



**February 17<sup>th</sup>, 2023**

**Supporting Testimony for HB 425 – Real Property – Land Installment Contracts – Requirements and Vendor Duties and Responsibilities**

**Environment and Transportation Committee**

Submitted by:

Evelyn Zwiebach, Director of Policy & Programs  
Enterprise Community Partners

28 W. Adams Ave, Suite 710  
Detroit, MI 48226



## IN GOOD FAITH: REIMAGINING THE USE OF LAND CONTRACTS

MAY 2021

By Karen Ann Kling and Evelyn Zwiebach, with contributing authors Leonymae Aumentado and Patrick Cooney

In the wake of the Great Recession, land contracts have re-emerged in Detroit and across the country as a prominent alternative pathway to homeownership for households with limited access to capital and lending.<sup>1</sup> A form of seller financing, a land contract, sometimes called a contract for deed, is a legal agreement in which a buyer purchases a home through installment payments made directly to a seller. The buyer only gains legal title to the home once they have made all payments. Much of the research on land contracts finds them to be exploitative, carrying high interest rates, yielding high rates of eviction, and extracting wealth from communities of color.<sup>2,3,4</sup>

However, some mission-driven organizations in Detroit and Southeast Michigan — including nonprofits, community development organizations (CDOs), and other community development practitioners<sup>a</sup> — counter that this exploitation is a function of bad-faith sellers, not land contracts in-and-of themselves. Land contracts sold by good-faith actors can provide credit-constrained buyers a viable alternative pathway to homeownership. What is more, land contracts can be structured and administered to proactively promote positive outcomes for buyers. In stark contrast with bad-faith sellers' predatory land contracts, many mission-driven sellers structure what we term "supportive" land contracts: land contracts marked by fair sales prices, clear terms and conditions, and supports for buyers. For these sellers, land contracts function as a community development tool, helping them increase rates of homeownership for low-income households of color and promote neighborhood stability.

Drawing from an extensive literature review and qualitative data collected through interviews and survey research, this brief seeks to learn from the community development sector's experience to identify best practices, interventions, and key common-sense reforms that would make land contracts a safer and more effective homeownership tool. In this brief, we first outline the history of land contracts, the ways they have

### KEY FINDINGS

1. Land contract reform is a racial equity issue. There is an extensive and ongoing history of sellers using land contracts to exploit and extract wealth, particularly from Black communities.
2. In Detroit, a combination of factors including low incomes, damaged credit, and a lack of mortgage lending since the Great Recession has yielded an increased reliance on land contracts as a form of home purchase financing.
3. Land contracts are not inherently predatory. Instead, they have features — including minimal regulation and loose terms and conditions — that make them ripe for abuse by bad-faith sellers and for victimization of buyers.
4. Several mission-driven organizations in Detroit use land contracts to enable homeownership for credit-constrained households, administering supportive land contracts that leverage the tool's flexibility and provide buyers leniency and assistance.
5. Efforts to reform land contracts should focus on preventing abuse, while still allowing good-faith actors to use the tool with ease and efficiency. This can be achieved by:
  - Establishing and strengthening key regulatory guardrails,
  - Eliminating information asymmetry between contract parties, and
  - Increasing legal, financial, and other supports for buyers and good-faith sellers.

been used exploitatively, and their current prevalence. We then explore the potential benefits of land contracts, as well as the strategies and practices mission-driven sellers use to help buyers achieve homeownership. We close by identifying policy and programmatic initiatives that state and local governments, in partnership with philanthropy and community development stakeholders, can undertake to protect buyers' interests, prevent exploitation by bad-faith sellers, and ensure land contracts function as a viable alternative home financing tool.

### THE HISTORY OF LAND CONTRACTS AND THEIR EXPLOITATIVE USE IN BLACK COMMUNITIES

Early use of land contracts dates to the mid-1800s, “a period when a ‘freedom-of-contract’ perspective and its related laissez faire economic philosophy were making a substantial impact” on society.<sup>5</sup> At the time of their establishment, courts thought “in terms of free-willing individuals entirely able to look after themselves.”<sup>6</sup> The federal government created few regulations governing land contracts, leaving it largely up to states and cities to regulate them. As a result, the regulatory framework that surrounds land contracts is inconsistent across the country and leaves many consumers without significant protections from fraud, eviction, discrimination, and other actions. This contrasts with the home mortgage market, which is regulated by the federal government and became increasingly so following the subprime mortgage crisis of the late 2000s.<sup>7</sup>

This loose regulation allows bad-faith sellers to exploit land contracts for increased profits at the expense of the buyers' interests. Land contracts can carry interest rates as high as 11% in Michigan, and rates can be even higher in other states. Furthermore, there can be many unknowns that put buyers at risk, including the need for significant and expensive repairs, outstanding taxes and liens, or an assessed value that is significantly lower than the purchase price.<sup>8,9,10</sup> These unknowns are a particularly significant issue in Detroit, where over 75% of occupied housing units were built prior to 1960, home disrepair is widespread, and tens of thousands of homes have delinquent property taxes.<sup>11,12,13</sup>

Finally, the forfeiture clause characteristic of most land contracts allows the seller to terminate the contract in response to a single missed payment or any other breach of terms on the part of the buyer. The seller can keep the property, as well as all investments the buyer had previously made toward the purchase price of the home, home improvements, insurance, and taxes. Sellers can then repeat this serially, selling the same home to new buyers and increasing profits by structuring deals that minimize the buyers' likelihood to comply, a process sometimes referred to as churn.<sup>14</sup> For these reasons, the National Consumer Law

Center argues that homeownership through land contracts has long been a “mirage” for many prospective owners.<sup>15 b</sup>

Historically, these exploitative practices have been used primarily in Black communities, in part because federal regulations and mortgage lenders excluded Black people from traditional lending opportunities throughout much of the 20th century.<sup>16</sup> For example, in Chicago in the 1950s, an estimated 85% of properties purchased by Black individuals were sold on land contracts.<sup>17</sup> Research finds that use of land contracts in Black communities, where exploitative practices have been concentrated, has extracted large amounts of wealth and contributed to the decline of those neighborhoods.<sup>18,19,20</sup> A 2019 report released by Duke University finds that between 1950 and 1970, land contract sales expropriated between \$3.2 and \$4 billion from Chicago's Black community.<sup>21</sup>

### CURRENT PREVALENCE OF LAND CONTRACTS

Data on the current prevalence of land contracts is incomplete, in part due to the fragmented and limited regulatory framework, including the lack of recording requirements in Michigan and other states.<sup>22,23</sup> However, existing data indicate a surge in the use of land contracts in the wake of the foreclosure crisis, this time backed by private equity firms looking for new investments, but once again targeting Black neighborhoods.<sup>24,25</sup> In 2016, The Detroit News reported on data from Wayne County and RealtyTrac showing more land contracts than home mortgages in Detroit: 2,177 compared to 2,023.<sup>26</sup> In 2017, Michigan Radio reported an increase in land contracts in Detroit following the crash of the housing market in 2008-2009 and the resulting constraints on access to mortgage credit.<sup>27</sup> Akers and Seymour (2018) found an average of 941 land contracts or memorandums of contract filed each year with the Wayne County Register of Deeds between 2009-2017. A 2019 Wall Street Journal article describes the relationship between homes with low values, lack of access to mortgages, and the increased reliance on contracts for deed.<sup>28</sup> Multiple authors discuss the scarcity of credit in Detroit — access to which has remained stubbornly low following the subprime mortgage crisis.<sup>29,30,31</sup> Such an absence of credit has set the stage for use of land contracts as a form of home financing.<sup>32</sup>

Finally, a recent study from the Federal Reserve Bank of Chicago finds that “contracts for deed tend to be more concentrated in neighborhoods with lower incomes, higher shares of non-white residents, higher rates of vacancy, and less access to traditional mortgage credit.”<sup>33</sup> The same study finds that, of the 407,237 recorded land contracts across the country, 69% were found in six Midwestern states and a full 25% were in Michigan. Of course, each of these estimates

understate the true number of land contracts, as they count only those that have been recorded. Based on their experience defending contract buyers in eviction cases, the United Community Housing Coalition estimated that “land contracts in Wayne County are five times the reported rate.”<sup>34</sup>

## USING LAND CONTRACTS TO ENABLE HOMEOWNERSHIP AND ADVANCE COMMUNITY DEVELOPMENT GOALS

The damage caused by predatory land contracts is immense and has given rise to policy recommendations that could effectively eliminate them as a tool for use.<sup>35</sup> However, while land contracts have an extensive and ongoing history of exploitation, they are not inherently predatory, and they remain an important tool for buyers and sellers alike, particularly in challenged housing markets such as Detroit. For some buyers, land contracts represent the sole pathway and opportunity for homeownership; conversely, some sellers cannot sell their homes except through a land contract because of barriers such as low home value, undesirable neighborhood conditions, and lack of mortgage lending.

As part of our research, we interviewed 10 leaders representing community-based organizations, mission-driven organizations, nonprofits, and legal service agencies about their land contract programs and/or perspectives on the tool. We learned that a number of mission-driven organizations in Detroit and Southeast Michigan have embraced land contracts as a key community development tool, structuring supportive land contracts that leverage the tool’s relative simplicity and flexibility with the goal of making homeownership and wealth-building affordable and accessible to low-income households. Corroborating many of the benefits of land contracts described in the research literature, interviewees emphasized that land contracts, when administered by good-faith sellers, can provide buyers a more affordable path to homeownership with fewer barriers to entry compared to mortgage financing.<sup>36,37,38</sup> The down payment for a land contract is often smaller in total, relative to a traditional mortgage, and installment payments can be similar in amount to rental payments for comparable properties.<sup>39,40</sup> Reasons a lender may deny a person approval for a mortgage — such as credit score, income, or property appraisal concerns — tend not to prevent a buyer from purchasing a home through a land contract.<sup>41</sup>

Additionally, interviewees mentioned that while land contract buyers often purchase homes with more significant structural defects than a home purchased with mortgage financing, these conditions typically make purchase prices more affordable.

Buyers can then invest their own “sweat equity” by making repairs on their own or with the help of a contractor over time. Initiating a path to homeownership through a land contract can potentially provide buyers an opportunity to experience certain benefits of homeownership, such as increased housing stability, the ability to invest in and customize their homes, and the social capital associated with having a long-term residence in a neighborhood. If the buyer gains title to the home after completing all installment payments, they may be able to gain wealth through the appreciation of the property over time.<sup>42</sup> Furthermore, because land contracts often offer shorter terms (often 10 years or less) compared to the traditional 30-year mortgage term,<sup>43</sup> successful buyers are able to attain homeownership and its accompanying benefits more quickly.

While high rates of dispossession are commonly associated with predatory land contracts, interviewees reported high rates of success for buyers with the supportive land contracts they administer (though in some cases, the overall volume of executed land contracts is low). We defined a successful land contract as one where the buyer either achieved homeownership or was able to refinance to a traditional mortgage. Interview highlights include:

- Kate Baker, executive director of Oakland Housing, reported the organization has administered 250 home sales on land contracts since its founding in 1935. The organization has never taken a single house back through forfeiture or foreclosure.
- Phyllis Edwards, executive director of Bridging Communities Inc., reported the organization has sold 53 homes on land contract since 1999, with 92% of purchasers achieving homeownership or refinancing to a mortgage.
- Tom Goddeeris, former executive director at Grandmont Rosedale Community Development Corporation, reported that between 2012 and 2017, the organization sold five homes on land contract, with all but one household achieving homeownership or refinancing to a traditional mortgage.
- Lisa Johanon, former executive director at Central Detroit Christian Community Development Corporation, reported that during the housing crisis, the organization sold approximately 70 homes on land contract; in recent years, the volume has gone down to approximately five land contracts a year. She reported a 100% success rate.
- Ted Phillips, executive director of United Community Housing Coalition (UCHC), reported that UCHC uses land contracts frequently, both in its operation of the Make it Home Program — a program that transfers tax foreclosed

c Bad-faith sellers sometimes use the relatively small monthly installment payments to disguise other hidden costs. Battle et al. (2016) conclude that “monthly payments charged in these [land contract] agreements may appear similar to the typical rental price, or even lower” (p. 3), but caution that the actual costs can be much higher overall when costs of repairs and maintenance are considered.

properties to renters and qualifying owners — and in buying out predatory contracts it comes across through its legal services work. Phillips estimates UCHC has assisted more than 100 households through land contract buy-outs and in at least 75% of these cases has used land contracts as a way to convey the homes to the occupant. While Phillips did not have readily available data on the overall success of UCHC's land contract programs, he reported a high anecdotal success rate.

Interviewees employ a variety of strategies to achieve high rates of success (see Figure 1 for a summary of sample strategies). First, they structure contracts and processes that balance the power and interests of each party, protecting both the organization and the buyer. Interviewees also provide additional supports — including wraparound services, ongoing communication, and leniencies — that many buyers need, both in order to attain homeownership through land contracts, as well as to achieve sustained housing stability through homeownership. Interviewees emphasized that for buyers to achieve the possible benefits of land contracts, clarity and transparency in all legal aspects of land contract sales were essential. As sellers, they also had to be flexible and proactive with buyers, at times accepting reduced or late payments and working with buyers to troubleshoot as needed.

Because the organizations we interviewed are mission-driven, viewing profit as secondary to their community revitalization imperative, the land contract programs they administer often return only enough profit to ensure the program's continued operation or return no profit and depend on outside funding. Indeed, several interviewees highlighted the importance of external operating funds, particularly for administering supportive land contract programs that minimize costs for buyers and offer leniency. If organizations must rely on land contract program revenue to fund operational costs, they may charge higher interest rates and/or be less likely to offer flexibility to buyers struggling to make payments, ultimately reducing the success of the program.

#### FIGURE 1: SAMPLE STRATEGIES FOR SUPPORTIVE LAND CONTRACT SALES

- Extensive relationship building, communication, and engagement with land contract buyers.
- Using standard contract language that is clear, consistent, and easy to understand.
- Recording the land contract with the county register of deeds.
- Storing the home's deed safely in escrow for the buyer to access once the land contract balance is paid in full.
- Requiring and/or providing financial counseling and/or homebuyer counseling.
- Charging interest rates comparable to or lower than the private market's mortgage interest rates; in several cases, organizations offered contracts with 0% interest.
- Refraining from utilizing the forfeiture clause upon missed payment, instead working with buyers to catch up on late or missed payments over time.
- Assisting buyers to become "mortgage-ready" and to refinance their land contracts on the private mortgage market if possible.
- Connecting buyers to other relevant resources to support their housing needs, such as information about tax exemptions, connections to repair grants and loans, counseling, and case management.

## RECOMMENDATIONS

Based on our interviews and review of the literature, we believe land contracts can be reformed to produce successful outcomes more reliably, even when buyers are not in a supportive land contract or working with a mission-driven seller. To achieve this goal, land contract reform should focus on three key areas:

1. Establishing and strengthening key regulatory guardrails,
2. Eliminating information asymmetry between contract parties, and
3. Increasing legal, financial, and other supports for buyers and good-faith sellers.

On the following pages we recommend specific policy and programmatic actions that could help achieve these reforms. Various actors and sectors would be involved in the implementation of these actions including state and local governments, nonprofits and community development practitioners, and philanthropy. If done correctly, the reforms would retain much of the flexibility and ease of use that enable land contracts to serve as a pathway to homeownership for credit-constrained households, while disincentivizing bad-faith sellers from participating in the land contract marketplace.

It is important to note that while land contracts could be regulated at the federal level,<sup>d</sup> our recommendations focus on actions that could be undertaken at the state and/or local level.<sup>e</sup> Additional research is needed to identify the most appropriate level of government to implement the actions. Unintended consequences and capacity for enforcement should be key factors in determining which measures should be enacted and by whom.

## ESTABLISH AND STRENGTHEN KEY REGULATORY GUARDRAILS

### 1. REQUIRE LAND CONTRACTS BE RECORDED WITHIN 30 DAYS OF SIGNING.

Recording a land contract with the county register of deeds ensures the rights of either the buyer or seller can be legally defended. A buyer (or seller) cannot easily sue for breach of contract or for infringement of rights if they cannot prove the agreement was ever signed into place. Legislative changes to encourage the recording of land contracts have been made at the state level in Iowa<sup>44</sup> and

in Ohio.<sup>45</sup> In order to support compliance with a recording requirement, additional research is needed into current barriers — including recording fees, document formatting rules, and the stipulation that a property be free and clear of property taxes — and the pros and cons of amending or eliminating these barriers. The recording requirements for the register of deeds in each Michigan county is set by state law, specifically [MCLA 565.201](#) and [MCLA 211.135](#), and would therefore need to be adjusted at the state level.

### 2. TIE THE INTEREST RATE CAP TO MARKET INDEX.

Interest rates for land contracts in Michigan cannot exceed 11%.<sup>46</sup> While the mission-driven sellers we interviewed reported structuring land contracts with interest rates ranging from 0% to 7%, an interviewee from Michigan Legal Services reported that interest rates for land contracts they encounter are usually near the 11% maximum. National Consumer Law Center recommends “establishing a reasonable statutory interest cap, such as a floating rate, 2% above the market index” to help ensure good-faith sellers have an incentive to enter into land contracts, while reducing the extortion and risk of forfeiture associated with usurious rates.<sup>47</sup>

### 3. LIMIT USE OF FORFEITURE.

Michigan can also limit use of the forfeiture clause by nullifying it under certain conditions related to recording, payment amount, or length of payment history, as several other states have done. In Iowa, a seller cannot act on the forfeiture clause unless the land contract is recorded.<sup>48</sup> In Texas, the land contract may be converted into a deed and mortgage once 40% of the purchase price has been paid, which subjects the transaction to mortgage laws and eliminates the option of forfeiture.<sup>49</sup> In Ohio, if the buyer has paid a certain amount of the purchase price or has made payments for a certain period of time, the seller cannot pursue the forfeiture clause in the case the buyer defaults.<sup>50</sup>

### 4. INCREASE RESOURCES FOR ENFORCEMENT OF EXISTING AND NEW REGULATIONS.

Currently, the court system primarily enforces regulations on land contracts; however, in some cases, other entities may be involved. For instance, the Michigan Department of Insurance and Financial Services requires larger volume land contract sellers to be licensed as mortgage lenders

<sup>d</sup> Land contracts are within the regulatory jurisdiction of the Consumer Financial Protection Bureau (CFPB). The CFPB is the federal agency responsible for enforcing the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA), two major federal consumer protection laws that have the force to govern land contracts. TILA requires sellers to disclose estimates of the principal, interest rates, closing costs, and other information prior to sale and to maintain records, among myriad other requirements. RESPA establishes general servicing policies, procedures, and requirements regarding settlement transactions. Despite these laws, the CFPB has limited and ineffective regulations around land contracts.

<sup>e</sup> States have the authority to regulate land contracts (Battle et al., 2016). In our research, we found multiple examples of both state and local governments across the country that regulate land contracts. In Michigan, there was an [effort in 2017 to increase land contract regulations](#).



and has the authority to fine an unlicensed originator independent of the courts.<sup>51</sup> Despite these compliance mechanisms, there is insufficient enforcement of existing regulations, in part due to buyers often lacking legal representation and being therefore unaware of or unable to exercise their rights.<sup>52 53</sup>

With additional regulation of land contracts, there will be even greater need for increased resources — in the form of advisory orders, technical educational materials, staffing, and more — to support enforcement and assist responsible entities in implementing new protocols. As discussed below, allocating resources to provide buyers with legal representation will also be important. Various interviewees noted that close attention must be paid to other predatory home selling strategies, such as lease-purchase agreements, which offer even fewer protections and greater risk than land contracts. With greater regulation of land contracts, bad-faith sellers are likely to turn increasingly to other predatory tools.

## ELIMINATE INFORMATION ASYMMETRY

### 1. REQUIRE THAT KEY CONTRACT LANGUAGE BE INCLUDED IN EACH LAND CONTRACT.

Currently, a land contract must satisfy the statute of frauds in addition to meeting general contract principles including offer, acceptance, consideration, competency to contract, and a definite statement of the credit terms. However, clarity of all terms and provisions is key to ensuring contract parties have enough information to protect themselves. A good land contract should include clear information about:<sup>54</sup>

- All payment terms,
- The buyer's possession of the property during the contract,
- Where responsibilities lie for key items such as taxes, insurance, and repair,
- Whether the buyer may make substantial changes to the property without seller consent,
- The seller's right to place a mortgage on the property, and
- The legal remedies permitted if buyer defaults under the terms of the contract

To promote the use of good land contracts, counties could require certain standard components be included in the contract as a condition for recording.<sup>f</sup> To make compliance

with this requirement easier, a standard land contract could be designed and offered on city, county, and/or state websites to assist sellers in designing a document that meets all requirements.

### 2. REQUIRE SELLERS TO PROVIDE TITLE INSURANCE.

Title issues are common both in Detroit and in land contract transactions nationwide.<sup>55 56</sup> A land contract buyer should never unknowingly inherit debts or liens associated with a property as these could ultimately lead to foreclosure or the inability of the seller to transfer a clear title. To prevent this, sellers could be required to provide a title insurance policy as a condition of the execution of the land contract. Steven Smith, executive director of Cinnaire Title Services, reported that title insurance policies typically start at a base rate of \$375 for properties valued up to \$20,000 and increase from there. Closing fees (also known as escrow fees) are typically about \$500. Smith noted that Cinnaire Title, as a mission-driven organization, can offer lower fees in some cases.

If title insurance is required as part of a land contract sale, the additional costs could become prohibitive for buyers with low incomes and for mission-driven sellers who already operate under tight margins. Local government and/or philanthropic actors can attempt to reduce this deterrent by subsidizing these costs for qualifying buyers and/or sellers. Mission-driven sellers could also work with title companies to negotiate reduced rates.

### 3. REQUIRE AN INDEPENDENT INSPECTION.

Currently, inspections are not required as part of a land contract sale. However, since land contract buyers are usually responsible for making any necessary repairs, it is critical that they be aware of any structural defects or code violations on a property before signing a contract.<sup>9</sup> According to HomeAdvisor, the average inspection can range from \$279 to \$399.<sup>57</sup> Again, in order to enable affordability for buyers with lower incomes, local government and/or philanthropic actors could subsidize inspection fees for qualifying buyers.

### 4. CREATE AND CIRCULATE LAND CONTRACT EDUCATIONAL MATERIALS TO RESIDENTS AND KEY STAKEHOLDER GROUPS.

A key component of protecting land contract buyers from bad-faith sellers is ensuring buyers have the information and tools they need to protect themselves. All buyers should be made aware of their rights, the seller's rights, and common risks associated with land contracts. They should also have

<sup>f</sup> Counties can add additional requirements for recording land contracts, so long as their actions do not preempt state law.

<sup>g</sup> Home inspections are not required for mortgage transactions, but are generally strongly encouraged. [Sample language provided for buy/sell agreements by Michigan Realtors](#) requires the buyer to affirm that they have been advised to have a contractor's inspection of the property.

access to pre- and post-purchase resources for guidance and/or legal counsel. Educational materials should be available in multiple languages and formats and distributed widely among residents, block clubs, churches, CDOs and nonprofits, as well as within city agencies. Such a campaign could be led by, or conducted in partnership with, the City of Detroit's Consumer Financial Protection Initiative.<sup>h</sup>

## INCREASE SUPPORTS FOR BUYERS AND GOOD-FAITH SELLERS

### 1. INCREASE ACCESS TO NO- OR LOW-COST LEGAL COUNSEL AND SERVICES.

With strengthened land contract guardrails and greater knowledge of their rights, buyers will be increasingly empowered to protect themselves against, and to challenge, predatory practices and actors. To support their success, legal counsel must be available to them. Organizations like United Community Housing Coalition, Michigan Legal Services, and Lakeshore Legal Aid already provide critical assistance to low-income households exploited by bad-faith land contract sellers. However, capacity is very limited and additional resources are necessary to meet the need.

The current expansion of legal services in landlord-tenant cases through state and local eviction-diversion efforts is heartening, and early reports suggest expanded representation is yielding better outcomes for tenants. Continuing these efforts after the expiration of pandemic emergency measures and resources will be critical and will protect contract buyers who are often wrongly treated as tenants in eviction cases.<sup>58</sup> Partnerships with law school legal clinics, as well as with the private bar through pro bono services, could also help expand legal representation for land contract buyers and allow for legal support at the outset of the purchase process, for instance, through review of draft contract documents.

### 2. INCREASE ACCESS TO MORTGAGE FINANCING.

The City of Detroit's efforts to increase access to homebuyer and financial counseling through its Housing Stability Network and Financial Empowerment Centers will be instrumental in increasing Detroiters' ability to obtain traditional mortgage financing and reducing reliance on land contracts. Investment in local community development financial institutions and programs like Detroit Home Mortgage, which offers financing for under-appraised homes, can further expand access to mortgage financing

for low-income households. These efforts can also help land contract buyers refinance their land contracts and obtain a mortgage that may offer better rates and increased protections. In fact, Krysta Pate, program director of Detroit Home Mortgage, noted that many banks and mortgage brokers look at refinancing land contracts as an untapped and desirable market. In this way, land contracts could work not just as a direct tool for homeownership, but also as a steppingstone to more traditional pathways to homeownership. Of course, any program seeking to increase access to mortgages or refinance land contracts should carefully consider buyers' qualifications and ensure buyers are positioned to succeed under the mortgage terms to avoid unintended consequences.

### 3. LEVERAGE DETROIT LAND BANK AUTHORITY PROCESSES TO ASSIST MISSION-DRIVEN SELLERS IN ACQUIRING PROPERTIES FOR SALE.

Multiple interviewees cited the prohibitive cost of property acquisitions as a significant limiting factor in their ability to expand their land contract programs and achieve greater impact in the neighborhoods they serve. Bridging Communities specifically noted the inability to compete with investors in the acquisition of low-cost properties in reparable condition for resale when purchasing from the Detroit Land Bank Authority.<sup>i</sup> While the Detroit Land Bank Authority has programs that assist CDOs in acquiring properties within their geographic area for resale, further investigation is needed to understand the outcomes for these properties, and if these programs can be leveraged or altered to better support the needs and goals of the community development sector.

### 4. CONDUCT ADDITIONAL RESEARCH ABOUT THE LONGER-TERM EFFICACY OF LAND CONTRACT PROGRAMS ADMINISTERED BY MISSION-DRIVEN SELLERS.

To better support land contract programs administered by mission-driven organizations, additional data on these programs is necessary. Philanthropy and/or nonprofit partners could assist mission-driven sellers with the funding and technical support needed to implement data collection and evaluation processes that capture key information about the scale and longer-term performance of their land contract programs. Data points could include addresses, sales prices, contract terms, and longitudinal reporting on buyer outcomes for each property sold on land contract. Lessons learned from the evaluations could inform amendments and improvements to programs as necessary.

<sup>h</sup> For more information about the City of Detroit's Consumer Financial Protection Initiative, see: "[City of Detroit Announces Launch of Local Consumer Financial Protection Efforts, Beginning with Protections against Financial Predators and Scams Amidst COVID-19.](#)"

<sup>i</sup> For more detail about the recent domination of the property acquisition market by large-scale speculative bulk buyers, often backed by private equity, see *Instrumental Exploitation: Predatory property relations at city's end* by Akers and Seymour. Akers and Seymour find that between 2005-2015, 88% of all properties sold in the tax auction were purchased by investors. Government and nonprofit entities purchased only 4% of those properties.



## 5. CREATE A LAND CONTRACTS BEST PRACTICES GUIDE FOR MISSION-DRIVEN SELLERS.

Creating a supportive land contract program requires significant capacity and technical expertise. Without these elements, even mission-driven sellers may unintentionally administer land contracts in ways that endanger buyers, or they may create programs that put their organization at financial risk. Organizations that have experience administering programs with successful track records could contribute to a how-to guide or a toolkit that helps less-experienced sellers develop supportive land contract programs that maximize the benefits for all parties. Such a guide could incorporate the lessons learned from a data collection and evaluation effort, as described above, and support the increased participation of good-faith sellers in the land contracts marketplace.

## CONCLUSION

For more than half a century, land contracts have been used to exploit and extract wealth from Black communities locked out of more traditional and regulated pathways to homeownership. However, as we learned from mission-driven organizations working in Detroit and Southeast Michigan, land contracts implemented by good-faith sellers can offer a sustainable pathway to homeownership and represent an important alternative for buyers without access to mortgage financing. By implementing the recommendations outlined above, we can better protect land contract buyers, prevent the use of exploitative land contracts by bad-faith sellers, and promote the use of supportive land contracts as a way to build housing and community stability in Detroit.

### ABOUT THE AUTHORS

**Karen Ann Kling** is a strategic projects manager for Poverty Solutions at the University of Michigan and a former affordable housing economic policy fellow for the City of Detroit.

**Evelyn Zwiebach** is senior program director for state and local policy with Enterprise Community Partners, Inc. in Detroit.

**Leonymae Aumentado** is a project manager at Poverty Solutions at the University of Michigan.

**Patrick Cooney** is assistant director of Poverty Solutions' Detroit Partnership on Economic Mobility.

The authors would like to acknowledge the following individuals for participating in interviews for this research: Phyllis Edwards and Dan Commer, Bridging Communities, Inc; Lisa Johanon, Central Detroit Christian; Steve Smith, Cinnaire Title; Krysta Pate, Community Reinvestment Fund, USA; Tom Goddeeris, Detroit Future City (formerly of Genesee County Land Bank); Michele Wildman, Genesee County Land Bank Authority; Joe McGuire, formerly of Michigan Legal Services; Kate Baker, Oakland Housing; Ted Phillips and Charlene Snow, United Community Housing Coalition.

### ABOUT ENTERPRISE

Enterprise is a national nonprofit on a mission to make home and community places of pride, power, and belonging for all. To make that possible, we operate the only organization designed to address America's affordable housing crisis from every angle: we develop and deploy programs and support community organizations on the ground; we advocate for policy on a nonpartisan basis at every level of government; we invest capital to build and preserve rental homes people can afford; and we own, operate and provide resident services for affordable communities. All so that people not only make rent, they build futures. With this end-to-end approach, 40 years of experience, and thousands of local partners, Enterprise has built and preserved 793,000 affordable homes, invested \$61 billion in communities, and changed millions of lives.

### ABOUT POVERTY SOLUTIONS

Poverty Solutions at the University of Michigan is an interdisciplinary initiative that aims to become a leader in informing, identifying, and testing new strategies for the prevention and alleviation of poverty in Michigan, the nation, and the world. While rooted in an understanding of the causes and consequences of poverty, the focus of Poverty Solutions is an action-based research agenda. Poverty Solutions partners with communities and policymakers to find what works in confronting poverty.

## ENDNOTES

- 1 Akers, J., & Seymour, E. (2018). Instrumental exploitation: Predatory property relations at city's end. *Geoforum*, 91, 127-140.
- 2 Battle, J., Jr., Mancini, S., Saunders, M., & Williamson, O. (2016). *Toxic Transactions: How Land Installment Contracts Once Again Threaten Communities of Color*. National Consumer Law Center.
- 3 Akers, J., & Seymour, E. (2018). Instrumental exploitation: Predatory property relations at city's end. *Geoforum*, 91, 127-140.
- 4 The Samuel Dubois Cook Center on Social Equity. (2019). *The Plunder of Black Wealth in Chicago: New Findings on the Lasting Toll of Predatory Housing Contracts*. <https://socialequity.duke.edu/wp-content/uploads/2019/10/Plunder-of-Black-Wealth-in-Chicago.pdf>.
- 5 Nelson, G. S. (1998). The Contract for Deed as a Mortgage: The Case for the Restatement Approach. *Brigham Young University Law Review*, 1998(3), p. 1114.
- 6 Simpson, S. P. (1935). Legislative Changes in the Law of Equitable Conversion by Contract: II. *The Yale Law Journal*, 44(5), p. 778.
- 7 Weinberg, J. (2013, November 22). *The Great Recession and Its Aftermath*. Federal Reserve History. <https://www.federalreservehistory.org/essays/great-recession-and-its-aftermath>
- 8 Seymour, E., & Akers, J. (2019). Portfolio solutions, bulk sales of bank-owned properties, and the reemergence of racially exploitative land contracts. *Cities*, 89, 46-56. Elsevier Ltd.
- 9 Battle, J., Jr., Mancini, S., Saunders, M., & Williamson, O. (2016). *Toxic Transactions: How Land Installment Contracts Once Again Threaten Communities of Color*. National Consumer Law Center.
- 10 Purcell, S. (2018). The Current Predatory Nature of Land Contracts and How to Implement Reforms. *Notre Dame Law Review*, 93(4), 1771-1792.
- 11 Akers, J., & Seymour, E. (2018). Instrumental exploitation: Predatory property relations at city's end. *Geoforum*, 91, 127-140.
- 12 Ruggiero, R., Rivera, J., & Cooney, P. (2020). *A Decent Home: The Status of Home Repair in Detroit* [Working paper]. Poverty Solutions at the University of Michigan. <https://poverty.umich.edu/files/2020/10/The-Status-of-Home-Repair-in-Detroit-October-2020-smaller-file.pdf>
- 13 *The Quicken Loans Community Fund's "Neighbor to Neighbor" Initiative Prevents Record 4,316 Detroit Families from Entering Property Tax Foreclosure in 2018*. (2019, May 2). Quicken Loans. <https://www.quickenloans.com/press-room/2019/05/02/quicken-loans-community-fund-study-shows-2018-property-tax-foreclosures-in-detroit-hit-lowest-level-in-over-a-decade-company-commits-to-continuing-citywide-effort-to-help-homeowners/>
- 14 Battle, J., Jr., Mancini, S., Saunders, M., & Williamson, O. (2016). *Toxic Transactions: How Land Installment Contracts Once Again Threaten Communities of Color*. National Consumer Law Center.
- 15 Battle, J., Jr., Mancini, S., Saunders, M., & Williamson, O. (2016). *Toxic Transactions: How Land Installment Contracts Once Again Threaten Communities of Color*. National Consumer Law Center.
- 16 Rothstein, R. (2017). *The Color of Law: A Forgotten History of How Our Government Segregated America*. Liveright Publishing Corporation.
- 17 Satter, B. (2013). On Family Properties: Race, Real Estate, and the Exploitation of Black Urban America. *Reviews in American History*, 41(1), 174-180.
- 18 Akers, J., & Seymour, E. (2018). Instrumental exploitation: Predatory property relations at city's end. *Geoforum*, 91, 127-140.
- 19 Seymour, E., & Akers, J. (2019). Portfolio solutions, bulk sales of bank-owned properties, and the reemergence of racially exploitative land contracts. *Cities*, 89, 46-56. <https://doi.org/10.1016/j.cities.2019.01.024>.
- 20 Carpenter, A., George, T., & Nelson, L. (2019). *The American Dream or Just an Illusion? Understanding Land Contract Trends in the Midwest Pre- and Post-Crisis*. Joint Center for Housing Studies of Harvard University. [https://www.jchs.harvard.edu/sites/default/files/media/imp/harvard\\_jchs\\_housing\\_tenure\\_symposium\\_carpenter\\_george\\_nelson.pdf](https://www.jchs.harvard.edu/sites/default/files/media/imp/harvard_jchs_housing_tenure_symposium_carpenter_george_nelson.pdf)
- 21 The Samuel Dubois Cook Center on Social Equity. (2019). *The Plunder of Black Wealth in Chicago: New Findings on the Lasting Toll of Predatory Housing Contracts*. <https://socialequity.duke.edu/wp-content/uploads/2019/10/Plunder-of-Black-Wealth-in-Chicago.pdf>
- 22 Akers, J., & Seymour, E. (2018). Instrumental exploitation: Predatory property relations at city's end. *Geoforum*, 91, 127-140.
- 23 Battle, J., Jr., Mancini, S., Saunders, M., & Williamson, O. (2016). *Toxic Transactions: How Land Installment Contracts Once Again Threaten Communities of Color*. National Consumer Law Center.
- 24 Akers, J., & Seymour, E. (2018). Instrumental exploitation: Predatory property relations at city's end. *Geoforum*, 91, 127-140.
- 25 Seymour, E., & Akers, J. (2019). Portfolio solutions, bulk sales of bank-owned properties, and the reemergence of racially exploitative land contracts. *Cities*, 89, 46-56. <https://doi.org/10.1016/j.cities.2019.01.024>.
- 26 Kurth, J. (2016, February 29). Land contracts trip up would-be homeowners. *The Detroit News*. <https://www.detroitnews.com/story/news/local/detroit-city/2016/02/29/land-contracts-detroit-tax-foreclosure-joel-kurth/81081186/>
- 27 LaFond, K., & Hulett, S. (2017, June 14). *Why Detroit is "ground zero" for surge in land contracts*. Michigan Radio. <https://www.michiganradio.org/post/why-detroit-ground-zero-surge-land-contracts>
- 28 Eisen, B. (2019, August 30). Risky Seller Financing Flourishes Where Homes Are Cheapest. *The Wall Street Journal*. <https://www.wsj.com/articles/risky-seller-financing-flourishes-where-homes-are-cheapest-11567180958>
- 29 Eisen, B. (2020, October 29). Dearth of Credit Starves Detroit's Housing Market. *The Wall Street Journal* <https://www.wsj.com/articles/a-broken-mortgage-market-strands-detroits-black-residents-11603984218>
- 30 Elliott, D., Ratcliffe, C., & Kalish, E. (2016). *The Financial Health of Detroit Residents*. Urban Institute. <https://www.urban.org/sites/default/files/publication/84361/2000940-the-financial-health-of-detroit-residents.pdf>
- 31 Gallagher, J. (2019, March 21). Few black people get home mortgages in Detroit, data show. *Detroit Free Press*. <https://www.freep.com/story/money/business/john-gallagher/2019/03/21/black-mortgages-detroit-real-estate-michigan/3165381002/>
- 32 Eisen, B. (2020, October 29). Dearth of Credit Starves Detroit's Housing Market. *The Wall Street Journal* <https://www.wsj.com/articles/a-broken-mortgage-market-strands-detroits-black-residents-11603984218>
- 33 Carpenter, A., George, T., & Nelson, L. (2019). *The American Dream or Just an Illusion? Understanding Land Contract Trends in the Midwest Pre- and Post-Crisis*. Joint Center for Housing Studies of Harvard University, p 1. [https://www.jchs.harvard.edu/sites/default/files/media/imp/harvard\\_jchs\\_housing\\_tenure\\_symposium\\_carpenter\\_george\\_nelson.pdf](https://www.jchs.harvard.edu/sites/default/files/media/imp/harvard_jchs_housing_tenure_symposium_carpenter_george_nelson.pdf)
- 34 Akers, J., & Seymour, E. (2018). Instrumental exploitation: Predatory property relations at city's end. *Geoforum*, 91, p. 135.
- 35 Way, H. K., & Wood, L. (2013). Contracts for Deed: Charting Risks and New Paths for Advocacy. *Clearinghouse Review Journal of Poverty Law and Policy*, 47(7-8), 286-294.
- 36 Custard, C. (2018). Installment Land Contracts & Low-income Homebuyers in Chicago: A Call for Legislative Reform. *DePaul Law Review*, 67(3), 527-556.
- 37 Purcell, S. (2018). The Current Predatory Nature of Land Contracts and How to Implement Reforms. *Notre Dame Law Review*, 93(4), 1771-1792.
- 38 Way, H. K. (2009). Informal Homeownership in the United States and the Law. *Saint Louis University Public Law Review*, 29(1), 113-192.
- 39 Battle, J., Jr., Mancini, S., Saunders, M., & Williamson, O. (2016). *Toxic Transactions: How Land Installment Contracts Once Again Threaten Communities of Color*. National Consumer Law Center. <https://www.nclc.org/images/pdf/pr-reports/report-land-contracts.pdf>
- 40 Way, H. K. (2009). Informal Homeownership in the United States and the Law. *Saint Louis University Public Law Review*, 29(1), 113-192.

- 41 Way, H. K. (2009). Informal Homeownership in the United States and the Law. *Saint Louis University Public Law Review*, 29(1), 113-192.
- 42 Herbert, C. E., McCue, D. T., & Sanchez-Moyano, R. (2013). *Is Homeownership Still an Effective Means of Building Wealth for Low-income and Minority Households? (Was it Ever?)*. Joint Center for Housing Studies of Harvard University. <https://www.jchs.harvard.edu/sites/default/files/hbtl-06.pdf>
- 43 Carpenter, A., George, T., & Nelson, L. (2019). *The American Dream or Just an Illusion? Understanding Land Contract Trends in the Midwest Pre- and Post-Crisis*. Joint Center for Housing Studies of Harvard University, p 1. [https://www.jchs.harvard.edu/sites/default/files/media/imp/harvard\\_jchs\\_housing\\_tenure\\_symposium\\_carpenter\\_george\\_nelson.pdf](https://www.jchs.harvard.edu/sites/default/files/media/imp/harvard_jchs_housing_tenure_symposium_carpenter_george_nelson.pdf)
- 44 Iowa Code § 558.46, as cited in Battle et al., 2016.
- 45 Ohio Rev. Code § 5313.06.
- 46 Akers, J., & Seymour, E. (2018). Instrumental exploitation: Predatory property relations at city's end. *Geoforum*, 91, 127-140.
- 47 National Consumer Law Center. (2017). *Policy Recommendations for a Strong State Law on Land Contracts*, Policy Recommendations section, para. 7. [https://www.nclc.org/images/pdf/foreclosure\\_mortgage/predatory\\_mortgage\\_lending/ib-land-contracts-policy-recs.pdf](https://www.nclc.org/images/pdf/foreclosure_mortgage/predatory_mortgage_lending/ib-land-contracts-policy-recs.pdf)
- 48 Iowa Code § 558.46, as cited in Battle et al., 2016
- 49 Tex. Prop. Code § 5.066, as cited in Way & Wood, 2013
- 50 Ohio Rev. Code § 5313.07, as cited in Battle et al., 2016
- 51 Department of Insurance and Financial Services. (2021). *FAQs: Does a seller providing the seller financing need to be licensed as a mortgage lender under the MBLSLA?* [https://www.michigan.gov/difs/0,5269,7-303-13648\\_60667\\_77195-389713--,00.html](https://www.michigan.gov/difs/0,5269,7-303-13648_60667_77195-389713--,00.html)
- 52 Freyfogle, E. T. (1988). Vagueness and the Rule of Law: Reconsidering Installment Land Contract Forfeitures. *Duke Law Journal*, 1988(4), 609-656.
- 53 Legal Services Corporation. (2017). The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans. <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf>
- 54 Michigan Foreclosure Task Force. (2012, September). *Michigan Land Contract Guide*. [http://www.muskegonwp.org/Portals/62/Assessing/Land-Contract-Guide-FINAL%20\(1\).pdf](http://www.muskegonwp.org/Portals/62/Assessing/Land-Contract-Guide-FINAL%20(1).pdf)
- 55 Battle, J., Jr., Mancini, S., Saunders, M., & Williamson, O. (2016). *Toxic Transactions: How Land Installment Contracts Once Again Threaten Communities of Color*. National Consumer Law Center. <https://www.nclc.org/images/pdf/pr-reports/report-land-contracts.pdf>
- 56 Gallagher, J. (2019, March 21). Few black people get home mortgages in Detroit, data show. *Detroit Free Press*. <https://www.freep.com/story/money/business/john-gallagher/2019/03/21/black-mortgages-detroit-real-estate-michigan/3165381002/>
- 57 *Hire a Home Inspector*. (n.d.). HomeAdvisor. Retrieved April 1, 2021, from <https://www.homeadvisor.com/cost/inspectors-and-appraisers/hire-a-home-inspector/>
- 58 Akers, J., & Seymour, E. (2019). *The Eviction Machine: Neighborhood Instability and Blight in Detroit's Neighborhoods* [Working paper #5-19]. Poverty Solutions at the University of Michigan. <https://poverty.umich.edu/files/2019/08/Akers-et-al-Eviction-Machine-Revised-August-12.pdf>