor. Instead of seniors having to sell their homes to take out equity for retirement, and to allow senior householders the option of passing their home value onto heirs, Singapore is allowing owners to sublet their entire unit, whereas previously only rooms could be sublet. The Singapore HDB has also implemented a "lease-buy-back scheme" to allow lower income senior leaseholders of small units to sell back all but the remaining 30 years of the lease in exchange for a monthly income and without having to relinquish the home.

The lease terms of resales are not reset for new buyers, who can only purchase the remainder lease term. Home purchase grants differ for homes with lease terms of less than 60 and 30 years left. But homeownership is so important that it is stated HDB policy not to deprive a homeowner of public housing in the event of financial difficulty, including bankruptcy.

4. <u>Community</u>. The HDB's 900,000 or so affordable housing units are distributed among 25 or so self-contained new-town high-rise urban communities. These high rise structures are typically 20 stories tall, but Singapore recently built a state-of-the art 50-story high-rise public housing development[7]. Akin to urban villages, these new towns contain village amenities as places of worship, schools, playgrounds, day care, recreation centers and open space, neighborhood shops, markets, hawker eating centers, appropriate infrastructure and amenities, and commercial and industrial areas.

   Singapore's public housing is now governed by a town council structure, which while headed by a government representative (Member of Parliament), is an effort to decentralize public governance and engender local control. The promotion of social and racial harmony underpins the fundamental motivation for the town council structure. The town council is specifically responsible for managing and maintaining the common property of both the residential and commercial components of the new town.

5. <u>Multiplicity</u>. At 900,000+ units serving some 85% or so of its residents, the Singapore public housing model may be considered to have reached scale. Singapore eliminated its housing shortage in 1970, just a decade after it attained self-government and the subsequent establishment of its local housing authority/redevelopment agency, the Housing Development Board. Singapore's focus has long shifted from quantity to quality and improving the housing system for its intended beneficiaries. If anything, the focus and on-going public discourse on quality has been how to effectively humanize the huge proportions of its mass-scale housing.

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[7] Pinnalce@Duxton, completed in 2009, is the result of Singapore's first international design competition and has won numerous design awards. The development is known for its two sky bridges linking seven towers, among other state-of-the art features and amenities.

Inasmuch as the Singapore model is studied for transferability, its replication in other contexts is still being tested. Unlike other ground lease models, Singapore's homeownership leases do not reset and renew for another 99-years upon resale. Homebuyers merely buy the present value of the remaining lease term along with the value of the unit. With its home ownership program having started in 1964, none of the initial homeownership ground leases has reached the 99-year expiration date. It is unclear how the government will treat the housing after lease expiration.

6. Transferability: Though Singapore's public housing program is considered a success story on many levels, its public housing agenda clearly favors certain social groups to the detriment of others. It is tilted toward families over singles; married couples over single mothers; the working middle class over low income itinerant workers; the citizen and permanent resident over immigrants and migrants; and of course, homeownership over rentals, and hence homeowners over renters, and, very clearly, it favors middle income and upwardly mobile middle-income working families.

   Singapore's model is continually being studied for its applicability to other venues and countries, particularly the forced savings program, which is used both by the consumer on the micro-individual level to acquire housing, and by government on the macro-level to increase the supply of affordable housing. It seems the role of ground leasing is used more as an expedient means by government to relocate people as necessary rather than as a means to impose and enforce affordability. The latter is achieved via government subsidies and grants as a regulator to purchase housing by the consumer and to build housing by government or its private development partner.

   It remains to be seen what will happen upon the expiration of the 99-year leases, which are not renewed at resale. Ninety-nine-year leases, if executed as early as 1960 when the HDB was formed, will not be reached until 2059. In January 2015, Singapore just celebrated its 50^{th} birthday as a nation (from 1965).

Chapter Summary/Conclusion

The examination of each of the four housing models provided snapshots into their complexities. While it may have appeared that a review of the inner workings of the models sometimes felt like comparing apples, oranges, grapefruit, and grapes, there were enough commonalities to make a case for comparison. All the models aim for housing affordability on a mass scale, all separate ownership of land from the housing through a leasing arrangement, all have an eye to the horizon, and all involve some degree of a public-private partnership in a market economy. Against this set of givens, the next chapter examines the extent of effectiveness of ground leasing, or a variation thereof in one case, as a land reform mechanism to achieve durable housing affordability.

V. Discussion, Implications and Conclusions

The mechanism of ground leasing is increasingly being championed by affordable housing advocates, especially in geographic areas of high or rising land and housing costs. Pinning down land when its costs are still reasonable could maximize its leveraging impact for long-term affordability. Its cost-effectiveness would be especially apparent in those neighborhoods that have experienced disinvestment and are on the verge of gentrification. The impact on preventing or minimizing displacement would be far reaching. But in high cost areas with escalating land costs, the issue becomes more one of securing land sooner than later. While expensive at the time of acquisition, the land becomes more cost-effective with time as the value of the land component is removed from any future market-based transactions in the sale and re-sale of the home or housing units. Nonprofit and public land owners with goals of creating and maintaining long-term housing affordability on a large scale and who also have ancillary goals such as creating homeownership or resident-control of their own housing or even organizing around housing to develop meaningful local autonomy and control, are looking to long-term ground leasing or a variation thereof as the strategy to achieve their mission. This chapter attempts to answer if separation of land from the affordable housing atop it, typically through ground leasing, and in one case, master leasing, is effective in achieving long-term affordability that may last in perpetuity. The simple answer is yes, conditioned by *if*s, *and*s, and *but*s.

Effectiveness

The four models clearly indicate that separation of the land from the housing transaction process does remove the land from the speculative market. Land costs are extremely high in the Bay Area, a desirable place to live, and in Singapore, an island nation constrained by land size.

A land owner has the authority to establish controls over its use, including for affordable housing. To ensure housing affordability, the models have implemented controls to include income thresholds of occupants who may reside on the land, and in the case of homeownership, a system for calculating resale proceeds to establish how much wealth can be accrued for the seller, thereby fitting the sales price within the affordability range of buyers whose incomes may be otherwise too low to qualify. The land owner also has the power to set and re-set lease term lengths, which technically forms the basis for perpetuity of affordability. The Singapore model may also be using ground leasing to be able to facilitate relocation of settled occupants if necessary to achieve master planning goals.

In terms of subsidy efficiency or need for re-subsidization, none of the four models required additional subsidies for the land component. But three of the four models do require either sporadic or constant infusions of public funds to maintain affordability for the housing component over the long run, either at time of purchase/resale (Singapore) , or as on-going subsidies in the case of the rental housing. One model, the Sonoma housing trust, has not required additional subsidies to maintain affordability in its first set of resales, however, it remains to be tested over several resale transactions if this non-subsidization structure can prevail.

The San Francisco PHA ground leasing model deserves some discussion in terms of the relationship between leveraging and subsidization. This model, involving privatizing of public housing units, is being structured to attract private and public investment dollars not available to a public housing agency acting alone in upgrading the housing. This model attempts to exemplify the best of a public-private partnership - the public housing agency owns the land, calls the shots, and defines the affordability requirements; the private developer (which may be nonprofit or for-profit), by virtue of its for-profit structuring (as a limited partnership or limited liability company), is able to take advantage of the capital market to assemble both equity and debt financing enabled by federal tax laws and the HUD RAD Program to undertake the physical rehab; the public housing agency administers project-based vouchers which act both as a dependable rental subsidy for the low income residents and a sufficient operating income stream to support project operations. These leveraging advantages are not offered to public housing agencies undertaking direct operations of its own public housing units; as such, this model while requiring a substantial level of public subsidy is structured to generate even more substantial private and other resources to sustain long-term affordability.

Models allowing wealth accumulation vary in what they allow a home seller to take away. The Sonoma and Singapore models allow for a degree of wealth accumulation through equity build-up. Sonoma's is more limited, indexed to increases in the HUD median income, while Singapore allows for the interplay of market forces and the ability of the purchasing ability buyer to determine the resale price; regardless, Singapore does require that the home be sold to an income-qualified family, who may be able to receive a grant to assist in the purchase depending also on the remaining life of the ground lease. The SFCLT focuses on collective or co-housing ownership structures and has so far helped to create one limited equity coop and one resident-owned nonprofit. Potential for wealth accumulation in SFCLT units is formula-based and indexed to the CPI; any wealth accumulation will depend on the initial down payment or deposit, which can range from zero dollars (zero-equity) to $10,000 to $15,000.

In the domain of community-building, all four models view this element as important but focus varying degrees of effort on building community capacity among their residents, and one (SFCLT) includes building a relationship with the outside community. The two nonprofit models hold the idea of stewardship as nucleic in the pursuit of their mission, and do spend time and resources on activities that ensure repeat affordability while providing for asset-building. Stewardship activities also encompass enhancing resident capacity and bonding. The sheer size of Singapore's public housing portfolio and the need for the country to maintain a level of social harmony has motivated the country to look seriously at developing initiatives that devolve more decision-making down to residents through the implementation of the town council in the new town housing developments. The City of San Francisco is proactively working to incorporate public housing residents into the City's broader affordable housing effort and to give public housing residents more choice as where to live if they desire to move out of public housing. The City has acknowledged the need to provide more strength-based and culturally competent resources in order to build enhanced capacity among the public housing resident base. These resources would be directed to provide resident-leadership training and improved coordination and access to services offered to San Franciscans as a whole.

Two of the models are government-initiated, with portfolio sizes running in the thousands – approximately 3,500 units in San Francisco to 900,000 or so units in the case of Singapore. Though not quite fledgling, the other two models are nonprofit-based, small and young – each less than 15 years old, and each holding well under 100 units in their portfolio. Both the nonprofits have indicated a desire to scale up, to 100 (SFCLT) and 150 units (Sonoma), as a first milestone more to achieve financial break even. These aspirations seem modest and even understated in terms of meeting financial breakeven, but their numerical goals seem consistent with their grass-roots orientation and need to ensure that stewardship grows in proportion to their portfolios.

Lessons from Singapore

A capitalist country with a welfare-state economy, Singapore is well-known for both its social engineering policies and its housing-as-economic development agenda. The government is the country's primary landowner, and as such, plays a prominent role in the planning and delivery of its public housing. Singapore boasts that initiatives such as its mandatory savings program, liberalized over time, and its Ethnic Integration Policy have helped stabilize the country, build and maintain a strong middle class base in which the overall homeownership rate now ranks an impressive third in the world at 90.5 % (Wiki 2013) compared to 64% (US Census Bureau 2015) in the US. Singapore's public housing homeownership rate is 95%. [But then Singapore's 2014 population of 5.4 million people contrasts sharply with a more diverse 2014 US population of 322.5 million people.]

The single most exportable feature of the Singapore model might be the idea of a forced universal savings program. Homeownership itself could be seen as a version of forced savings, but the wealth from the equity is illiquid and the dollar value can be volatile especially in down real estate markets. The idea of a forced savings in the US has precedent. Many local public housing authorities have initiated self-sufficiency programs for their public housing and voucher recipients. This program requires the development of an Individual Development Plan (IDP) and Account (IDA), the latter which is a forced savings program that is matched up to a certain dollar threshold by the local housing authority for its participants. Participant-savers must take financial education classes and learn the importance of asset-building. Participants can tap into their IDA savings for certain needs as home purchase, job training/higher education, and entrepreneurship activities. This program is also offered by nonprofit agencies in partnership with certain financial institutions to foster financial literacy of lower income individuals. As such, while this program may represent the rudiments of a grander savings effort and is worth monitoring for its success and replication on a wider scale, for many low income households on limited incomes, generating disposable income that can be diverted for savings is challenging.

Other Affordability Mechanisms

Other affordability mechanisms exist that seem to mirror many of the requirements of an affordable housing ground lease. These other mechanisms include covenants and deed restrictions or even regulatory agreements, all recorded against the land. All can enumerate and impose specific requirements for long-term affordability similar to those of a ground lease. These alternative mechanisms may be easier to implement and more understandable by lenders.

In California, all the above mechanisms have been used alone, but more importantly, they have also been used to leverage affordability requirements of models with ground leases. Affordability covenants and deed restrictions tend to be imposed by public agency lenders and local inclusionary housing programs enabled by local zoning. Their term lengths are typically shorter than that of a ground lease. In California, affordability term lengths of covenants can be a short as 15 or as long as 55 years. Ground lease terms are typically 75 to 99 years. But all affordability covenants and deed restrictions will eventually expire. While a more complicated mechanism, ground leases have term lengths that are renewable, including affordability requirements that survive covenants and deed restrictions.

Ground leasing is the more durable mechanism for enforcing long-term affordability. The land owner as lessor has the potential to exert more economic influence than an entity merely using deed covenants. The owner as lessor, in the words of the CLT advocate, John E. Davis, "can bend the arc of a community's development toward justice, mitigating market pressures that tend to displace lower-income people and helping to ensure that the benefits and burdens of public investment are more equitably shared." (Davis, Ground Leasing Without Tears 2014 posted, 3).

Further Study

This thesis focused on the concept of bifurcation of ownership of real property – separating land from the housing structure. It looked at the impact removing land as a commodity from the speculative market, while imposing land ownership controls to effect long-term housing affordability. Four models were investigated, which constituted a type of housing continuum, from private ground leasing by two small nonprofits to public ground leasing by a city government and by a small international country. Perhaps the interstices of the continuum may be too far apart to arrive at definitive conclusions, and so it is recommended that studies of other ground leasing efforts by nonprofit and public entities be undertaken in the name of affordable housing. These future studies might also include college and university housing incentives of home ownership models involving ground leasing to recruit and retain professors and higher level administrative staff. Stanford University and some schools in the University of California system might be candidates for further study.

Epilogue

Affordable housing, both rental and homeownership, in high demand areas like the Bay Area, is increasingly out of reach for working and low-income households. Land costs make up a large part of the housing cost equation. This thesis was written within the philosophical context that decent, safe, and especially affordable housing should be a basic right for all people, and that a larger policy framework may need to be considered embracing a uniquely American land reform that separates land ownership from housing ownership as an affordable housing option. The land trust advocate and activist, John E. Davis, argues passionately for "ethical ownership" of land. He justifies ground leasing based on following moral reasons: first, it is wrong to turn land and other natural resources into private property; second, it is wrong to own more land than one personally needs; and third, it is wrong to allow gains in the value of land created by an entire community to be captured by a few. (Davis, Ground Leasing Without Tears 2014 posted, 4).

A side discussion of community benefits of land is *apropos* here. Community benefits are those which improve one's health and general well-being as a result of public action. These may include better access to public transportation and other neighborhood or regional services and amenities. Land is governed by land use controls established by local government to ensure orderly and rational development and to encourage certain types of developments. To accommodate growth in high demand geographic areas, additional public actions have included up-zoning, higher densities, and lower parking requirements. As such, these public actions add value to the land without the land owner having done anything. Public policy and community advocates are beginning to realize such increased land values resulting from public action should be captured by the larger community and not just by the few land owners. The challenge is how to ensure diverse communities – economically, racially, ethnically, and age- and disability-wise . (Calavita and Wolfe 2014, 1-2). One obvious strategy to achieve "land value recapture" is through the creation of housing land trusts or ownership of land in community trust-like fashion to further housing affordability in perpetuity. Land no longer becomes a commodity transacted at the highest price. The land is transformed, in the words of John E. Davis, as a "common heritage."

While not perfect in sustaining long-term affordability, ground leasing or a variation thereof, in certain situations may be the expedient solution that transforms land tenure and the property ownership system. By taking land off the market, ground leasing attempts to reallocate equity and redistribute ownership. Separating ownership of the land from the housing can provide a viable system for developing a ladder for both renter and ownership households to move up economically, and creating opportunities to assemble personal and community wealth along the way. Ground leasing models differ in their extent of successful conversion of subsidy to equity, and the efficient or "frugal" use of subsidy, whether it be one-time only or on-ongoing.

Ground leasing, as expressed in the four models studied, is still very much a work in progress – still an evolving experiment aimed at social improvement if not social change. Ground leasing to create long-term housing affordability is not so much a challenge to the "incumbent" model of direct affordable housing ownership, but an alternative. The ground leasing structure is undeniably far more complex than straight ownership of housing, though the latter can be complicated. Private nonprofit ground leasing models have not reached scale; and while public ground leasing can involve a seemingly massive number of units, their replicability in other milieus remains to be tested. Social studies scholars and policy planners continually engage in research and discourse on social sector initiatives and solutions. It is hoped a larger part of the discussion will include the relevance of ground leasing as a housing affordability option. Whether ground leasing is seen as an ancient land holding tool reinvented for social impact, or an example of "catalytic innovation," (Christenson, Ruggles and Sadtier 2006), scholars and housing policy planners must be vigilant in coaxing out new and/or renewed solutions to create both affordable housing and housing affordability that remains durable for the ages. Land is a precious and finite resource.

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