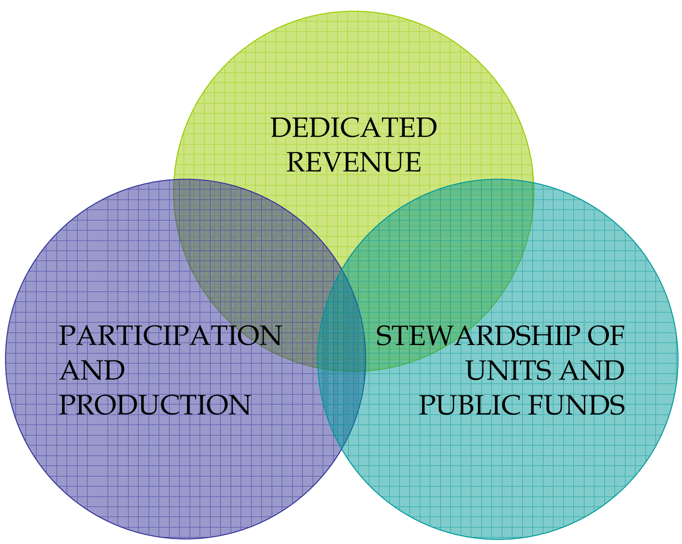
AFFORDABLE HOUSING ELEMENTS

In furtherance of the New Castle County Comprehensive Plan



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AFFORDABLE HOUSING ELEMENTS

The following proposal is offered to New Castle County government as a set of elements to encourage the development and stewardship of affordable housing within its comprehensive plan.

It discusses essential features of a sound affordable housing strategy, under three major subject areas:

1. Increasing the funds available to the County for affordable housing
2. Promoting participation in, and production of, affordable housing
3. Long-term stewardship of units created and of public funds invested

Based on models which are working very well in other states, these three elements have several benefits when put together as a program. First of all, by adding several sources of potential revenue, they answer the question of funding the effort to develop and preserve affordable housing. Second, they provide a multi-layered approach to a complex problem. Third, they work together in mutually reinforcing ways for the benefit of the residents of New Castle County. Finally, they use the concept of subsidy retention to permanently preserve County and other investments in affordable housing units.

This proposal puts a county affordable housing trust fund at its center and assumes that the fund would be complemented by a mandatory inclusionary housing element and a permanent affordability element.

This paper does not look at the affordable housing need in Delaware, which has been well-documented, but instead concentrates on possible tools for the County to use in addressing at least part of the need.

The elements discussed in this paper are:

1. Element 1: County Affordable Housing Trust Fund
2. Element 2: Inclusionary Housing Program
3. Element 3: Permanent Affordability
4. Other Elements
    - Impact Fees
    - Transfer of Development Rights
    - Accessory Dwelling Units
    - Rental Preservation and Anti-Displacement Measures

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COUNTY AFFORDABLE HOUSING TRUST FUNDS

Increasing Revenue for Affordable Housing

- Concept

  A housing trust fund (HTF) is established by government to receive sources of public revenue that are dedicated for the express purpose of producing and preserving affordable housing.

  Currently, there are over 120 county housing trust funds in operation. There are almost 600 state and local housing trust funds in existence.

  Delaware has one housing trust fund, the state's Housing Development Fund (HDF), which receives an annual allocation of approximately $4 million.

- Components
  - One aspect of all housing trust funds is some source of dedicated revenue which, through ordinance or legislation, funds its activity.
  - Another popular feature of housing trust funds is their flexibility. Local governments can determine which elements are most critical to the definition of how the funds may be used (e.g. income targeting, length of affordability) and work to have those components established in the state enabling legislation as a threshold for funding, which still leaves the counties with control over which local priorities will be met and which projects will be funded to meet those needs.
  - Another important element is a definition of the purpose of the program which the fund is implementing, including the affordable housing need to be addressed.
  - Most funds are publicly administered, with a community oversight component that includes some decision-making, rather than solely advisory, functions.
  - Finally, funds usually are created and funded with the intention of reaching a goal, in terms of dollars available and number of units or households to be helped.

- Considerations
  - *Need for dedicated revenue.* While almost all revenues coming to housing trust funds are "dedicated," the ideal is a continuous flow of funds that is regular, predictable, and automatic. It is best to establish a housing trust fund on at least one source of this type.
  - *State enabling legislation.* Some states have passed enabling legislation which automatically makes counties eligible for a portion of increased revenues, such as from increases to document recording fees, if they are to be used for county affordable housing trust funds. Other states explicitly permit

localities to adopt new revenue sources. Finally, in some states, a portion of the revenue from the state HTF is provided to match local commitments.

- *Other sources.* Revenue for a county housing trust fund could include impact fees on nonresidential development, any permitted developer fees-in-lieu of participation from the inclusionary housing element, and deferred impact fees on affordable housing units whose affordability control periods end.
- *Target critical needs.* While it is understandable that many affordable housing programs aim at serving families from 60% to 80% of area median income (AMI) or even higher, it is important for some programs to serve those with the most critical housing needs, which invariably includes the needs of households at or below 50% of county median income.
- *Building an inventory.* Maintaining an extended or permanent affordability period for units created by public funds is the best stewardship of limited resources and has a multiplier effect over time for each unit that remains affordable, since it stays in the overall inventory of affordable units and needs no new public subsidy to do so.

- Recommendations
    - The county should implement a housing trust fund with a dedicated revenue source for the purpose of supporting the costs of the development of affordable housing and providing matching funds for federal and other housing grants, including the National Affordable Housing Trust Fund.
    - New Castle County should work with the other two Delaware counties and the state's affordable housing advocates in order to create mutually beneficial state enabling legislation for the funding of county affordable housing trust funds.
    - The housing trust fund should be administered within County government, with a community oversight board. This board would be comprised of representatives from nonprofit and for-profit housing developers, financial institutions, housing advocacy organizations, and community associations.

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INCLUSIONARY HOUSING
Promoting Participation and Production

- Concept

  The term "inclusionary housing" refers to a broad range of programs, ordinances and policies developed on the city, county and even state level to encourage development of affordable housing based on encouraging the creation of affordable or moderately-priced homes, either or both for sale and rental; employing the expertise and capacity of the private market to create affordable units through incentives; and assuring that new developments include housing affordable to a range of household income levels.

  Inclusionary housing programs, also often called inclusionary zoning, link the construction of a certain number of housing units that will sell or rent for less than the "market" with the construction of a certain number of market rate units. The objective is to promote the development of below-market rate housing to be part of a community by providing a mechanism for both types of housing to be developed at the same time and, in most instances, as a part of the same development process at the same location.

- Components

  Almost all inclusionary housing programs include some shared features:

  - Set aside requirements: The percentage of units within a proposed project that a developer is required to price as affordable to low and moderate income households.
  - Income targets: The income level at which inclusionary units are targeted, typically based on a percentage of the area's median income (AMI).
  - Project triggers: The number of units at which the inclusionary requirement or option will apply (e.g. projects of 10, 20, 30 units or more)
  - Developer compensations/cost-offsets: Strong programs provide compensation to developers to reduce the construction costs of a project that includes affordable units. In a mandatory program, these can be called compensation; in a voluntary program, they are the incentives to encourage developers to participate. Common incentives include:
    - Density bonus: An increase in the number of units allowed under the zoning standards for a project.
    - Expedited review: Projects participating in the program move "to the front of the line" in planning and zoning review. On the local level, this is much more effective if agreements exist with state-level agencies to expedite their review as well.
    - Fee waivers/reductions: Projects participating in the program receive waivers or reductions in fees, which in some jurisdictions can be a sizable incentive.

  - Off-site construction and in-lieu fees: Mandatory inclusionary housing programs frequently include provisions for off-site construction of affordable units or the payment of fees in lieu of constructing affordable units.
  - Term of affordability: Almost all programs now include affordability controls. These range from short (5 to 10 years) to permanent restrictions.

- Considerations

  While many inclusionary housing programs have been developed in the last decade, dozens of older programs provide excellent opportunities to identify best practices in program structure and administration. Findings include:

  - ***The most productive programs in terms of affordable units produced are mandatory.*** Quite simply, mandatory programs produce more housing, and are also much more effective at producing more homes affordable to households with lower incomes. Cities and counties across the country have voluntary programs on the books that have not produced a single home, sometimes in decades. Voluntary programs are typically only successful in creating units when 1) there is a source of significant subsidy; and 2) a community's broader planning policies are rigid enough that the incentives of the voluntary program are very attractive.

  - ***Effective program and incentive design must include developers.*** Builders and developers should be included in the process of crafting any program, and their input sought particularly on the issues of identifying useful and effective incentives and quantifying costs. Successful programs make it possible and profitable for developers to construct quality, affordable units within their projects. Almost all programs now include requirements to maintain the affordability of the affordable units for a specified period of time. In the example of Montgomery County, Maryland, thousands upon thousands of affordable units were created and were soon unaffordable due to short affordability control periods.

  - ***Programs require administration and administration requires funding.*** Unfortunately, some jurisdictions look upon inclusionary housing programs as a means to create affordable housing with no public cost. This is not the case. Administration includes verifying eligibility, managing sales or rentals, monitoring resales and affordability, providing ongoing support and guidance to developers, and many other tasks. The resources required vary greatly with the size of the program, but defining the cost of administration and a source of resources to support it is a crucial part of program development that should not be overlooked.

  - ***Inclusionary units should be packaged with other affordable housing resources to reach lower-income families.*** To help programs reach lower-income families, jurisdictions can and should consider: mandating that some proportion of inclusionary units go to housing choice voucher holders; offer homebuyer assistance to purchasers of units or ensure coordination with other resources; and enable public agencies or nonprofit organizations to purchase and further subsidize inclusionary units.

- ***Effective programs apply to the majority of residential development.*** Policies that cover the majority of residential construction and reflect development patterns in the community are most effective at creating affordable units. For example, if 90% of construction is occurring in projects of 15 or more units, it would be reasonable to set a trigger of 15 units. However, if half of all developments were less than 15 units, the jurisdiction should consider setting a lower trigger.

- ***The most equitable distribution of affordable housing is achieved by limiting the use of alternatives.*** Many policies allow developers some alternatives in constructing the affordable units within the larger project. The most common alternatives include: paying fees in lieu of constructing affordable units; constructing units in an off-site location, or dedicating land on which affordable units could be built. While these are important options to provide, policies should try to avoid or at least minimize the use of these alternatives. In-lieu fees should be high enough to truly reflect the replacement cost of creating an affordable unit, and unit requirements should be higher for off-site construction. This latter can be an additional source of revenue for the county's affordable housing trust fund.

- ***Long-term impact on affordable housing in a jurisdiction requires long-term affordability controls.*** Creating affordable homes is the result of substantial commitment from the private and public sectors. Provisions for long-term affordability guarantee that these investments provide maximum community benefit and do not simply bestow large windfall profits on individual buyers. The main method for time-limited affordability restrictions in owner-occupied housing is deed restrictions, although these must be carefully monitored. Benefits which were provided to the initial homeowner can be transferred to a new owner meeting the same income criteria. When the affordability control period is limited, any impact fees can be deferred for that period, their repayment becoming another source of funds for the county affordable housing trust fund. The community land trust model is a strong and effective mechanism for permanent affordability restrictions.

- Recommendations

  Based on the above considerations, the following recommendations are offered
  - Inclusionary housing ordinances should be implemented which provide sufficient incentives to ensure the participation of developers in providing affordable housing. Such incentives should include:
    - Substantial density bonuses
    - Fee waivers and/or deferrals which reduce the cost of housing and which can be transferred to future owners
    - Defined income criteria for owners or renters
    - Expedited review processes for affordable projects
    - Intermixing of affordable and market rate units
    - Added incentives for nonprofit organizations producing and managing long-term affordable housing development

- Program design should include the active participation of for profit and nonprofit builders and developers, affordable housing service providers, financing providers, and community representatives.

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PERMANENT AFFORDABILITY
Stewardship of Units and of Public Investment

- Concept

  Affordable housing needs increase at a rate that outstrips resources. With incomes virtually level or only increasing slightly, while land and construction costs rise steadily, each new affordable housing unit requires an increased public and private investment to put it within reach of a target income group.

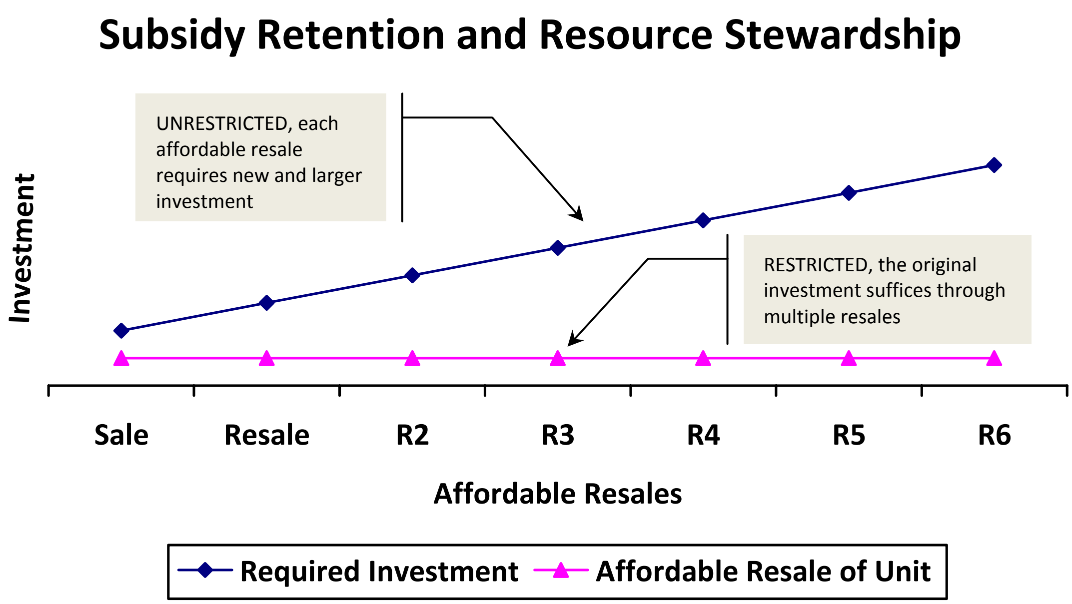
  Permanent affordability is an answer to this dilemma. When an owner-occupier purchases a home, the resale value is restricted in some way in order (1) to retain in the home a portion of the original subsidy which made the home affordable to a particular income level and (2) to keep that home affordable for some number of future buyers at that same income level. A number of mechanisms exist for sharing equity, including deed restrictions, limited equity cooperatives, and community land trusts. Community Land Trusts (CLTs) typically have the longest affordability retention periods – permanent ones -- and the strongest controls over resale. This makes the CLT option superior, in many regards, to other forms of shared equity, especially for homeownership. The remainder of this discussion will focus on CLTs as an example of permanent affordability.

- Components
  - Community land trusts typically acquire and hold land and sell the residential units that are on the land.
  - Title to the land is held in perpetuity by the CLT, which is governed by a community-based board of directors.
  - Exclusive, possessory use of the land is conveyed to individual homeownership by means of a long-term (99-year) lease that is assignable to the heirs of the leaseholder and renewable at the end of the 99-year term.
  - In this way, the cost of land in the purchase price of the home is minimized or eliminated, making the housing more affordable at the first and subsequent purchases.
  - CLTs include an equity limitation in the ground lease agreement that restricts the resale price of the housing in order to maintain its long-term affordability – attempting to balance the fair return on the owner's investment with preserving affordability for the next buyer.

- Considerations
  - CLT homeownership projects can be structured to serve households in lower income ranges than typical first-time homebuyer programs; CLTs add a new rung on the homeownership ladder that reaches families that have here-to-fore had no option other than renting.

- CLTs are an excellent way to create a stock of permanently affordable housing and homeownership opportunities for households who would otherwise not be able to afford them.
- As shown in the accompanying graphs, CLTs retain the public and private investments made in their homes, and they keep the homes affordable over time to the target income population without new subsidy.
- Since they exercise a right of first refusal at resale on their homes, CLTs are good candidates to administer inclusionary housing programs and can bring homes with limited affordability periods into the CLT inventory, making their affordability permanent.

- Recommendations
  - The County should establish a mechanism to provide properties for inclusion in a community land trust, possibly through the donation of abandoned or vacant properties, subsidies for home/property acquisitions, set-asides in the development approval process, or other means.
  - The County should work closely with existing community land trust models rather than creating a new land trust



Please see attached summary of the Diamond State CLT resale formula from the Fall 2006 *Housing Journal.*

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OTHER ELEMENTS

A. Impact Fees

- Concept

  Impact fees are one-time fees applied typically only to new development. The fees are designed to compensate for the effects of growth on public facilities, such as additional water and sewer systems, schools, libraries, parks and recreation facilities, roads and other infrastructure needs resulting from new residents. In most cases, impact fees are viewed as an alternative to increased taxation, especially in state or local jurisdictions which do not have the capacity or the will to change the existing tax base.

  Similar methods to assessing impact fees for infrastructure development are developer exactions and special assessment districts. Exactions require developers to set aside land or facilities to serve public uses, i.e. a park or road improvements. Special assessment districts require added fees or developer contributions in defined geographic areas and may apply to all development, not just new construction. For the purposes of this paper, exactions and special assessment districts are not discussed separate from impact fees.

- Components

  As the use of impact fees has grown through the pressure to fund infrastructure growth, features have expanded, but basic components include:

  - Fees are assessed according to a fee schedule per dwelling unit or per 1,000 square feet of commercial space
  - Fees may be assigned for specific uses, such as schools, parks or sewer, or may be general impact fees for all infrastructure development
  - Fee calculations are varied and range from a set fee per type of property use, i.e. single family vs. multifamily, to, as recommended below, variable fees depending on factors such as square footage and/or proximity to services
  - Fee revenue may be pledged to support bond debt service for infrastructure development, i.e. sewer or water systems
  - Fees may be waived or deferred for specific properties, such as for affordable housing, for designated commercial/industrial uses or for location adjacent to public transportation facilities

- Considerations

  - ***Ineffectiveness of impact fees in addressing infrastructure costs equitably.*** Although, conceptually, it seems that new development should shoulder infrastructure expansion, general taxes are a more effective way of allocating public facility expense, except possibly in the case of water and wastewater expansion.
  - ***Unintended consequences of price appreciation***. In some instances, impact fees are considered as a means of controlling rapid growth. Impact fees

increase the cost of housing, but do not necessarily lessen demand, resulting in higher prices.

- ***Negative impact on affordable housing development***. Unless impact fees are waived or deferred, affordable housing is more difficult to develop because of the increased costs.
- ***Negative effect of regressive fee assessment***. Flat fee assessment for residential dwellings based on the type of unit assign higher percentage fee costs to smaller units and lower percentage fee costs to larger units. Evidence indicates that larger units consume more public resources and therefore should pay higher fees. Proportional fee assessment based on square footage of residential space and/or other factors such as distance or usage can provide a more equitable assessment.
- ***Timing and effect of cost reimbursement***. Impact fees are typically collected at issuance of building permits or later at the certificate of occupancy. Infrastructure costs may be incurred in the beginning of development, i.e. water, or significantly after development, i.e. schools, parks, etc. Impact fees also do not provide for operating costs, only infrastructure development.
- ***Limitation to new development***. Impact fees typically apply only to new development, and may not be effective in the redevelopment or revitalization of areas targeted for infill growth.
- ***Public acceptance***. The primary advantage of impact fees is public acceptance. Existing property holders prefer new property holders to incur new costs without increasing taxes. However, the effect of rising house prices and barriers to new development may have longer term economic costs which outweigh the benefits.

- Recommendations

  Based on the above considerations, the following recommendations are offered:

  - Impact fees should be used only as a last alternative to general taxation and should be applied directly to broad use public facilities such as water and wastewater projects.
  - Fee calculations for assessments should be based on criteria which provide for equitable distribution. Such criteria could include square footage of dwelling units, level of usage, density of development, distance from existing facilities, proximity to public transportation, or other relevant factors.
  - Waivers or deferrals should be provided for housing designated for affordable rental or sale, typically housing for individuals or families at 80% or less than median family income for the County. Deferral of fees could be tied to the resale or refinance of the unit.
  - Waiver or deferral of fees should be perpetuated through a continuation at the point of resale or refinance if the property continues to be owned by or rented to individuals or families meeting the affordable housing definition.

B. Transfer of Development Rights (TDRs)

- Concept

  Transfer of Development Rights (TDRs) are used to protect open space and promote compact development. TDRs are a market-based tool which starts by recognizing property rights as a bundle of elements, one of which is the right to develop. It then uses some form of community consensus about areas to be preserved and those to be developed as a basis for operating.

  The Montgomery County (MD) program has preserved 40,000 acres of farmland, the New Jersey Pinelands program 5,900 acres, and the King County (WA) program over 51,900 acres of forest.

- Components
  - A public process results in the identification of areas to develop (receiving areas) and those to preserve (sending areas).
  - Rights are transferred from a sending area to a receiving one to enable development there.
  - The sending area is permanently restricted from development through a mechanism such as deed restriction or conservation easement.

- Considerations
  - *Planning.* TDRs work best if they are part of a larger, multi-year plan that the community has truly endorsed.
  - *Obstacles.* Finding resources to be protected is much less difficult than reaching agreement on receiving areas for the rights.
  - *Density.* It is difficult to find communities that will locate receiving areas for higher-density development, "creating a program that is simple to administer but complex enough to be fair" (Lane, March 1998).
  - A credit bank or clearinghouse can be set up to facilitate transactions.
  - *Marketing.* Also, it is difficult to make TDRs effective in shaping the nature of development in the receiving areas. Being able to market the TDRs works against concentration of development.

- Recommendations
  - The County should act as the intermediary in the provision of transfer development rights by identifying available land resources which are accessible to developers in receiving areas
  - Clear guidelines for the application of TDR's in receiving areas to foster predictability in long-range planning

C. Accessory Dwelling Units

- Concept

  "A second, subordinate dwelling unit is added to, created within, or detached from a single family dwelling, which provides independent living, sleeping, eating, cooking and sanitation facilities."

  Accessory Dwelling Units (ADUs) allow adult children to care for parents in a semi-independent living arrangement, provide affordable rental housing in more desirable single-family neighborhoods, increase housing opportunities for seniors, singles and persons with disabilities; provide extra income to meet rising homeownership costs, and facilitate the trading of rent reductions for necessary services. ADUs can also add to community stability through retention of an intergenerational mix.

- Components/Considerations
  - Only one ADU should be allowed on a property.
  - ADUs should be permitted in all residential zoning districts.
  - There should be a requirement that one unit on a property must be owner occupied (either the main structure or the ADU) .
  - Design guidelines to regulate the location, size and/or appearance of detached units will be necessary.
  - An amnesty program should be established to legitimize existing ADUs.
  - Future changes to the program that might be warranted include incentives (simplified approval process, expedited review, reduced permit and fees, etc.) to encourage this model.

- Recommendations
  - This is a program which New Castle County has already implemented on a limited basis with many safeguards.
  - The current ADU program should be tracked as a basis for measuring its impact, making improvements to it, and possibly expanding the program.

D. Rental Preservation and Anti-Displacement Measures

- Concept

  One-for-one replacement of affordable rental units is an ideal which is shared by many housing advocates and tenant organizations, nationally and here in Delaware.

  Multifamily housing that is created with federal, state, and local funds often has compliance periods or, for other reasons, faces eventual return to market-rate or change of use. In an effort to preserve use-restricted properties, many states and localities have provided further protections for these properties through supplemental laws and policies. This can be carried out in a variety of ways, depending upon the desired result.

- Components
  - Notice from the owner to the County can be required when the availability of publicly assisted affordable housing for low and moderate income households is in question because of the potential changes to the property.
  - The County can provide for purchase opportunities to attempt to preserve the affordable housing while respecting ownership interests of building owners.
  - The County can provide for tenant relocation assistance when the affordable housing is converted.
  - The County can ensure long term affordability in future projects that it assists with public financing designed to create or preserve affordable housing.
  - The County can develop a statutory "right of first refusal"-- an opportunity to purchase the property and preserve it as low-income housing before the owner converts it to market rent.
  - It may provide rights to tenant organizations, to nonprofits and public agencies, or to other preservation purchasers including for-profit entities that commit to specified preservation terms.
  - It may be triggered by various events -- from a planned sale or other disposition of the property to any action that would affect its current low-income use, such as expiration or termination of use or affordability restrictions or any subsidies.

- Recommendations
  - Federal and state publicly assisted housing projects in New Castle County have contract or compliance periods. The length of these periods could be extended for all projects in which the County invests.
  - The worst impacts of changes of use in large, non-assisted developments which have become the housing of choice for moderate and low-income households could be avoided by requiring relocation assistance and by a community benefits agreement requiring the replacement of a percentage of the units to be lost.

SUMMARY OF RECOMMENDATIONS

Element One: County Affordable Housing Trust Fund

✓ The county should implement a housing trust fund with a dedicated revenue source for the purpose of supporting the costs of the development of affordable housing and providing matching funds for federal and other housing grants, including the National Affordable Housing Trust Fund.

✓ New Castle County should work with the other two Delaware counties and the state's affordable housing advocates in order to create mutually beneficial state enabling legislation for the funding of county affordable housing trust funds.

✓ The housing trust fund should be administered within County government, with a community oversight board. This board would be comprised of representatives from nonprofit and for-profit housing developers, financial institutions, housing advocacy organizations, and community associations.

Element Two: Inclusionary Housing

✓ Inclusionary housing ordinances should be implemented which provide sufficient incentives to ensure the participation of developers in providing affordable housing. Such incentives should include: substantial density bonuses, fee waivers and/or deferrals which reduce the cost of housing and which can be transferred to future owners, defined income criteria for owners or renters, expedited review processes for affordable projects, intermixing of affordable and market rate units, and added incentives for nonprofit organizations producing and managing long-term affordable housing development

✓ Program design should include the active participation of for profit and nonprofit builders and developers, affordable housing service providers, financing providers, and community representatives.

Element Three: Permanent Affordability

✓ The County should establish a mechanism to provide properties for inclusion in a community land trust, possibly through the donation of abandoned or vacant properties, subsidies for home/property acquisitions, set-asides in the development approval process, or other means.

✓ The County should work closely with existing community land trust models rather than creating a new land trust.

Other Elements

✓ Impact fees should be used only as a last alternative to general taxation and should be applied directly to broad use public facilities such as water and wastewater projects.

✓ Impact fee calculations for assessments should be based on criteria which provide for equitable distribution. Such criteria could include square footage of dwelling units, level of usage, density of development, distance from existing facilities, proximity to public transportation, or other relevant factors.

✓ Impact fee waivers or deferrals should be provided for housing designated for affordable rental or sale, typically housing for individuals or families at 80% or less than median family income for the County. Deferral of fees could be tied to the resale or refinance of the unit.

✓ Impact fee waivers or deferrals should be perpetuated through a continuation at the point of resale or refinance if the property continues to be owned by or rented to individuals or families meeting the affordable housing definition.

✓ In the provision of transfer of development rights, the County should act as the intermediary by identifying available land resources which are accessible to developers in receiving areas.

✓ The transfer of development rights require clear guidelines for their application in receiving areas to foster predictability in long-range planning.

✓ Accessory Dwelling Units (ADUs): The current ADU program should be tracked as a basis for measuring its impact, making improvements to it, and possibly expanding the program.

✓ Preservation and anti-displacement efforts can extend contract or compliance periods for federal and state publicly assisted housing projects in New Castle County for all projects in which the County invests.

✓ The worst impacts of changes of use in large, non-assisted developments could be avoided by requiring relocation assistance and by a community benefits agreement requiring the replacement of a percentage of the units to be lost.

o SELECTED RESOURCES

We are heavily indebted to the following resources for the outline of affordable housing elements elaborated in this paper.

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- ✓ Mary Brooks, *Housing Trust Fund Progress Report 2007* (Washington, D.C.: Housing Trust Fund Project, Center for Community Change, 2007); available at: http://www.communitychange.org/shared/publications/downloads/HTFund_Progress_Report_2007_Annoucement.pdf

- ✓ John Emmeus Davis, *Shared Equity Homeownership: The Landscape of Resale-Restricted, Owner-Occupied Housing*, National Housing Institute, 2006; available at: http://www.nhi.org/policy/SharedEquity.html

- ✓ Diamond State Community Land Trust. *Inclusionary Housing Basics*. Draft Board Document, February 2007.

- ✓ Home Builders Association of Northern California and the Nonprofit Housing Association of Northern California. *On Common Ground: Joint Principles on Inclusionary Housing Policies*, Joint Policy Brief, July 2005, available at http://www.nonprofithousing.org/attachments/Inclusionary_Principles.pdf

- ✓ William Fulton, Jan Mazurek, Rick Pruetz, and Chris Williamson, *TDRs and Other Market-Based Land Mechanisms: How They Work and Their Role in Shaping Metropolitan Growth,* Brookings Institution Center on Urban and Metropolitan Studies, June 2004; available at: http://www.wulaw.wustl.edu/landuselaw/Articles/Market_Based_LUC.pdf

- ✓ Robert Lane, "Transfer of Development Rights for Balanced Development," *LandLines* Magazine (March 1998); available at: http://www.lincolninst.edu/pubs/PubDetail.aspx?pubid=424

- ✓ National Housing Law Project, *Housing Preservation, State Preservation Initiatives*, http://www.nhlp.org/html/pres/state/index.htm

- ✓ National Low Income Housing Coalition. *Advocates' Guide to Housing and Community Development Policy* (Washington, D.C., 2007); available at: http://www.nlihc.org/template/page.cfm?id=46

- ✓ James Tripp and Daniel J. Dudek, "Institutional Guidelines for Designing Successful Transferable Rights Programs," *Yale Journal on Regulation* (Summer 1989); available at: http://islandia.law.yale.edu/jreg/pastissues/issues.htm

THE DELAWARE HOUSING COALITION

Since 1983 the Delaware Housing Coalition (DHC) has advocated for affordable housing throughout the state and, during that time, has provided technical assistance to public and assisted housing residents in Delaware and the creation of a statewide tenant organization dedicated to organizing and leading tenants to speak with one voice on commonly identified issues; coordinated state wide planning and education on homelessness, leading to the establishment of the Homeless Planning Council, an independent entity charged with planning to meet the needs of homeless Delawareans; worked to establish the Delaware Community Reinvestment Action Council and to help it obtain multi-million dollar bank loan commitments for targeted neighborhoods around the state; championed Delaware's first statewide Housing Code, which became law in 1985; and lead the research and activism which resulted in the creation of the state's Housing Development Fund, the state's only flexible source of affordable housing construction and rehabilitation support.

Local Advocacy

A. *The Nonprofit Housing Agenda* – This group, working through a governmental relations representative, has developed a nonprofit housing agenda to advance at state and county levels.
B. *The Housing Policy Round Table* – This group is an expression of housing industry interest in increased political understanding of, and allocation of resources for, affordable housing needs.
C. *The Sussex Housing Group* – This group supports fair and affordable housing in Sussex County.

Community Land Trusts (CLTs) and Local Communities

A. *Diamond State CLT* - We convened and facilitated the work since, May 2005, which has resulted in the creation of the Diamond State CLT and continue to work with the Diamond State CLT and its board and executive director, providing financial and technical assistance to this effort to create an inventory of permanently affordable housing within all three counties.
B. *New Horizons Cooperative* – DHC remains involved as principal partner of the technical assistance group providing support to the work of these poultry workers and their families who are creating an alternative agricultural community and manufactured homeowners association.
C. We have assistance local communities seeking permanently affordable housing, including Greenfield Manor Section 8 residents, the West Rehoboth Community Land Trust and the New Horizons Cooperative.

Other Work:

- THE DAY FOR HOUSING - We continue to hold this annual advocacy event at Legislative Hall in Dover.
- HOUSING DEVELOPMENT FUND DATABASE - We have established and continue to update this documentation of the productive and diverse uses of the state's Housing Development Fund (HDF) .

- HOUSING AND ECONOMIC DEVELOPMENT: We published "Investing to Meet Delaware's Affordable Housing Needs: An Economic Impact Analysis" (November 2004), which demonstrated the economic benefits of investing in affordable housing creation and preservation.

- PUBLICATIONS – We will continue to publish, update, and reprint these.
  - The Tenant Council Election Manual in collaboration with the League of Women Voters
  - ¡Tenemos derechos! the first Spanish translation of the summary of the landlord-tenant code
  - The Realities of Poverty in Delaware, an investigation of ongoing poverty in the First State.
  - Out of Reach – the annual release of Delaware results for this survey of rental affordability by the National Low Income Housing Coalition.
  - Housing in a Hurry, a compact guide which we update, reprint, and distribute annually.
  - The Housing Journal – our quarterly publication
  - The Affordable Housing Bulletin , electronically distributed; and
  - Our website: www.housingforall.org, which will be extensively upgraded for even easier access to advocacy tools and affordable housing information.

Mission Statement Of the Delaware Housing Coalition

The MISSION of the Delaware Housing Coalition is to advocate for safe, decent and affordable housing throughout the state. Our goal is to affect, impact and shape the environment relating to housing. We are committed to fostering the growth and long-term flourishing of grass roots constituencies which develop their power; nurture their own problem-solvers and leaders; and work together to change the conditions which prevent them from obtaining safe, decent and affordable housing.

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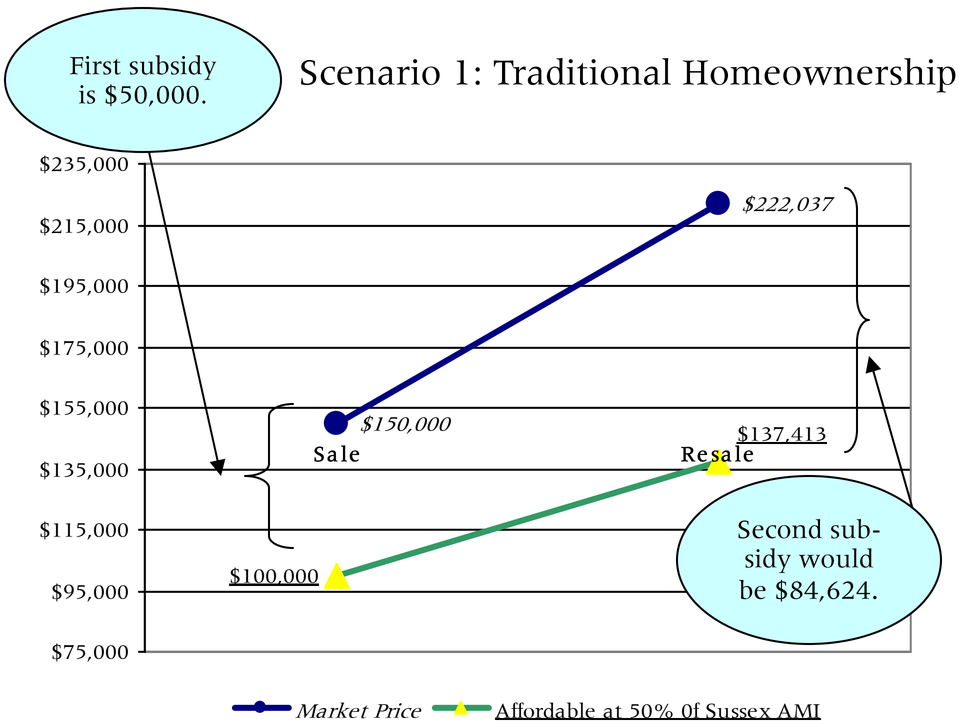
The CLT and Subsidy Preservation

How the resale formula of the Diamond State CLT will work to preserve third-party investment in its properties and keep homes affordable over time.

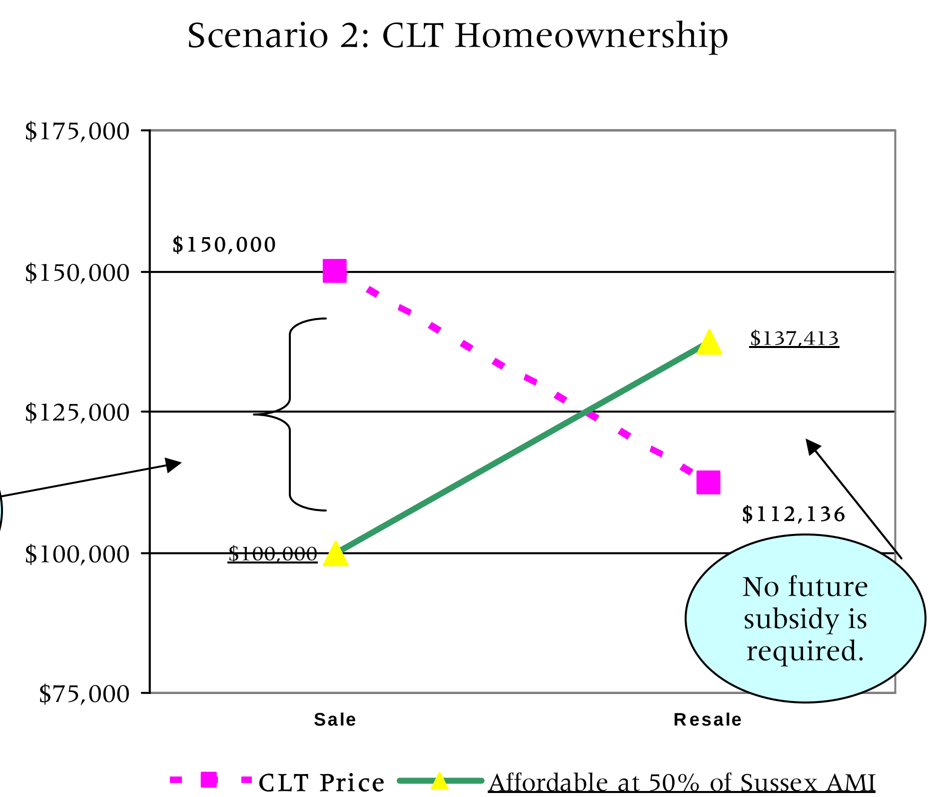


Scenario 1:
Traditional Homeownership

The homeownership opportunity is subsidized through a grant that is not recaptured or only recaptured under specific circumstances, such as a resale before the end of a stated compliance period. At the end of that period, the homeowner sells without repaying the grant and sells for full market value. Upon resale, the home is no longer affordable to the target income group, unless a second and much larger grant is provided.

Scenario 2:
CLT Homeownership

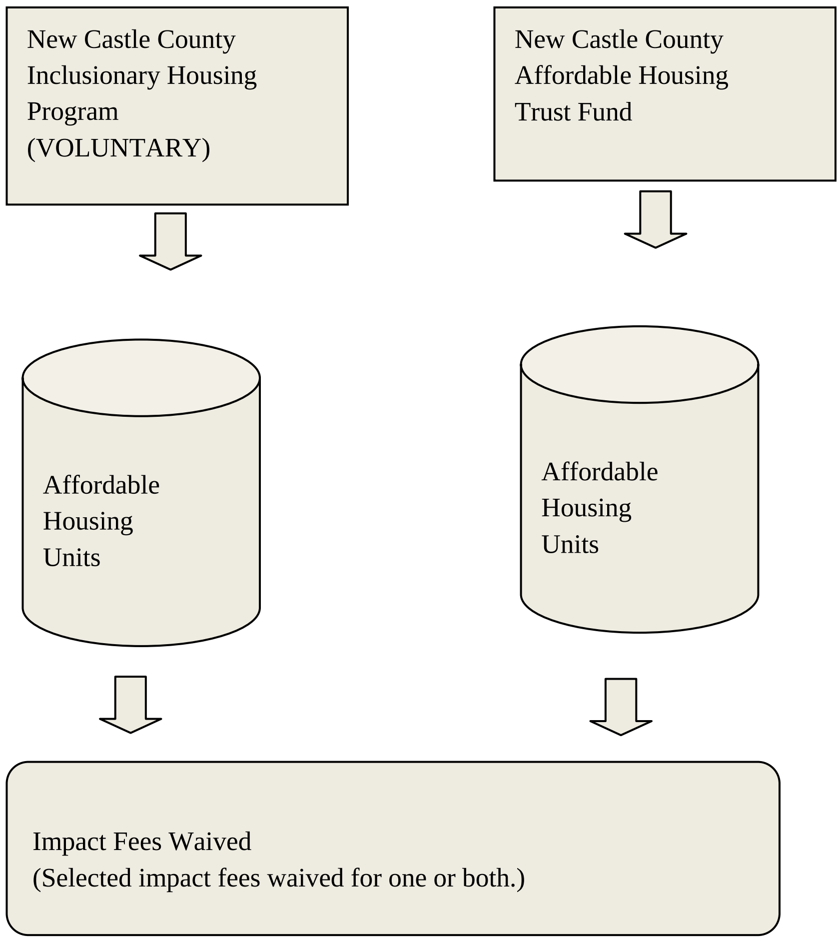
In the CLT homeownership opportunity, the initial subsidy is retained by separation of the ownership of the land from the ownership of the structure. While the initial subsidy is the same, resale restriction, while avoiding the need for further subsidy, perpetuates affordability over time and repeated resales for the same income group or an even lower-income group. ꙮ



*Affordability Assumptions: no other household debt, 6.5% APR on 30-year fixed-rate mortgage, 4% closing costs, 5% downpayment, taxes & insurance of .75% annually ** CLT Resale Price Assumes Basic 35% Appraisal-based formula.

SCENARIO ONE: COUNTY TRUST FUND AND VOLUNTARY INCLUSIONARY HOUSING ELEMENT

- LEAST REGULATED
- LESS COST EFFICIENT
- LIMITED OR NO AFFORDABILITY PERIOD
- NO RETURNS TO COUNTY



SCENARIO TWO: COUNTY TRUST FUND WITH MANDATORY INCLUSIONARY HOUSING AND PERMANENT AFFORDABILITY ELEMENTS

- MORE REGULATED
- MORE COST EFFICIENT
- EXTENDED OR PERMANENT AFFORDABILITY PERIOD
- RETURNS TO COUNTY