

# Community Land Trust – a model for Berlin?

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Since the last decades and especially since the financial crisis of 2008, financial companies and private investors have (re)discovered real estate as an profitable investment object and asset. However, it is not so much the built structures as the underlying land, which has become the object of speculative investments. As a result, land prices, and the rents of the buildings built upon them, have risen continuously. According to economist Ottmar Edenhofer, around 80% of the rise in housing costs is due to land price developments (Trares 2018). Consequently, the provision of affordable housing is becoming increasingly difficult, especially with regards to inner-city housing. In this context, the land issue is becoming a key factor in social urban development and is – once again – on the political agenda.

The question of land and housing yet is by no means a new topic. The relationship between private land ownership, its profit-oriented exploitation, and social justice, has occupied numerous scientists and political thinkers. The peculiarity of land as a non-produced resource – which, unlike other goods, is limited in supply, and cannot be produced or multiplied – has been repeatedly addressed theoretically, often in opposition to predominant, free-market economic ideas (for which land is a commodity like any other). In his 1755 essay, “Discourse on the Origin and the Foundations of Inequality Among Men” the French philosopher Rousseau already argued that social inequality is a result of the illegitimate enclosure and subsequent commodification of the land, and the privileges derived from it. Almost a century later, the British economist John Stuart Mill developed the concept of “unearned increment”. He explained that the profits from rising land values were not generated by the work and investments of the individual owners, but were the result of the growth and development of society, and thus belonged to the whole of society; and should be returned to it by means of taxation

(Mill 1848). A position that is a topic again nowadays, and is reflected, for example, in the call “Grundsteuer zeitgemäß” launched by local politicians, organisations and associations, which requests for property tax to be converted into land value tax.

### **The Allocative Function of Land Price**

In the 1970s, the question of land ownership and the real estate industry became a central topic of critical urban studies. The “new theory of urban land rent”, for example, attempts to further develop, in keeping with Marxist positions, the role of the urban land rent, or, in easier words, of land price in urban development processes. It explains how land price acquires an allocative function in capitalist spatial production, by systematically helping to enforce the most profitable uses of the land, and displacing socially oriented, less lucrative uses (cf. Haila 1988). These mechanisms apply not only to the sale of real estate properties and new planning, but also concern existing usage and tenancies, as geographer Neil Smith has shown with the concept of the ‘rent gap’. This principle, referred to in German as the *Ertragslückentheorie*, shows how the gap between the existing rent and the potentially achievable rent puts pressure on those tenancies that do not maximize rent revenue. Said ‘gap’ also points toward the possible realization of profit, as for example the conversion of cheap rental apartments into upscale condominiums (cf. Smith 1979).

This tendency, which was analysed in rather abstract fashion in the 1980s, has developed into a dominant reality in recent years. For urban development, the treatment of land as a financial asset that has to stand up to comparisons with returns from other investment instruments means a further submission of the built environment to market forces and financial speculation, and shapes the understanding of land as an exploitable asset like any other.

## **The Search for Alternatives: land as community ownership**

Within the context of these developments, a growing interest in alternative, non-profit-oriented forms of ownership arises. A land policy removed from the market is increasingly propagated as a way of strengthening socially-oriented urban development (cf. difu/vhw 2017). The underlying assumption is that if land is neutralised as a profit factor, it is more likely to secure affordable living and working spaces, as well as other social and cultural uses in the longer term. In the following, the Community Land Trust (CLT) will be presented as such a non-profit-oriented form of ownership. CLTs are a communal form of ownership by which land is withdrawn from speculation, in order to make it available for affordable housing, but also for other commercial, social or cultural uses – from neighbourhood centres to industrial and craftspeople yards to community gardens. They are also a form of neighbourly self-government, in which the use of the land, and the structures on it, are decided on collectively, so that they correspond to the local needs. The formula “community-led development on community-owned land” aptly summarises the core idea of the CLT (Davis 2015).

CLTs emerged in the 1970s, in the context of the civil rights struggle in the rural South of the US, to counter the racially discriminatory land policies and provide African-American farmers with permanent access to farmland and housing. The early protagonists of the CLT movement brought together various socio-political ideas and got inspiration from diverse sources where the trusteeship of land for the common good was of great importance, like the English Commons or the Gramdan movement in India, where villages function as trustees of agricultural land.

The first urban CLTs were founded in the 1980s, when upgrading and gentrification in US cities, particularly in low-income neighbourhoods, increasingly led to the displacement of local residents. Here, the up to this point rural model was transferred to the urban context and the problem of providing permanently affordable housing and corresponding community facilities, and redefined according to the new requirements. In the following years, as a neighbourhood-related model for securing long-term, low-cost housing for people with low incomes, CLTs were quickly accepted and disseminated, especially among community activists who tried to counteract the state’s withdrawal from welfare provisions.

There are now hundreds of CLTs, mainly in the USA and Great Britain, but also in Brussels, Lille and Ghent. Especially in the inner cities, they have become a tried-and-tested approach to combat gentrification and displacement. The EU has also become aware of this ownership model and supports the establishment of CLTs in the North-West European region as part of its project “SHICC” (Sustainable Housing for Inclusive and Cohesive Cities).

## **The Three Elements of the CLT Model: Community – Land – Trust**

In the following, the defining characteristics the CLT model will be explained, and the organizational-legal structure outlined. These can be clustered into three categories, exemplified by the terms that make up the name of this model: ‘community’, ‘land’ and ‘trust’. Admittedly, this description simplifies a reality in which there exist many adaptations to local needs and particularities.

### *“Land”: the question of property and landownership*

An essential feature of the CLT model is its form of ownership. CLTs are characterised by a two-party structure of ownership, in which the ownership of land is separated from the ownership of the buildings established on it. Although the future users – whether they are residents of single-family houses, cooperatives or local business people – purchase the building structures, the underlying land remains the property of the CLT, which holds it in trust, and leases it to users by means of a long-term building contract of usually 99 years.

This leasehold contract is the key structural element of the CLT model. It can be mortgaged, and it is renewable and binding for all future users. It contains all regulations necessary for the functioning of the CLT, and the permanent affordability of the respective housing stock (and other uses), ranging from a limitation of the resale price of the building structures, to the prohibition of absentee ownership, to income restrictions for future users. The leasehold contract also codifies the CLT’s right of first refusal in cases of buildings being sold. The CLT is responsible for controlling and possibly enforcing the regulations laid down in the leasehold agreement.

### *“Community”: local anchoring and neighbourly self-government*

A further feature of the CLT, that distinguishes it from sole lease land arrangements, is the design of the organisational and decision-making structure. CLTs are organisations that are democratically administered and rooted within local neighbourhoods. They are characterized by a locally defined open membership: all people who live in the area defined by the CLT as a neighbourhood or “community”, in the geographic sense, can become voting members of the CLT, and are therefore entitled to participate in the decision making process. People outside this area can also become members, but have no voting rights. All users are automatically voting members. The rights and duties of the CLT members are defined in the CLT’s statutes, the so-called bylaws. Unlike, for example, housing cooperatives CLTs limit the decision-making power of residents and users, and instead emphasise the neighbourly and social components of housing provision. This form of, if you will, socialisation is also reflected in the tripartite composition of the decision-making body. In the Anglo-Saxon world, this is the “board of directors. Generally, this board consists of representatives of users, neighbours and public

figures, in equal measure. It is responsible for carrying out the purpose the fate of the CLT and, among other things, for supervising the management and any working groups. The board members usually work free of charge, and are elected at annual general membership meetings.

Through this involvement of third parties, the organisational structure of CLTs maintains a balance of interest among different constituencies. In this way, it mediates between possibly short-term interests of its users, and long-term objectives of the CLT, or of the respective neighbourhood and broader public. It mitigates the danger of profit restrictions anchored in the regulations being lifted (thereby paving the way for collectively organised housing being commodified over time, and becoming a potential engine of gentrification and displacement).

#### *“Trust”: the social issue*

CLTs are non-profit organisations, and usually recognized by the respective national law as charitable. The term “trust”, however, is sometimes misunderstood to represent an economic body as in a “trust company”. The latter is usually defined as a merger of several companies in order to achieve a market monopoly. The concept of trust in a CLT, rather, goes back to the idea of “trusteeship”, the management of assets on behalf of others. Central to the CLT model is the structural anchoring of long-term affordability. By permanently withdrawing land from the market, and restricting or completely preventing profit making, CLTs guarantee the long-term affordability of their living and working spaces (or the agricultural land they provide) as well as their communal facilities.

This creation of permanently affordable spaces goes hand in hand with an emphasis on serving households with below-average incomes. In this respect, CLTs do not see themselves as a model “for everyone”, but as one that offers opportunities for people with limited economic resources, or for those who are otherwise disadvantaged by (and excluded from) the speculative market or political mainstream. The orientation towards “low and modest incomes” is, in case of the US, also anchored in the legal definition of the CLT in the 1992 Housing and Community Development Act.

#### **A model for Berlin?**

CLTs work under capitalist conditions, but simultaneously point beyond them; in that, they are a way to create and sustain housing based on need, not on profit expectations. In this way, they help identify alternatives to market-based housing and the commercial supply of living and other spaces, both on a discursive as well as a project-related level.

In this sense, the CLT model can also provide important impulses for urban and housing policy debates in German-speaking countries. On the one hand, it could add a decidedly neighbourhood-oriented model, one which points to a way out of tendencies toward homogenisation and socio-economic exclusivity that persist, usually unintentionally, even in

many alternative housing projects and cooperatives. Here a CLT would possibly reorient existing models towards a stronger sense of solidarity. On the other hand, certain aspects of the model (e.g. the leasehold regulations, the inclusion of representatives of the neighbourhood and general public, the permanent non-saleability via a two-party ownership structure), could offer new strategic possibilities for debates around remunicipalisation, the permanent securing of public property, rethinking property policy and the democratisation of public housing stocks.

Since the beginning of 2018, there has been a Community-Land-Trust initiative in Berlin which – with the support of the Friedrichshain-Kreuzberg borough office – is working on a transfer of the CLT model to the local context. There are now roughly 20 people involved, from neighbourhood initiatives and self-governed tenant-projects, to cooperatives to small businesses fighting against displacement, some of whom have already been in touch with CLTs in the US or Great Britain. A CLT-inspired, democratized version of the foundation model is being developed, and the conditions for initial projects are under discussion. The aim of the initiative is to counter the speculative spiral in Berlin by withdrawing land and real estate from the market, and permanently securing it for the common good. This way, the particular needs of neighbourhoods should be met, whether it is affordable housing, small businesses, open spaces or social facilities. Such a democratized foundation would be a novelty within the German foundation scene. Nevertheless, a couple of links and connecting factors already exist: the two-party ownership model, and the separation of land from its built structures, have previously been tried and successfully tested by the Edith Maryon Foundation in Basel, and the trias Foundation in Hattingen. Both organisations pursue goals that come very close to the CLT’s ownership model: preventing speculation, and supporting projects oriented towards the common good by allocating long-term leaseholds.

What is more challenging, however, is the democratic control of such a foundation, and the securing of neighbourhood participation. A foundation under German law is not a very democratic construction per se. Although offering a high degree of security against future market exploitation of its assets, the founder of a German foundation usually occupies a central position. But here, too, various foundations are already experimenting with their decision-making bodies, e.g. the *Bewegungsstiftung*, *The Document Foundation*, the foundation *Nord-Süd-Brücken*, the *Elly Heuss-Knapp-Foundation* (German Maternal Convalescence Movement) or the now-dissolved *Foundation Nachbarschaftliche Träger*.

The (still nameless) CLT Foundation in Berlin aims to pin down the form of tripartition of the decision-making body – whether as a board of directors or a board of trustees – and to fill the posts democratically at meetings with users and neighbours, possibly with the involvement of the founders and donors. The initial chapter of the foundation will not be provided by any wealthy individual or organisation, but by a large

number of people, each donating relatively small amounts, and thus supporting the goals of the CLT and a social, neighbourly urban development from below. The campaign for this initiative is to be launched next spring.

The CLT initiative is part of several endeavours for land reform in Berlin that have grown stronger over recent years, from the round table for the reorganisation of Berlin's property policies, founded 2012, to the growing demands for a municipal land fund, to name just a few. The CLT does not see itself as a competitor to re-municipalisation. Its point of departure lies at the other end of the political spectrum, as its primary target is to decommodify and socialise privately owned land and real estate. Ideally, as a model based on grassroots democracy, and designed for the longer term (in stark contrast to social housing policy in Germany), it might indeed offer suggestions and serve as an example for the role of civil society in decisions about municipal property.

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