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# Land Donations/Bargain Sales follow-up Workshop

California Community Land Trust Network | Nov 12, 2024 | Land Donations/Bargain Sales Follow-up Workshop

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# Today's agenda

- Welcome & intro speakers
- Poll
- Land Donations Resources
- Legal Considerations
- Q&A

# Introducing Our Speakers:



Francis McIlveen  
Principal  
Land + Liberty (Consulting)  
Northern California Land Trust  
(Real Estate Broker)



Christina Oatfield  
Attorney & Advocate

# Polls



5min

# CA CLT Network Resources:

## Handout for CLTs



### Strategies & Advice for CLTs Receiving Donated & Bargain Sale Properties



The following strategies and tips are intended as a high-level overview for **Community Land Trusts (CLTs)**, rather than a detailed 'practice guide', and as such are intended to provide jumping off points for CLTs to further develop policies and tools for pursuing donated and bargain sale properties.




#### Messaging and Interfacing with Potential Donors

- **Focus on building community enthusiasm and motivating potential donors.**
- **Initial Donor Contact Guidance:**
  - Your interest is in the impact of the gift to the community, not financial or tax implications for the donor.
  - Your duty is not to advise the donor on the inheritance and tax implications of planned giving. Lawyers and financial advisors do that.
  - Always recommend the donor consult with their own advisors (CPA, attorney, etc.) to ensure that they fully understand and agree with the documents that your organization's real estate advisors are putting together. Having one attorney (and/or CPA) representing both the donor and your organization can lead to conflicts of interest and potentially even prompt legal challenges to a donor's will or trust.
  - Your job is to excite the donor about the opportunity to leave a lasting legacy they can be proud of, that carries their values and connections forward. Your job is to inspire the donor.
  - When you visit with prospective donors, you have two objectives:
    - Bring out information about the donor's experiences, values, worries, needs, desires, financial needs, relationships, and the condition of their financial/legal/tax/retirement/estate plans.
    - Learn what the donor wants to do in the world, what the donor wants to give to future humankind, and how your organization might accomplish any of those things.
- **It never hurts to pitch a bargain sale to every seller with whom you are negotiating an acquisition.**



#### Preliminary Phase Feasibility Assessment

- **Establish a basic level of commitment from the donor to sift out casual or ambivalent inquiries, and isolate potential projects with a higher likelihood of success.** One way to do this could be to outline a written agreement with the donor (such as an MOU, gift agreement or a letter of intent) that sets a threshold, require donors to execute the agreement before the CLT spends more resources on the project. 

# CA CLT Network Resources:

## Handout for Potential Donors



### Considering Donating or Selling Property to a Community Land Trust?



The donation or discounted sale of real estate to a **Community Land Trust (CLT)** is a profoundly impactful way of leaving a legacy in the local community. A CLT is a charitable organization whose mission and specialty is the stewardship of permanently affordable housing and community facilities in accordance with the values of the local community. CLTs throughout California have built up a network of professionals and experts who support each other to further this mission with care and integrity. For more information see: <https://www.cacltnetwork.org/california-clt-definition/>



#### Interested in Donating or Selling Property to a CLT?

There is a broad spectrum of options for property owners who want to transfer their property to a CLT. They can donate the full value or sell for a discount (bargain sale). They might choose to donate/sell today or to do so at some point in the future. Listed below are some of the more common scenarios which address a variety of donors' situations and needs.

#### Options for Structuring the Value of the Sale or Donation

- **Gift of Property.** The owner donates full title to the property to the CLT. The donor may be eligible for a tax deduction based on the value of the property donated. Donors should consult with their tax advisors about tax benefits.
- **Give your home, but continue to live in it.** In some circumstances, a homeowner and a CLT may find it mutually beneficial for the homeowner to make a partial gift of their property to the CLT during the homeowner's lifetime, with the remainder of the property to be transferred after their death. This might be accomplished through one of a few legal mechanisms:
  - **Life Estate.** A "life estate" occurs by executing a special kind of deed that provides one person the rights to use a property for the duration of their life, and on that person's death, the property automatically goes to the owner of the "remainder" interest in the property. A homeowner would hold a "life estate" while giving the "remainder" rights to a CLT. Typically, the holder of a life estate pays for property taxes, maintenance, insurance, and other expenses associated with maintaining the property for the duration of their life.
  - **Gift of Land Only.** Another mechanism for donors or sellers who want to remain in their home for some time would be for a donor or seller to keep title to their home while gifting or selling the property to a CLT. The CLT and homeowner would then enter into a ground lease of the land under the home.



A CLT is a charitable organization whose mission and specialty is the stewardship of permanently affordable housing and community facilities in accordance with the values of the local community.

Screenshot

# CA CLT Network Resources:

(google drive folder):  
[Donations/Bargain Sales Resources](#)



Donations Bargain Sales Resources

Back/Forward Path

Name	
01_CACLTN List of Donations-Bargain Sale-Planned Giving Resources.gdoc	
02_Donations Bargain Sales Professionals .gsheet	
03_Outreach & Donor Facing Resources	
CACLTN Handout_Donors & Bargain Sale.pdf	
Donating Property to Sacramento CLT - FINAL.docx	
EDC Land Bank Booklet v1.1.pdf	
Land Bank Booklet EDCF.pdf	
04_Guidance & Tips for CLTs	
2024 Land donations conference slides.pdf	
CACLTN_Strategies & Advice for CLTs...Donated & Bargain Sale Properties.pdf	
05_Tools & Sample Docs	
Bargain Sale info	
Bargain sale hand out_v3.docx	
Bargain Sale-hypothetical_v3.xlsx	
CLAM Project Evaluation Tool.gsheet	
Life Estates & Remainder Interest	
Life Estate - overview.docx	
Sample Life Estate & Remainder grant deed.pdf	
Revocable Transfer on Death Deed	
form-TOD-deed.pdf	
Notes on Revocable Transfer on Death deeds	
Revocable Transfer on Death Deed.pdf	
Sample CLT Purchase Option for Will.docx	
06_Resources from SELC	
[PUBLIC] Ban Land Grabs - Policy Overview.gdoc	
20180911 - Brief Guide to Transferring Land.pdf	
Resources for Radical Home Sellers [PUBLIC].gdoc	
Donations Bargain Sales Professionals .gform	
Donations Bargain Sales Project Committee Mtg Notes.gdoc	

# CA CLT Network Resources:



CACLTN Resource Library (google drive folder):  
[Donations/Bargain Sales Resources](#) contains the following documents & sub-folders:

## Overview Documents

- [01\\_CACLTN List of Donations-Bargain Sale-Planned Giving Resources](#) - This document
- [02\\_Donations/Bargain Sales Professionals](#) - Contact list.
- [Donations/Bargain Sales Project Committee \(CACLTN\) Mtg Notes](#) - Running notes of the committee's meetings & efforts

## **Outreach & Donor Facing materials** 03 Outreach & Donor Facing Resources

- “Considering Donating or Selling Property to a CLT?”  
[https://www.cacltnetwork.org/wp-content/uploads/2024/09/CLT-Donors\\_0918.pdf](https://www.cacltnetwork.org/wp-content/uploads/2024/09/CLT-Donors_0918.pdf)
- [EDC Land Bank Booklet v1.1.pdf](#)
  - Another version: [Land Bank Booklet EDCF.pdf](#)
- SacCLT 2 pager:  
[https://docs.google.com/document/d/19\\_PnQ1WkaMuUZb-ojfnDsugAzKKcy7Ic/edit#heading=h.gjdgxs](https://docs.google.com/document/d/19_PnQ1WkaMuUZb-ojfnDsugAzKKcy7Ic/edit#heading=h.gjdgxs)

## **Guidance/Tips for CLTs** 04 Guidance & Tips for CLTs

- “Strategies & Advice for CLTs Receiving Donated & Bargain Sale Properties”  
[https://www.cacltnetwork.org/wp-content/uploads/2024/09/CLT-Handout\\_0918.pdf](https://www.cacltnetwork.org/wp-content/uploads/2024/09/CLT-Handout_0918.pdf)
- March 28, 23 CACLTN “Planned Giving & Fundraising Webinar” Workshop: [Slides](#); [Recording](#)
- Public Support test issue

# Tools/Sample Documents 05 Tools & Sample Docs

- CLAM's Project Evaluation Tool - gives a weighted score of feasibility of potential projects.
- Sample CLT Purchase Option for Will.docx
- Revocable Transfer on Death Deeds & info
- Life Estate/Remainder Interest Docs
  - Sample Life & Remainder Estate Grant Deed
- Bargain Sale handouts
  - Hypothetical Worksheet
  - Handout
- "Seller Leveraged" materials from Minnesota CLT Coalition

# Resources from SELC Sustainable Economies Law

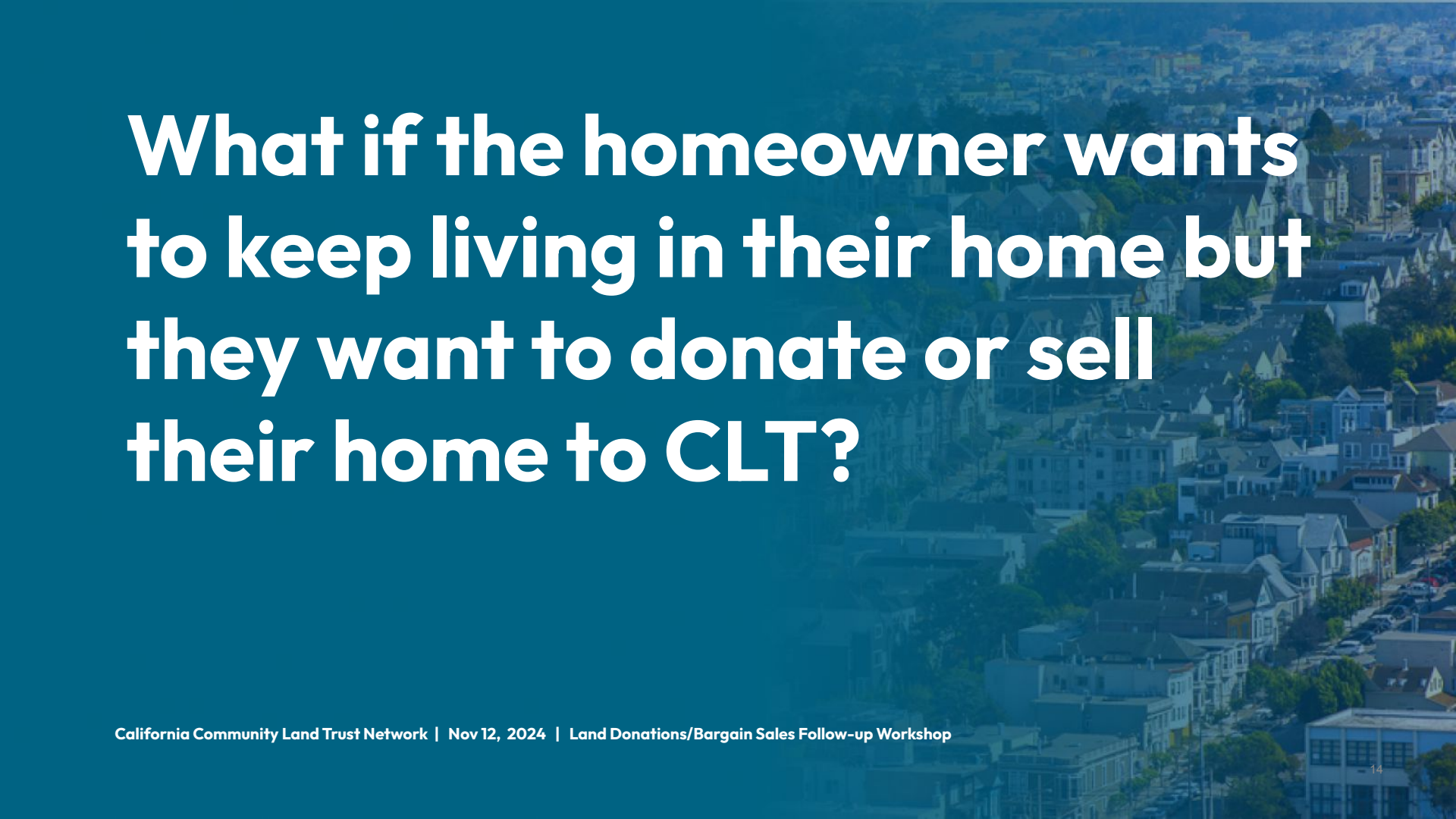
## Center: 06 Resources from SELC

- [\[PUBLIC\] Ban Land Grabs - Policy Overview](#)
- [20180911 - Brief Guide to Transferring Land.pdf](#)
- [Resources for Radical Home Sellers \[PUBLIC\]](#)
- [\[PUBLIC\] Seeds of Land Return](#)
- More succinct version: [Seeds of Land Return](#)

# How can homeowners donate or bargain sale their property to a CLT?

# One option: Homeowner can outright donate their property (or sell at a bargain price)

- This is legally very simple and straightforward assuming the donor does not intend to place any terms or conditions on the donation
- Donor may be eligible for tax benefits on their personal income taxes but they should seek their own tax counsel on this.

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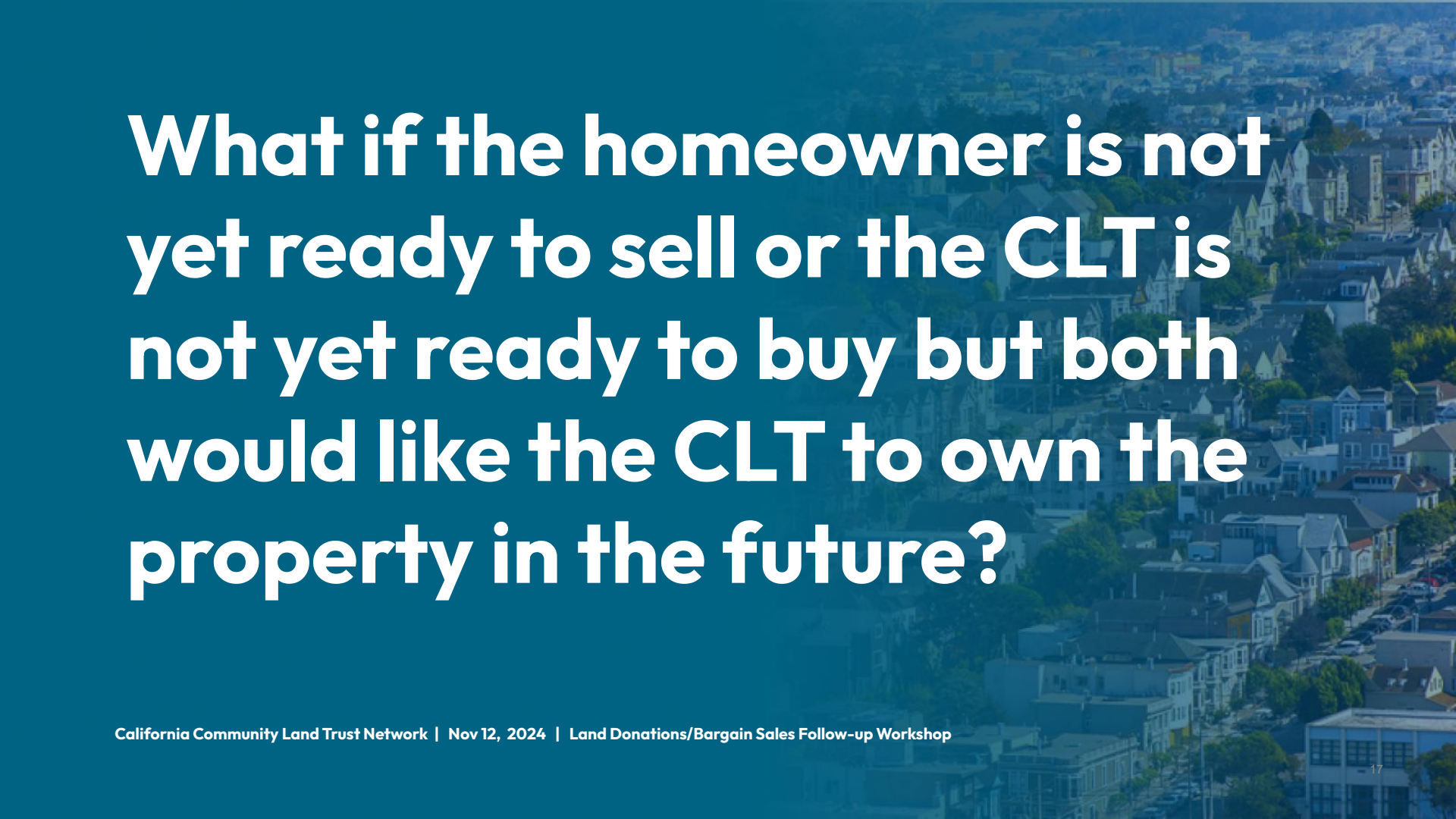
**What if the homeowner wants  
to keep living in their home but  
they want to donate or sell  
their home to CLT?**

# One option: Homeowner retained life estate

- A “life estate” is when someone owns a property for the duration of their lifetime.
- There is a “remainder interest” in the property owned by someone else.
- A CLT might receive as a donation or purchase a “remainder interest” in someone’s property.
  
- Typically the owner of a “life estate” is responsible for all property maintenance, property taxes, mortgage payments, etc. during their lifetime.
- Typically the party with a “remainder interest” has little/no access, control, and responsibility over the property while life estate owner is still alive - subject to some negotiation.

## Another option: Homeowner keeps their home, donates or sells land to CLT

- This would work well with a classic community land trust ground lease where a homeowner owns the building and CLT owns the land
- Land is leased for term of 99 years to homeowner
- Homeowner can leave their home to their heirs, subject to ordinary CLT ground lease restrictions on inheritance

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**What if the homeowner is not yet ready to sell or the CLT is not yet ready to buy but both would like the CLT to own the property in the future?**

# One option: Donation or Bargain Sale via Homeowners Will or Trust

- Homeowner can leave a property to CLT in their will or trust as a gift
- Homeowner can make a partial donation of the value of the property to a CLT with the CLT required to purchase the remainder of the value from the trust or estate of the deceased (i.e. a bargain sale)
- Homeowner should work with their own estate planning attorney to craft their trust and/or will
- Note: Wills and trusts can be amended by their creator so long as their creator is alive.

## Another option: purchase option or purchase right

- A “purchase option” gives the buyer (CLT) a right to buy a property during some window of time.
- A “right of first refusal” is another type of right where a prospective buyer (CLT) has an opportunity to be the first in line to purchase the property \*if\* the owner decides to sell, but there is no obligation on the part of the owner to sell at any particular time or ever.

# Q & A



# California Community land trust network