

Federation of Long Island Community Land Trusts: An organizing proposal

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We are midway in a campaign to introduce community land trusts (CLT's) in Long Island school district and village communities. In this work we have maintained a firm commitment to local grassroots control, which is to say, keeping the CLT in the community and the community in the CLT. At the same time, we are aware that there has to be a structure to coordinate the work of a growing number of local CLT's scattered across Long Island. The umbrella organization that we have in mind will have the following features:

1. The guiding vision of this proposal is the gradual emergence of a Federation that will be democratically controlled from the ground up by its members, the local CLT's.
2. This vision will be embodied in a summary way in the Certificate of Incorporation and in detail in the Bylaws of the Federation.
3. At first, to protect it from drifting off course under the control of a small number of beginning members, the Federation will be run from the top by New Directions in the role of keeper of the vision.
4. It will be geographically comprehensive, serving every town and city in Nassau and Suffolk Counties.
5. In the early years, to watch out for the interests of all geographic areas, there will be directors appointed to represent towns and cities that do not have CLT's within their borders.
6. The Federation will furnish professional and technical services in support of its owners, the local CLT's, which are small volunteer organizations that own real estate but do most of their work in a format of monthly board meetings.
7. Opportunities to add properties to the CLT affordable housing inventory will turn up in unexpected places without regard to whether or not there is a local CLT ready and able to act. An important function of the Federation will be to move quickly wherever and whenever these opportunities appear.
8. Properties owned by the Federation will be transferred to local CLT's when they become eligible to own properties, but the Federation will continue to provide certain realty and management services for these properties.
9. The Federation will standardize the ground lease, resale formula and other documents and procedures for the entire region.
10. The Federation will collectively represent its members to county and municipal governments, giving the members the strength of numbers and the ability to compete with other large-scale housing and community development organizations for time, attention and resources.

The formation of the CLT Federation will go hand-in-hand with the ongoing work of mobilizing citizens to form CLT's in their local communities.

The CLT as a Tool for Civic Community Building

New Directions' involvement with CLT's grew out of the mission to promote and revitalize local civic organization. The overall program of New Directions, called "Discover Your Community," brings citizens together to study their communities with the help of academic and

professional partners. Out of this study will come an assessment of the community's assets and deficiencies and the beginnings of a plan to make the best use of existing assets and build new ones as needed.

Over the past 15 years, people who are now involved in New Directions have tried a number of ways to help local communities deal with their problems. In the 1990's Robert Mulvey, operating as New Directions Community Services, Inc., worked with Paul D'Ascoli to organize a community housing development organization in Long Beach. Seeing that citizen volunteers with the best of intentions lacked the expertise and credentials to carry out real estate and property management operations, D'Ascoli hit on the idea of a realty services company that would furnish staff and expertise to support volunteer organizations. About the same time, Mulvey learned about Study Circles, which soon became central to his repertory of services. Michael Schwarting of New York Institute of Technology brought his architectural students to work with local citizens on architectural plans for their neighborhoods, first in Long Beach and then in several more communities. In 1998 Andrew Collver, then a sociology professor at Stony Brook University, rejoined Mulvey, rekindling a collaboration that had begun back about 1982. Collver introduced the practice of writing a community profile with chapters on population, history, geography, public opinion, etc. Their first profile report was done in cooperation with the Lowell Avenue Civic Association of Central Islip and called on the expertise of Schwarting and his students as well as Mulvey and Collver. Soon after publication of that report, Paul D'Ascoli revived his realty services idea in a proposal for a local nonprofit organization for Central Islip, to be called "Neighborhood Realty Services," through which the neighborhood could take some control over home sales to counteract the influences of racial steering and absentee landlords.

After the formation of New Directions Community-Based Research Institute as a nonprofit organization in 1999 with Mulvey as Executive Director and Collver as Research Director, it gradually became clear that the Study Circles, architectural studies, neighborhood profile and the nonprofit real estate services operation were the beginnings of a growing set of tools for civic organization and empowerment. (For more on this see the Toolbox pages at www.newdirectionsabr.org).

About the year 2000, Mulvey found an opportunity in Mount Sinai to form the first CLT on Long Island. From there he went on to introduce the CLT to the South Country School District in southeastern Brookhaven Town, and the CLT proved to be a valuable addition to the New Directions toolbox and a vital community asset. It is important to understand that the purpose in introducing the CLT into the communities of Long Island would be to put into the hands of local civic organizations a tool with which they could to a degree shape and direct the use of residential land in their own localities. The goal here was not affordable housing *per se*, but local civic control of affordable housing in accordance with plans developed through the Discover Your Community process. The CLT is thus seen as an instrument for the practice of grassroots democracy, a way of taking a stand for home rule against the centralizing forces of government, business and nonprofit organizations. The CLT would be a prime example of what Frances Moore Lappé calls "living democracy," through which citizens learn the arts of citizenship—arts that cannot be learned simply by voting on election days. (*Democracy's Edge*. Jossey Bass, 2006.)

To appreciate the subtle but critical distinction between the CLT as purely housing and the CLT as part of a whole system of local, grassroots, face-to-face living democracy, consider the attributes of the "classic" CLT as enacted into federal law in 1992, following a definition by John Davis and Tim McKenzie, partners in Burlington Associates. As summarized in a 2008 report by Michael Monte, Chief Operating Officer of Champlain Housing Trust and partner in Burlington Associates, the classic CLT has the following features:

Nonprofit, Tax-exempt Corporation. The CLT is autonomous and not a subsidiary or program within a parent corporation.

Dual ownership. The CLT owns the land and sells the building to a leaseholder.

Leased land. The CLT never sells its land.

Perpetual affordability. The ability of the leaseholder to profit from resale of the house or other improvements is strictly limited by the resale formula.

Perpetual responsibility. The CLT maintains a continuing interest in the buildings and occupants, remains a party to the deal.

Community base. The CLT is an open-membership organization, drawing its members from a community that is geographically defined. All residents of the territory are eligible to become members of the CLT.

Community control. Two-thirds of the CLT's board of directors are nominated and elected by the resident-members.

Tripartite governance. The board contains equal numbers of three classes: leaseholders, community residents and public representatives (such as public officials, local funders, and nonprofit providers of housing or social services).

Expansionist acquisition. CLT's are committed to an active acquisition and development program.

Flexible development. CLT land may be used for a variety of community purposes besides housing.

There are instances of existing nonprofit housing organizations deciding to do some of their work following the principle of shared equity (dual ownership). When this happens, the CLT is uprooted from its community base and not available for community residents to use as a means of home rule. The State of Rhode Island presents probably the most extreme case of this so far. From the website www.housingnetworkri.org comes the following description:

In November 2004, the Housing Network incorporated a state-wide land trust to coordinate and support the efforts of members and others to provide permanently affordable housing options in communities across Rhode Island. The state-wide land trust will work with local partners to standardize paperwork and streamline administrative procedures. The state-wide land trust is an important tool to counteract gentrification and escalating land values and to promote mixed income development throughout the state.

The Rhode Island model significantly departs from the classic CLT model in at least two important ways, both of which put it out of reach of local community control. First, it is a subsidiary of a previously existing statewide organization, and second, most if not all of the Housing Network's members are not themselves community-based CLT's but "organizations with active local community land trusts." Purists who want to keep the CLT as a tool in the hands of local citizens with which to take charge of certain aspects of their own community see the Rhode Island model as not truly a *community* land trust. It promotes shared-equity housing, but since it has removed its operations from community ownership and control, the word "community" does not belong in its name. To be clearer as to what we are talking about, there should be a distinct name for these programs, such as "shared equity program," "shared equity land trust," or "housing trust," omitting the word "community."

In New Directions' program, it is only part of the purpose of the CLT to provide shared-equity housing. Beyond that is the promotion of a complete model of the community as a place where citizens work together democratically to solve their own problems and help one another. From this point of view, to remove local community ownership and control from shared equity housing is to remove some of its most important functions. For this reason, the proposal outlined

here will aim for a program that is first of all grounded in the local communities—the school districts and villages—of Long Island. Economies of scale, professionalization and standardization will be offered in the service of home rule, not as a replacement for it.

When Michael Monte visited Long Island May 29-30, 2008 he brought with him a statement regarding CLT organizing options. In that paper, besides defining in detail the classic CLT and looking at some of the issues raised in the case of Rhode Island, he discussed four options for organizing CLT's in Chicago.

- Option #1: Re-tool Municipal Programs for Neighborhood-based CLTs
- Option #2: Establish a City-wide CLT
- Option #3: Establish a Federation of Neighborhood-based CLTs
- Option #4: Promulgate Municipal Standards for CLT Housing

Our proposal takes off from a combination of features from the third and fourth options.

Option #3: Establish a Federation of Neighborhood-based CLTs

KEY FEATURES

1. Multiple CLTs would be established throughout Chicago, organized on the basis of a single neighborhood – or, in some cases, on the basis of two or three adjacent neighborhoods.
2. Each CLT would acquire and hold parcels of land within their own neighborhood. Each CLT would set priorities for developing that land.
3. A city-wide Federation would be created, with a governing board made up of representatives from CLTs located throughout Chicago.
4. This Federation would act as a “central server,” developing housing on sites owned by neighborhood-based CLTs, marketing these homes, enforcing lease provisions, and managing the resale of the limited-equity homes. The neighborhood-based CLTs would have no staff of their own – or, at most, a single part-time person to support the board, organize the community, and to help with marketing the CLT homes.

PRO

- Affirms and supports CLT efforts that are already underway throughout the city.
- Ensures local control and local accountability for landed assets and development decisions of most interest to local residents.
- Tailors the ground lease and resale formula to fit the unique circumstances and priorities of each neighborhood.
- Increases the likelihood of CLT housing being developed on a larger scale by an expert staff on a faster pace.
- Professionalizes the marketing of CLT homes, the enforcement of lease provisions, and the resale of CLT homes, while standardizing procedures and reducing costs.

CON

- Adds a level of complexity and cost to a model that is already complicated enough, while begging the question of whether local CLTs would agree to be staffed by this “central server,” while foregoing the chance to have staff of their own.
- Creates the potential for tension and conflict between the professional staff of the central server and “too many bosses” at the neighborhood level.
- Multiplies the number of different ground leases and resale formulas that must be separately understood and underwritten by public funders and private lenders.

Option #4: Promulgate Municipal Standards for CLT Housing

KEY FEATURES

1. Multiple CLTs would be established throughout Chicago, organized on the basis of a single neighborhood – or, in some cases, on the basis of two or three adjacent neighborhoods.
2. Each CLT would acquire, hold, and develop parcels of land within their own neighborhood. Each CLT would be responsible for selling homes, enforcing lease provisions, and managing the limited-equity resale of CLT homes on their land.
3. The City of Chicago would review and, where necessary, re-tool existing housing and community development programs to make them “CLT friendly.” The City might set aside funds for “CLT housing” – that is, resale-restricted owner-occupied housing on leased land.
4. To access municipal funds for “CLT housing,” a CLT (or any CDC that wanted to develop “CLT housing”) would have to use a standardized ground lease and a standardized resale formula approved by the City. There could be great diversity in the organizational make-up of the organizations coming to the City for assistance, but little or no diversity in the model of tenure under which CLT housing was owned, financed, and resold.

PRO

- Affirms and supports CLT efforts that are already underway throughout the city.
- Ensures local control and local accountability for landed assets and development decisions of most interest to local residents.
- Standardizes the ground lease and resale formula for use throughout the city.
- Allows existing nonprofit housing development organizations, many of which may have more staff and more experience in doing housing development than a new CLT would have, to take advantage of municipal funds set aside for “CLT housing.”

CON

- Multiplies the number of new nonprofits doing affordable housing, many of which may be understaffed in the short-run and unsustainable in the long run.
 - Allows organizations that are not structured as a CLT and that lack the accountability safeguards embodied in the “classic” CLT to say they are developing “CLT housing.” This undermines the model’s integrity and creates confusion about what is and is not a CLT.
 - Creates the possibility of uneven enforcement of standardized lease provisions.
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Usefulness of the Chicago Options

Under Option #3, it is said that the ground lease and resale formula can be tailored to fit the unique circumstances and priorities of each neighborhood. One criticism of the model is that it “multiplies the number of different ground leases and resale formulas that must be separately understood and underwritten by public funders and private lenders.” This is a serious objection and our answer is that all members of the Federation of Long Island CLT’s will accept standardized documents as a condition for membership. Another criticism of the model is that there is no assurance that the local CLT’s would all agree to be staffed by the “central server.” Somehow this has to be answered by agreements that will make it clearly to the advantage of locals to accept the central services. The other problem mentioned is the messiness of “too many bosses” at the neighborhood level. We take this to be the price of democracy and well worth paying.

The most serious flaw in Option #3 is the lack of standardization, and this is corrected by certain features of Option #4. These are features 3 and 4, which specify active involvement of local

government in setting the conditions for participation in its housing programs and in establishing a standardized ground lease and resale formula for the entire city. This arrangement would effectively shut out from government grants any CLT's that chose not to accept the standard documents and procedures.

Other features of Option #4 are in conflict with Option #3 and we would not accept them. Option #4 feature 2 implies that each local CLT would be fully staffed and capable of carrying out real estate transactions and management. This is simply unrealistic. The local citizen board's functions are to study their community's needs, decide what kinds of housing is needed and what constituencies it should serve. They cannot be expected to know all the technical details of running a real estate business.

Option #4 feature 4 includes, in parentheses, the option that any CDC that wants to develop "CLT housing" may do so if it accepts the standardized ground lease and resale formula. The quotation marks suggest that Monte is not entirely comfortable with the definition of CLT housing as any program that offers "resale-restricted owner-occupied housing on leased land." Nor are we, because in our view a land trust that is not community (neighborhood) controlled is not truly a *community* land trust.

Features of the Federation of Long Island CLT's

Our design for the Federation begins with selected features from Chicago options #3 and #4. These are:

1. Multiple CLT's will be established throughout Long Island, organized on the basis of single school districts, villages or clusters of adjacent school districts or villages.
2. Each local CLT will acquire and hold parcels of land within its own territory. Each CLT will set priorities for developing the land.
3. A Long Island Federation will be created, with a governing board made up of representatives of CLT's located throughout Long Island.
4. This Federation will act as a "central server," developing housing on sites owned by neighborhood-based CLTs, marketing these homes, enforcing lease provisions, and managing the resale of the limited-equity homes. The local CLTs will have no staff of their own – or, at most, a single part-time person to support the board, organize the community, and to help with marketing the CLT homes.
5. To access municipal funds or receive grants of property, a CLT will have to use a standardized ground lease and a standardized resale formula drafted by the Federation and approved by local governments.

In addition, we propose that the Federation will have the following features and functions.

6. The governance of the Federation will be set up with strong grassroots control to guard against any tendencies to centralization.
7. The transition to full control by the members will be gradual. As the initial sponsor and designer of the Federation, New Directions Community-Based Research Institute will continue to guide the organization through the formative years as new CLT's are being established and brought into membership. To avoid having the first few members take the organization in a direction that would place future members at a disadvantage, the board from the beginning will have delegates from all towns and the two cities of Long Island,

regardless of whether they have CLT's within their borders. This will make the board geographically balanced while CLT's are not evenly distributed across the island.

8. One unique purpose distinguishes the Federation of Long Island CLT's from any of the Chicago options, and that is to serve as a custodial vehicle for properties that will eventually be transferred to the local members.
9. The Federation, acting as a bi-county land trust, will acquire and manage properties as they become available anywhere on Long Island, regardless of whether they are inside or outside of CLT territories.
10. In areas served by local member CLT's, the Federation will convey the properties to local ownership. In other areas it will hold properties until there are local members eligible to receive them.
11. If a transfer cannot be made immediately, the Federation will rehab the properties up to standards and get them occupied as soon as possible, either by shared equity sale of the house or by rental.
12. The offer of properties will serve as an incentive for local communities to organize CLT's.
13. When conveying properties to the local CLT, the Federation will make it a requirement that the CLT accept the central services of the Federation.

Organization of Services

As illustrated in *Figure 1. Federation of Long Island CLT's Organization Chart*, the Federation will have two main services performed in-house and two outsourced as joint projects with New Directions and Campani & Schwarting Architects.

a. New Directions: Research, education and CLT advocacy. New Directions will continue to do research and educational work on the CLT on a number of levels. The introduction of this new institution into the cultural milieu of Long Island will undoubtedly have impacts not only on all parts of the real estate industry but on local government, politics and civic organization as well. Mutual adjustments will be needed both within the CLT system and in other sectors, and New Directions will need to act as both advocate and critic, promoting the CLT model while at the same time asking how the model needs to be changed to more effectively serve the needs of the region and find its place among the older institutions. This kind of work is often called "action research" because its method is to learn by doing. New Directions will use publications, speaking engagements and networking to promote recognition and acceptance of the CLT option. An annual conference will be a way to focus attention. Education and training for local CLT's, including Board training, will continue to be the responsibility of New Directions.

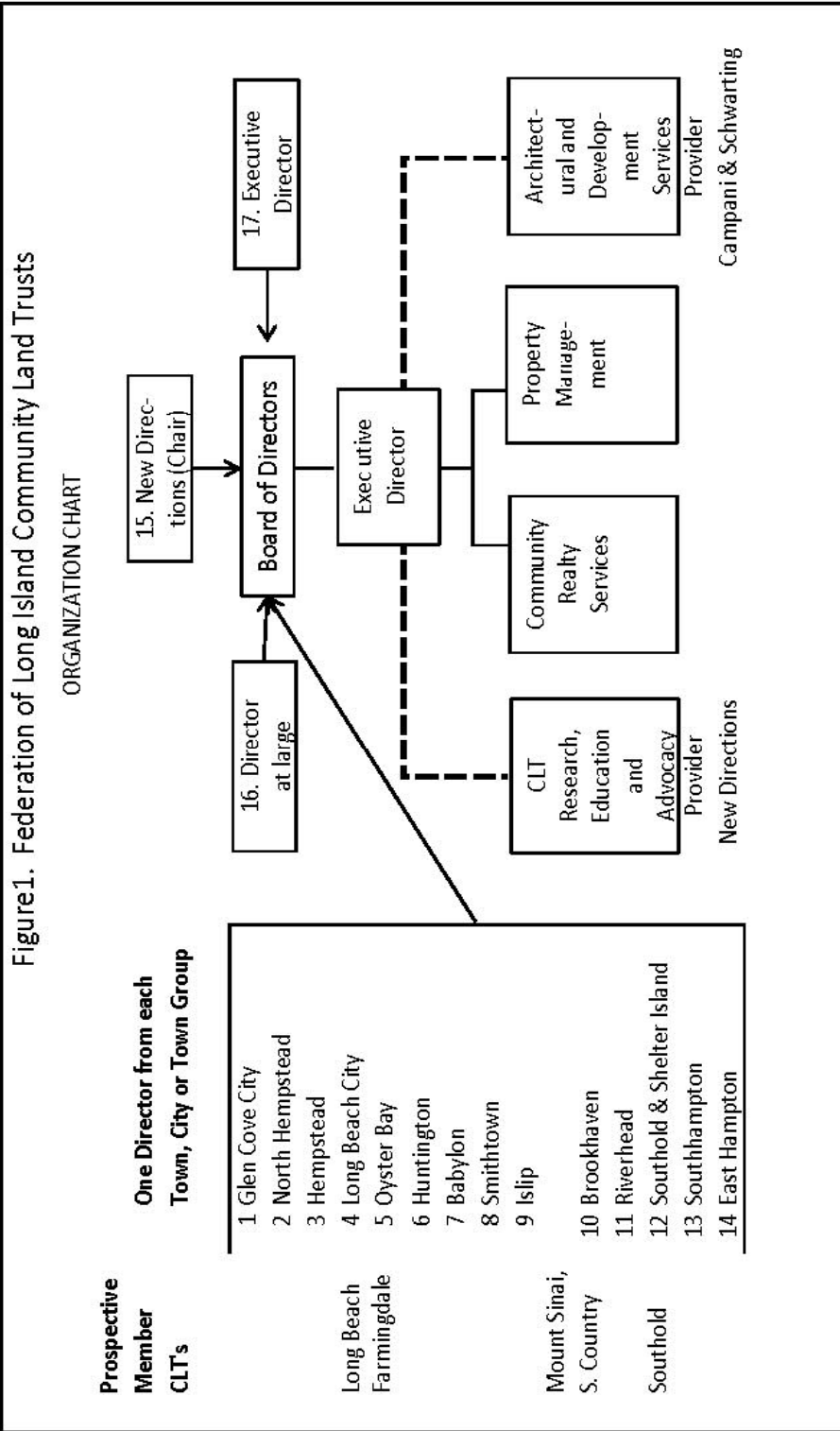
As an example of needed research, consider the structure of a CLT deal as outlined below:

Structure of the CLT Deal

Management

CLT Federation acquires property, converts to shared-equity form and does any needed maintenance & rehab work. Selects and sells to leaseholder if there is no local CLT.

Local CLT receives property, selects leaseholder according to local priorities, and continues to carry out functions of owner.



Leaseholder contributions

- Purchase the home with a bank mortgage.
- Make lease payments on the land.
- Pay property taxes.
- Maintain the property to the satisfaction of CLT standards.

Third party contributions

- Government subsidy. Achieve public purpose, gain approval of voters/taxpayers
- Charitable donations. Support worthy cause, earn tax deductions, win recognition
- Private investment. Gain tax breaks, make conservative investment with modest return augmented by tax incentives

As the poet Edgar Guest wrote, "It takes a heap o' livin' in a house t' make it home." To that we can add that it takes a heap of actors to put a family in a house. Interesting and critical questions can be raised all up and down the above list, but the last item is especially significant. Assuming that government subsidies will continue to be as few and far between as they have been in the past, the only way to grow the CLT movement significantly is by means of charitable donations and private investment. A major challenge for New Directions is to figure out how to attract really significant amounts of support from these two sources. Occasional token grants of land from local government will not bring into being any substantial stock of shared equity housing.

b. Community Realty Services. The Community Realty Services Division is one of the two core business of the Federation. Its function is to provide all realty services necessary in the assessment, acquisition and transfer of CLT properties to local CLT members. These services include the identification, valuation, acquisition and resale of properties suitable for development and CLT conversion. The arrangement of home buyer financing is also integral to these services.

In collaboration with the owners and the architects, Realty Services will attend to the financial aspects of all phases of project development, including building renovation and new construction for CLT conversion. It will be responsible for preparation of development pro-formas illustrating all project development costs and the sources and uses of development and "end-loan" (take-out) financing.

A key function will be the arrangement and facilitation of project funding through government subsidies/grants and land donations. In addition, private-sector capitalization will be sought using tax credit incentives and legacy donations.

Finally, pre-qualification, credit and debt counseling services will be provided to CLT home buyer prospects to prepare them for immediate or future purchases. CLT ownership orientation training, homeownership and pre-foreclosure counseling will be provided.

c. Property Management: Property inspections and oversight, record-keeping, financial operations and reporting. The other core business will be financial and compliance management for all CLT properties held in custodianship for future transfer to local member CLTs, as well as properties already owned by member CLTs. Full bookkeeping and accounting services will be provided for each CLT, to include the collection of ground lease fees and payment of applicable property taxes and blanket hazard insurance premiums. Annual auditing and reporting will be handled centrally to assure proper accountability to grant funders, public subsidy providers and private capital investors.

d. Campani and Schwarting, Architects: Architectural & Development Services. The architects have proposed to offer a set of services to fill the special needs of community land trusts. The following is a summary they prepared in March 2008.

Planning Services

Assistance with site analysis and site selection.

Building Code and Zoning analysis – zoning change applications and reviews

Secure Surveys and borings

Environmental Impact Statement Reports

Site Plan documents for Planning Commission review and approval - including designs of:

- Landscape

- Roads, sidewalks, curbs, paving

- Drainage

- Sewer and disposal systems

- Signs and site lighting

Architectural Services

Design Phase. Create designs that address the particular problem and program in the form of drawings and making decisions with the community to arrive at a final design. Strive to realize needs and desires within specified budget.

Construction Documents Phase. Develop the design in terms of construction issues and with the input of structural, mechanical plumbing and electrical engineering and produce Construction Document drawings and specifications for building(s). File the project with the Building department and with other agencies as required such as Fire Marshal, Water and Sewer, etc.

Bidding Phase. Meet and help select a project developer. Assist in the selection of Contractors to bid the project, assist in reviewing and evaluating the bids and in making a Contract for construction.

Construction Phase. Provide Construction Observation, answering Contractor's questions and making periodic visits to the site to be sure it is being properly built. Review payment requisitions to be sure they reflect the work completed. At the end of the work we secure the Certificate of Occupancy.

Federation Governance

All incorporated CLT's in Nassau and Suffolk Counties will be eligible for membership in the Federation. To become a member, a local CLT must have a board of directors duly elected by the membership at an annual meeting. In order to join the Federation, the board will vote to accept an agreement of cooperation with the Federation. This will include an agreement to use the standard ground lease and resale formulas and to follow other standard procedures in the conduct of business. All members will have the benefits of the Federation's realty and property management services.

The Board of Directors of the Federation will consist of one director representing New Directions Community-Based Research Institute, who during the early formative years of the Federation will serve as Chair. One director at large will be appointed by the Chair. The Executive Director of the Federation will be a member of the board, and there will be up to 14 directors, one from each of the towns and cities of Long Island. The representatives from a town or city will be selected in one of three ways. If there is only one CLT in the town or city, as is the case in 2009, the board of directors of that CLT will choose the delegate to represent their municipality. Where

there are two or more CLT's, they will need to hold a joint election process. In municipalities where there is no CLT, the chair will invite someone to serve until a local CLT has become eligible.

The Bylaws of the Federation will make it the responsibility of the New Directions delegate to serve as chair *ex officio*. This is to maintain steady and consistent guidance in pursuit of the Federation's mission in its formative years.

Implementation Plan

With the New Directions Board's approval, the staff will continue work immediately in March 2009. The following is a list of steps, the order of which may change as we go along. Other steps and of course more details will be added over time.

1. Recruit 3 or more initial directors, beginning with Andy Collver and Paul D'Ascoli.
2. Notify key local people that we are doing this. Besides any Board members who missed the March 2 meeting, these include Southold CLT, South Country CLT and the Farmingdale and Long Beach organizing groups. Also Warren Tackenburg, Biff Moorner and José Avila.
3. Send Michael Monte of Burlington Associates a copy of our plan.
4. Write to George McCarthy of the Ford Foundation to let him know how we plan to organize realty and property management services on Long Island and take advantage of property acquisition opportunities where local CLT's are not yet ready.
5. Submit certificate of incorporation of Federation.
6. Draft bylaws of the Federation.
7. Put together an initial board with Andy Collver as chair, Paul D'Ascoli as Executive Director and a director at large. Invite the Southold and South Country CLT's and the two organizing groups in Farmingdale and Long Beach to send delegates. This will leave several municipalities unrepresented, so we will invite individuals from those areas to join the initial board, to provide a wide geographic representation.
8. Review the Bylaws with this initial board and reach agreement.
9. After approval of certificate of incorporation, hold a formal meeting to approve the bylaws and get started with normal business.
10. Prepare and submit 501(c) (3) application.
11. Pursue all funding prospects to find support for this initiative.
12. Hold a Long Island conference on CLT's. This is already funded by Ford Foundation. One person we should invite is Michael Monte of Burlington Associates, to elaborate on the theme that the CLT is a conservative way to work for liberal or progressive goals.
13. All the while we aggressively pursue the introduction of CLT's into Hempstead Village, Roosevelt, Uniondale, Brentwood, Wyandanch and other places, and bring them in to the Federation. They will have a temporary, or provisional, non-voting membership until they achieve incorporation and have a duly elected board of directors.
14. Make a vigorous effort to develop ways to bring in charitable donations and private investment for CLT property acquisition.
15. Establish standard ground lease and resale formula documents and any other documents or procedures or policies that might help in coordination and simplification of the CLT landscape.