

Community Development Alliance

Forever Affordable Policy

Approved 6-28-24

### **Background – Forever Affordable, but with Options for Residents**

Affordable homeownership provides an opportunity for both (a) generational wealth (e.g. equity for the first subsidized homebuyer), and (b) intergenerational community wealth (e.g. affordable home prices for future generation of homeowners). There are members of the alliance that favor generational wealth, and others that favor intergenerational community wealth. CDA, and its funders, raise and contribute significant funds for affordable homeownership, but often is not the sole funder for affordable homeownership opportunities.

In September of 2023, CDA held a Forever Affordable conference and the overwhelming direction of alliance members was that new construction homes that receive significant subsidy (e.g. \$50,000 or more), should be Forever Affordable (i.e. placed in a Community Land Trust). There are however, at least three mitigating factors that would prevent all new homes supported by CDA from going into the land trust: (1) as of 2024 there is limited capacity of the Milwaukee Community Land Trust and it will take time to build the infrastructure of the land trust so it can take dozens of projects per year; (2) there are several other funding sources with their own requirements which are largely subsidy repayment (i.e. HOME Funds 5-15 years; Habitat 10 years); (3) residents have expressed the desire for land trusts in several community plans (e.g. Fond du Lac & North Plan), but also have expressed both in planning and in collaboration session the desire for options so that not all homes are in a land trust. This is particularly a concern given the history of excluding families of color from generational wealth opportunities.

Long-term land trusts are a preferred option because they not only provide intergenerational community wealth, but also represent a wealth building opportunity as land trust homes are expected to be property taxed \$1,800/year less than similarly situated homes. For a homeowner in a land trust that is a savings of \$18,000 over a 10 year period. This, together with a 1.25%/year allowable sale price means that a person in a \$100,000 land trust home would have \$18,000 in savings, plus \$12,500 in shared equity, plus the equity of down payment assistance (e.g. approximately \$10,000), plus the equity from paying down their mortgage for 10 years (e.g. approximately \$15,000). Most importantly, the home would stay affordable for the next generation.

Finally, through research, CDA has identified that customized pathways to affordability, that are not land trusts, may restrict a homeowner's mortgage from being sold on the secondary market, limiting the options of borrowers. As most of the transactions in the first few years are expected to be through non-traditional portfolio lending (e.g. Acts Lending, Self Help, etc.), this is less of a concern in initial years, but helps inform a longer term strategy that should lean into land trusts as the primary pathway.

## **Policy**

1. Preserving Flexibility with a Declaration of Affordability on New Construction or Substantially rehabbed homes. The primary tool the CDA will utilize for preserving affordability of the homes it subsidizes is a Declaration of Affordability (“Declaration”). A Declaration will be recorded for each transaction that the CDA provides funding of \$50,000 or more. The CDA will also encourage funders supporting CDA sponsored projects to utilize a Declaration. The Declaration will give CDA the right to purchase the property for the initial purchase price, plus 1.25% of simple interest each year (“Resale Formula”). The Declaration is only triggered if the property owner intends to sell the home, in other words, CDA has no ability to require the homeowner to sell their home, and only has rights if the property owner is already intending to sell their home.
2. Exceptions. A Declaration is encouraged, but would not be required, in the following circumstances.
  - a. Milwaukee Community Land Trust. If a property is immediately sold after development to the MCLT, or to a homeowner and MCLT as part of a three party transaction, the Declaration is not required.
  - b. Habitat 10-year Subsidy Repayment. If a property is developed by Habitat for Humanity and includes a 10-year Subsidy Repayment and Right of First Refusal, the Declaration is not required, but may be used at Habitat’s discretion. This includes Low Income Housing Tax Credit transactions where the properties are intended to be sold to Habitat at the end of the 15 year compliance period.
  - c. HOME Funds 15 or 20 Year Subsidy Repayment. If a property is developed utilizing HOME funds and includes a 15-year or 20 Year Subsidy Repayment, the Declaration is not required, but may be utilized at the developer’s discretion.
  - d. VIA CDC. If a property is developed by VIA CDC and includes Declaration of Affordability approved by VIA CDC.
  - e. Acquisition Fund. Because there is no direct subsidy for homes that are sold through the Acquisition Fund these homes do not require a Declaration.
  - f. Down Payment Assistance. This policy does not apply if the only assistance provided by CDA is down payment assistance, even if such down payment assistance, in aggregate with other funders, exceeds \$50,000.
3. Application in the Rent-to-Own Model. Homes sold for a rent-to-own model should include a Declaration for both Strong Blocks during their ownership, and on the secondary sale to the homeowner, unless one of the exceptions in (2) apply.
4. Application to Homes MKE or Other Funders. CDA, nor its funders, provide significant resources to Homes MKE. At the request of the City or other Funders, a Declaration may be utilized at no additional cost to such funders.
5. Subordination to 1<sup>st</sup> mortgage. CDA will subordinate its Declaration to the 1<sup>st</sup> mortgage of a homebuyer. Any further subordination will be considered as stated in the Declaration.
6. No obligation to buy. The Declaration is CDAT’s right to purchase the property, but not an obligation for CDA, to purchase.
7. Inclusion by funder’s in grant language. CDA funders are encouraged to include the following language in their grant agreements:

“To ensure the long-term affordability of Grantee’s development, Grantee shall cause to be recorded against the property a Declaration of Affordability (Declaration) granting the Milwaukee Community Land Trust the right to enforce future affordability. The Declaration will be in a form provided by the Community Development Alliance (CDA) consistent with CDA’s Forever Affordable policy.”

8. Milwaukee Community Land Trust. It is the preference for CDA that MCLT be the rights holder of the Declaration of Affordability. Upon resolution of the board of directors of the MCLT, CDA intends to transfer rights of the Declaration of Affordability to MCLT.