Community Land Trusts

Burlington, VT

By Beth Sorce and Neha Bhatt

Property values and development costs skyrocketed in Burlington, VT in the late 1980s and 1990s. Like many booming cities, much of the Burlington workforce could not afford to live within the city limits. At the same time, residents were frustrated by recent conversions of publically funded affordable housing developments into market-rate homes. A diverse coalition of Burlington residents, nonprofits and public officials began exploring inclusionary zoning as a way to expand affordable housing opportunities in the city and to protect affordability over the long term.

In 1990, Burlington adopted a mandatory, citywide inclusionary zoning policy. The policy requires new residential projects that are 5 or more units to set aside a small portion of the new units at affordable rates. Rental units should be affordable to households earning 65% of the area median income (AMI) or less, and ownership units should be affordable to households earning 80% AMI or less. The policy further requires all these units to remain affordable for at least 99 years.

While the City’s inclusionary zoning ordinance creates new affordable homeownership units, it is the innovative partnership with the Champlain Housing Trust (CHT), a local community land trust that ensures their ongoing affordability. The CHT becomes responsible for the administration and management of inclusionary homeownership units. As with any community land trust, CHT retains ownership of the land and issues a 99-year ground lease to the homeowner who purchases just the structure on top of the land (the home). The homeowner may profit from selling the unit, but there are restrictions that keep the sale price affordable for the next income eligible household. In the case of condominium developments, CHT executes a long-term deed covenants that contains the same use and affordability rights and restrictions as the ground lease. CHT regularly sends all homeowners reminders of program terms and offers a wide array of post-purchase education, financial support and resale management to ensure compliance with the income and affordability restrictions.

As of 2014, Burlington’s inclusionary zoning program had produced 125 permanently affordable homeownership units, the majority of which have been transferred to CHT for ongoing management and stewardship. By partnering with a community land trust, the City has been able
to ensure more robust and consistent affordable home ownership program. The CHT also produces its own permanently affordable homes apart from the inclusionary zoning program.

**Burlington Code of Ordinance:**
http://www.codepublishing.com/VT/Burlington/
(See Sec. 9.1.17 Continued Affordability Requirements)

**CHT’s Shared Equity Program Website:**
http://www.getahome.org/homes

**The City-CLT Partnership: Municipal Support for Community Land Trusts:**
By The Lincoln Institute of Land Policy
Sec. 9.1.17 Continued Affordability Requirements
All covered projects shall comply with the following provisions to ensure continued affordability of inclusionary units provided under this article and units required to be continually affordable under Section 9.1.9.

(a) 99-Year Requirement.
All inclusionary units shall remain affordable for a period of no less than ninety-nine (99) years commencing from the date of initial occupancy of the units. Where a developer can establish that regulatory or other considerations make it impossible to provide the required inclusionary units if subject to the full extent of this requirement, the development review board may modify the duration of the period of continued affordability only to the extent necessary to render the development feasible;

(b) Deed Restrictions.
Provisions to ensure continued affordability of inclusionary units shall be embodied in legally binding agreements and/or deed restrictions satisfactory to the City Attorney’s Office, which shall be prepared by the developer, but which shall not be recorded or filed until reviewed and approved by the Housing Trust Fund Manager with such modifications as it may deem necessary to carry out the purpose of this article. Such review and approval shall be completed within forty-five (45) days following date of submission of such documents to the Manager of the HTF. Failure of the Manager to respond within the forty-five (45) day period as set forth herein shall constitute approval of the documents;

(c) Resale Restrictions.
Provisions to ensure continued affordability of inclusionary units offered for sale shall include a formula for limiting equity appreciation to an amount not to exceed twenty-five percent (25%) of the increase in the inclusionary unit’s value, as determined by the difference between fair market appraisal at the time of purchase of the property and a fair market appraisal at the time of resale, with such adjustments for improvements made by the seller and necessary costs of sale as may be approved by the Manager, with a recommendation from the Administrative Committee of the HTF;

(d) Rent Increases
Provisions for continued affordability of inclusionary rental units shall limit annual rent increases to the percentage increase in the median household income within the Burlington Metropolitan Statistical Area (MSA), except to the extent that further increases are made necessary by hardship or other unusual conditions, and shall provide that no rent increase may take effect until it has received the approval of the Housing Trust Fund Administrative Committee in writing;

(e) Purchase Option
Provisions for continued affordability of inclusionary units shall provide that the Housing Trust Fund Administrative Committee or its designee shall have an exclusive option to purchase any inclusionary unit when it is offered for resale for a period of one hundred

Burlington VT Enabling Legislation for Designated Housing Agencies
Pursuant to Section 18-305(a), "A certified tenant organization or the City of Burlington or the city's designated housing agency shall have the first right to purchase any rental housing that is proposed to be converted to condominium or cooperative ownership." The City may assign its purchase option under this section to any 'designated housing agency', as defined in Article V of Chapter 18 of the Burlington Code of Ordinances." In their capacity as one of the City's "Designated Housing Agencies", the Champlain Housing Trust will preserve the perpetual affordability of the subject units.

Designated housing agency means a public entity or a 501 (c)(3) tax-exempt, nonprofit corporation whose purpose is creating or preserving housing for low-and moderate-income persons. The city's designated housing agency or agencies shall be designated by the city council.