

# LAND TENURE FOR URBAN FARMING

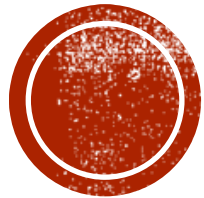
**NATE ELA AND GREG ROSENBERG**



# ABOUT ME

- Troy Gardens got me started with urban agriculture in 2001 when I worked for the Madison Area CLT.
- Turned out that our “cutting-edge” project was just a return to the seeds planted in 1969 by New Communities, the first CLT in the U.S.
- Since then, I’ve researched, written and taught about applying the CLT model to urban agriculture.
- This presentation draws from a chapter co-written with Nate Ela for “Good Food, Strong Communities”, to be published by the University of Iowa Press in Fall 2017. ✿





# THE CHALLENGE OF SECURING AFFORDABLE LAND FOR URBAN FARMING

# THE NEED FOR AFFORDABLE LAND

- The problem of the high cost of urban land relative to rural land for urban farmers.
- They are competing for land with many other potential uses, which pushes land prices upward.
- Yet, food grown in cities must remain price-competitive with food grown in rural areas.
- *This squeeze between the price of produce and the cost of land drives many urban farmers to look for free or low-cost land – which is typically found in cities or neighborhoods with depressed land values. ✿*



# THE NEED FOR LONG-TERM TENURE

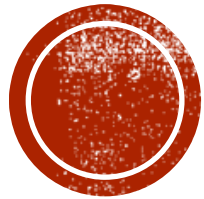
- Long-term land tenure creates opportunities previously unavailable to urban farmers
  - Urban planners now view agriculture as more than an interim use.
- Long-term land tenure allows for organic certification, which takes at least three years.
- Long-term land tenure justifies new levels of investment in soil remediation and infrastructure. ✿



# BUT LONG-TERM IS NOT FOR EVERYONE

- **Long-term leases or outright ownership:**
  - Nonprofit agricultural organizations that provide farmer training,
  - Neighborhood organizations that manage community gardens or lease land to farmers, or
  - Commercial ventures run by experienced farmers.
- **New farmers** graduating from training programs may need a few years to experiment with business models or recognize the reality beyond the romance of urban growing.
  - Because many may not continue to farm beyond the first few years, **short-term leases may be a good match.** ✿





# KEY CONCEPTS

# SHIELDING LAND FROM SPECULATION

- If affordable land is key to urban farming, it needs to be affordable over the long term.
- This means shielding urban farms from rising prices in a speculative real estate market.
- While making sure that land allocated in a manner that protects the long-term future of the community. ✿





# OWNING LAND IS NOT FOR EVERYONE

- **Ownership doesn't make sense for all urban farmers.**
  - Even land for \$1.00 carries upfront costs of securing title and paying transaction fees.
  - There are property tax obligations, which might be mitigated by leasing from a nonprofit land trust.
  - The costs of municipal services, liability insurance, and the difficulty of selling the property down the line.
- ***The key is to determine the degree of security of tenure that best matches a particular grower's goals and experience. \****



# LAND TRUSTS

- Open space and conservation land trusts have traditionally focused on protecting ecologically valuable land in rural areas and the urban fringe.
- Community land trusts have generally sought to protect housing affordability in cities and suburbs.
- Both models are increasingly being brought to bear on the question of how best to protect land for urban agriculture. ✿



# PROPERTY TAXATION

- There are ways to structure land ownership to reduce property tax burdens without asking for special treatment.
  - Where agricultural land may be assessed at its use value, an agricultural easement could reduce property taxes.
  - A land trust may be able to hold tax-exempt land that could be leased to beginning farmers as part of an educational incubator program.
- Such property tax considerations may be a significant determinant of who should own the land.
- *NOTE: The tax treatment of land held by a nonprofit could be different, however, if the land is leased to experienced farmers who operate for-profit businesses. ✿*



# PROPERTY TAX BENEFITS AND CHALLENGES

Land-Ownning Entity	Benefits	Challenges
<b>Public</b>	Exempt from property taxes	Difficulty in securing long-term ground leases; at risk when change in the political winds
<b>Nonprofit</b>	May be exempt from property taxes for noncommercial and incubator farms;	Negotiations with local assessor can be thorny. Commercial farmland could be assessed based on ground rents.
<b>Private</b>	The least red tape, particularly when the grower owns the land directly	No benefit from a property tax perspective (with a few exceptions)



# LAND TENURE MUST ALLOW GROWERS TO RECOUP THEIR INVESTMENTS

- Access to land for a single season requires growers to limit investments to things they can pick up and move easily.
- In order for growers to invest more deeply in a piece of land, they require tenure over multiple growing seasons.
- The greater the level of initial investment, the longer a grower's time horizon will be. ✿



# LAND TENURE MUST BALANCE LANDOWNER AND GROWER GOALS

- Most **nonprofit agricultural organizations** will seek long-term tenure, either in the form of long-term ground leases or outright ownership.
- **Apprentice farmers** will be better candidates for shorter-term leases:
  - Performance-based renewal enables growers to establish their own land security.
- **Experienced urban farmers** want long-term tenure that allows them to build their business and have something to pass down to others. ✿



# DESIRED LAND TENURE BY TENANT TYPE

Type	Key Concerns	Type of Tenure
<b>Apprentice Growers</b>	It is uncertain whether they will be successful over the long term.	A short-term ground lease with a renewal clause based on performance enables farmers to “earn” tenure while protecting the landowner if the farmer is unsuccessful.
<b>Experienced Growers</b>	The risk of farm failure is significantly lower than for apprentice growers.	A successful track record provides more confidence to landowners to provide longer-term leases. Depending on market conditions and financial resources, a grower may opt for outright purchase.
<b>Nonprofit Agricultural Organizations</b>	Nonprofits will desire the longest possible security of tenure for their land.	Outright ownership or 99-year ground leases may be the best fit, unless shorter-term tenure better aligns with goals for specific parcels of land.



# KEEPING IT SIMPLE

- City and county staff prefer working with a single organization that represents multiple growers rather than reinventing the wheel with each grower.
- Small organizations will have a hard time developing and sustaining the expertise needed for complex real estate matters. ❁





# IT TAKES TEAMWORK

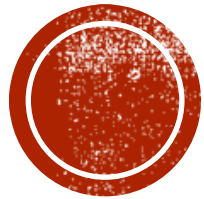
- Urban farmers should seek the services of organizations that have specialized expertise and who can negotiate effectively with city and county officials.
- *Securing affordable land to farm requires working together with real estate professionals, accountants, lawyers, nonprofit organizations, and government officials. ❁*



# DO WHAT YOU DO BEST

To develop a food system in which urban farmers can focus on what they do best, we should not ask them to play every position on the team, or be masters of all domains. ✿



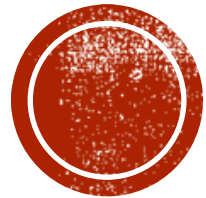


# STRATEGIC QUESTIONS FOR PROGRAM DESIGN

# EIGHT STRATEGIC QUESTIONS

- How will land be secured for farmers?
- How will the land be made affordable?
- How will the land be used?
- Who will be the farmers?
- What type of support will farmers need to be successful.
- How is success defined? What expectations are realistic?
- Who should be the landholding entity?
- How will the landholding entity relate to the community? ✿



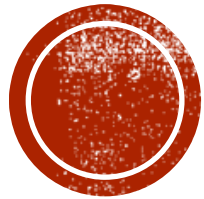


# THE ROLE OF NONPROFITS IN URBAN FARMING

# AFFORDABILITY

- The parallel between housing and food production suggests why could be an essential provider of affordable urban farmland.
- In “unaffordable” housing markets, the provision of affordable housing is not possible without subsidies.
- There is no standardized definition for describing affordable urban farmland – beyond “free or cheap”.
- Affordability is defined on a case-by-case basis relative to
  - the specific parcel of land,
  - need for remediation and infrastructure,
  - crops being grown, and
  - net revenues that a grower would need to generate. ✿





# ROLE OF LAND TRUSTS IN URBAN FARMING

# LAND TRUSTS INVOLVED IN URBAN AG





# OPEN SPACE LAND TRUSTS

Open space (conservation) land trusts focus on **protection of land**, and generally do not directly manage working lands – nor foster community-based governance.



# COMMUNITY LAND TRUSTS

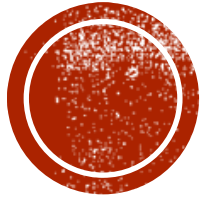
- Community land trusts acquire and hold land for the **benefit of a community.**
- **A tripartite board** structure includes seats dedicated to beneficiaries of the trust
  - People who are directly served by the trust,
  - Residents from neighboring communities, and
  - People with needed expertise or organizational connections.



# EMERGING ROLES OF COMMUNITY LAND TRUSTS IN URBAN AGRICULTURE

- Some affordable housing CLTs have begun to hold land for community gardens and urban farms.
  - **Madison Area CLT**
- Some of housing-focused CLTs have provided programmatic support for urban agriculture.
  - **Athens Land Trust**
- A few organizations have been founded as community land trusts exclusively focused on urban agriculture.
  - **Southside Community Land Trust**





# CENTRAL SERVER MODEL

*AKA "SPOKE AND HUB"*

**A SCALABLE APPROACH TO URBAN FARMING**

# DESCRIPTION OF THE MODEL

- The central server model facilitates rapid scaling of CLTs, striking a balance between local control and economies of scale.
- The model was first introduced in 2009 in Atlanta, and soon thereafter in New Orleans – with a focus on affordable housing.
- The central entity provides a variety of services:
  - Accounting, development, and real estate transactions;
  - Negotiating with funders and lenders; and
  - Other services that require more expertise than a neighborhood-based organization can easily muster. ✿



# URBAN FARMING CENTRAL SERVER

- A central server can do the “heavy lifting” that is beyond the ability of small, neighborhood-based organizations.
- With expertise in land use and real estate transactions, a central server can
  - Negotiate with local government to secure publicly owned land for agriculture,
  - Obtain favorable tax treatment, and
  - Gain access to city services to provide needed infrastructure to gardens and farms.
- In addition, a central server could help provide training and technical support to satellite organizations. ✿



# NEIGHBORHOOD-BASED SATELLITES

- Existing, new start-ups, or more informal entities.
- A central server frees neighborhood-based satellite organizations from the heavy lifting of real estate transactions, infrastructure installation, and negotiating favorable property tax treatment.
- Satellites can focus on governing and managing productive land with the oversight and engagement of neighborhood residents.
- Satellite entities help govern the central server.

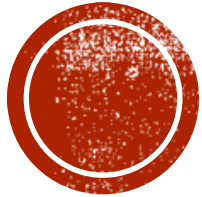


# WHO SHOULD OWN THE LAND?

- It likely makes more sense for a central server to be the landholding entity for urban farming:
  - Economies of scale,
  - Single point of contact for public agencies.
- Sometimes satellites will want to own land to better secure local control over neighborhood development.
- **A “hybrid” approach** could provide for initial ownership by the central server, giving satellite organizations the option to purchase land once they have built stewardship capacity. ✿ ✿







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