

Title Companies and Community Land Trusts:
How Title Agents Can Help Solve the Affordable Housing Crisis in Montana

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AFFORDABLE HOME CRISIS IN MONTANA

Community land trusts (CLTs) offer a long-term solution to Montana's housing crisis by:

- 1) making home ownership attainable for low- and moderate-income families
- 2) preserving grants and other subsidies invested in housing to serve multiple generations

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WHAT IS A COMMUNITY LAND TRUST?

A community land trust is a nonprofit organization that holds land for the purpose of keeping the buildings affordable for the community.



- Homeowners, businesses, or farmers purchase the improvements but not the land
- A ground lease enforces restrictions that ensure permanent affordability

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TRUST MONTANA'S MISSION

Trust Montana's mission is to promote community land trusts and hold land in trust to facilitate workforce housing, farmland affordability, and the preservation of vital community assets that keep rural and urban areas livable for Montanans of varied economic means.

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HOW THE CLT WORKS

- Title company creates separate legal descriptions for the land and the home (Parcel I and Parcel II)
- CLT takes title to the land, reducing the purchase price
- Income-qualified home buyer takes title to the home and leases the land
- Home buyer signs ground lease with CLT and agrees to a nominal lease fee

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THE BENEFITS OF CLTS

- Buyers learn home ownership skills and build equity based on a resale formula, transitioning families out of the rental market
- Sound investments for public and private partners, protecting subsidy and providing support for home owners and stewardship of properties
- Reduced foreclosure rates (10x less likely than for market rate homes)

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LONG-TERM POTENTIAL

The average U.S. family moves every 7 years



Over a 50 year period, one CLT home can offer seven families a chance at the American Dream

➤ 15,000 CLT homes can serve 105,000 families

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CLT PROPERTIES IN MONTANA

These homes resell to income-qualified buyers at \$50,000 - \$100,000 below market value



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HISTORY OF CLTs

National:

- 1969 – New Communities, Inc. founded for farming families – Albany, Georgia
- 1990s - movement gained steam, primarily used for housing
- Over 250 CLTs in 45 states and outside the US - Bolivia, Switzerland, Ireland, England, and many other countries

Montana:

- CLT homes have been developed in Montana for almost 20 years

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LEGAL QUESTIONS

1. Is it legal to separate ownership of land from the improvements thereon? YES

1. Do the restrictions in the ground lease constitute an unreasonable restraint on alienability (or violate the rule against perpetuities)? NO

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CLT HOME BUYERS

Home owners come from all walks of life



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CLT PROJECTS TAKE MANY FORMS

- Single Family Homes
- Small/Tiny Homes
- Townhomes
- Farms/Ranches
- Commercial Projects



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TITLE AGENTS PLAY A CRITICAL ROLE

- Check and double check the CLT sale is insured as a leasehold interest, not a fee simple sale
- Create Parcel I and Parcel II legal descriptions (if the sale is a resale and the land is already in the CLT, this has already been done)
- Review all CLT documents before closing:
 - Warranty deed for improvements only between seller and buyer (RECORDED)
 - If applicable, termination of seller's ground lease between seller and CLT (RECORDED)
 - Ground lease between buyer and CLT
 - Home buyer signs notice of ground lease (RECORDED)
 - Lender rider (RECORDED WITH NOTICE OF GROUND LEASE)
 - Borrowers Authorization
 - Permitted Mortgages Exhibit of ground lease (RECORDED)

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PARCEL DESCRIPTION SAMPLES

Parcel I:

The improvements located on Lot 9, Block 3 of Certificate of Survey No. 112233 of the Treasure State Subdivision Plat Z-123, City of Day, Summer County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder of Summer County, Montana.

Parcel II:

Lot 9, Block 3 of Certificate of Survey No. 112233 of the Treasure State Subdivision Plat Z-123, City of Day, Summer County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder of Summer County, Montana, EXCEPT any improvements located thereon.

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THE GROUND LEASE

- Effectiveness of the CLT restrictions relies on the proper recording of documents
- Ground lease imposes restrictions essential to maintain the affordable housing for the long term:
 - Homeowner's equity growth is limited – the resale formula varies depending on the CLT organization's ground lease
 - Homeowner may only sell to other income-qualified buyers – the income threshold varies depending on the CLT organization's ground lease
 - Homeowner must use the premises as a primary residence – they can have roommates but they cannot rent it out completely as a long-term or short-term rental
 - CLT retains a right of first refusal upon resale or default

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GROUND LEASE EXHIBITS

- Exhibits
 - Letter of Stipulation of Lessee
 - Attorney's Letter of Acknowledgement
 - Legal Description of Land Being Leased
 - Permitted Mortgages Section
 - Lender Rider
 - HUD Funding Restrictions (where applicable)
- Fannie Mae CLT Rider
- Ground Lease with HOME Funds
- Deed for Sale of Improvements Only
- Deed for Sale of Land Only (where applicable)

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ANOTHER WAY TITLE AGENTS CAN HELP

- Trust Montana is looking for ways to support Title Companies and streamline the process of CLT closings.
- You are the title experts. Tell us how we can improve our process and materials.
- Help us streamline the process!

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