



## **Public Land in Public Hands**

*Submitted to the NYC Racial Justice Commission on September 28, 2021*

**Recommendation:** New York City must transform its approach to land use by directing public land to resident-controlled community land trusts (CLTs) and other community-based nonprofits that commit to a) permanent affordability of land and housing and b) meaningful tenant and community control.

The New York City Charter (Section 384) should be amended to:

1. **Require the city to prioritize resident- and community-controlled CLTs and other community-based nonprofits when transferring or leasing city-owned land;**
2. **Require any recipient of city-owned land to (i) ensure that housing and other development on that land remain permanently affordable and (ii) engage tenants and/or community members in meaningful decision-making over land use; and**
3. **Require the city to transfer or lease city-owned land for less than fair market value when conveying land to local nonprofit developers and CLTs.**

We call on the Racial Justice Commission—empowered as a charter revision commission—to place this charter revision proposal on the ballot in November 2022. The New York City Charter currently inhibits, rather than encourages, race equity in land use and housing. Our proposal would change that, by creating a clear and accountable framework for disposition of city-owned land that advances racial equity, community wealth-building, and neighborhood stabilization. The proposal also promotes public transparency and accountability, ensuring that public land and subsidy are used for permanent public benefit and not extracted by landlords or for-profit developers.

**\*[Click here](#) to hear from CLTs and community activists across the city call on the Racial Justice Commission and NYC to keep public land in public hands.\***

### ***Why is this change needed?***

The city's housing and land disposition policies and programs have, for decades, prioritized large for-profit developers and exacerbated racial inequality. Roughly 75% of affordable housing projects on city-owned land, for example, have gone to for-profit developers in recent years.<sup>1</sup>

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<sup>1</sup> See Sosa-Kalter, Stephanie. [Maximizing the Value of New York City-Financed Affordable Housing](#). Association for Neighborhood & Housing Development (ANHD) (October 2019).

Unsurprisingly, NYC’s approach has resulted in upzonings of low-income, majority Black and brown neighborhoods; creation of so-called “affordable” housing that is out of reach for most neighborhood residents; rampant speculation; and displacement of longtime, low-income New Yorkers from their communities and networks of support.<sup>2</sup> The manner in which city-owned land is transferred, and to whom, has major implications for all, but particularly for communities of color that have been disproportionately harmed by exploitative and destabilizing public and private development. Neighborhoods that have been upzoned in ways that hasten luxury development and displacement (including East New York, East Harlem, Jerome Ave Corridor, Inwood, and Far Rockaway) are all majority Black or Latinx. Not coincidentally, these are also the same neighborhoods where residents are organizing for *community-led* development, through CLTs.

The city must change course to ensure that [vacant and underutilized public lots](#) are used for permanently affordable housing and other needed community amenities, rather than for-profit development. The NYC Charter sets forth the framework of city government, including [how the city disposes](#) of publicly-owned lots. Currently, the Charter makes no mention of maximizing community benefit or ensuring permanent affordability, when the city disposes of its land. The city’s framework leaves open a gaping hole that allows for-profit development to thrive at the expense of the stability, safety and flourishing of Black and brown New Yorkers.<sup>3</sup> Meanwhile, the city squanders valuable opportunities to use some of its most valuable assets—land—to repair past harms and advance equitable development. From the Bedford Armory<sup>4</sup> to the Long Island City sites that the city attempted to designate for Amazon’s headquarters<sup>5</sup>, examples abound in which low-income Black, brown, and immigrant communities wage public land fights, often sounding the alarm in silos. We cannot afford, as a city, to lose vital publicly-owned assets to the speculative market. This is a structural issue that requires a structural solution.

### ***What can the Commission do?***

The NYC Racial Justice Commission can and should propose a ballot initiative amending the Charter to require the city, when disposing of land and housing, to give preference to CLTs and other community-based nonprofits. We provide a three-part proposal of how such a preference would work, above.

The city has convened a Racial Justice Commission to “identify and propose structural changes and significant policy reforms that will advance racial justice and equity and begin to dismantle

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<sup>2</sup> See, e.g., Stein, Sam, Community Service Society, [Assessing De Blasio’s Housing Legacy: Why Hasn’t the “Most Ambitious Affordable Housing Program” Produced a More Affordable City?](#) (February 2021).

<sup>3</sup> Walter, Chris, ANHD Blog, [Plan for People of Color: How Our Planning Priorities Got Us to COVID-19 Disparate Impacts](#) (June 15, 2020).

<sup>4</sup> Gannon, Devin, [Affordable housing lottery opens at Bedford Union Armory in Crown Heights, from \\$367/month, 6sqft](#) (June 24, 2021).

<sup>5</sup> See Scott, Max & Olivotto, Veronica, Urban Systems Lab, [Imagining Collective Ownership: Community Land Trusts vs. Amazon’s HQ2](#), (September 16, 2021).

structural racism for all New Yorkers.” We urge the Commission to seize this pivotal opportunity to transform the city’s approach to land use and housing to advance racial and neighborhood equity, and address root causes of inequality in our city.

### ***Why community land trusts (CLTs)?***

Community land trusts are a proven vehicle for ensuring that public land stays in public hands. CLTs protect public subsidy for generations, combat speculation and displacement, and foster community decision-making over development.

CLTs are nonprofit land-holding entities that acquire, develop and steward land to empower and preserve community. CLTs separate ownership of land from ownership of what is built on top of that land. This bifurcated structure (1) ensures that land (the value of which has become extremely inflated in NYC and out of reach for many Black and brown New Yorkers) is permanently removed from the speculative market; and (2) allows anything that is built on top of the land to be leased with certain resale, use and affordability restrictions. The 99-year ground lease ensures permanent affordability and community benefit with respect to anything built on top of the land. CLTs can decide to lease land for the purpose of affordable housing, affordable commercial space, recreational and health facilities, or green space, depending on what the community has identified as its most pressing needs.

CLTs are led by and representative of the community. CLTs are generally governed by a board that has a balance of (1) people who live or work on the CLT, (2) broader community members, and (3) public stakeholders, such as government representatives, advocates, and community development professionals. The three-part structure succeeds at ensuring a balance of community interests and accountability to mission. Furthermore, the community-first governance structure succeeds at ensuring that land ownership and community development through the CLT is truly in the hands of the people, and they are the ones leading the way forward.

The combined benefits of permanent affordability and democratic community governance that CLTs provide are unique to this model. New York City has invested in growing local CLTs, which are well-positioned to work with other community-based nonprofit developers and the city to acquire and develop public sites. More than 15 CLTs are currently organizing in Black and brown communities across all five boroughs.<sup>6</sup> Several have recently acquired properties, while others are completing feasibility studies and negotiating for acquisitions—all for long-term collective stewardship of critical community assets.<sup>7</sup>

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<sup>6</sup> NYC Community Land Initiative, [NYCCLI CLT Initiatives Map](#) (November 2020).

<sup>7</sup> New Economy Project Blog, [VICTORY! Community Land Trusts Win Major Funding in NYC Budget](#) (August 9, 2021).

Notwithstanding the tremendous progress that CLTs have made across the city, groups continue to face systematic barriers in bringing city-owned sites into community ownership. Groups like the BIPOC-led [Mott Haven-Port Morris Community Land Stewards](#) (MH-PM CLS) have conducted years of deep organizing and community planning in their fight to improve health and educational outcomes through grassroots activation of public land. Yet, their efforts have been stalled and could potentially be circumvented due to a lack of accountability that the city’s current public land disposition framework allows. (*See case study below.*)

### **CLT Case Study: Mott Haven-Port Morris Community Land Stewards**

MH-PM CLS was established by South Bronx Unite members, who had been organizing for years against environmental injustice, “to promote pathways to meaningful self-determination for, and to combat deterioration in, the Mott Haven-Port Morris community.”<sup>8</sup> They saw longtime Black and brown residents and community organizations being priced out, all while the city was promoting harmful forms of development on public land — through subsidies for diesel-truck intensive businesses like Fresh Direct, renewal of permits to operate four fossil fuel power plants, and increases to the capacity handled at two waste transfer stations. This harmful development was incentivized by the city despite the fact that Mott Haven-Port Morris, with a majority Black and Latinx population, has one of the highest asthma rates in the U.S.<sup>9</sup> In response, the CLT facilitated community asset-mapping sessions to locate spaces that could improve health outcomes through community ownership.

One such location: the Lincoln Recovery Center — a 27,750 square foot building with historical significance as an acupuncture clinic that was activated by the Black Panthers and Young Lords to help community members recover from cocaine and heroin addiction. Since 2011, the building, which is currently owned by the Department of Health, has sat vacant and in disrepair despite deep community planning and organizing for community ownership of the property. A number of community visioning sessions led to consensus around its use as a Health, Education and Arts Center (H.E.ARTS) to address the health and education disparities in the South Bronx and acknowledge the South Bronx’s status as a pioneer in arts, music and



<sup>8</sup> South Bronx Unite, [Community Land Trust - Overview](#) (last accessed July 9, 2021).

<sup>9</sup> NYC Dept. of Health & Mental Hygiene, [2018 Community Health Profile - Mott Haven and Melrose](#). See also Kilani, Hazar, [‘Asthma alley’: why minorities bear burden of pollution inequity caused by white people](#), The Guardian (April 4, 2019).

culture.<sup>10</sup> The NYC Health & Hospitals Corporation granted a license to MH-PM CLS to conduct a feasibility study ([available here](#) and [summarized here](#)), and the project has received letters of support from elected officials, including Councilwoman Diana Ayala.



Through this project, MH-PM CLS plans to increase community resources and build sustainability from the ground up, which is integral to building community wealth. Yet, despite clear action steps, support from elected officials, and funding allocations, the city has stalled in moving this project forward. Without accountability, the Department of Health has not charted a path forward for transferring the Lincoln Recovery Center, a significant community asset, to the CLT, and the building continues to sit unused and in disrepair. Moreover, without a clear process, the city and the Department of Health could sell or lease the land to a for-profit developer, despite all of the pre-development work and resources that MH-PM CLS and local residents have invested in the project. Section 384 of the Charter currently enables this lack of accountability. If reformed, however, the Charter could facilitate bringing this important asset into the hands of the community, for greater community benefit.

The city has committed, through the establishment of the Racial Justice Commission, to dismantle structural racism in the NYC Charter. Section 384 of the Charter, as currently written, enables city-sponsored speculation and wealth extraction in our Black, brown, immigrant and low-income neighborhoods. We urge the Commission to propose an amendment to the Charter on the November 2022 ballot, giving CLTs and other community-based nonprofits priority when the City disposes of public land. This change would help chart an equitable path forward and ensure that public land is used to build long-term, broadly-shared community wealth.

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<sup>10</sup> Bagchee, Nandini, [Studio Report: Design & Advocacy in the South Bronx](#), Urban Omnibus (May 3, 2017).