



SCHUMACHER CENTER

for a new economics

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Proposal for a "Black Commons" for purposes of discussion -- comments most welcome

Proposal Summary

For decades community land trusts have enabled local communities to create affordable homeownership opportunities by providing low cost access to land held in a commons while enabling private ownership of the homes on the land. Our proposal is to adopt the community land trust structure to serve as a national vehicle to amass purchased and gifted lands in a Black Commons with the specific purpose of facilitating low cost access for Black Americans hitherto without such access. In short creating one piece of a Black Reparations Movement.

The community land trust is a tested and known entity for holding working lands in a commons while at the same time facilitating leaseholders ability to build equity in homes and other improvements on the land. Donors would be assured that their one-time donation of land would not again enter the market but would remain a permanent part of a Black Commons. Individual leaseholders could change, and buildings sold, but the land would continue to be held in the nonprofit structure dedicated to serving those disenfranchised by a history of discriminatory practices.

The business of a Black Commons would be to acquire land by gift or purchase, develop a plan for use of that land, and identify a leaseholder for each site. Leases are contracts and those contracts can be written to cooperative enterprises as well as to individuals. The rich tradition in the Black community of farming cooperatives could be encouraged by prioritizing and purchasing farmland to lease. Or it could be that housing is a priority, or manufacturing sites for worker-owned businesses, or affordable neighborhood-owned retail sites.

A Black Commons is a tool for community organizing as well as wealth building. A high-profile national board of directors could attract donations of land. Staff would require fluency in land use planning to shape long term leases that embody the donors' intentions while meeting the realities of leaseholders. Local community land trusts can serve as partners in the implementation.

Freeing the Land as well as a People

The creation of a Black Commons to hold land for Black Americans and the leasing of that land with equity rights in improvements, can provide some justice to a people that have been systematically excluded from ownership opportunities.

At the same time a highly visible initiative to form a Black Commons can be a powerful tool to educate a broader public about the enslavement of land held in private hands that led to inequities in the first place. By returning land to a Commons through the vehicle of community land trusts, a basic injustice in our economic system begins to be addressed. All need access to land to live, work, play, and create goods for one another. When land is privately held, it means owners benefit unfairly from the need of all for land. An imbalance occurs. Wealth accumulates disproportionately with all the related consequences. It is time to boldly address these issues at their core.

Proposal

Questions Posed by this Proposal

For decades community land trusts have enabled local communities to create affordable homeownership opportunities by providing low cost access to land held in a commons while enabling private ownership of the homes on the land. Can the community land trust structure be adapted to serve as a national vehicle for amassing voluntary gifts of land held in a Black Commons with the specific purpose of facilitating low cost access for Black Americans hitherto without such access? In short can such an initiative be one piece of a Black Reparations Movement?

How and why is a community land trust an appropriate vehicle for this purpose?

Could the scope of land in a Black Commons go beyond housing sites to include farmland, manufacturing sites, retail and office space? What are the implications of this?

What organizations would best lead such an initiative?

How would a new national organization dedicated to holding land in a Black Commons be structured to give donors of land the security that their gifts would be used in perpetuity for the purpose described?

How would a national organization with such a specific focus relate to existing local and regional community land trusts with mandates to serve more diverse populations?

How to begin -- name, board, incorporation, initial funding, outreach, partnerships, building capacity to accept land, identifying users?

History of Cooperative Land Access

Fifty years ago Fannie Lou Hamer, a leading figure in the Civil Rights movement, together with others purchased 680 acres of Mississippi Delta land, which they named "Freedom Farms." The goal was to provide access to land so that Blacks could grow their own food cooperatively. She and her colleagues planted snap beans, squash, butter beans, peas and cucumbers. As a complement to the farm Mrs. Hamer created a "pig bank." Beginning with 35 gilts and five boars, she gave pregnant pigs to Delta families who agreed to care for them, return the mother pig to the bank, and keep the remaining piglets as dividends. "When you've got 400 quarts of greens and gumbo soup canned for the winter, nobody can push you around or tell you what to say or do," Mrs. Hamer said.

There is a recognized tradition in Black communities of organizing around cooperative land access. Two years earlier, in 1967 in Albany, Georgia, Robert Swann, a pacifist and builder who later founded the Schumacher Center for a New Economics, joined Slater King, President of the Albany Movement and a civil rights activist, out of a common concern to provide access to land for Black farmers in the rural South.

They contracted to purchase a 5,000 acre farm and began a planning process with local residents to structure ownership and plan a settlement of homes and farm buildings. As part of their research they traveled to Israel to study the

legal documents of the Jewish National Fund that separates ownership of land from the ownership of buildings on the land. Charles Sherrod, an organizer for the Student Nonviolent Coordinating Committee, and his wife Shirley Sherrod were part of that group. New Communities, Inc., the first community land trust, was formed out of those [planning meetings](#). The story of its creation and its struggle, including a "mysterious" car accident that killed key leaders of the initiative, is detailed in the 1972 publication, *The Community Land Trust: A Guide to a New Model for Land Tenure in America* by Bob Swann and others [available in pdf form here](#).

The movement has since grown to include nearly [200 community land trusts](#) throughout the US and is widely understood as the best model for developing permanently affordable homeownership opportunities in regions where land prices are escalating.

Community Land Trusts

The "classic" community land trust is a democratically-governed, regionally based, open membership non-profit corporation that acquires land and interests in land. Through an inheritable and renewable long-term lease, the trust essentially removes land from the speculative market and facilitates use for multiple purposes such as workforce housing, village improvement, sustainable agriculture, and recreation. Individual and organizational leaseholders own the buildings and other improvements on the land created by their labor and investment, but do not own the land itself.

The community land trust retains an option to repurchase any building coming up for sale at current replacement value adjusted for deterioration. Leaseholders are able to recoup their equity in any buildings and improvements when they leave, but not the escalating value of the land itself. Rather than land value, created by the common need of others for land, is held in perpetuity on behalf of the regional community. The community land trust resells the buildings at their replacement value and writes a new lease to the new building's owner.

Swann saw the community land trust movement as a method for broad based land reform. He was a self-trained economist and understood the Natural Commons -- Earth, Air, Fire (the minerals), and Water as our Common Wealth, needed by all. To hold the commons in private ownership gives an unfair advantage to the titleholder who can charge "rent" for their use -- an "unearned increment," to use the phrase of Henry George. This economic

advantage is one of the key reasons for inordinate disparities in wealth accumulation.

At the same time a regulation of use is necessary and a means for collecting income from that use is key to ensuring common benefit. He imagined community land trusts as a way to hold and manage natural resources as a commons on behalf of the inhabitants of a particular place. The modest lease fees are used to purchase additional lands so that others have access.

He had seen earlier well-intentioned experiments in which the users of the land were at the same time the sole members of the board of directors of the corporation owning the land. He observed that as land rose in market value, there was pressure on these self-interested directors to change the rules and sell out, benefitting privately on what was to be a community asset.

As a result he came up with a three-part structure for the board of directors, which is the common form for a community land trust. One third of the board is elected by users of the land -- a fair, but not majority interest on the board, to prevent self-interested changing of the lease terms. One third is elected from the general membership -- those who support the purposes of the land trust or who themselves need land access. This keeps the organization dynamic, looking for new land and with an eye to the most pressing needs in the region whether that be affordable housing or affordable access to farmland or maintaining affordability of downtown sites for locally owned businesses. Then another third of the board is appointed by the first two thirds from the professional community, bringing needed skills such as legal skills, financing, construction, and land use planning.

Tax Status of Community Land Trusts

The essential role of a community land trust (CLT) is to acquire land by gift or purchase, develop a land use plan for each site meeting both environmental and community criteria (such as affordable housing), and then leasing the sites at normally below market rates for the purposes described. This leasing of land is not by itself understood as a tax-exempt activity. So to achieve tax-exempt status and qualify for Community Development Financial Institutions funding, many CLTs have purposely chosen to serve only the poor -- thereby qualifying as a charity. This has meant a narrow focus on affordable housing, rather than the broader based land reform intended by the founders of the movement.

Community land trusts in poverty stricken inner cities are able to add retail sites and manufacturing sites to lands they steward while maintaining tax-exempt status because it is argued that their activities contribute to overall neighborhood development of a poor population. The most vibrant example of this is Dudley Street Neighborhood Initiative in Roxbury, Massachusetts (dsni.org).

In the Berkshire region of Massachusetts, the Community Land Trust in the Southern Berkshires (CLTSB), a state chartered non-profit has operated for 37 years without tax-exempt status because it did not want to be limited to serving the poor. Founded by Bob Swann, the CLTSB held that it was not just the poor who should not speculate on land; no one should. So it created an organization that could hold and lease all kinds of land without respect to income, though it put a priority on leasing to year round residents who could not afford high land costs in the region. Nor did CLTSB want to have to "kick out" leaseholders whose incomes improved in part because of stable housing.

Without the advantage of donations, the CLTSB had to partner with tax-exempt organizations to accomplish its goals. Most notably was a partnership with The Nature Conservancy to purchase [Indian Line Farm](#), the first Community Supported Agriculture (CSA) farm in the country. TNC held wetlands abutting the farm when it came up for sale after the tragic death of its owner, Robyn VanEn. Most likely the farm would have been sold for a second or third home in this vacation home region -- a bigger house releasing more effluents in the wetlands.

The regional staff at TNC wanted the farm to stay in cultivation, but TNC did not want to manage a working farm. Its strength was in overseeing wild lands, not barns and homes and fences and all the problems associated with such use. TNC also understood that if a farmer were to farm with all their heart and soul, that farmer would want equity in improvements made -- not just to buildings, but to the soil and the addition of perennial stock. However TNC's tax status prevented it from giving equity to lessees of land it owned as that would be using its special status to benefit an individual.

CLTSB had experience in writing and managing leases with equity and had a track record with local banks of making mortgages on leased land, but its tax status prevented it from receiving donations to purchase land. In 1997 a partnership was formed to save Indian Line Farm as a working farm. CLTSB entered a contract to purchase the farm and launched a fundraising campaign with donations going to TNC. At closing on the farm TNC made a donation to

CLTSB from monies raised so CLTSB could purchase the land value; TNC additionally purchased a conservation easement limiting how the land could be used; and two farmers took out a mortgage to purchase the home and barns. The 98-year lease from CLTSB to the farmers was negotiated between CLTSB, TNC, and the farmers to address the interests of each.

In 2015 CLTSB incorporated a sister tax-exempt organization the [Berkshire Community Land Trust](#) (BCLT). Its 501c3 application included holding land for education, economic development, workforce housing, recreation, natural resource protection, historical value, and included maintaining the character of Main Streets. The CLTSB then applied for, and received, 501c2 status as a title holding corporation for its sister 501c3.

That means that the BCLT can receive tax-exempt gifts of land or money to purchase land, place restrictions on how the land is used, and then turn it over to the CLTSB to manage on its behalf. At the end of the year all income, above expenses of CLTSB, must be returned to BCLT in order that the income from leasing is not taxed.

Note that the CLTSB does not ask for exclusion from local property taxes as such taxes support basic services such as schools, roads, police, fire, and ambulance needed and used by all leaseholders.

Application to Forming of a Black Commons

The community land trust is a tested and known entity for holding land in a commons while at the same time facilitating leaseholders ability to build equity in homes and other improvements on the land. Donors to a Black Commons would not want to see title to land simply given over to individuals who might then quickly cash in on its value, placing the land again in the open market. The assurance that the one time donation would contribute to the long-term wealth of a Black Commons is an important reason for employing the CLT model.

At the same time the CLT model is flexible. Leases are contracts and those contracts can be written to cooperative enterprises as well as to individuals. The rich tradition in the Black community of farming cooperatives could be encouraged and suitable sites prioritized. The underlying feature is that the land itself, and with it the land's value, remains in the Commons.

While community land trusts are regional in scope with a board elected from the region -- this may be too narrow a field for the launch of a Black Commons. To bring attention and credibility to such a new venture would necessitate forming a national level non-profit led by respected figures in the Black community. Taking a lead from the Berkshire Community Land Trust, a Black Commons, Inc. would best be multi-purposed holding land for education, economic development, workforce housing, recreation, natural resource protection, historic preservation, and maintaining the character of Main Streets.

As a 501c3 it could accept donations of land and funds to purchase lands. It would then be the role of Black Commons, Inc. staff to designate the specific use of each donated site according to priorities established by the Board of Directors (cooperative farming, low cost housing, Black-owned business locations).

A national organization would be a cumbersome entity to manage lease agreements, so we propose that sites in the Commons be turned over to existing local and regional community land trusts to manage as instructed. Black Commons, Inc. could retain the right to repurchase buildings that come up for sale, resell, and instruct the writing of a new lease to the new building owners.

But existing community land trusts may not meet the need for all lands donated. A Black Commons, Inc. should be prepared to help found new CLTs in locations without such a local partner. Or it might want to take on managing some leases directly. This would mean founding a sister 501c2 organization to hold lands and write leases that offer equity to leaseholders. The 501c3 would be prohibited from doing this itself as it would be using its tax-exempt status to benefit private individuals.

Another question arises. CLTs are structured to have a board representative of its region. That means boards not exclusively Black. The control of sites would remain with the Black led Black Commons, Inc. through the mechanism of the option to purchase at resale, but donors should thoroughly understand this possibility. Of course Black Commons, Inc. could organize multiple regional 501c2 organizations specifically with all Black members on the boards -- but this would require a huge undertaking.

Donors might want to donate land with buildings on it. Black Commons, Inc. could sell the buildings to leaseholders of the land, achieving funding to

purchase more land -- perhaps land meeting priority concerns. Or the buildings could be partially donated/partially sold to leaseholders to make them more affordable. All of this would need to be worked out site by site.

Ideally the board of a Black Commons, Inc. would have representation in different parts of the country with board members well connected to regional organizations and able to meet with regional donors. In the long run it would be preferable to have a Black Commons Northwest, Southwest, Northeast, Midwest, etc. But again to get started and gain attention to the concept and trust in the execution -- one national organization.

Such an organization cannot passively wait for donations. A vigorous outreach program and a staff able to evaluate best use of donated sites are essential. A Black Commons, Inc. will be a marriage broker between people wanting access to land and sites available. That will mean interviewing potential users of land, educating them about a lease agreement that separates ownership of land from ownership of buildings on the land, and vetting users capacity to manage a site. Farmland needs a farmer, not a doctor. A retail site is there to house a successful local business.

The business of a Black Commons is to acquire land by gift or purchase, develop a plan for use of that land, and identify a leaseholder for the site. Much of this can be in cooperation with local partners and local community land trusts, but board members will need a fundamental understanding and fluency with these processes and be able to direct staff to carry through on the potential.

Freeing the Land as well as a People

The creation of a Black Commons to hold land for Black Americans and the leasing of that land with equity rights in buildings and other improvements, can provide some justice to a people systematically excluded from ownership opportunities. At the same time a highly visible initiative to form a Black Commons can be a powerful tool to educate a broader public about the enslavement of land held in private hands. By returning land to a Commons through the vehicle of community land trusts, a basic injustice in our economic system begins to be addressed. All need access to land to live, work, play, and create goods for one another. When land is privately held, it means owners benefit unfairly from the need of all for land. An imbalance occurs. Wealth accumulates disproportionately with all the related consequences. It is time to boldly address these issues at their core.

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