



GRAHAM
SUSTAINABILITY INSTITUTE
UNIVERSITY OF MICHIGAN

Legal Issues in HOPE Village Housing Cooperative and Green Space



Sustainability and the HOPE Village Initiative Integrated Assessment

Graham Institute Integrated Assessment Report Series Volume III Report 3



Focus: HOPE
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About The Reports


The Sustainability and the HOPE Village Initiative Integrated Assessment (IA) is the result of a partnership between the University of Michigan (U-M) Graham Sustainability Institute and Focus: HOPE. The IA was developed to support Focus: HOPE's comprehensive place-based effort known as the HOPE Village Initiative. The Initiative's goal: by 2031, 100% of residents living in a 100 block area surrounding the Focus: HOPE campus will be educationally well-prepared and economically self-sufficient, and living in a safe, supportive, and nurturing environment.

The IA recognizes that the success of the HOPE Village Initiative is tied to sustainability factors including the physical environment, economic development, community health, and education. Through collaboration with U-M researchers, residents, and Focus: HOPE staff, the IA developed data, tools, and concepts to advance the HOPE Village Initiative. This document is one of six final project reports completed for IA.

This work was made possible with support from the Graham Sustainability Institute, Focus: HOPE, and neighborhood residents.

Reports In This Series

- Applied Research and Service by Urban Planning Students in the HOPE Village Initiative Area
- Building a Healthy Community in Detroit: Tracking the Impact of the HOPE Village Initiative Area
- Legal Issues in HOPE Village Housing Cooperative and Green Space
- Mapping Community Economies and Building Capabilities in HOPE Village
- Play & Grounds
- The Development of a Community Based Coalition to Promote Career and College Preparation in the HOPE Village Neighborhoods of Detroit and Highland Park



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Executive Summary

“The Community and Economic Development Clinic...provided legal services to various aspects of the HOPE Village Initiative.”

The Community and Economic Development Clinic of the University of Michigan Law School has provided legal services to various aspects of the HOPE Village Initiative over the past approximately 22 months and continues to provide legal assistance to Focus: HOPE and the HOPE Village Initiative. The initial scope of services included research into ownership models, management options and financing for a mutual housing development such as a cooperative; research into the ownership questions that arose with various parcels of land; and research into ownership, transfer, maintenance and liability questions for a proposed greenway in the community. The scope of services was expanded to include researching and drafting the organization’s application for Community Housing Development Organization (CHDO) designation in order for the organization to be certified as a CHDO by the relevant governmental agencies.

Throughout the time of the housing project, the Clinic has provided Focus: HOPE with drafts and final versions of various memoranda outlining options for structuring and financing a housing development. The organization is evolving in its plans and strategies for housing development and financing to address larger challenges in the current economic and housing climate in the City of Detroit and surrounding area. Students have researched title questions that arose on several parcels of land, obtained recorded documents (deeds and

mortgages) and have counseled the organization regarding ownership and the possibility of and challenges to acquiring clean title. Students drafted all the organizational documents for the cooperative. Clinic students also drafted the organization's CHDO application and are awaiting the revision of the application and process in the City of Detroit. Finally, Clinic students built stronger connections for Focus: HOPE with the greenway efforts underway in Detroit and drafted a memorandum of understanding which could be used to begin discussions between Focus: HOPE and the Detroit Greenways Coalition.

Work product included memoranda and drafts of documents.

Introduction

“An initial interview...identified the goals of the organization and the larger context of community goals.”

The University of Michigan Law School's Community and Economic Development Clinic work with Focus: HOPE grew out of a request from the organization for several pieces of legal assistance related to the HOPE Village Initiative. The initial request had three components. First, Focus: HOPE wanted to explore further the possibility of an abandoned railroad right-of-way in the HOPE Village target area being converted into a greenway. Second, the Clinic has been working with the organization on researching possible structures and financing for a housing cooperative. Lastly, the Clinic assisted Focus: HOPE with issues of identifying the owners of several abandoned and blighting influences.

During the 2012-2013 academic year, Focus: HOPE asked the Clinic to expand the project. The organization wanted to review the potential for a subsidiary to become a Community Housing Development Organization (CHDO), a special designation for U.S. Department of Housing and Urban Development programs. The Clinic agreed to take on this project.

The Clinic began to work with Focus: HOPE in the Winter semester of 2012. During the first semester, the project team consisted of Alicia Alvarez, the Director of the Community and Economic Development Clinic, Priya Baskaran, the Clinical Teaching Fellow in the Clinic, and a team of four students. Two students worked on the greenway project and two other students worked on the cooperative and land

issues. In the summer of 2012, a summer student took over the work of the two projects, supervised by both supervising attorneys. During the 2012-2013 academic year, Alicia Alvarez was on leave and Priya Baskaran supervised the student work on the projects. Gowri Krishna, a visiting professor in the Clinic, handled some of the work on the projects when Priya Baskaran was not available. Several teams of students worked on the projects during the 2012-2013 academic year.

Each student team began working with Focus: HOPE by engaging in an initial interview that identified the goals of the organization and the larger context of community goals and provided more details about what it was hoping to accomplish. The students learned about the organization's plans to improve housing opportunities in the community, with a strong focus on a model which provides opportunities for residents to build equity in their homes and to increase green space by re-purposing the old railroad right-of-way near the organization's campus. The student teams then drafted a letter of engagement, identifying the scope of services the Clinic would engage in for each project and revised them based on requests for revisions from the organization. Students working on the greenway project researched greenway projects already taking place in Detroit and around the country. They also researched state and federal laws impacting on their work.

The students working on the cooperative project researched the state statute that controls the creation of housing cooperatives, the consumer cooperative section of the Michigan Nonprofit Act. Students also researched the various ways to structure a cooperative (conventional and limited equity) and government and private financing options. The Clinic researched both conventional financing and special financing available to cooperatives. Clinic students spoke to individuals at these various entities to get additional information on possible financing. Finally,

the students researched alternative ways to achieve some of the organization's goals of building equity for residents, for example looking to land trusts as a way to maintain community control over the assets.

Focus: HOPE asked the Clinic to look at models for addressing maintenance and liability for a greenway project on abandoned railroad tracks behind its campus. Clinic students researched the federal abandonment process and the benefits of the railroad donating the land to entities which might have the capacity to maintain the greenway. Also included were an analysis of various ownership models, the options for maintaining the green space and the risks associated with the various options.

Community input on the concept of a new greenway was sought as part of the Graham Institute block party and through the Law Clinic's poster which was exhibited at the Parkman Branch of the Detroit Public Library. In general, comments about the greenway concept were very favorable.

The project objectives included impacting the community by promoting opportunities for converting an abandoned rail corridor into green space, reducing blight, providing safe and affordable housing and increasing neighborhood stability.

Findings

“Exploring the feasibility of expanding housing opportunities...in an effort to stabilize the community”

Housing

Focus: HOPE is exploring the feasibility of expanding housing opportunities as part of its HOPE Village Initiative in an effort to stabilize the community. It is reviewing the feasibility of constructing new multi-unit housing and of creating a “scattered site” development consisting of existing single family homes in the community. This new or rehabilitated housing could be of interest to employees of neighborhood nonprofits. Since the financial crisis of 2008 and the related foreclosure crisis, which affected Detroit deeply, few units of subsidized single family housing have been built in Detroit. The market has not existed for the sale of such housing. Developers had difficulty selling homes for the necessary price even considering the subsidies they may have received. Most low or moderate-income housing depends on several layers of financing, involving both private and public funds.

Homeownership not only gives families the stability and security of a place to call home, but it provides the opportunity to accumulate some wealth. Traditionally in the U.S., homeownership has been viewed as a way to accumulate wealth as housing prices were seen as continuously increasing. For many middle class families their house was their primary asset. That has not been the case in all commu-

nities, however. The housing crisis changed the idea of homeownership as wealth creation as home prices depreciated and people owed more in their mortgages than the value of their properties.

Cooperative housing is seen as more community-minded than traditional home ownership models. Under more traditional models of ownership, the person owns the house or condominium unit. In the case of a single family home, the person owns the land and the building. In the case of the condominium, the person owns the particular unit and has the right to use the common areas. In a cooperative, a corporation owns the building and the person owns a share in the corporation with the right to use the particular unit in which she may live. Because a person does not own her particular unit, she has to engage with the others involved in the cooperative. While homeownership may be seen as a way to create wealth, some find it important to maintain the affordability of housing into the future. Several models exist for doing that. A limited equity cooperative seeks to limit the equity that an owner gets when she sells her house. The restriction keeps the housing affordable to those who own later down, particularly important if the construction or rehabilitation of the housing received a subsidy. A land trust, another way to insure affordability, separates the ownership of the land from the ownership of the building. Normally a community organization owns the land and leases it to the person who owns the house. Upon sale, the owner of the house cannot realize all the appreciation that may have occurred since some of it is tied to the land. While seen as maintaining affordability, both cooperatives and land trusts are seen as more difficult to finance in the private market.

For Focus: HOPE, the Clinic explored both models of cooperative housing – the traditional model and the limited equity cooperative model. The Clinic also explored the possibility of creating a land trust for the organization’s possible mutual housing project.

Coops and Community Land Trusts present similar problems for an organization. First, the entity developing the project would have to finance the purchase and construction or rehabilitation of the housing units. Second, the individual owners would have to purchase (and perhaps finance) their share in the case of the cooperative, or house in the case of the land trust). This is a particular challenge in this project. Normally, a cooperative owner buys his/her share from the cooperative by getting a “share loan” from a bank. This project has two challenges. First, owners may not be able to get a loan from the bank because the properties may not appraise for the amount of the loan. Share loans are often viewed as more difficult than conventional mortgages since many banks are less familiar with cooperative models and may have concerns with the lack of recourse in case of default. In addition, potential owners may not be able to qualify for a bank loan. The challenge for the developer entity is to receive enough subsidies for the project so that share loans are not necessary and carrying charges for the owners are low, comparable to rents that are considered affordable in the neighborhood.

Greenway

Along with several community organizations, the GreenWays Initiative of the Community Foundation for Southeast Michigan has been planning and developing a network of greenways. Initially, Clinic students researched the federal railroad abandonment process, liability issues, funding opportunities and best practices in other cities. Studies also found that Conrail still owned some of the parcels of land and was current on its real estate taxes. The Clinic provided Focus: HOPE a memorandum outlining national and Michigan best practices, the railroad abandonment process, liability questions and funding. Previously, Focus: HOPE had participated in some initial planning activities around an

Inner Circle Greenway, working with the Friends of the Inner Circle Greenway – this project would encompass the stretch of abandoned railroad in the HOPE Village Initiative. Around the same time, discussions were under way to create the Detroit Greenway Coalition. Plans were developing for the Inner Circle Greenway with the Coalition being responsible for the construction and maintenance of the greenway and the City owning the greenway, using a model similar to the Dequindre Cut. The Michigan Greenways and Trails Alliance was also in the process of conducting an appraisal of the railway lines. The Clinic reconnected Focus: HOPE to the work happening around the City and the State. The relevant parties met with Focus: HOPE in November, 2012.

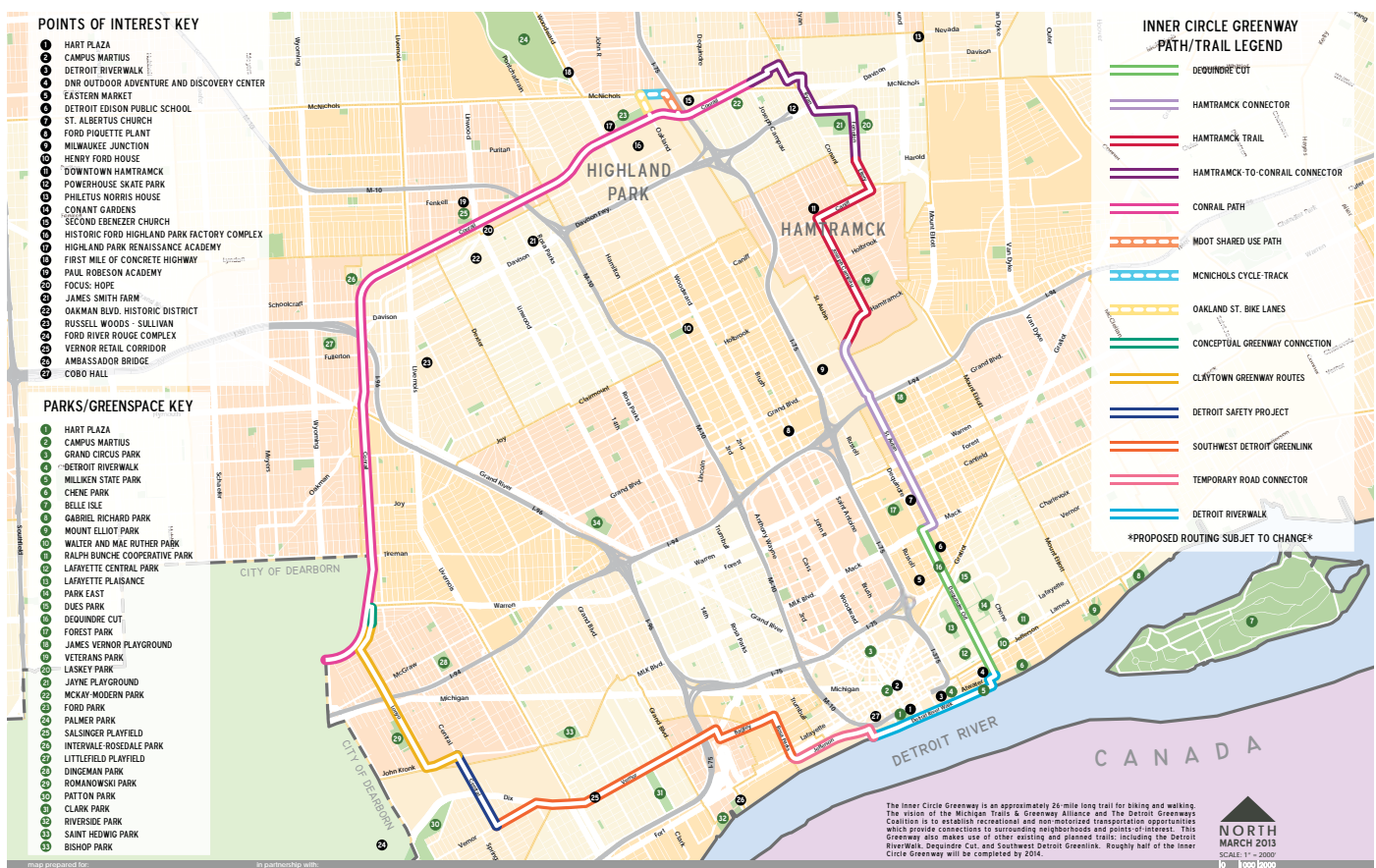


Figure 1 Proposed Inner Circle Greenway

Credit: Detroit Greenways Coalition

Recommendations

The completion of the greenway project awaits the creation of the Detroit Greenway Coalition and the construction of the Inner Circle Greenway. The Clinic has created for Focus: HOPE the starting documents to begin negotiations with the Detroit Greenway Coalition in order to benefit the community and its residents, if the greenway proceeds.

The CHDO application awaits decisions about the future of the City of Detroit Planning Department and the handling of federal funds by the City.

Additional analysis of the feasibility of a cooperative housing development is required – the Clinic’s continued work depends on the results of this feasibility analysis.



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