COMMUNITY LAND TRUSTS AND CHARTER SCHOOLS

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NATIONAL ALLIANCE FOR PUBLIC CHARTER SCHOOLS

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WRITE. EDIT. THINK.

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INTRODUCTION

Across the country, charter schools face a daunting challenge to find adequate, affordable facilities for new schools in their communities. Securing and renovating commercial space and negotiating with private sector landlords can be time consuming and expensive, especially for educators not accustomed to such dealings. Securing the use of all or part of a school district building, while often affordable, can be politically fraught. That's why the promising, relatively affordable approach of using community land trusts (CLTs), or similar ownership structures that reduce costs for charter school operators and preserve property for educational uses, is worthy of attention.

This paper will give a high-level overview of the community land trust model and will provide a few concrete examples of these models in action in the charter school context.

BACKGROUND

In their purest form, community land trusts are nonprofit, community-based organizations designed to ensure community stewardship of land. CLTs can be used for many types of development but are best known for ensuring long-term housing affordability. Typically, a CLT acquires land and maintains ownership of the land permanently. The CLT enters into a long-term (usually 99 years), renewable ground lease with the housing developers or homeowners of the affordable housing units. When a homeowner buys or sells a house on the land, the homeowner is buying or selling the house, not the land. In rapidly appreciating areas, homeowners can earn a portion of the increased value—usually the portion tied to the increased value of the structure itself—when they sell their house. Similarly, a homeowner buying a house is paying only for the appreciated value of the structure, not the land. This keeps prices from escalating rapidly. Because the CLT owns the land for a long time, it can preserve the use of the land for affordable housing and maintain the affordability of the housing for future low- to moderate-income families.

CLTs have been used to good effect to benefit charter schools as well. In Denver, the nonprofit Urban Land Conservancy (ULC) has used the CLT model to help two charter schools build affordable new facilities. While these two examples, described briefly below, are structured somewhat differently from one another, they have in common the underlying CLT ground lease premise.

In the two examples in Denver, the Urban Land Conservancy owns the land under the buildings. The schools pay a moderate annual ground lease fee. In one case, the school took out construction loans to finance the construction of a facility. In the other case, ULC developed the building and now leases it to a charter school operator. In both cases, the school pays only for the building, not the land beneath it.

If a charter school should cease operations for any reason, ULC retains ownership of the land and can ensure the next building owner puts the structure to an approved community use—often as another charter school.

This creates a win-win situation: Schools can save money developing, renovating, or buying a building, yet the community or a representative community organization maintains high-level control over the underlying land and how it is used in perpetuity.

Structures similar to a CLT have been used to benefit charter schools in Atlanta and New Orleans as well. These examples will be described briefly later in this paper. Regardless of the differences in ownership structures, the basic premise is the same: decoupling land ownership from building ownership can help make acquisition of facilities for charter schools more affordable while protecting a community's intertest in long-term land usage.

DENVER EXAMPLE 1

Roots charter school

During the 1960s and early 1970s, the Holly Square Shopping Center was a hub of Denver's African American community and a source of pride for many. After the anchor tenant, a supermarket, moved out, the shopping center steadily deteriorated. It was destroyed in a gang-related fire-bombing in 2008.

ULC bought the 2.6-acre property in 2009 for $625,000, with $200,000 contributed by the city government. Working together, community residents, city officials, a local community foundation, and ULC created a participatory community planning process to determine the center's future.

What ultimately resulted was a complete transformation of Holly Square, anchored by a new Boys & Girls Club and a public charter elementary school, both housed in new buildings that sit atop land owned by ULC. Both the Boys & Girls Club and Roots Elementary School had 99-year ground leases with ULC that would automatically renew for another 99 years.

Roots Elementary paid ULC $450,000 for development rights—75 percent below the current market value of $1.8 million. This allowed ULC to pay off its debt on the land and a portion of its holding costs. Annual land lease payments to ULC were less than $5,000 per year for Roots Elementary.

To build the two-story, 21,252 square-foot school, Roots secured a $5.1 million construction loan from Self-Help Ventures Fund as well as a $1 million loan from the Charter School Growth Fund. The charter school contributed $167,000 of its own equity to construction costs. The total cost was about 20 percent less because of the contributed portion of the land.

Unfortunately, in the fall of 2018, Roots Elementary announced it would close its doors at the end of the 2018-19 school year after just three years of operation. A combination of gentrification of the neighborhood, resulting in fewer school-aged children, and poor school performance led to a decline in student population and contributed to the demise of Roots.

The closure of Roots provides a clear illustration of why ground leases make so much sense on a real estate project where community benefit is a primary value. Without a ground lease, Roots (or its lender in case of default) could sell the building and land to the highest bidder, regardless of the intended use. But the ground lease means that ULC and the community will have ultimate say in what replaces the closed charter school. And under the terms of the ground lease, what comes next to the building must provide a demonstrable community benefit.

In May 2019, the Holly Area Redevelopment Project board voted to support an application for purchase of the Roots building from the Center for African American Health. The board supported the health center's bid over a proposal from the 5280 Charter High School. Self-Help Ventures Fund, the lender on the Roots building, accepted the health center's offer.

What once was a charter school is no longer. But given the changing demographics of the neighborhood, especially a drop in the population of school-aged children, the area has excess capacity in the elementary schools. The quality of those other elementary schools is uneven at best, but the community had little appetite for opening another school, especially given Roots' failure to perform well.

DENVER EXAMPLE 2

New Legacy Charter School

New Legacy is a small charter high school designed to serve teen parents. The school is home to a fully licensed infant-through-early-childhood center. Teen parents can attend classes knowing their children are close at hand, safe, and in a fully licensed facility with an enriching environment.

Before the school opened, its founder approached ULC for help in finding a facility in the neighborhood of Original Aurora, a low-income section of Denver's largest inner-ring suburb of Aurora. After a few failed attempts to secure and renovate an existing facility, ULC purchased a vacant bowling alley in 2014 for $675,000, with plans to convert it to a school. Ultimately, ULC and New Legacy decided that a better solution would be to demolish the building and start fresh.

ULC secured $4.8 million in financing to fund construction of the school. It also contributed $900,000 of its own equity to the project. The result is a gleaming new 23,000-square-foot school building that opened in the fall of 2015. After protracted negotiations, the school and ULC agreed on a formula for determining rent payments for the building.

Under that formula, the first-year lease payment to ULC in 2015-16 totaled $280,500. It increased to $310,000 in year two, $340,000 in year three, and will increase by 1.5 percent the following two years. The school is paying about 20 percent less than if they had purchased the property themselves.

Under the terms of the lease, New Legacy has an option to purchase the building from ULC upon expiration of the five-year agreement (in 2020). Should the school buy the building, it would come attached to a renewable 99-year ground lease, with ULC retaining ownership of the land.

Preliminary negotiations over the purchase are currently underway.

ATLANTA EXAMPLE

East Lake Foundation and Charles R. Drew Charter School

From 2000 to 2013, the East Lake Foundation in Atlanta owned the land and building occupied by the Charles R. Drew Charter School, Atlanta's first public charter school. The school opened in 2000 serving grades pre-K–8, as part of a larger community development project.

The foundation leased the building to the school at a de minimis rate of less than $1,000 per year. Under the terms of the triple net lease, the school was responsible for paying ongoing expenses, including property taxes, insurance, maintenance, and utilities.

The ownership structure of the building changed in 2013, when Drew, a highly successful, mixed-income school, decided to add a high school, which required a new building. Initially, Drew's board and the East Lake Foundation negotiated with Georgia Governor Nathan Deal's administration to gain access to $10 million in state general obligation bonds to fund the building. But providing that level of public funding directly to a charter school, even one as widely acclaimed as Drew, proved politically thorny. That deal never closed.

Instead, the school and the foundation struck an unusual deal with Atlanta Public Schools: Drew sold its K-8 building to APS for $10 million. APS used general obligation bond funds to finance the purchase. Drew also gained access to New Market Tax Credits to provide additional construction financing for the high school.

That deal is still in place. APS owns the building, and Drew pays $1 per year to lease it back. The school is responsible for all building expenses.

When the bonds reach maturity after 20 years, Drew has the option to buy back the building for $10,000.

Is there risk in this type of deal? A bit. Should the political winds shift and Georgia become less hospitable to charter schools, it could prove difficult for Drew to buy back the building.

"We think the way the agreement is written is rock solid, but you are always at risk," said Cynthia Kuhlman, chair of the Drew Charter School board. "It doesn't matter who owns the building when politics enters in. It made us all a little nervous to do the deal this way, but at the time we needed money for our high school. It was a way to serve a thousand more students with our excellent program. So we took the risk."

NEW ORLEANS EXAMPLE

Bayou District Foundation and KIPP Believe

The Bayou District Foundation in New Orleans was the second organization, after the East Lake Foundation in Atlanta, to implement what is now called the Purpose Built Communities Model of neighborhood transformation—mixed-income housing, a cradle-to-college education pipeline, and a community wellness focus.

The revitalization of the Gentilly neighborhood's St. Bernard public housing development, badly damaged by Hurricane Katrina, included construction of 685 residential units as well as non-housing components overseen by the Bayou District Foundation, according to Gerard W. Barrouse, Jr., the foundation's board chair. Through master ground leases with the New Orleans Housing Authority, which retains ownership of the land, the foundation has overseen construction of schools, a health center, and a grocery score.

The first education facility to open on the redevelopment site was an Educare early childhood center, serving 168 Head Start-eligible children from birth to age 5.

Then in March 2019, a new KIPP Believe K-8 public charter school building serving 800 students opened on a plot of land adjacent to the early childhood center. Before moving into the new building, KIPP Believe was split between two facilities, an elementary school and a middle school, in different neighborhoods more than two miles apart.

"The model has always been cradle to college education, so this location made good sense," Barrouse said.

The new KIPP school is the first public school in New Orleans not located in a building owned by the school district. The Bayou District Foundation owns the building and leases it to KIPP Believe. The total cost of the construction project was $24 million. Roughly one third came from New Market Tax Credits, a third from philanthropy, and a third from bank debt.

One benefit of locating the school in a facility not owned by the school district is that KIPP Believe is thereby exempted from paying into a state school bond fund the $900 per student that charter schools located in district facilities are required to pay. Until moving into the new building, KIPP Believe was shouldering that expense. Now, those savings are used to pay rent on the building. The Bayou District Foundation, in turn, used those funds to pay down debt on the bank loan that makes up part of the financing for the new building.

While the new deal doesn't add any money to KIPP Believe's bottom line, it does bring the schools under one roof. Perhaps more important, Barrouse said, it provides KIPP with a modicum of stability: over the past eight years, the schools had been forced to move several times into different district-owned facilities.

Under terms of the lease, Barrouse said, KIPP Believe must remain a high-performing school if it's to remain in the building. Should the school continue to perform well, KIPP could ultimately purchase the building from the foundation.

SCALABLE SOLUTIONS

Purpose Built Communities

Both the East Lake Foundation in Atlanta and the Bayou District Foundation in New Orleans are part of the Purpose Built Communities consortium. Purpose Built Communities, a nonprofit consulting group, grew out of East Lake's work in Atlanta and has now spread to 17 cities in the South and Midwest.

Purpose Built Communities helps guide holistic community revitalization work in distressed areas. One of the pillars of its work is creating an education pipeline from early childhood through high school. Working to promote strong charter schools within their communities is one of Purpose Built's strategies, so ample opportunities exist to take advantage of goodwill and creative financing to work in these communities.

Real estate trusts for school facilities

CLTs are a form of nonprofit real estate trust. The concept of real estate trusts for school facilities has been pushed for the past 15 years by a few charter school supporters, including the Center for Reinventing Public Education (CRPE) at the University of Washington in Seattle. Unfortunately, CRPE noted last year, "it largely remains a road not taken."

CONCLUSION

The widespread recognition that charter school facilities challenges are endemic and pose an existential threat to some operators is spurring action, at least on a small scale. Creative and entrepreneurial approaches to facilities financing that have developed in isolated pockets can and should spread.

For these creative approaches to spread, however, requires political will as well as organizations and institutions willing to join forces and pool resources. The community land trust ground lease model seems especially promising, because it both reduces the entry cost to charter school operators and ensures that facilities built for charter schools will remain a public benefit, virtually in perpetuity.

CHARTER SCHOOL FACILITY CENTER
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