

# BRAMPTON LAND TRUST

## A CLT innovation in progress

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**T**he Affordable Housing Action Association (AHAA) is trying to develop a land trust in Brampton, Ontario which will

- provide affordable housing targeted to income earners in the 30th to 60th percentiles.
- develop a compact residential community including up to six hundred new residential units at a density of at least fifteen units per gross acre, and forty to sixty units per net acre, designed to promote energy conservation, water conservation, and waste reduction practices.
- retain long-term urban agricultural uses on site through allotment gardens and other commercial agricultural operations (e.g. greenhouse gardens) as may prove feasible in order to complement community economic development objectives.
- develop financial independence for AHAA as a community-based housing developer.
- develop all this through a participatory design process which fosters identification with the community and the land, and an awareness of AHAA as an organizational tool to be used by the members to promote their social and economic welfare.

The multiple, complementary objectives for this development reflect our belief that the development of affordable housing is an important step in the process of building strong communities. Affordable housing initiatives cannot and should not simply be about buildings. Housing is inseparable from general social welfare.

In our society, the housing which people have is the foundation of the community's definition. First, housing defines the physical relationship of people to the land, and secondly it defines their social relationship to each other. Third, the

process of how people acquire their housing defines their economic relationship to each other and to the larger society around them.

Acquiring this site for a land trust offers AHAA the opportunity to design housing and create the foundations of a community which is positive and sustainable in physical, social and economic terms.

### THE SITE

The site is a 37-acre farm on the so-called "urban fringe" of Toronto. The land is under heavy development pressure. One

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Originally published as "Innovation in Progress: A CLT Case Study" in *Making Waves*, Vol. 3, No. 3 (April 1992).

thousand acres in the immediate vicinity have been assembled already by established developers. Approval of the general area for residential development is imminent, with secondary plan approval and related re-zoning to occur in the next five years.

### THE SOCIAL CONTRACT

This site would normally be acquired by a private developer. AHAA has an opportunity to acquire it because of a personal contact with the vendors, and the vendors' previous (unhappy) experiences with developers. AHAA has no capital or money of its own. This was made clear to the vendors, and they agreed to pursue negotiations nonetheless. When the first stage of negotiations were concluded with a letter of intent, we realized that our conversations had worked. They had helped the vendors move at their own pace through the emotional process of making the decision to sell. Equally important, the vendors' open approach to the discussions revealed that the land could actually be acquired, when a more traditional, corporate-style opportunity would not have been feasible. It is social contracting such as this that makes innovative partnerships possible.

### THE FINANCIAL CONTRACT

\$1.5 million is due September 30, 1992 (with a \$100,000 deposit at the time of signing the purchase and sale agreement) and the balance of the purchase price due five years later. The purchase price secures the land at one quarter to one third the value it will have after re-zoning.

AHAA will enter into a partnership with the vendors upon payment of the first installment. AHAA's co-tenancy may be used as collateral to secure financing, but the lender cannot register a mortgage against the property.

### FINANCING STRATEGY

AHAA has initiated negotiations with in-

stitutional investors with a social investment mandate to provide the initial \$1.5 million for a 3- to 5-year period until the first phase of development can occur.

AHAA believes that the total financing for the land acquisition can be raised through contributions from prospective residents or from supporters of affordable housing initiatives. In order to facilitate the participation of contributors, AHAA has approached the Ontario Ministry of Housing for a loan guarantee to the value of the acquisition price for the land.

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(AHAA received a grant to write a comprehensive business plan for the development, in order to illustrate the case for the loan guarantee. The business plan will be complete by mid-April and we hope to meet with the Ministry of Housing again before the end of April.) This loan guarantee would function as a guarantee for the contributors who are potential residents or supporters of this initiative.

Construction will be financed through the provisions of a funding protocol which AHAA has negotiated with the credit union sector, based on AHAA's "mutual

housing" concept. Essentially, mutual housing is a form of limited equity homeownership, where the resident owns 80% of the value of the house, and the remaining 20% is owned by AHAA. The membership of AHAA is people who live in the development, plus those members of AHAA who are still waiting to be housed. (The waiting list is always open, so that the use of the 20% collective AHAA equity remains accountable to those who are not yet housed.)

AHAA acts as the developer of the housing, and achieves its 20% equity through the contribution of sweat equity, and by foregoing (and therefore leaving in) the profits which typically accrue to a developer. AHAA plays a unique cost reduction role through its control of the process of housing production. It can also use the 20% equity which is collectively held by the members as an asset to facilitate borrowing for future developments. The 20% equity also allows AHAA to control the re-sale value of the home, so that it is kept affordable for subsequent owners. Overall, we believe it is a feasible plan - a new and transferable method for the development of affordable housing.

### FINANCING THE LAND ACQUISITION

There are two inter-related issues which will determine the feasibility of this land acquisition: the organizational form in which the land will be held (co-operative, land trust, or condominium), and the commercial criteria by which money can be loaned.

In order to lend money, a credit union or bank must have security for that loan, which is convertible in the event of default. The mortgage financing that credit unions provide to families purchasing through the mutual housing formula requires collateral - normally, freehold title to the house.

If the land was held by AHAA in the form of a land trust, householders would

not have title to the land and could not secure mortgage financing for construction of their house. Traditionally, lenders have not viewed the shares issued by limited equity co-operatives as convertible security for mortgages. A freehold or condominium form of ownership is required to enable the household to obtain a mortgage.

AHAA believes that the condominium form of ownership would enable the land to be acquired, financing to be obtained for construction, and mortgages to be secured for individual purchasers. However, a second dilemma is then raised. The 20% equity position held by AHAA becomes a control on the resale value. There are some questions about its enforceability. A mortgage can only be enforced for five years and then has to be renewed. The consequence could be that the household offers to pay the 20% second mortgage after five years to release them from their obligations to AHAA.

A restrictive covenant on the use of the property, including resale, can be registered for a twenty year period. However, use of a restrictive covenant to control resale value has not been used to our knowledge in Ontario. Either possibility (5-year mortgage renewal period or 20-year restrictive covenant) may limit the ability of AHAA to control the resale price of the house and maintain the long-term affordability of the housing.

The advantage of the land trust model, as articulated by the Institute for Community Economics in Massachusetts, is that the land is held in perpetuity by a set of trustees whose members include both residents and representatives of the larger community. The ground lease allows for control of the land separate from the buildings, which are seen as improvements to the land. This acts as an influence to limit the resale price of the housing and to maintain its long-term affordability. The disadvantage of the land trust model (at least in Canada) is that

the housing upon the land is not recognized by commercial lenders as acceptable security in the event of default by the homeowner.

### SUMMARY

Commercial financial criteria govern access to financing. The commercial criteria for security act as an obstacle to realizing social benefits which the lenders themselves may even support. The government has a critical role in the creation of sources of capital to support innovative

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housing projects. The provision of a loan guarantee to this land acquisition by AHAA will

- Facilitate the creation of 600 units of affordable housing.
- Facilitate the development of a community of low- and moderate-income households according to an integrated set of physical, social, and economic objectives.
- Demonstrate innovative land use and agricultural conservation techniques.
- Create a source of community-based equity to sustain further development.

These achievements will be realized without any subsidy on the part of the government. The loan guarantee will facilitate the financial participation of prospective residents, social investment organizations, and commercial lenders. They will gauge their participation by the feasibility of the business plan and the degree to which the proposed development meets their objectives.

The loan guarantee would express the government's confidence in the value of a network of nonprofit community-based developers such as AHAA. It also would show support for the creation of innovative partnerships at the community level. The partners to this project ultimately will include the vendors, the municipality, the prospective residents, social investment organizations, architects, planners, builders, the credit union sector, and the provincial government.

The success of this project will demonstrate that community-based partnerships can address community needs, and that government can play an important facilitative role in promoting local self-determination. This role requires that government provide loan guarantees to support community initiative. Government will discover that this is in fact less expensive, and probably more effective, than the delivery of its own programs to meet community need. ❧