

COMMUNAL LAND OWNERSHIP WITHIN INFORMAL SETTLEMENTS

**FINAL REPORT ON THE FIRST PHASE OF THE PROJECT
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INTRODUCTION

In 2025, the Development Action Group (DAG), in partnership with the Philippi Economic Development Initiative (PEDI), Beautiful Gate South Africa and the International Centre for Community Land Trusts, embarked on a three-phase collaborative initiative to explore, develop, and pilot a model of collective land ownership to support the equitable upgrading of informal settlements in South Africa. Anchored in Cape Town and grounded in participatory engagement, the project seeks to generate scalable insights and tools relevant for broader region, application across Sub-Saharan Africa.

An essential component of the exploratory pre-feasibility phase of the project is examining the legal, financial, and organisational conditions necessary to enable collective land ownership in two informal settlements in Philippi, Cape Town, namely Sesikhona and Winnie Madikizela Mandela informal settlements.

This document aims to present, in general terms, the context, challenges, and possibilities of adopting collective land ownership or land-holding models as an alternative to the individual ownership typically proposed by formalisation policies in informal settlements. Beyond presenting the Community Land Trust (CLT) model as an innovative alternative, the document raises issues for reflection that will be part of the in-person learning exchange to be held between 17 and 20 June 2026 in Cape Town, South Africa.



SOUTH AFRICAN LEGAL AND SOCIAL CONTEXT RELATED TO LAND RIGHTS

Contemporary urban land dynamics in South Africa cannot be understood without reference to the legacy of Apartheid. The Apartheid government established and maintained a complex legal framework that drove Black people off their land, stripped Black people of their rights to land, and prohibited Black people from legally owning land. In terms of this system, the rights that Black people were entitled to over land were weak, non-transferrable and of a “second class” nature to the rights to which White people were entitled. The effect was that the vast majority of Black South Africans lacked legally recognised land tenure. This produced deeply unequal spatial patterns that persist today, with economic opportunities concentrated in urban centers and towns, while the majority of the population remains geographically and economically marginalized. It also resulted in over 60% of the population living on or holding land in a manner outside of the formal property system.^[1]

In the early 1990s, as the Apartheid government’s grip of power was slipping and race-based influx control regulations began to crumble, cities experienced a significant influx of people seeking employment and improved living conditions. However, the formal housing sector was unable to meet the scale of demand and often unwilling to provide for this new segment of the housing market, leading to the rapid expansion of informal settlements in cities and towns throughout South Africa – often located either on marginal land or on well-located land close to economic opportunities, which makes them both socially vital and contested, especially considering interests of the real estate market. While many of these informal settlements were located on land held by the state, in the decades since it has become increasingly common for informal settlements to also develop on underutilised privately-owned land. Residents of these areas typically lack formal ownership and do not hold registered title deeds, yet their occupation is not simply illegal in a conventional sense. Instead, it exists frequently within a complex legal framework that provides certain protections and recognises or tolerates the reality of informality.

The Constitution of the Republic of South Africa, 1996 (the Constitution) plays a central role in shaping this framework by embedding both the protection of property and the right to housing. Section 26 guarantees that everyone has the right of access to adequate housing and explicitly prohibits evictions without a court order; while Section 25 protects property rights, but also mandates land reform, equitable access to land, and the strengthening of land tenure security.

This dual commitment creates an inherent tension within the legal system, as it requires the state to respect existing ownership, while simultaneously addressing the injustices of the past and expanding access to land and tenure security for those historically excluded. As a result, informal settlement residents occupy a legally ambiguous position in which they may not have

^[1] D Hornby, R Kingwill, L Royston & B Cousins, ‘Introduction’ in D Hornby, R Kingwill, L Royston & B Cousins (eds), *Untitled: Securing Land Tenure in Urban and Rural South Africa* (2017).

formal title, but are formally protected from arbitrary displacement – even considering that they occur, often illegally.

This protective legal framework is developed through legislation such as the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act (PIE). Under this law, evictions can only occur through a court process, and judges are required to consider whether an eviction is “just and equitable” having regard to “all the relevant circumstances”, including the duration of occupation, the unique vulnerability of the occupiers, the availability of alternative accommodation, and, most importantly, whether an eviction would result in the occupiers becoming homeless if alternative accommodation is not provided. As a result of a long line of case law dealing with evictions in terms of PIE, the Constitutional Court has affirmed that evictions that would lead to the occupiers becoming homeless would not be “just and equitable” and established a constitutional duty on local government to provide alternative accommodation to such occupiers to stave off homelessness. This has fundamentally shifted eviction from a purely property-based issue, to one grounded in human rights, dignity, and social context.

At the same time, legislation like the National Housing Act, the National Housing Code (which was enacted in terms of the National Housing Act and contains the bulk of the regulatory framework governing state-subsidised housing delivery in South Africa), and the Spatial Planning and Land Use Management Act provides the institutional framework for housing delivery and urban planning, encouraging municipalities to address spatial inequality, and to integrate informal settlements into the urban fabric of towns and cities.

The National Housing Code’s Upgrading of Informal Settlements Programme (UISP) and Emergency Housing programme (EHP) have relevance for informal settlements. The UISP provides for local government to apply for funding from provincial government to redevelop informal settlements by incrementally providing occupiers with infrastructure, tenure security, and access to basic services in an inclusive and participatory manner.^[2] The UISP funds in situ upgrading through the creation of serviced stands and the installation of both interim and permanent municipal engineering services. Where interim services are provided, they should always constitute “the first phase of the provision of permanent services”. The UISP does not provide assistance for the construction of housing, which should be funded through one of the other national housing programmes in phase 4 of the upgrading project. Tenure security is a central component of the UISP and can be achieved through “a variety of tenure arrangements [that] are to be defined through a process of engagement between local authorities and residents”.^[3]

^[2] Funding in terms of the UISP is provided in three phases: Phase 1 includes for land surveying, registration, community participation, development facilitation, dispute resolution, geotechnical investigation, pre-planning for land acquisition and the provision of interim municipal engineering services; and phases 2 and 3 provide funding for detailed town planning, contour surveying, land survey examination, civil engineering and project management. In addition, the programme makes funding available for land rehabilitation.

^[3] Department of Human Settlements, Upgrading of Informal Settlements Programme, Part 3, Volume 4 of the National Housing Code (2009).

While assistance in terms of the UISP is subject to the qualification criteria for other state-subsidised housing programmes, the programme does make provision of the MEC for Human Settlements to authorise non-qualifying beneficiaries to access assistance through the programme on a case-by-case basis. This means the UISP could apply to all the residents of an informal settlement, including households that would not ordinarily qualify for state-subsidised housing assistance such as undocumented migrants, families that have previously benefited from a state-subsidised housing programme, or even families that earn more than the minimum income requirements. Implementation of the UISP has, however, been lacking. This is due to local government's discomfort with developing anything other than greenfields housing developments, and local government's hesitance to install public infrastructure and municipal services on informal settlements that are often located on privately-owned land.

The EHP makes provision for local government to apply for funding from provincial government to provide various temporary or permanent forms of emergency housing to those affected by emergencies, which includes natural disasters and evictions. This can be done through the provision of land, municipal engineering services, relocation assistance, and accommodation. Implementation of the programme has been hamstrung by both local and provincial governments, with local governments being reluctant to apply for funding and provincial governments being criticised for dilatory responses to applications for funding in terms of the programme. The EHP's provision of funding for land acquisition makes it particularly relevant in the context of informal settlements that are located on privately-owned land.

The Housing Act, National Housing Code and SPLUMA clearly place a responsibility on municipal governments as central actors in this landscape, as the primary providers of basic services, managers of spatial planning and land-use, and implementers of upgrading programmes.

Communal ownership of land is not unusual in the South African context. In communal areas, which largely correspond to the formal "homelands" or rural reserves of land where Black people were legally allowed to reside under Apartheid, individuals, families and communities often hold land on a communal basis in terms of customary law. In terms of these tenure arrangements, individuals, households and traditional communities often hold various, overlapping rights over land and have to negotiate the use, occupation and control of land based on the type of land. For example, individuals or households may have virtually exclusive rights to their individual residential plots or arable land, but may have to negotiate access for the whole community to communal grazing land.^[4] These negotiations have become increasingly complicated as traditional leadership structures have politically gained more power over land administration and management. There is also a long history of Black communities circumventing the Apartheid prohibition of Black land ownership by establishing land purchasing syndicates, community trusts or proxy purchasers.^[5]

^[4] B Cousins 'Characterising "Communal" Tenure: Nested Systems and Flexible Boundaries' in A Claassens & B Cousins (eds), *Land, Power and Custom* (2008).

^[5] T Weinberg *Property of the People? Black Land Buyers' Imaginings of Property Ownership, 1990 – 1994* PhD Thesis University of Michigan (2023).

In 1996, the national government also passed the Communal Property Associations Act (which was later amended by the Communal Property Associations Amendment Act). This law provided for communities to establish landholding institutions, referred to as Communal Property Associations (CPAs), to acquire, hold and manage land as a group. The Act provides for government registration of CPAs and gives the national government oversight powers to protect the rights of members. A key feature of the CPA Act is that it provides for CPAs to operate in terms of democratic principles, including the democratic election of governance structures and fair and inclusive decision-making processes. In practice, many CPAs have grappled with maintaining long-term active community participation, struggled to comply with the bureaucratic and operational requirements outlined in the Act, faced various governance challenges, and received very little financial or operational support from the national government.

CPAs have primarily been used as a vehicle for collective land ownership by beneficiaries who were awarded land in terms of the land restitution and redistribution processes, however, the law provides for the possibility of other communities wishing to hold land on a communal basis to establish CPAs, subject to approval by the Minister of Rural Development and Land Reform. Despite this possibility, CPAs have not regularly been used as vehicles for community ownership in informal settlement contexts. This is due to land rights rarely being formally transferred to informal settlement residents – whether on an individual or collective basis.

In practice, informal settlements function as spaces of both vulnerability and agency. Residents often live under precarious conditions, facing risks such as eviction, inadequate infrastructure and services, and environmental hazards, but these communities are also sites of social organisation, economic activity, and political mobilisation. The legal system does not eliminate these challenges, but it does reshape the terms under which they are negotiated. Informality in South Africa is not simply outside the law; rather, it is governed through a combination of constitutional rights, statutory protections, and judicial oversight that together create a form of de facto, socially-regulated tenure security without formal ownership.

This produces an ongoing tension between competing imperatives. On one hand, there is a strong legal commitment to protecting vulnerable populations and preventing unjust evictions. On the other hand, there are pressures for urban development, infrastructure expansion, and economic growth, all of which require access to land. The result is a dynamic and often contested legal environment in which land rights are continuously negotiated between the state, private landowners, and urban residents. While the legal framework is very progressive in terms of recognising housing rights, its implementation remains uneven, and the structural inequalities inherited from the past continue to shape the lived reality of land access in South Africa.

THE COMMUNITY LAND TRUST

The Community Land Trust (CLT) is an innovative strategy for the ownership and stewardship of land, housing, and other community assets. A non-profit, non-governmental corporation acquires ownership of parcels of land that are scattered throughout the organisation's designated service area, which can be as small as a single neighborhood or as large as an entire city or region. These parcels are permanently removed from the real estate market, but they are made available for secure use by local residents who receive either a surface rights deed for parcels of land beneath their homes or a long-term, inheritable lease for exclusive use of this land. Because the land itself is never sold and because housing transfers are tightly controlled, limiting the amount of appreciation that sellers may realise on resale and moderating the price that subsequent buyers must pay, any appreciation in property values resulting from investments in the area does not lead to a precipitous rise in housing prices. Existing homes are kept affordable for low- and moderate-income households, safeguarding access to adequate housing by vulnerable populations and preventing their displacement, even when an area's infrastructure and services are improved.

In addition, the CLT strengthens community groups and encourages collective mobilisation around land management, establishing a co-management arrangement between public authorities and residents of the surrounding community.

Historically, CLTs in the form that we know today emerged in the United States in the late 1960s, rooted in the Civil Rights Movement. The model was pioneered by Black community organisers in a rural area of southwest Georgia. They were inspired by existing forms of communal land tenure, such as the ejidos in Mexico, the Gramdan villages in India, the ujamaa vijijini in Tanzania, the moshavim in Israel, and the Garden Cities in England. CLTs soon found their true potential and wider adoption in urban settings, expanding rapidly across the USA during the 1980s. By the turn of the Century, they were spreading into Canada, the United Kingdom and Europe.

The first application of the model in a context of urban informality occurred in Voi, Kenya in 1992, where a CLT was established with support from the municipal government, the national government, and the German Agency for International Cooperation (GTZ, now GIZ).^[6] A decade later, the Caño Martín Peña CLT in San Juan, Puerto Rico demonstrated to the world that the model could be successfully applied on a large scale in an informal urban settlement of more than 12,000 families. This experience earned major international recognition, including the 2015 World Habitat Award that was formally bestowed on the Caño CLT by UN-Habitat the following year at the Habitat III conference in Quito. Through documentation of their work, international recognition, and peer-exchanges, the Caño Martín Peña CLT has inspired community activists and policy makers in other countries to explore the CLT approach, particularly in the Global South.

^[6] Article RioOnWatch 2022: <https://rioonwatch.org/?p=70856>

Bibliography about this case: <https://www.cltweb.org/resources/global-south/africa/>

Today, established CLTs are stewarding permanently affordable homes, businesses, facilities, and farms across all 50 states in the USA. They are also fully operational in various cities in Belgium, Canada, France, Kenya, Puerto Rico and the United Kingdom (England, Scotland, and Wales). Emerging initiatives are under development in Australia, Brazil, Denmark, Germany, Ireland, Italy, the Netherlands, Portugal, Spain, and South Africa. The number and diversity of countries adopting or exploring the CLT model are testimony to its adaptability, an essential characteristic for new initiatives that aspire to global applicability.

One of the key causes for the rapid worldwide dissemination and success of CLTs across countries with a diverse array of laws, customs, and policies is the model's flexibility. There are many variations in the ways that CLTs are structured, operated, and applied, but nearly all CLTs share a similar set of defining characteristics, including:

- Separate ownership of land and buildings. Parcels of land, scattered across a geographic area as small as a single neighborhood or as large as a metropolitan region, are collectively owned and managed on a community's behalf by a nonprofit corporation. Buildings that are located on those parcels are owned individually by homeowners, cooperatives, businesses, farmers, etc.
- Community participation and leadership. The nonprofit landowner is established, guided, and governed by residents of the organisation's service area, who participate in making decisions about infrastructure projects, housing development, and other territorial interventions affecting their community; and
- Long-term stewardship. The CLT is an active, watchful guardian of housing and other buildings located upon its land, ensuring the permanent affordability, quality, and security of all the land-based assets entrusted into its care.

By removing land from the real estate market, by holding and developing its land on behalf of a place-based community, and by preserving the affordability of any buildings, CLTs exert long-term control over real estate appreciation and ensure long-term access for low-income and moderate-income people. Meanwhile, individual ownership of any homes on the CLT's land preserves the owner-occupants' autonomy in managing and improving their houses, according to their personal needs, along with the right to resell their houses and to pass them onto their heirs, within certain limits set by the CLT.

Watchful stewardship by the CLT ensures perpetual affordability of housing and other community assets, addressing two of the greatest challenges faced by low- and middle-income communities worldwide: how to upgrade residential areas without displacing their most vulnerable residents; and how to break the cycle of public investments that must repeated again and again because affordability is not protected and subsidised homes are allowed to be resold at market prices.

Finally, the voluntary recruitment and engagement of local residents and the participatory process of learning, planning, and decision-making that goes into establishing most CLTs can foster greater awareness among lower- and middle-income populations of their rights, the market mechanisms that threaten them, and the power of collective action for self-protection. Raising awareness and strengthening community can lead, in turn, to designing a CLT that is capable of partnering on an equal basis with public agencies in co-management of the territory, facilitating better maintenance of public facilities and expanding opportunities for collaboration in promoting equitable and sustainable development.

CLTS IN THE GLOBAL SOUTH

Today, the CLT is increasingly recognised as a powerful housing solution for the Global South. The CLT's potential can be understood in two main dimensions. First, it provides a tool for the legal formalisation of land in a collective manner. By creating an innovative land ownership structure, the CLT ensures a high-level of land tenure security, provides affordable housing in perpetuity, and helps prevent the processes of speculation and financialisation that often drive housing insecurity. Second, the CLT places a strong emphasis on community empowerment and organising, with residents taking an active role in decision-making. This collective governance structure ensures that the community has control over its development, balancing both individual and collective interests.

It is important to note that adopting the CLT in the Global South does not come without its challenges. For the model to function effectively, it requires active, ongoing community organising, with engagement from a wide range of stakeholders. Additionally, the CLT challenges the individualistic view of land ownership that prevails in much of the world, requiring advocacy efforts to convince public officials and other key actors. Implementing and maintaining a CLT demands significant effort and dedication, as is the case with many types of non-governmental organisations. Finally, the challenges of collective titling of land can be daunting, depending on the specific legal system in which a CLT operates. However, despite the challenges the potential benefits far outweigh these difficulties.

The approach of collective land ownership is certainly not entirely new. Across the globe, communities have historically developed alternative ways of relating to land, governing it through collective decision making. However, these practices have been increasingly marginalised by the rise of an ideology that prioritises land appropriation based on accumulation and dispossession. The CLT represents an opportunity to preserve collective relationships with land, working within formal systems to place communities at the heart of solutions to housing and land tenure rights.

Considering the importance of concrete examples of the model's application in the Global South, in order to understand the model's potential in contexts of recognition of land and housing rights that are quite different from those found in experiences in the Global North, we present some general guidelines on applications in Puerto Rico and Brazil, in order to bring concrete elements to the debate.

EXAMPLES OF CLTS FROM THE GLOBAL SOUTH

The Caño Martín Peña Community Land Trust (Caño CLT) is a community land trust designed, created, and managed by the residents of eight neighborhoods surrounding the Martín Peña Channel: a highly polluted tidal estuary that runs through the center of San Juan, the capital of Puerto Rico. The Caño CLT was created with the aim of regularizing land ownership and avoiding gentrification and involuntary displacement, which would occur as a result of the plan for the dredging and clean-up of the channel. The creation of the Caño CLT and the channel's ecological restoration are the main elements of the extensive participatory work agenda of the Caño Martín Peña ENLACE Project. This initiative has brought together community residents and allies from the public and private sectors to implement a comprehensive development plan designed through a participatory planning process to revitalize a historically marginalized area, and transform this urban area into a more habitable just, and participatory space for all of its residents. To learn more, visit the Caño CLT [website](#) and the [resource page](#) on the International Center for CLTs website.

The Favela Community Land Trust (Favela-CLT) Project was launched in 2018 in response to Rio de Janeiro's largest wave of evictions, which displaced around 80,000 residents, particularly in preparation for the 2016 Olympics. These mass evictions, alongside gentrification, exposed the limitations of existing land policies in protecting residents' rights, prompting the search for new tenure security mechanisms inspired by the community land trust. To align with Brazil's legal framework, the initiative adopted the name "Termo Territorial Coletivo" (TTC)—an adaptation that reflects its at-will agreement between the land and community ownership. Beginning with two pilot communities in Rio, the project has since expanded, with over 200 members in its Working Group, growing national interest, and key legislative victories. In 2021, the Rio de Janeiro City Council held the first public hearing on the model, leading to the passage of Brazil's first law recognizing the Favela CLT approach. Through grassroots organizing and policy advocacy, the project is pioneering a more just and secure housing system for informal settlements across Brazil. To learn more you can visit the Favela CLT's [website](#) and the [resource page](#) on the International Center for CLTs website.



POSSIBILITIES FOR CLTS IN SOUTH AFRICA

It is legally possible to establish a Community Land Trust in South Africa through the use of existing legal forms, even though there is no specific statute that explicitly regulates this model. South African law already provides the essential components required to structure a Community Land Trust, including the ability for legal entities to own land, enter into long-term lease agreements, impose conditions on resale, and operate non-profit housing schemes. These elements together form the foundation of what defines a Community Land Trust.

To establish a Community Land Trust within the South African legal system, it is necessary to combine several different legal frameworks into a coherent structure. The first requirement is to create a legal entity capable of owning land. One of the most suitable options for this purpose is a nonprofit company, established under the Companies Act, which allows for land ownership and contractual capacity while requiring that the organization operate for public benefit. This form is widely used internationally for Community Land Trusts because it supports a structured and democratic governance model. Another option is to use a trust, created under the Trust Property Control Act, where land is held by trustees on behalf of beneficiaries. While this arrangement aligns conceptually with the idea of holding land for community benefit, it can present limitations in terms of democratic participation, as decision-making authority rests with trustees rather than a broader membership. A third possibility is to use a cooperative, governed by the Co-operatives Act, which allows for democratic member control and land ownership. It is also possible that cooperatives could be used in combination with a Community Land Trust, for example where the trust owns the land and a cooperative manages housing on that land.

Once a suitable legal entity has been established, the land itself must be formally acquired and registered. This process is governed by the Deeds Registries Act, under which ownership is recorded in the name of the legal entity that constitutes the Community Land Trust. This ensures legal certainty and enforceability of the trust's ownership rights within the formal property system. A defining feature of the Community Land Trust model is the use of long-term agreements which enable the separation of land ownership from building ownership. In South Africa legislation it is possible to use leases that may range from several decades up to ninety-nine years. These leases can include conditions that preserve long-term affordability, such as restrictions on resale or requirements related to use.

In addition to property law, a Community Land Trust must operate within the broader framework of housing and urban regulation. Legislation such as the National Housing Act, the Social Housing Act, and the Spatial Planning and Land Use Management Act governs issues such as land use planning, zoning, housing subsidies, and urban development. Compliance with these laws is essential, particularly in urban areas where municipal planning systems play a central role in determining how land can be used and developed. At a constitutional level, the model is also supported indirectly by the Constitution of South Africa, which provides a broader normative foundation for alternative land tenure systems. Section 25 enables land reform and the development of new forms of tenure, while Section 26 guarantees the right of access to

adequate housing. Together, these provisions create a legal and policy environment in which Community Land Trusts can be understood as consistent with the country's commitment to social justice, equitable access to land, and the progressive realization of housing rights.

PREFERRED CONDITIONS TO A CLT IN INFORMAL SETTLEMENTS BASED IN INTERNATIONAL EXPERIENCE

The international experience has established some conditions that could facilitate a CLT implementation process. These conditions are related to the sense of belonging and mobilization of the residents. Although facilitated, the conditions are not a mandatory requirement for groups or communities that want to start a CLT.

- 1.Consolidated community with strong sense of belonging;
- 2.Large percentage of families do not yet possess land titles, yet have reasonable likelihood of acquiring title;
- 3.Residents perceive or have experienced threat of involuntary displacement (eviction or gentrification);
- 4.Mature process of community organizing supported by technical allies who accompany community's development;
- 5.Communities located in inclusionary zones (if applicable).

POSSIBLE CHALLENGES FOR ESTABLISHING A CLT IN THE SOUTH AFRICAN CONTEXT

The establishment of a CLT as a mechanism to secure collective land ownership and support the incremental upgrading of informal settlements presents significant opportunities in the South African context. However, discussions with community leadership from the Sesikhona and Winnie Madikizela Mandela informal settlements, together with reflections from the Legal and Institutional Task Team established under the Advancing Collective Land Ownership to Promote Informal Settlement Upgrading in South Africa project, identified several potential challenges that would need to be addressed to ensure the viability and sustainability of a CLT model. These challenges are grouped into five overarching themes: challenges related to community leadership and governance, challenges related to the legal and policy framework, institutional challenges, technical challenges, and financial challenges.

Community Leadership and Governance

Long-term stability, legitimacy, and sustained community leadership. A CLT depends on the existence of a strong, representative, and accountable governance structure capable of managing collective land ownership over the long term. This requires sustained community participation, democratic decision-making processes, and robust mechanisms for conflict resolution. Historical experiences with collective land ownership arrangements in South Africa

have demonstrated that maintaining active community involvement and organisational legitimacy after legal entities are established can be difficult. A decline in community participation over time can undermine accountability, weaken governance structures, lead to internal conflicts, and potentially threaten the sustainability of the collective ownership model.

Conflict mediation and dispute resolution. Community governance structures must be capable of managing disputes relating to land allocation, occupancy rights, leadership, resource distribution, and broader community interests. The ability to mediate conflicts fairly and effectively is essential to maintaining social cohesion and ensuring the long-term functioning of a CLT.

Influence of territorial power structures and criminal actors. In some informal settlements, authority is contested by individuals or groups operating outside formal state institutions, including extortion networks and criminal organisations that exercise territorial control through intimidation or violence. Establishing a CLT would require governance arrangements that are sufficiently independent, legitimate, and resilient to external interference while ensuring the safety of community members and leaders.

Governance legitimacy and representation. Representation within informal settlements can be fluid and contested, particularly in contexts characterised by interpersonal conflict, migration, and changing settlement dynamics. Ensuring that a CLT governance structure is perceived as legitimate by the broader community, and remains so over time, is fundamental to the durability and effectiveness of collective land ownership arrangements.

Tenure preferences of informal settlement residents. South Africa's history of racialised land dispossession and the exclusion of Black South Africans from formal property ownership has created a strong aspiration among many households for individual ownership of land and housing. Collective ownership models may therefore be viewed with scepticism unless they provide households with strong, secure, and transferable long-term tenure rights. Balancing collective ownership objectives with household aspirations for individual tenure security remains an important governance challenge.

Economic profit. Despite acknowledging the greater resistance power of the collective, individual freedom must be respected in governance arrangements. This respect must include maintaining some economic benefit in housing transactions.

Legal Challenges

Compliance with legal requirements for collective landholding entities. Several legal entities recognised under South African law could potentially hold land on behalf of a community, including non-profit companies, trusts, cooperatives, and Community Property Associations (CPAs). However, each of these entities is subject to distinct legal, administrative, reporting, and governance requirements. Historically, community-based organisations, leadership structures and land reform beneficiaries have often struggled to maintain compliance with these

requirements, creating a risk that governance structures may become dysfunctional or lose legal standing or legitimacy over time.

Legal limitations on separating ownership of land and buildings/homes. A core feature of many CLT models internationally is the separation of ownership of land from ownership of homes / improvements on the land. The South African common law of property presents challenges in this regard. Under the common law doctrine of *accessio*, permanent structures generally become part of the land and are owned by the landowner. While this does not make a CLT impossible in the South African context, it complicates efforts to provide households with ownership-like rights over their homes while the CLT retains ownership of the underlying land. Alternative mechanisms, such as long-term leases, usufructs, or servitudes, may be available but often provide weaker rights than ownership, that may not always be easily transferrable.

Registration of long-term tenure rights. To ensure that household tenure rights are legally enforceable, secure, and transferable, such rights may need to be formally recorded against the title deed of the land. In large informal settlements comprising hundreds or thousands of households, this process could be administratively complex, costly, and time-consuming. Existing delays and backlogs in the registration of state-subsidised housing title deeds highlight the practical difficulties associated with large-scale registration processes. Innovative approaches to recording occupancy and tenure rights may therefore be necessary, such as administrative forms of tenure.

Institutional Challenges

Limited political will within local government. The success of a CLT model would depend significantly on support from local government. However, local government has not been proactive in addressing the challenges posed by informal settlements, including challenges to tenure insecurity of informal settlement residents, providing services and upgrading informal settlements. This reluctance may stem from ideological commitments to the protection of private property, concerns about legitimising informal occupation, or perceptions that informal settlement residents are seeking to bypass formal housing allocation processes (so-called “queue jumping”). This is further complicated by the fact that 2026 is a local government election year, which may result in officials being reluctant to support innovative or politically sensitive interventions. In this context, local government officials are hesitant to experiment or pilot innovative approaches to tenure upgrading in informal settlements. This sentiment may shift if an informal settlement is perceived to be well-organised, with strong community governance structures, and willingness from the community to contribute to their own upgrading and development process. Building trust and a strong relationship with local government officials would be essential to overcoming the lack of political will.

Restrictive interpretations of informal settlement upgrading frameworks. Despite the existence of legal and policy frameworks that permit upgrading interventions on privately-owned land, many government officials remain hesitant to invest public resources in such settlements. Concerns that public infrastructure investments may unduly benefit private

landowners, or constitute irregular expenditure, continue to influence local government decision-making. This institutional reluctance may limit opportunities for upgrading and service provision in informal settlements where a CLT seeks to secure collective ownership.

Institutional alignment and intergovernmental coordination. The establishment of a CLT and the upgrading of informal settlements require coordination between multiple government departments, local and provincial governments, and other public entities (e.g. the Housing Development Agency (HDA)). These institutions may have differing priorities, mandates, and understandings of collective ownership and upgrading approaches. Ensuring institutional alignment and sustained cooperation across these actors is likely to be a significant implementation challenge.

Technical Challenges

Suitability of settlement locations for long-term occupation. Some informal settlements may be located in areas or locations that have been deemed unsuitable for occupation by the local government as a result of the spatial and environmental characteristics of the land. For example, some informal settlements may be located in flood zones. In such circumstances, efforts to secure tenure through a CLT may encounter resistance from government and planning officials. Overcoming institutional assumptions regarding the suitability of these locations, while ensuring that environmental and safety concerns are adequately addressed, presents an important technical challenge.

Financial Challenges

Inconsistent implementation of existing upgrading subsidy mechanisms. South Africa's housing and upgrading framework, including the UISP and EHP, provides established mechanisms through which land acquisition, infrastructure and service provision, and tenure upgrading can be financed. However, these programmes have often been inconsistently implemented. Challenges include limited familiarity among officials with incremental upgrading approaches, a preference for conventional housing delivery models, shifting policy priorities, and the exclusion of informal settlements from existing planning frameworks. As a result, access to available public funding cannot be assumed.

Financing land acquisition. Acquiring land for a CLT may be one of the most significant financial barriers. While some private landowners may be willing to negotiate sales at reasonable or even nominal prices, there are limited funding streams available to support community-led land acquisition. Although the state possesses powers to acquire land through expropriation in terms of the Housing Act and Expropriation Act, these powers are often politically contentious and virtually never used. Identifying sustainable financing mechanisms for land acquisition will therefore be critical to the feasibility of a CLT model.

COMMUNITY LAND TRUST LEARNING EXCHANGE

Between 17 and 20 June 2026, the Development Action Group (DAG), the Philippi Economic Development Initiative (PEDI), Beautiful Gate South Africa, and the International Center for Community Land Trusts (ICCLT) convened a Community Land Trust (CLT) Learning Exchange in Cape Town. The exchange brought together community representatives from Ses'khona, Winnie Madikizela, and Cissie Gool House (CGH), together with practitioners and researchers from Brazil, Puerto Rico, and Uganda.

The purpose was to learn from different experiences and ask a practical question: could a CLT approach help communities in Cape Town secure land and housing in ways that are fair, lasting, and community-controlled?



The exchange began with visits to the three communities. These visits grounded the discussion in lived experience: insecure tenure, pressure from displacement, uneven access to services, and the everyday work of community organising. The following days combined international examples, shared reflection, legal and planning input, and community working groups.

By the end, the discussion had shifted. Participants were no longer asking only whether CLTs were relevant. They were asking what would need to be in place for such an approach to be explored responsibly.



Several findings cut across all four days. Communities in Cape Town share common ground with peers in Brazil, Uganda, and Puerto Rico: insecure tenure, inadequate basic services, deep mistrust of government, the burden of leadership in under-resourced environments, and an aspiration – fierce and historically grounded – to own land. At the same time, the international experience made plain that the conventional individual ownership model communities aspire to does not, on its own, protect against displacement. The CLT model's strength lies precisely in separating land ownership from housing ownership, holding land in trust in perpetuity, and creating governance structures that protect communities from speculative pressure while preserving individual rights within the home.

What also became clear is that governance is not a downstream concern; it is the foundation. Communities that have organised leadership structures, internal accountability mechanisms, and the capacity to communicate with members are best able to engage with technical and legal processes.



NEW POSSIBILITIES FOR CLTS IN SOUTH AFRICA: TECHNICAL WORKSHOP WITH STELLENBOSCH MUNICIPALITY

On 22 June 2026, the Development Action Group (DAG), as part of the National Land Value Capture Programme and in partnership with DAG's Informal Settlements Programme and the International Center for Community Land Trusts (ICCLT), hosted a half-day Technical Support Workshop on Community Land Trusts for officials from Stellenbosch Municipality, which took place at the Stellenbosch Municipal Offices in Plein Street, Stellenbosch. The workshop brought together 06 local government officials from the housing, spatial, infrastructure, environmental and development planning departments within Stellenbosch Municipality, alongside build-environment professionals and international experts on Community Land Trusts (CLTs).

Stellenbosch Municipality has increasingly explored community trusts as a potential mechanism to support the delivery of affordable housing and to preserve the long-term affordability of inclusionary housing units. In pursuit of these objectives, various land use and development approvals have required the establishment of community trusts as a condition of approval. While these approaches reflect a growing commitment to ensuring lasting affordability and community benefit, important questions remain regarding the institutional design, governance, implementation, and long-term management of such structures.

The workshop allowed the municipal technicals to hear from international experts and discuss possibilities and possible challenges of the model in the local context, while opening a new role for the CLTs in South Africa: the stewardship of social housing stock, guaranteeing long term affordability, social mobilization, co-management between government and residents and preserving the public investments.



KEY LEARNING THEMES

Several themes came through strongly across the exchange and Stellenbosch's visit. These are the main learning points that should guide the next phase of work.

- **Tenure security is the immediate priority.** Across all three South African communities, and in the international experience presented, communities consistently prioritise protection from displacement over the formal ownership structure through which that security is achieved. Interventions that lead with legal complexity before addressing security concerns are likely to lose community trust before they gain it.
- **The aspiration for individual ownership is strong and historically grounded.** This is not resistance to change; it is a claim to dignity. Any CLT process that does not acknowledge and work with this aspiration will struggle to build the community support it needs.
- **Community organisation is the foundation, not a precondition to be assumed.** Without organised communities — communities with leadership structures, accountability mechanisms, and the capacity to communicate internally — CLT processes cannot function. Governance capacity must be built before legal structures are established, not after.
- **Trust must be actively built and continuously maintained:** between community members, between communities and their technical and civil society partners, and between communities and the state. Trust is not a background condition; it requires consistent engagement, visible progress, and honest communication about what is known and what is not.
- **Implementation is iterative and political, not linear and technical.** The pathway from aspiration to functioning CLT involves negotiation, setbacks, and the sustained exercise of community and institutional power. Quick wins — visible, short-term improvements that demonstrate progress — are essential to maintaining participation and preventing disengagement during the longer process.
- **Leadership involves sacrifice.** Community leaders in informal settlements are often underemployed, sacrificing income and personal time to serve their communities. Participation fatigue is real. Leadership continuity and accountability are not problems to be managed; they are systemic challenges that require structural responses.
- **Safety, gender-based violence, and organised crime are structural barriers to community organising.** They are not background noise. They sit directly in the path of any attempt to build sustained collective action, and any CLT process that does not take them seriously will find its progress blocked by them.

- **Technical and legal support is essential, but communities must drive the process.** Professional accompaniment enables communities to navigate systems they were never designed to navigate alone. The direction of travel, however, must come from the communities themselves. Support that displaces community agency is not support.
- **South Africa's moment may be now.** The housing code is under review; the Lincoln Institute and the National Treasury have expressed interest in the CLT model; and the international peer learning network established through this exchange provides both precedent and solidarity. The groundwork being laid through this process has the potential to contribute to policy change if it is documented, communicated, and advocated for effectively.
- **Organised and capacitated communities are essential to the success of CLTs:** CLTs depend on the existence of strong, representative, and accountable governance structures that are capable of managing collective land ownership over the long term. This requires sustained community participation, democratic decision-making processes, and robust mechanisms for conflict resolution. Historical experiences with collective land ownership arrangements in South Africa (and in Stellenbosch Municipality) have demonstrated that maintaining active community involvement and organisational legitimacy after legal entities are established can be difficult. A decline in community participation over time can undermine accountability, weaken governance structures, lead to internal conflicts, and potentially threaten the sustainability of the collective ownership model.
- **Local government has a critical role to play in support CLTs and similar community-led land-holding structures:** Local governments across the globe have supported CLTs in a variety of ways, including donating or releasing discounted municipal land to CLTs; offering grants, loans or tax exemptions to CLTs for affordable housing development; offering inclusionary mandates and incentives; providing infrastructure installation; offering regulatory concessions; and providing operating support for community stewardship (e.g. establishing community participation offices). In the United States, local government is also often actively involved in the management of CLTs – enabling local government to perform useful oversight and advisory functions. While not all of these mechanisms fall within local government's powers in the South African context, there are various local government functions and powers that could similarly be employed to support CLTs.
- **Institutional and capacity constraints of local government in relation to community participation:** A key challenge identified by the local government officials to the successful implementation of CLTs in the South African context is the limited institutional capacity within local government to facilitate community participation, involvement and capacity building. Participants noted that community participation as a skill is lacking in local government, with the primary mode of public participation in the local government context being Integrated Development Plans (IDPs) – which offer limited or inconsistent public participation mechanisms and are often implemented using external consultants. This discussion highlighted the need for the local government to consider alternative mechanisms for public participation.

- **CLTs offer an innovative tool to preserve the long-term affordability of affordable housing, thereby protecting public investment in affordable housing over time:** The discussion surfaced an inherent institutional and capacity shift that would need to be considered if CLTs were to be used in the South African context: from local government's limited role in housing development, to a more long-term role in ensuring long-term affordability. At present, local government (especially in housing and human settlements departments) conceive of their role as being constrained to the preparation of land, installation of services and development of homes. Once the homes are developed, they are handed over to beneficiaries and the role of local government ends. CLTs required a longer-term involvement from local government. This longer-term involvement may be warranted in the South African context, as the current approach to affordable housing means that affordable housing is often lost to the property market. A more sustained role for local government could ensure the preservation of longer-term affordability, thereby preserving the public investment in affordable housing for decades or even generations to come.
- **Importance of experimentation:** The discussion underscored the importance of experimentation by local government to strengthen the tenure security of informal settlement residents and preserve the affordability of inclusionary and social housing units.

THE COMMUNITY LAND TRUST

The journey undertaken by the teams from the Development Action Group (DAG) and the International Center for Community Land Trusts (ICCLT) has provided a more comprehensive understanding of the project's potential development phases.

The local context, combined with community priorities and international experience, suggests the following list of upcoming activities:

1. **Legal framework:** Covering the use of the CLT model both in informal settlements and as a management tool for social housing stock.
2. **Community education on the model:** Encompassing support to strengthen leadership and the community at large, training sessions for leaders, and the production of educational materials.
3. **Leader exchanges:** Aimed at enabling the exchange of experiences, mutual strengthening, and broader discussions on the potential of collective land tenure models, particularly the CLT.
4. **Legal proposals:** Developing legislative proposals to guide advocacy efforts with politicians and public officials, while organizing the agenda of demands.
5. **Advocacy planning:** Developing an advocacy plan that identifies stakeholders, defines engagement and argumentation strategies, and produces materials tailored to each identified stakeholder group.
6. **Mobilization process:** Developing methodologies for workshops and general activities that encourage residents to reflect on collective tenure and tenure security, while also providing ongoing support to leaders and producing educational materials.

The proposed activities should be divided into phases, taking into account resource availability and the progress of work on the ground.

It is important to highlight that the phases are not necessarily consecutive, it is possible to have more than one phase happening at the same time. This is important considering the flexibility of the CLT model and the importance of being adequate to the local context.

FINAL NOTE

This final report sought to document the project's trajectory, key activities, and conclusions, drawing on exchanges between DAG and ICCLT teams, community leaders, researchers, and government technical staff. The diverse interactions that took place throughout the project provided a comprehensive view of the South African context, residents' priorities, and the technical feasibility of applying the CLT model in the area.

The findings highlight the interest in—and importance of—furthering exploratory activities based on this model, including the development of methodologies, legal frameworks, and materials, as well as resident mobilization efforts. This conclusion reinforces the need for institutional and financial support for the continuation of the project's activities.