



Testimony of the New York City Community Land Initiative (NYCCLI)
on Intro 1269, in relation to the creation of regulatory agreements with community land trusts

NYC Council Committee on Housing and Buildings

October 19, 2017

Good morning, and thank you, Committee Chair Williams and the other members of the Committee, for the opportunity to testify about Intro 1269. My name is Deyanira Del Rio, and I am a board member of the New York City Community Land Initiative (NYCCLI), an alliance of community, base-building, affordable housing, and economic justice groups, as well as longstanding and emerging community land trusts (CLTs) across NYC. Our alliance advocates for CLTs as a mechanism to support the creation and preservation of deeply and permanently affordable, community-controlled housing and other critical community needs. For more than five years, we have engaged in extensive coalition and community organizing, community education and outreach, research and policy advocacy to build a movement for CLTs in New York. We are thrilled to see growing support for CLTs in the NYC Council.

NYCCLI thanks Council Member Richards, chief sponsor of Intro 1269, for his leadership and support of CLTs. We outline below important changes to the bill that are needed before it moves forward.

We also are pleased to highlight in our testimony the rapidly-expanding landscape of CLTs in our city and additional policy recommendations by our alliance. We understand that Intro 1269 is a first step toward strong local policymaking to advance CLTs, and we look forward to continued dialogue with the Council.

CLTs provide a flexible, widely-recognized and progressive model for land and housing development. CLTs are nonprofit, tax-exempt corporations that own and steward land for the public good. CLTs lease use of the land for affordable housing development and other community needs -- typically through 99-year renewable leases that the CLT enforces and that establish affordability, resale and other restrictions. By separating ownership of land from what is built on top, CLTs curb speculation, lower costs of housing and other development, and create mechanisms for long-term community engagement and oversight. At the same time, CLTs prevent extraction of critical public subsidies and ultimately help preserve the city's vital affordable housing stock. For all of these reasons, NYCCLI has for years called on NYC to embrace and incorporate CLTs into the City's housing and economic development framework, to address the unprecedented housing crisis and create a more equitable city.

Indeed, in recent years CLTs have taken root in low income neighborhoods and communities of color across NYC. Groups are pursuing CLTs in East Harlem, the South and Northwest Bronx, Inwood, Cypress Hills, Brownsville and beyond, as a strategy to remove land and housing from the speculative market; foster community decision-making over neighborhood development; and create and sustain deeply and permanently affordable housing, commercial and community space and other critical needs. These gains reflect major grassroots investment in the CLT model.

This year, NYCCLI celebrated a major victory when HPD announced that it was channeling \$1.65 million to local CLTs. The funds, which were earmarked for CLTs in a NYS Attorney General bank settlement, will support two newly-established CLTs -- the East Harlem/El Barrio CLT and Interboro CLT -- as well as the long-standing Cooper Square CLT on Manhattan's Lower East Side. NYCCLI is also receiving support to lead a two-year "Learning Exchange" to build capacity at nine community-based organizations to organize, steward and sustain CLTs.

The community land trust model has sparked a citywide movement, with the potential to shift our relationship as a city to housing and neighborhoods. As the number of CLTs in NYC grows, their viability and effectiveness will require concerted policy and programmatic support by NYC agencies and officials. NYCCLI was pleased to see CLTs included in the Progressive Caucus's 18 Policy Priorities for 2018, and to see HPD showing support for the model. We are eager to build on this growing momentum and to work with the Council to support legislation that can facilitate the formation of a strong and sustainable CLT landscape, to ensure accountable housing and community development.

Concerns and recommendations with respect to Intro 1269

NYCCLI urges the City Council to amend and improve Intro 1269, to ensure that it supports CLTs that are community-led and working to reach deeper housing affordability, particularly for very- and extremely-low income New Yorkers who are underserved by both the private market and the administration's housing plan.

Intro 1269 would explicitly define and permit HPD to enter into regulatory agreements with CLTs. NYCCLI supports these aims. We are concerned, however, that the bill currently defines CLT too broadly – omitting, for example, key governance and community representation requirements that are fundamental to CLTs.

We also are concerned that the bill, in its current form, could inadvertently result in weaker affordability standards for housing on CLTs than provided for in HPD's existing regulatory agreements with, for example, Housing Development Fund Corporations (HDFCs).

To address the above concerns, NYCCLI urges the City Council to:

- **Amend the definition of a "community land trust" to reflect the unique stewardship and governance structure of a CLT.** The bill should establish obligations with respect to representation of leaseholders in the CLT board structure -- a fundamental aspect of CLTs, and one that is critical to ensuring community control and stewardship. This is glaringly absent in the bill's current definition of a community land trust. Expanding the definition in this way would additionally align the City's definition with federal

definitions of CLTs. Attached to our testimony, please find a proposed definition, which NYCCLI developed as part of our model CLT enabling bill.

- **Incentivize deeper housing affordability.** The bill currently defines qualifying households as those earning up to 165% area median income (AMI). While we understand that HPD's range of affordability reaches up to 165% AMI, the degree of benefit conveyed by any regulatory agreement should be directly tied to depth of affordability. The Article XI tax exemption currently available to HDFCs (including CLTs incorporated as HDFCs or HDFCs leasing CLT-owned land) is a living model of how such a program can be structured. Any new regulatory agreements established with CLTs should reflect – or strengthen – existing regulatory requirements, such as those provided by Article XI.

NYCCLI is excited to work with the Council on what we believe is one of the most promising innovations in New York City's housing landscape. Our alliance has developed a number of policy recommendations to advance and sustain CLTs in New York, which I am attaching here.

We look forward to continued dialogue and partnership to expand the CLT model and its benefits for New Yorkers and their neighborhoods.

ATTACHMENTS:

Definition of Community Land Trust, from a model bill developed by NYCCLI:

"Community Land Trust (CLT)" means a nonprofit, community-based organization that draws its leadership and governance from the communities it serves with the purpose of ensuring community ownership of land as a means to help communities preserve and control land for public benefit, and

§ (1) has a primary, yet not exclusive, purpose of stewardship of land to facilitate the provision of permanently affordable limited equity homeownership and rental housing for extremely low-income, very low-income, low-income and moderate-income persons; and that

(A) acquires parcels of land for such purpose, to be held in perpetuity, primarily for conveyance under long-term ground leases;

(B) transfers ownership of any structural improvements located on such leased parcels to the lessees of the land on which they are situated; and

(C) retains the first option to purchase any structures or improvements on land it owns at a limited-equity price calculated as set forth in the ground lease, and maintains restrictions on the resale, subletting or assignment of any such structural improvement or part thereof, to ensure that the improvement remains affordable as housing to extremely low-, very low-, low- and moderate-income families, or serves another recognized community purpose; and

§ (2) provides in its bylaws that

(A) the board of directors is composed of equal numbers of (1) lessees or residents of housing located on land owned by the community land trust; (2) lessees or residents of housing located in the particular geographic area specified in the bylaws of the organization but not on land owned by the community land trust; and (3) any other category of interested persons described in the bylaws of the organization and not living on land owned by the community land trust; and

(B) any adult person who supports the community land trust's goals and purposes is eligible to serve on the board of directors.

NYC community land initiative



Fighting for vibrant, equitable and sustainable housing and neighborhoods through community ownership of land

2017-2018 Policy Recommendations

NYCCLI's housing and community development policy recommendations for New York City are:

1. Incorporate the following core principles into all new and existing programs:

- **Affordability for low- and extremely-low income households.** Current methods for developing affordable housing shut out those most in need.
- **Permanent affordability that can be enforced.** We must ensure that the resources we spend today on affordable housing keep working many decades from now.
- **Community-led planning, development, and preservation** to maximize the provision of stable housing for New Yorkers excluded from the housing market.
- **Fair Housing.** Equal opportunities to access affordable housing for all New Yorkers.

2. Use city-owned property as a resource to promote housing development and preservation for the lowest income New Yorkers.

City-owned property is the single most valuable resource to create housing for low- and extremely-low income people. The City has a critical responsibility and opportunity to prioritize the disposition of city-owned and regulated properties—including distressed and vacant properties—for truly affordable housing:

- Prioritize CLTs for disposition of city-owned properties, as well as distressed properties under city oversight.
- Ensure that housing created on formerly city-owned properties is and will remain affordable to the existing residents of the neighborhood.
- Issue a moratorium on the disposition of city-owned properties in East Harlem, the South Bronx, the Lower East Side, and other communities with existing or actively developing CLTs. These properties, both vacant and occupied, could form critical components of these CLTs.

3. Pass the Housing not Warehousing Act (Intros 1034, 1036 and 1039).

Vacant properties, which frequently remain empty and contribute to neighborhood blight while owners wait for development opportunities, could be used for affordable housing and other community uses. The City does not currently have a database for tracking vacant properties and is unable to develop an appropriate plan for addressing vacancy.

- Require property owners and mortgage-holders to register vacant property with the City and state a reason for the vacancy. The legislation should include adequate enforcement provisions, including fines for failure to register and an escalating fee for registration based on length of time a building is vacant.
- The City should create a community reporting mechanism to enable the public to report vacant properties in their communities.
- Prioritize census/property count in neighborhoods with high concentrations of vacancy.

- Develop programs to restore vacant properties to active uses that contribute to the supply of affordable housing for low income New Yorkers and to community resources.
4. **Use the Third Party Transfer program to create and preserve permanently affordable housing for very low income people and community resources.**
 - Prioritize CLTs and nonprofit developers for TPT and require permanent affordability for buildings.
 - Broaden the pool of properties eligible for entry into TPT and other preservation pathways.
 - Use TPT and related preservation and enforcement programs to more effectively transfer buildings in the Alternative Enforcement Program to responsible, preservation-minded ownership. Where possible, cluster troubled buildings in AEP by geographic area, to form mutual housing associations on CLTs.
 5. **Revise existing affordable housing programs to address the needs of extremely low-income and homeless New Yorkers.**
 - **Redefine “affordable.”** Move away from the use of the Area Median Income, which does not reflect local neighborhood incomes. Instead, affordable housing projects should reflect both neighborhood and citywide housing needs, particularly in neighborhoods with high rates of shelter entry and displacement.
 - **Shift public spending from shelters to deeply affordable housing.** Currently, the city dedicates between \$2,500-\$4,500 per month to support a growing and unsustainable shelter system—five to seven times the operating cost of a nonprofit rental apartment. Instead, the city should invest in housing for households most at-risk of homelessness, which represent nearly 1 in 5 NYC households, to prevent shelter entry and ease transition out of shelter.
 - **Reserve public subsidies—including public land—for projects that reach deep and permanent affordability.** Public funding—including disposition of public property, tax abatements and exemptions and other forms of subsidy—are critical tools that should be used to incentivize production and preservation of deeply affordable housing that can stem homelessness and displacement. Too often, these subsidies are granted to projects that do not meet the housing needs of local communities, at affordability levels that could be achieved without subsidy.
 6. **Limit the use of upzonings to neighborhoods where added density will increase rather than eliminate housing opportunities for residents of the lowest incomes.** All rezonings should prioritize deep and permanent affordability, and should increase housing opportunities and access for residents of very-low and extremely-low income. Additionally, rezonings should offer significant benefits to local community members (and residents citywide who are systematically excluded from the housing market), based on a substantive community planning and input process, and with mitigation commitments by city agencies monitored and enforced .
 7. **Create a housing trust fund with a dedicated revenue stream to support the creation and preservation of permanently affordable housing for the lowest income New Yorkers.** We must invest more in housing for New Yorkers who are most in need of housing and have the least political capital. To address this gap, the City should create a housing trust fund, supported by a dedicated revenue stream generated by increasing the property taxes on vacant and luxury properties.
 8. **Clarify tax assessment policy for land owned by a CLT and improvements on that land.** Ensure that people and entities leasing land from a CLT are taxed fairly based on an adjusted actual value of the land, not the market rate.