March 29, 2018

Attn: David Yeung
Chief, County-Assessed Properties Division
STATE BOARD OF EQUALIZATION
PROPERTY TAX DEPARTMENT
450 N STREET
SACRAMENTO, CALIFORNIA 94279

RE: California Community Land Trust Network – Comments on Draft LTA 2017/008 "Assessment of Community Land Trust Housing" released in March 2018.

To Whom It May Concern:

The members of the California Community Land Trust Network have a few key concerns with the State Board of Equalization's (BOE) interpretation of AB 2818 as expressed in the draft LTA, listed as follows:

1. **Direct Negative Impact on Low to Moderate Income Families.** The original intent of AB 2818 was to create a consistent and equitable method for taxation of homes on nonprofit community land trust (CLT) land, subject to affordability and occupancy restrictions. Specifically, CLT homes are sold only to qualified low to moderate income homebuyers. As such, CLTs carefully set sales prices to ensure that qualified buyers can sustainably afford the ongoing expenses of homeownership, including property taxes based upon the fungible value of the home. In the CLT context, this value is capped by the restricted re-sale price in the recorded land lease between the homebuyer and the CLT organization.

When a property tax bill exceeds the equitable amount (i.e. is based upon a value higher than the restricted sale price), the difference can be significant, and places an undue economic burden on low to moderate-income CLT homeowners. For example, a re-sale restricted single-family CLT home in Berkeley was sold to a low-income, four-person household for $194,083. However, the land and improvements were assessed at $259,080, resulting in an extra $810 per year in ad valorem taxes. That extra $67.56 per month eats into the living expenses of families which are already on the edge in California's high cost housing markets. In addition, these additional taxes must be computed into the homeowner's housing cost creating a circular issue where the purchase price cannot be adequately calculated to ensure the home is affordably priced. While the housing costs of CLT homeowners may be lower than average, their incomes do not exceed low and moderate levels, meaning homeowners still have to stretch to meet food, childcare, transportation and other living expenses. Losing $67 per month

means less funds for those other essential items. We are *not* talking about disposal income.

2. **CLT Transaction is Inclusive of Both Improvements and Leasehold Estate.** Per the original intent of AB 2818, the value of the improvements *and* land should be assessed at the restricted purchase price in the transfer transaction. The restricted purchase price includes the transfer of both the leasehold estate in the land and improvements *simultaneously.* Both the form of purchase contract and the land lease explicitly state that the homebuyer is simultaneously purchasing the improvements and acquiring the leasehold estate (by entering into the land lease). For example, the model land lease between a purchaser and CLT states:

> ***Purchase by Home Owner.*** *Simultaneously with the effective date of this Land Lease: Home Owner is purchasing the Unit referenced in Recital E above[…] Home Owner's exercise of the rights of ownership is subject and subordinate, however, to the provisions of this Land Lease.*

Typically, the purchase contract between a qualified buyer and CLT explicitly states that the purchaser is acquiring fee title to the housing unit and a leasehold interest in the land subject to the land lease. This caveat in the purchase contract addendum is to affirmatively re-assert that fee title to land is not transferring, but rather a leasehold interest in the land is transferring along with the home.

Because the interdependency of the home and the leasehold estate in a CLT transaction is so fundamental, the understanding of all parties has been that the purchase price includes both the improvements and the transfer of the leasehold estate. This understanding is bolstered by the fact that the monthly land lease fee paid by CLT homeowners bears no nexus to a value that might otherwise be established by the market. Instead, it is a nominal administrative fee which helps provide a barometer of the homeowner's ability to stay current with their mortgage and other housing payments.

3. **Market-Based Valuation Methods are Incongruous with CLT Pricing.** The proposed method of assessing the value of underlying land parcels is ill-suited to the structure of the Community Land Trust model and the experience of land tenure for CLT homeowners. As mentioned above, the land lease fees paid by homeowners bear no nexus to a value that might otherwise be determined by the market. If an assessor were to truly calculate the Net Present Value (NPV) of a stream of the actual land lease payments, the Uniform Appraisal standards would require them to calculate the Net Operating Income (NOI) to the CLT. In every instance, this is a negative number. The CLTs, in accordance with their mission, subsidize the expense of administering and managing the land leases, which includes monitoring affordability, occupancy, and resale restrictions to ensure compliance with program guidelines. Typically, lease fees

range between $600 and $1,200 annually, whereas per unit per year expenses to administer those leases routinely exceed $1,500. Following appraisal standards to calculate an accurate NOI (to get to an NPV) would result in zero value for the land.

Additionally, the band investment method (relying on California money market rates) fails to capture the unique nature of the CLT model. CLT land is not financed, but rather permanently subsidized (nearly always with public funds, whether they be from local municipalities, the State of California, or the federal government). There are no relevant or comparable sources of financing or equity investment in the money markets. CLTs do not use recapturable bond funds, nor use investors' funds where a return or recapture is expected, because those are completely antithetical to the mission of creating permanently affordable housing.

Imputing land value based on these exterior models will result in an inequitable tax on CLT homeowners who will never be able to realize any of the imputed 'value' in any scenario; we firmly believe this is contrary to the intent of AB 2818. Rather, homeowners are being asked to pay tax on an economic value that is simply not there.

4. Regarding assessments of homes on CLT land with ground-leases compliant with AB 2818's requirements, we believe that Assessors should be able to consider the ground lease restrictions for period prior to the effective date of September 17, 2016, as some Assessors have already done.

Sincerely,

Francis McIlveen
On behalf of
California Community Land Trust – Policy & Legislative Committee