



ARDEN AND OTHER LAND TRUSTS

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Summary

Land trusts collect land rent explicitly, but the members are driven by self-interest to keep the rent paid to the trusts at a minimum. The members would have an incentive to collect the full rent if what is left after providing public goods is distributed back to the members in equal shares. The competition between direct cash and public goods would also provide an incentive to use the funds efficiently.

About trusts

A trust is a right of property held by one party for the benefit of another. In law, "trust" means confidence placed in a person by making that person the nominal owner of property to be held or used for beneficiaries. It is a fiduciary relationship in which the trustee holds the title to property for the benefit of others.

A land trust has title to land for use or for conservation. Historically, in England some owners held land in the name of a trust to avoid the legal obligations of landowners, such as military service. In the United States also, trusts were a vehicle to hide the ownership of land. Trusts today are created in order to conserve natural habitats, for historic preservation, to reduce the acquisition costs of real estate, and to implement the use of rent for community revenue.

Conservation land trusts

The first conservation land trust, The Trustees of Reservations, was founded in 1891. It is a non-profit land conservation and historic preservation organization dedicated to preserving natural and historical places in Massachusetts. There are now more than 1,600 conservation land trusts in the United States.

The Nature Conservancy, founded in 1951, is one of the most widely-known conservation land trusts. It holds lands in the 50 US states and in 69 countries. One of the techniques used by the conservation land trusts is the conservation easement, by which land owners ensure that a portion of their land remains in its natural state. The Nature Conservancy goes beyond merely holding land by actively restoring the ecology

such as by planting trees.

The Land Trust Alliance, founded in 1982, serves 1100 members. It provides legal, educational, and policy services to conservation land trusts.

Community land trusts

Community land trusts lease land for residential and commercial use. The Institute for Community Economics provides services to these trusts. There are over 100 community land trusts in the United States. The Burlington Community Land Trust in Burlington, Vermont, with a membership of 2400, founded in 1984, is the largest such trust in the USA.

Residents of a land trust typically own the buildings and lease the land. This reduces the cost of buying a dwelling, since one only has to pay for the building. The increase in the land value benefits the whole community rather than only the individual title holders.

Land trusts date back at least to 1891, when the Trustees of Reservations was established in Boston by nature preservationists (Poole, 1992, p. 54). A residential type of community land trust (CLT) was developed by Ralph Borsodi in the 1960s, based on the Arden/Fairhope models. Whereas Arden is controlled by its residents, land trusts are not incorporated towns, and the members and trustees include non-residents.

Ralph Borsodi founded the School of Living in 1934, which in 1936 established a residential cooperative at Bayard Lane near Suffern, close to New York City, and several others. During the 1960s, Robert Swann and others modified the organizational form to the Community Land Trust (CLT) to prevent sellouts of the trusts and broaden the boards' expertise in interests by including a majority of non-residents (Stucki and Yeatman, 1990, p. 105).

One motivation for setting up land trusts is the perception that home-ownership in the United States is becoming less affordable relative to wages, and that land trusts as charitable organizations can help to reduce the acquisition costs. The leaseholders usually own the buildings and improvements in the leaseholds, and the CLT often facilitates the financing, either holding the mortgage or selling via a land contract, i.e. by installment (Cirillo et al, 1982, p. 18).

Typically, a CLT retains a first option to buy the improvements at cost less depreciation, (cont'd on page 2)

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so that the seller does not capture the gains due to the community services or to general land-value appreciation, yet retains the equity in his own investments. The leaseholds are passed on to heirs, so that the invested equity is retained as a family legacy. These complex contractual provisions demonstrate a governance response to asset-specific real-estate investments and uncertainty by both the trustees and the lessees.

Some CLTs have begun to federate; in 1976, the School of Living expanded its function to include an alliance of land trusts and acts as a landholding company for them. Since 1985, some intentional communities in Virginia have held conferences sponsored by InterCommunities, an informal association of private communities (Ringrose and Brown, 1990, p. 132). Several organizations have been established to aid CLTs, including the School of Living, the E. F. Schumacher Society, the Institute for Community Economics, and the Land Trust Alliance.

The Shannon model: providing for mobility

Land-owning organizations have taken other forms as well. The Shannon Farm in the Virginia Blue Ridge mountains has a population of 75. Its 520 acres, held by a non-profit corporation, is not subdivided into leaseholds. Housing is built in clusters which share wells and springs, with large forested areas left uncleared. Decisions are made by consensus, with voting (requiring a 60% supermajority) an option only after two successive attempts at meetings, thus coming quite close to unanimity. The community services, including roads and utilities, are financed from dues consisting of 7% of after-tax income, which drops to 5% (with a minimum of \$42.50 per month) after 12 years of membership.

Though Shannon holds title to the structures, the value of the houses belongs to the leaseholders, who may transfer the structures to others. Shannon obtained a line of credit with a local bank, using its land as collateral, from which members can draw loans after raising their own matching funds. Property taxes on the improvements are divided according to an internal valuation rather than using the county assessments.

Due to its rural location, where the real estate market may be thin, a problem arose as to the ability to obtain the improvement value when one moved away. Shannon members developed a plan in the lease to facilitate exit. A new member can choose to have the corporation guarantee a portion of his house value, from 30% initially up to a maximum of 75% after 15 years of membership. The exiting member also pays a transfer fee proportional to the guarantee percentage. (Robinson, 1990, p. 88).

This equity guarantee also offers a way to assure mobility for non-democratic land-owning companies. The anthropologist and community theorist Spencer MacCallum (1977) drafted a model constitution under which the owner of sites pledges to reimburse tenants for the value of their fixed improvements, which follows the same principle. The

lease agreement of the Community Land Trust in the Southern Berkshires, which is offered by the E. F. Schumacher Society as a model form, gives the lessor a first option to purchase the improvements at the replacement cost less depreciation, as estimated by appraisers (Schumacher Society, 1990).

An interesting exception to democratic governance is provided by mobile home parks. The mobility of the houses makes them less site-specific and prevents the landlord from raising the rents to an exploitative level. The Shannon, Schumacher Society, and MacCallum guarantee plans offer a way for land-owning companies to assure some mobility when the structures are immobile. Just as some CLTs have call options on the improvements, a landlord can offer its leaseholders a put option, an option to sell the improvements to the landlord at a previously-set price, such as the replacement value (less depreciation) or the value estimated by an impartial appraiser.

Shannon may someday be recognized as a pioneer of the sale option, making possible the type of proprietary community envisioned by MacCallum, but which has not yet developed widely, a company which profits from the land rent it creates by producing public goods and leasing the land.

The Arden land trust

The village of Arden, Delaware, north of Wilmington, is an excellent example of a residential land trust, as it was explicitly founded in order to demonstrate the Georgist principle of using only land rent for public revenue. The following is derived from my chapter on Arden in *Public Goods and Private Communities*.

Arden is a municipality of about 500 persons. The land is owned by a trust, which leases it out to the residents in 197 leaseholds. The land rent is used for the expenses of the trust, the property taxes, and for the provision of civic goods to the community.

According to City-Data.com (2016), the median age in Arden is 55.7 years, in contrast to the median in Delaware of 39.1, perhaps indicating a greater attraction to the community. The estimated median household income in 2013 was \$60,709, a bit higher than the Delaware median of \$57,800. The median house value in 2013 was \$324,818; the Delaware median is \$226,200, which indicates that the community features generate asset value. The median property taxes paid for housing units with no mortgage in 2013 was \$2,785, .8% of property value; the tax is paid by the trust. The median gross rent is reported as \$1,045 per month, or \$12,540 per year, although Zillow.com shows a house for rent at \$1800 per month for 3 bedrooms and 2 baths.

While there are many contractual communities in the U.S., most, such as condominiums, are limited in their scope of civic goods, since they are usually part (cont'd on p. 4)

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of some municipality. Arden, in contrast, is an independent municipality. It is the only village in the United States on the National Register of Historic Places, placed there in 1973 as a successful experimental community, an example of a garden city, a direct democracy, a center of the arts, and for the preservation of a "true village feeling with a deep sense of community" (Lieberman, 1974, p. 25).

Historical background of Arden

Arden was founded in 1900 by followers of Henry George who wanted to build a model community which would demonstrate in practice George's theory of public finance. George (1890, p.1) had proposed implementing his theory of funding public goods from land rent by reforming the tax system: "We propose to abolish all taxes save one single tax levied on the value of land, irrespective of the value of the improvements in or on it." During 1895-6, some of George's followers from nearby Philadelphia had campaigned in the Delaware election to elect officials favorable to the single-tax concept. Delaware had only 40,000 voters and was nearby. They sought to have the state adopt the system, hoping that others would follow a successful model.

But the officials of Delaware resisted this "invasion," arresting over 20 of the speakers. The project backfired. Not only did the campaigners obtain only 3% of the vote in 1896, but in 1897, Delaware reacted to the campaign with a constitutional amendment preventing the legislature from enacting such a tax system (Wynn, 1965, p. 16; Wiencek, 1992, p. 128).

Two of the campaigners, Frank Stephens, a sculptor, and Will Price, an architect, then set out to found a settlement to demonstrate that a town could be operated with this system. The community trustees would implement the "single tax" by collecting the community's land rent to provide for the community's goods.

Price and Stephens bought an abandoned farm containing 162 acres for \$9000, of which \$6500 was financed by a mortgage from Joseph Fels, a Philadelphia soap manufacturer and adherent of George's ideas (Wynn, 1965, p. 21-2). The rolling hill country looked to them like the beautiful woodlands of Warwickshire, England, site of the Arden Forest in Shakespeare's *As You Like It*. Stephens and other George-adherents had used Shakespeare's plays as practice for their oratory for campaigns. They founded the town and named it "Arden" in 1900, and the community has kept alive the memory of its origins ever since. "Founders Day" in May is still celebrated as an "Arden Day" holiday, and the Shakespeare legacy been retained. Stephens built an open-air theater to present Shakespearean plays, performed by the Arden residents. The tradition is carried on by the Players Guild, and the theater, now called the Frank Stephens Memorial Theater, is still in use for weddings and memorial services. Also, in 1930 a barn in Ardentown was refashioned into a "Robin Hood Theatre" and is still used.

The original Deed of Trust of 1901 gave the three trustees (Price, Stephens, and Frank Martin, another Philadelphian) a high level of control over the community's operation and the assessment of the leaseholds. Each plot is assessed on the square footage of the leasehold. It was, though non-profit, a proprietary community. But then, to attract more residents, the Trustees altered the community's Deed of Trust in 1908, providing for assessors elected by the residents and limiting the powers of the trustees, and new leases were drawn up.

This was the beginning of a shift towards ever more democratic control over the governance, and it demonstrates the proclivity towards democratic governance common in contractual residential communities where the residents have site-specific investments, for the same reasons that citizens prefer a democracy over a dictatorship. Even though a single member has little control over the governance, the ability of a majority to overturn the leadership is regarded as a check against arbitrary power, not present under a non-elected governance. Perhaps stronger constitutional constraints against site exploitation may have reduced the desire for democracy. At any rate, the case of Arden as well as other contractual communities is consistent with this proposition: Contractual communities tend to have a democratic governance unless the assets owned by the residents is mobile, or the site-specific investment is fungible or guaranteed by the management. Entry and exit are key elements of a market process, and where the exit of one's assets is too uncertain, the exit (replacement) of the governors is a substitute, however imperfect.

Article I, Section 10, of the U.S. Constitution states that "No State shall ... pass any ... Law impairing the Obligation of Contracts..." The Trustees had entered into a contract with each leaseholder, by which terms the Trustees had the authority to set the rent, as with any landlord. But in 1935, despite the Constitutional provision, the government of Delaware impaired the contracts between the trustees and the leaseholders.

In 1934, the Assessors made a 10% reduction in rentals, and the Trustees rejected this recommendation. The dispute was brought before the Delaware Chancery Court, which determined that the Trustees must delegate their authority to the Town Meeting and elected Board of Assessors. The reasoning of the Court was that "This is a charitable trust. Courts are disposed to greater liberality in dealing with trusts of that character than with trusts of a purely private nature." Furthermore, the leases left the holders in a "state of uncertainty and insecurity and the potential victims of the arbitrary will of the trustees in the matter of future rental obligations" (Court of Chancery, 1935, pp. 18-20).

The 14th Amendment requires "the equal protection of the laws," and the language of the U.S. Constitution does not specify any different treatment for charitable trusts. Moreover, any tenant is subject to the "arbitrary will" of a landlord when a lease is renewed or if it allows the landlord to set the rent. He should know this when (continued on p. 11)

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he commits the act of signing a lease agreement. The will of a landlord may be arbitrary, but his ability to set rent is not, since too high a rent will leave him without tenants.

However, the site-specificity of the leaseholders' investments in buildings at Arden reduced their exit option and led to the lawsuit. The founders failed to recognize this principle and enact safeguards (as MacCallum (1977) does in his rules for Orbis) for the leaseholders' investments. This was a constitutional failure.

The State of Delaware by this Court ruling effectively transformed Arden from a proprietary community owned by an outside corporation, like Walt Disney World, into a democratic civic association such as a condominium, although the Trust remained as the legal holder of the land title and the collector of the rent.

In Walt Disney World, legal autonomy gave a private corporation the chance to demonstrate that the private provision of civic goods is feasible and successful. The proposition that the provision of residential civic goods requires a public sector was turned on its head with this court decision; rather than public goods requiring government, government prevented the proprietary provision of the goods.

Aside from providing safeguards for the lessee's investments, the legal right of the trustees to set the rent may have been preserved by establishing instead a for-profit corporation which would keep the rental income left after paying for the village and trust expenditures, income which could have been used to purchase more land. The establishment of a charitable trust implies having some beneficial purpose, which can be subject to different interpretations, such as benefitting the residents themselves.

Alternatively, and perhaps better for the Georgist concept of collecting the full land rent or most of it, the Arden Trust could have collected the full amount of land rent and then, after paying expenses, distributed the rent to all the members in equal amounts per leasehold. The cash payments would have provided an incentive to collect the full rent, and the concept would have been understood that those who have a greater rent would pay more because they had a plot of land with greater benefits.

Still, the concept of raising revenues through land rent remained in the Arden Deed of Trust, and this basic element of the Arden constitution has endured, a testimony to its sound principles. Arden thus remains a test case of the financing of community public goods explicitly from land rent.

Stephens attracted not only George-sympathizers from Philadelphia and Wilmington, but also other reformers and summer residents interested in an experimental colony, as well as those with conventional ideologies. The founders, also influenced by the ideas of the 19th-century artist William

Morris, envisioned a village of craftsmen and a community life filled with art, music, and theater. A craft shop was built, and artists, craftsmen, and musicians were attracted to the rural enclave within easy commute by railroad to Philadelphia.

Stephens and Price did not wish to select the people who would live in Arden on ideological or artistic criteria, since the community model was meant to apply universally. One of the entrance gates was inscribed the motto of Arden, "You are Welcome Hither." The land would be rented to anyone willing to apply for it, at equal terms for all (Wynn, 1965, p. 21). Today, few of the Arden residents are adherents of or even understand Henry George's ideas. The Arden case thus rejects the hypothesis that the model can only work if its members are ideologically committed to it.

Many of the settlers, not having to pay up-front costs for the leased land, built their own houses. Unlike many recent civic associations such as Reston, Virginia, there were no restrictions imposed on the architecture. The houses were and remain different from one another: "houses were placed randomly on their lots to give them privacy and room for gardens" (Liberman, 1974, p. 4). The predominant style is English Tudor, "but aside from that, the place is the very definition of the term 'radical diversity'" (Sayles, 1988, p. 27).

This freedom of individual house style and placement on lots provides evidence that a residential association need not include restrictive covenants on the architecture. Reinke (1975, p. 53) goes so far as to say that "Arden is known for its unkemptness; the fact that many residents cite as one of Arden's attractions the lack of pressure to keep up the lawn ... makes for a great deal of variety in appearance."

Ebenezer Howard's (1902) idea of a "garden city" influenced the design of Arden as well. Some 43% of Arden (70 acres) was set aside as greens, forest, and roads. A woodland perimeter separates Arden from the now-adjointing suburbia. The streets of Arden followed the contours of the land rather than being laid out in a straight-line grid. The Arden forests make the village land more desirable, adding to site rents, and the rental increment provides the funding for the maintenance of the forests.

In 1965 the trustees sought the incorporation of Arden as a village. In Delaware, incorporated municipalities obtain "municipal street aid" from the state. The county government was also about to change the property tax system which levied lower tax rates on incorporated municipalities that provided their own services. Hence, government again intervened, inducing the trustees to give up some of their property and authority.

As a municipal corporation, the officially named "Village of Arden" also is included in the General Revenue Sharing program of the federal government; if and when it disburses funds. Arden, however, has demonstrated the ability of a town to finance its own goods and services without any tax-paid aid. (continued on page 12)

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In 1973 the common land was transferred to the incorporated village (except for a burying ground). Municipal lands being tax-exempt, the transfer reduced the amount of taxable property without reducing rental revenues, raising the value of the leaseholds by reducing the expenses of the Trust.

Arden at first had an autonomous school district, which became racially integrated in 1952. In 1969, state law compelled Arden to give up its educational autonomy, and the village joined the Mt. Pleasant School District (Lieberman, 1974, p. 16). The "closing of the Arden School marked a significant loss for community life" (Reinke, 1975, p. 59).

The governance of Arden

The Arden Deed of Trust as amended in 1908 has continued as the legal document for the charitable trust. The three trustees fill their own vacancies subject to the approval of a majority of the residents, and they make decisions by majority vote.

The Deed of Trust specifies that the trust shall collect the rental value of the leaseholds and, after paying taxes and the expenses of the trust, apply the funds to uses which "are properly public in that they cannot be left to individuals without giving them advantages over the others."

The taxes externally imposed include Newcastle County property taxes, school taxes, and sewer bond charges. The budget is approved by a majority of the Arden residents in annual referenda (Lieberman, 1974, p. 6). The Town Assembly and its elected officials work closely with the trustees in the village's finance.

The private law of Arden also includes the Arden Lease, a 99-year contract (the longest allowable by law, but renewable) for a lot (Lieberman, 1974, p. 6). The lease document provides for the enforcement of the community rules by expulsion. The trustees could terminate a lease if the lessee cut timber without permission or kept the land "in such disorder as shall in the opinion of the Majority of the Town Meeting be injurious to the Rights of others" (Huntington, 1929, p. 137).

Arden has held town meetings since its founding, but the early meetings did not have any legal powers. Since incorporation, the town meeting, the only one in Delaware, is the legally constituted legislature of the Village of Delaware, and its committees constitute the executive branch of government. Residents at least 18 years of age who have resided at Arden for the six months preceding the Assembly may vote; leaseholders who are not also residents may not vote at the Town Assembly. About 75 leaseholds are rented to tenants. The Town Assembly has adopted only 15 ordinances, regarding subjects such as speed limits, the use of the commons, noise, firearms, dogs, and roads (Village of Arden, 2016b).

Ordinance 15 (adopted 2012) states: "Vacant Dwelling Registration -- Dwellings vacant over a year must be registered with the village and pay a registration fee."

Regular town meetings are held quarterly, and special meetings may also be called. A quorum consists of 35 residents. At the January meeting, candidates are nominated for the committees. There is also an Advisory Committee made up of the chairs of the standing committees, the town officers, senior trustee, and the chair of the Board of Assessors. Elections for the committees are held at the March meeting, and residents may nominate themselves.

The Archives Committee, formed in 1988, preserves the history of the village and is working to create a museum. The Auditing Committee examines the accounts of the Trustees and of the Arden funds. The Budget Committee proposes an annual budget, presented to the September Town Assembly and then submitted to a village referendum. The budget cannot be adopted unless it receives the approval of a majority of all residents, and not just those voting. A resident who does not vote effectively votes against the budget.

The Civic Committee is the equivalent of a department of public works and is responsible for the services normally associated with municipalities. It supervises the streets, drainage facilities, snow removal, mowing the greens, the upkeep of the woods, and other supervision of the common land.

The Community Planning Committee is concerned with landscaping and trees, and administers the Memorial Garden, Arden's private cemetery. Arden residents are eligible for burial in the garden, with no required maintenance charges. The committee also produced The Arden Book, with Lieberman (1974, 1992) as principal author.

The Legislative Reference Committee is responsible for codifying the governing documents of the village. Its members also act as parliamentarians at the town meetings.

The Playground Committee oversees the equipment on the Arden Green and Sherwood Green. They also spread mulch and contract for painting and repairs, as well as recommend the purchase of new playground equipment.

The Registration Committee includes the chairman of the trustees and the Town Assembly Secretary. It conducts the elections and annual budget referendum, and counts the ballots for the assessors.

The election for the Board of Assessors, of seven persons, uses the Hare system of proportional representation, a complex method that places the votes in piles according to the successive #1 choices on each ballot (Lieberman, 1974, p. 12). Arden is evidently the first U.S. community to elect officials by proportional representation. (continued on page 13)

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The Safety Committee is delegated by the Town Assembly with responsibility to act as a police force. The Arden Safety Code was enacted in 1967. The committee is in contact with the county police and has the authority to take emergency action. In 1973, the committee members were empowered as constables, although it does not handle complaints dealt with by the county.

When the Trustees of Arden deeded the Village Center building to the Village of Arden, the Town Assembly made the Buzz Ware Village Center Committee responsible for the supervision of the building. It is expected to encourage and initiate cultural, recreational, and civic activities at the center.

The officers of the Town Assembly include the Advisory Committee chair, a Town chairperson (who acts as a mayor), a secretary, and a treasurer, the latter three elected at the March meeting. The secretary and treasurer, part time positions, are the only paid officers of the village. The volunteer nature of committee members evidently involves a high degree of benevolent sympathy as social glue.

The 1908 Deed of Trust requires that the leases collect the "full rental value," a stipulation repeated in the lease agreements. In practice, the full economic rent of the leaseholds has not been collected. "The Assessors forecast the anticipated town expenses for the year and set the tax at the minimum rate that will meet expenses" (Wynn, 1965, p. 51-52). The intention of the founders to charge the full rental value or economic rent was most likely futile, even if the Court had not intervened, unless the surplus rent was returned to the members in equal portions.

If the majority of the residents obtained greater utility from buying personal rather than communal goods from the rent funds beyond a certain amount, then it would be optimal (from their point of view) to distribute these excess funds as dividends to the population. This stream of private income would become capitalized as leasehold values. If the rent is not distributed, the most likely outcome of a democratic decision-making process would be the collection only of that amount of rent which at the margin provides the desired amount of public goods. This outcome is the actual practice at Arden.

Henry George himself recognized that the full economic rent of sites cannot be fairly collected and spent on a small scale (Stewart, 1970, p. 11, citing Young, 1916). George also wrote that a person who only wishes to collect whatever percentage of land rent suffices for the "necessary" expenses of government is as good a single-tax man as one who wished to take it all, since the former would still favor one single charge on land values. "If that does not constitute a single tax, what does?" (Alyea, 1956, p. 109, citing *The Standard*, August 17, 1889). George called this view, which had been advocated by Thomas Shearman, "the single tax limited" (p. 108).

The 1991 report of the Board of Assessors notes that

a former trustee had stated that one yard stick for determining rental value is the "community standard of living" (this and some other statements of principles have been repeated year after year in the Assessors' reports). The report states an agreement by the Board that "our land value is a creation of the community" (Board of Assessors, 1991 p. 1). The 1989 report adds that the Boards have repeatedly stated that "the community of Arden must be free to determine its standard of living and that the Assessors must neither limit nor inflate expenditures. The community must determine its own standard of living in the annual budget referendum."

The rent is calculated at a base rate per 1000 square feet of land, with proportional increases (called "factors separately appraised") for lots facing the greens or bordering on woodlands or commons. There is also a "lot size adjustment rate," since it is recognized that the larger lots have a lower value per square foot than the smaller ones. A "multiple dwelling rate" is added to account for the value added to leaseholds permitted (with or without a zoning variance) the "privilege" of more than one dwelling unit (with a kitchen). A commercial rate is applied to leaseholds with a "commercial" use, which applies to only one lot (Board of Assessors, 1989, p. 2). The assessment system is attributed to W. A. Somers, who believed that the factors add value to all the lots in a uniform way (Wynn, 1965, p. 30).

Assessors study the sale prices of real estate in and near Arden and take into account rates of return on capital. Two assessment techniques used are the comparative and the residual methods (Wynn, 1965, p. 41). The comparative method compares properties with bench-mark lots of similar characteristics, using past sales to obtain the data. The residual or abstractive method is useful if bench-mark sales of land are not available; the value of the improvements is estimated from its replacement value less depreciation. The Assessors have relied on local realtors and appraisers, who, according to Wynn (p. 45) are interested in the Arden experiment and provide their services at no cost to Arden.

The separation of the site and improvement values is sometimes put forth as a problem of collecting site rents, making it impossible or impractical. The practice at Arden refutes this proposition. Of course, it is impossible to calculate the exact economic rent, but it suffices in practice to get a reasonably close approximation, tests of success being the number of complaints generated or the longevity of the practice. Facts do not create theory, but they do imply possibility. The fact the system has been in effect in Arden for nearly one century rejects the argument that the method is theoretically not feasible.

One test of the efficacy of the public-goods provision at Arden is its land values relative to neighboring areas. As noted above, real estate in Arden has a higher market value than similar surrounding properties. This implies that the economic rent generated by the public goods exceeds the cost, with the premium retained by the (continued on page 14)

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leaseholders. It has been recognized in the minutes of the Board of Assessors that some of the value is due to a "community value factor," i.e. the community's artistic and social activities (Wynn, 1965, p. 49), which implies that the volunteer efforts generate land value in addition to the goods funded by the rent.

Clubs at Arden

The civic goods provided through the village budget form only part of the services enjoyed by Arden residents. Many of the cultural and recreational services are provided by volunteers.

In 1974, the Village Center committee was created by the Town Assembly to oversee its use as a community center. It is used by the Arden Community Recreational Association (ACRA) and other groups. ACRA, founded in 1948, is a voluntary group sponsoring free recreational and educational programs, financed by residents' contributions solicited at an annual fund-raising drive. Among the ACRA activities are holiday celebrations for the community.

The Arden Club is an important private corporation in the village. It owns the Gild Hall, built in 1900. Membership is open to residents, who pay annual dues (non-residents may be nominated for membership). Club members may use the swimming pool upon purchase of a bond. Branches of the club, called gilds, serve various interests, including the operation of a library in Gild Hall staffed by volunteers. Formerly private, the library is now part of the county system, though housed in the private Gild Hall. The Arden Club also sponsors an annual Arden Fair, which raises funds for the club. Ardenites no longer residing in the village come to the fair for an annual reunion.

Another club at Arden is the Merry-Go-Rounders, which began as a sewing circle and then became a service group, visiting patients in hospitals, awarding a scholarship, and planting flowers in the commons. Also serving to create community sympathy are traditions such as the Saturday-night Gild Hall dinner, where a different family cooks food for 100 persons who pay \$5 each for the communal meal. As one participant states, "this creates community" (Sayles, 1988, p. 29).

Among the Gilds that operated in the early days was "The Scholar's Gild, Frank Stephens, Gildmaster, which has study groups, classes in economics and Esperanto, and arranges meetings for speakers on live social questions from time to time" (Huntington, 1929, p. 111).

The Arden Building and Loan Association has also served as an important enterprise, formed to finance construction at Arden. In the early days, the banking law classified Arden buildings as personal rather than real property, and banks would not provide mortgage loans on leased land. The Arden B&L was formed in 1917 to provide con-

struction loans and still operates.

Another financial institution, organized in 1911, was the Raiffeisen Gild, a credit union, so named because it followed the plan originated in the mid 1800s by Burgo-meister Raiffeisen of the village of Hedesdorf, Germany. Security for loans was not collateral, but the character of the borrower. Such a practice requires a membership that knows one another; the members were fellow "Ardenfolk" known to "keep their promises and pay their debts" (Huntington, 1922, p. 60). Further security was obtained by requiring the signatures of two neighbors as sureties. Loans were mainly for construction of buildings and starting small enterprises, hence for investment rather than consumption. Despite not paying dividends, the credit union had \$15,708 in shares in 1922 and had extended \$40,000 in loans during its first decade (pp. 61, 77). As of 1929, it had no defaults or losses. When Ardentown was founded in 1922 next to Arden, a Raiffeisen Gild Two was started there (Huntington, 1929, p. 275).

Both these institutions demonstrate the feasibility of mutual credit for the development of a community, when the conditions are suitable. As with many other civic services, the issue is not whether market or volunteer effort can provide them, but under what circumstances.

These gilds and institutions are listed in detail to demonstrate the sense of community and Smithian sympathy for the community that has existed in Arden, where the fraternal tradition has overcome free riding. This social and benevolent provision of public goods such as mutual financial, social, and cultural services provide evidence sympathetic provision of non-excludable goods. Urban and suburban life is often noted for the detachment of households from one another, whereas Arden demonstrates how a small community can maintain relationships in a shared space and governance that has a high degree of local autonomy.

Contractual, decentralized collective goods

As Wynn (1965, p. 62) states, Arden demonstrates that such a community "can exist side by side with communities whose tax is levied primarily against improvements." In the context of the United States or even Delaware, Arden constitutes a decentralized provision of public goods. Residents of Arden still consider the village to be an intentional community, and it is so recognized by the 1990/91 directory, *Intentional Communities* (p. 170), which states that its "core ideals have remained in effect over the years."

Arden, as a prime example of a land trust, demonstrates that 1) the civic goods produced by Arden are territorial, their benefit being confined mostly to the village residents; 2) the civic goods do increase the site values and rents (relative to the lack of provision with the same rent); 3) the fact that the leaseholders are willing to move in and pay the rents reveals the demand of at least a majority of the residents for the civic goods; 4) free riders are avoided by the need to pay rent for a site, and although free riding on volunteer effort of others is possible, (cont'd on page 15)

ARDEN AND OTHER LAND TRUSTS (from page 14)

much volunteer work takes place nevertheless; 5) the provision of the goods at Arden does not require the support of higher-level governments; indeed, more local goods, such as education, were provided when the interventions did not prevent it; and 6) the fact that Arden has assessed a site rent apart from the value of the structures for one century, using Somers system of evaluation, and that there has been no agitation to change it, demonstrates that it can be done with no greater apparent difficulty than the usual property tax assessments.

Other land-rent enclaves

Arden has been reproduced twice in neighboring communities. In 1922, a committee headed by Frank Stephens founded a new Arden-type community, Ardentown, using funds lent by Fiske Warren, a friend of Stephens. It contains 110 acres, with a layout similar to Arden, including a woodland owned by the trustees. In 1975, Ardentown became incorporated, with a town-meeting governance like Arden.

A third community based on the Arden model, Ardencroft, was begun in 1950, bordering on Arden and Ardentown. It was founded by Donald Stephens, son of Frank Stephens, and attorney Phillip Cohen. With 63 acres, Ardencroft is intentionally racially integrated, and efforts to attract African-Americans have succeeded. Ardencroft is organized as a corporation rather than as a charitable trust; its three directors serve for life, and vacancies are filled by the remaining directors. One of the original directors was Henry George III, grandson of the namesake. Ardencroft also became incorporated during the 1970s (Lieberman, 1974, p. 29; Liberman and Liberman, 1992, p. 11).

Followers of Henry George also founded several other communities. Free Acres in New Jersey (Berkeley Heights township) was begun in 1910, and others in the U.S.A. continued to be founded during the 1920s and 1930s (Geiger, 1933).

The largest experiment was Fairhope in Baldwin County, Alabama, begun in 1895. The population is 15,000. The Fairhope Single Tax Corporation (FSTC), a non-profit organization, owns 20% of the land in the town of Fairhope, which was incorporated in 1908, and it also owns land outside the town. (Due to this mixed nature, Arden provides a clearer case study for an entire community.) Besides paying the property taxes on its own land, the Corporation allows a credit against rental payments for taxes paid by the leaseholders on their improvements (as well as crediting the poll tax), thus simulating the land-rent-only funding of public goods. Like Arden, the FSTC uses the Somers method of assessment (Huntington, 1922, p. 12).

The community built parks, streets, waterfront facilities, bath houses, a sewage disposal system, schools, a library, and other public goods, all financed by the rents. The original constitution of the organization also authorized the issuance of script, receivable in payment of rent, and the script (in effect non-interest-bearing credit) helped finance the settlement in the early years (p. 73). During the 1930s,

after Alabama increased its assessments, the FSTC gave several parks to the town to avoid paying taxes on them (p. 212).

The FSTC as a private governing agent invites a comparison with city governance with respect to "rent keeping" as a type of rent seeking, i.e. the keeping of some of the land rent by the corporate officers and staff. Alyea (1956, p. 239) reports that "Throughout its history the single tax corporation has leaned backward with respect to salaries in order to avoid any charge of self-interest being levied against its leaders."

Aside from its longevity and the ample public goods provided, Fairhope offers a further test of the land-rent financing of public goods: the growth of the town relative to nearby areas. From 1920 to 1960, Fairhope had an annual population growth rate of 4.8%, exceeding the Alabama rate of .8%, the Baldwin County rate of 2.2%, and the town of Daphne (3.1%), which is located on Mobile Bay a few miles north. The city of Mobile grew at a 3.1% rate and the county seat, Bay Minette, at a 4.0% rate. This growth occurred despite the errors made by the founders; according to Alyea (1956, p. 37), the founders purchasing too little bay frontage and the contiguous land holdings were too small, reducing the enclave's potential success. Hence, a hypotheses that land-rent funding by a corporate land ownership hampers the growth of a community is rejected by this evidence. Moreover, the 20% of the city land owned by the FSTC constitutes about 50% of the city land value (Stewart, 1970, p. 13), consistent with the theoretical expectation that the absence of a tax on the improvements encourages a more intense use of the land relative to the sites so taxed.

However, the policy changed. "Today people leasing land from the Single Tax Corporation, and pay rent that includes their state and local property tax on land and buildings, a "demonstration fee" for community improvements that is based just on the value of the land, and an administrative fee for the administrative costs" (Fairhope Single Tax Corporation, 2016).

(GroundSwell does not have space for references but they are available from Dr. Fred Foldvary, whose email is fffoldvary@gmail.com. Fred Foldvary is a lecturer in economics at San Jose State University CA, and research fellow at Santa Clara University and other colleges. He is the author of *Public Goods and Private Communities* and *The Soul of Liberty*.) <<

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