

# Hybrid Vigor

An Analysis of Land Tenure Arrangements  
in Addressing Land Security for Urban Community Gardens

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## Abstract

Urban community gardens (UCGs) are receiving greater attention as an ever-growing body of research documents the economic, environmental and social benefits that community gardens are bringing to urban neighborhoods. However, land insecurity remains one of the critical barriers to the future success of UCGs; loss of land to both private and public entities has frustrated many efforts and has stimulated investigations into alternative strategies for increasing land security. This thesis explores the diversity of land tenure solutions – with a particular respect to land trusts - that have been implemented to address this issue. Land security is objectively defined by legal property rights and subjectively shaped through the notion of ‘ownership in use’ and by encouraging the formation of mobilized communities. We analyze the variety of organizational modes – differentiated by tenurial arrangement, organizational capacity, political leverage and organizational mission/ internal governance relations – and the resulting impacts on the type and level of land security. Data was collected through transcribed interviews with practitioners from sixteen land trust organizations engaged in urban community gardening and summarized along emergent themes regarding organizational modes and resulting land security implications. We find that major tradeoffs exist between maximizing land tenure security and operating a larger number of UCG sites under less secure tenure arrangements. It concludes that underutilized opportunities exist to increase UCG land security through an increased public sector role and broader cross-sectoral partnerships.

**Keywords:** urban community gardens, land trusts, land security, land tenure

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## List of Acronyms & Abbreviations

CDCG	Capital District Community Gardens
CLT	Community Land Trust
GGB	Grassroot Gardens of Buffalo
GP	Growing Power
LANLT	Los Angeles Neighborhood Land Trust
MACLT	Madison Area Community Land Trust
NS	Neighborspace
NSB	NeighborSpace Baltimore
NGA	Neighborhood Gardens Association/ A Philadelphia Land Trust
OSALT	Oregon Sustainable Agricultural Land Trust
P-Patch	P-Patch Land Trust
SELROPLT	South End Lower Roxbury Open Space Land Trust
UCG	Urban Community Garden

*“Once we begin to speak of people mixing their labor with the earth,  
we are in a whole world of new relations between people and nature...”*

*- Raymond Williams*

*“Land security has always been and always will be the most pressing issue”*

*- Interview, Growing Power*

## **1. Introduction**

Despite the generally lukewarm stance of the traditional planning apparatus, urban agricultural production has always taken place in cities, sometimes hidden and sometimes explicit (Redwood, 2009). But in a rapidly urbanizing world (and in a predominantly urban nation), it is a critical challenge for the planning profession to develop sustainable food systems to support these urban agglomerations. We are now in an era where urban food production is increasingly seen as a legitimate planning and policy issue that intersects with a host of more conventional arenas such as public health, open-space systems, community development and environmental planning. In particular, urban community gardens are receiving greater attention as an ever-growing body of research documents the economic, environmental and social benefits that community gardens are bringing to urban neighborhoods. However, land insecurity remains one of the critical barriers to the future success of urban community gardens; loss of land to both private and public entities has frustrated many efforts and stimulated investigations into alternative strategies for securing community garden lands. The community garden literature has frequently cited the potential of land trust

organizations in addressing land tenure insecurity (ACGA, 1998a; Brown et al., 2002; Kaufman and Bailkey, 2000). Given this emphasis, we seek to understand how such land trust/community garden arrangements are manifesting on the ground.

This study describes the diversity of mechanisms that land trust organizations have utilized to access urban land for community gardens and the relative success of these strategies in improving land security. An argument is made that urban community gardens should be seen as essential public infrastructure and deserving of substantial public support. To date there have been a handful of individual case studies on specific land trusts arrangements involving urban community gardens. This study fills a gap in the existing literature by taking a broader look at the multitude of institutional arrangements in this context. Data was collected through transcribed interviews with practitioners from sixteen land trust organizations engaged in urban community gardening and summarized along emergent themes regarding organizational modes and resulting land security implications.

### **1.1 Defining Urban Community Gardens**

The urban community garden (UCG) is a familiar concept at face value but has multiple layers of meaning and cultural attachments that require more precise explanation (Kurtz, 2001). Urban agriculture is a broad umbrella term - defined as all productive cultivation in and around cities<sup>1</sup> - with the UCG being one particular form (Von Hassel, 2002). The American Community Gardening Association (ACGA) defines community gardens expansively as “any piece of land gardened by a group of people” (2012a). However, since the 1970s, UGCs have become strongly associated with one particular manifestation – the neighborhood garden with subdivided plots for individual household use (Brown et al., 2002).

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<sup>1</sup> For a more robust definition of urban agriculture see Mougeot, 2000.

Further clarity is needed to define the meaning of urban, community and garden. 'Urban' refers to the spatial context of productive cultivation that happens in urban, suburban and periurban areas, frequently occurring on vacant or abandoned city-owned parcels. 'Urban' does not refer exclusively to the context of large cities but widely applies to all community garden sites in relatively dense locations. There is no bright line that distinguishes urban from rural, but we exclude from our scope farmland and large-scale agricultural programs that are typical of rural settings. Rural farmland preservation is a considerably different endeavor that deals with a unique set of visions, goals and challenges and a larger scale of intervention (Springer, 2006).

'Community' represents the interface where private and public lives meet (Von Hassell, 2002). Community gardens are distinguished from broader urban agriculture by the degree of social orientation and opportunities for community engagement and activism. 'Community' means the scale of engagement extends significantly beyond the sphere of the immediate household or firm. We are not concerned with urban agricultural production that is purely private in nature (private backyard gardens and orchards, terrace gardens, private commercial farms, etc.) as such operations are less likely to substantially affect the public health, food security and social capital of individuals beyond the immediate sphere of production<sup>2</sup>. Small-scale commercial agricultural production – for sale to third parties rather than household consumption - can be found in many community gardens but is typically a secondary aim if present at all. Such commercial operations are often prohibited by official UCG rules, though many are tolerated on a "don't ask, don't tell" basis (Interview, MACLT). Kurtz (2001) finds that 'community' simultaneously holds multiple and differentiated meanings that refer to a variety of physical and psychological relations. In short, the 'community' aspect of

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<sup>2</sup> We do not discount the importance of privately-oriented urban agricultural production, but recognize key differences in social orientation that warrant exclusion from this study.



community gardens extends beyond mere food production and engages with a nested multitude of larger social realms (Von Hassell, 2002).

Finally, the idea of the 'garden' grounds the concept of the UCG back in nature, suggesting that certain characteristics of agricultural production make community gardens unique from other forms of public spaces. UCGs always have a strong food production component but some have been programmed to include other uses such as flower gardens, playgrounds and sitting areas. What makes the garden unique is access to physical land as 'nature'. This is frequently invoked as serving as a 'foil to the city' and ameliorative of crowded urban conditions (Lawson, 2005). Further, gardens can be representative of a spiritual connectedness to land (Brueggeman, 2002), the cultural and historical meanings embodied in seeds (Shiva, 2000) and even the mythical American heritage of the Jeffersonian yeoman farmer (Bassett, 1981). Community gardens can also serve as a strategic neighborhood development tool as gardens offer quick and highly visible impacts with relatively inexpensive inputs (Lawson, 2005). To sum, UCGs are a unique type of urban open space that deserves greater acknowledgement in the planning realm, as some cities are finally doing by recognizing UCGs in planning documents (Policylink, 2011).

## **1.2 Benefits of Urban Community Gardens**

In the United States, there is a long and episodic history of UCGs in the planning discourse dating back to the 1890s with at least seven distinct gardening 'movements' including: Potato Patches (1894-1917), School Gardens (1900-1920), Garden City Plots (1905-1920), Liberty Gardens (1917-1920), Relief Gardens (1930-1939), Victory Gardens (1941-1945) and Community Gardens (1970-Present) (Bassett, 1979). The reoccurring popularity of the UCG is a testament to its flexibility, each time responding to particular economic and social crisis, and tailoring itself to the ideology of the times. The justifications for such programs are surprisingly consistent – access to nature, education, and self-help in the production of food for personal use – though particularities are

unique to different eras and social contexts (Lawson, 2005). In recent decades, the rise of the community development, environmental and food security movements has again increased the prominence and popularity of UCGs (Von Hassell, 2002; Hodgson, Campbell & Bailkey, 2011). The American Community Gardening Association estimates that there are currently over 18,000 (urban and rural) community gardens in the United States and Canada (ACGA, 2012b).

Studies have documented the many environmental, economic and social benefits that UCGs afford to communities. Commonly cited environmental benefits includes brownfield remediation, ecological restoration, creation of open space, improving air quality, and decreasing food miles with resulting reduction of transportation externalities (Irvine, Johnson & Peters, 1999; Mendes et al., 2008; Mougeot, 2006; Rosol, 2006; Smit, Ratta, & Nasr, 1996).

Others have also linked UCGs with economic returns such as increases in local property values. In one study, community gardens increased property values by an average of 9.4 percentage points and increased government tax revenues by a half million dollars per garden over 20 years (Voicu & Been, 2001). On the flip side, such capitalization of local amenities into property values also reduces housing affordability and can accelerate gentrification processes (Linn, 1999). Local governments can also benefit from reduced expenditures as UCG operations tend to have much lower maintenance costs than parks and formal open spaces, especially when private groups (such as land trusts and local block groups) assume responsibility for garden maintenance and capital improvements (Pothukuchi and Bickes, 2001). However, the justice behind such devolution of state responsibility is an ongoing source of tension.

Scholars also cite the numerous social benefits of UCGs including improved nutrition, heightened food security, better mental health, increased physical activity and cultural expression, and opportunities for education and job skills training (Brown and Jameton, 2000; Bellows, Brown, Smit, 2004; Lawson, 2004; Wakefield et al., 2007). Others

have noted the importance of UCGs in nurturing community organizing efforts (Von Hassell, 2002; Lawson, 2005; Rosenberg, 2010) and as sites of democracy for a ‘Habermasian’ public sphere (Stahaeli et al., 2002; Pudup, 2008; Kurtz, 2001).

Given these wide-ranging benefits, the UCG has enjoyed a renaissance as a social movement and is making strong headway into public policy discourse (Von Hassell, 2002; Hodgson et al., 2011; Policylink, 2011). Numerous municipalities like Chicago, New York, Seattle, San Francisco, Detroit and Cleveland have enacted innovative UCG policies tailored to address local issues (Policylink, 2011).

While the literature is generally optimistic about the potential of the UCG, it is not without its problems. Macias (2008) cautions that some forms of UCG programs can allocate benefits unevenly across class structures. There are also problems with top-down UCG organizations that lack accountability and engagement with garden-level users and surrounding neighborhood residents (Eizenberg, 2012). Finally, there are ongoing concerns over environmental safety (especially contaminated soils) and conflicts over competing land use such as affordable housing (Schmelzkopf, 1995; 2002; Stahaeli et al., 2002; Von Hassell, 2002).

### **1.3 Challenges Facing Urban Community Gardens**

Despite the benefits, UCGs face many challenges, including a lack of participant interest and agricultural knowledge, high start-up costs, prohibitive public policies and insecure land tenure (Brown et al., 2002). In particular, land security is almost always cited as the greatest barrier to UCG implementation and longevity (Von Hassel, 2002; Kaufman and Bailkey, 2000; Lawson, 2004; Wakefield et al., 2007) and even the “crux of the future success of urban community gardens” (ACGA, 1998:5). According to the most recent national survey, 99.9% of 6,020 community gardens viewed site permanency as an issue (ACGA, 1998).

This study defines 'land security' in two ways. In common parlance, it refers to the objective right to occupy and use physical property. This type of security is objective in that it is embedded in the legal structure and relation to land itself and not premised on the subjective awareness of garden users (Davis, 1991). Put another way, this security is based on legal entitlements to the use of land through formal property rights (Stahaeli et al., 2002). But land security needs to extend beyond the objective realm to include the subjective meaning of UCG spaces and its potential for engendering community formation and mobilization around collective interests.

A mobilized (and subjectively conscious) garden constituency has a greater ability to ensure secure land tenure over a longer period of time through collective action. One interviewee observes, "the best protection for a community garden is for people to actually garden there... if it is actively used, and being maintained, it's hard to change the use" (Interview, MACLT). This aspect of land security does not stem from legal ownership derived from the liberal-democratic tradition of private property rights but from a broader claim to communal 'ownership in use' based on moral grounds (Stahaeli et al., 2002). 'Ownership in use' refers to 'feelings of possession in the absence of any formal or legal claim of ownership' (Mayhew et al., 2007:477). This is not an individual but a collective rights claim made by marginalized groups in asserting autonomy and control over the production of public spaces in a way that suits their distinctive needs<sup>3</sup> (Stahaeli et al., 2002). The long history of community garden 'squatters' movements, such as the Green Guerillas in New York City, is indicative of this subjectively based claim. However, a distinction needs to be made between land tenure security for a land trust organization and land tenure security for individual garden-level users. The individual gardener's right to farm a plot year after year is not necessarily ensured by the tenurial arrangements described in this study, but also

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<sup>3</sup> This concept of spatial appropriation and reproduction along accommodative lines has a clear connection with the deep literature surrounding The Right to The City movement. See Lefebvre 1996; Attoh, 2011; Purcell, 2002; Marcuse, 2009.

depends on the internal governance relations between a land trust organization and garden-level users, and the specific contractual stipulations contained in the garden-plot lease. To summarize, land security is not synonymous with holding title; short of owning the land, there are multiple formal and informal mechanisms that can achieve different relative levels of security for those who want to use land for community gardening.

Lawson (2004) describes the historical trajectory of the UCG in the United States and finds that even in its early stages, community gardens were considered temporary uses of vacant and marginalized land that were never intended to be permanent operations. This stems from an inaccurate conceptualization of the UCG as a temporary, stopgap measure, which is inconsistent with the intent of most garden participants (Lawson, 2004). This condition is symptomatic of the 'ambivalent' relationship between the planning profession and the UCG field (Lawson, 2004). Attempts to increase land security through private ownership have been frustrated by limited operational budgets and resulting lack of organizational capacity (Lawson, 2005). Many UCG organizations receive little or no public support and rely largely on volunteer-based staffing. Only 5.3% of community gardens are held in some form of private ownership; the other 94.7% of community gardens are either (1) publically owned and operated, (2) operated on public or private lands through use-agreements, or (3) operated on public or private land without a use agreement (i.e. squatting) (ACGA, 1998).

One problem is the UCG's simultaneous role as a public resource and private investment, which complicates the concept of 'public goods' and the resulting course of planning actions (Schmelzkopf, 1995). Further, planners often view the UCG as a novelty rather than a legitimate land use and worthwhile social activity (Bailkey, 2004). Such planning orthodoxies limit the potential for more nuanced understandings of the urban open spaces, and planners need to recognize a greater typology of community

spaces beyond mere 'parks'<sup>4</sup> (Bailkey, 2004). More broadly, many have called into the question the general lack of planning interventions on food policy issues (Hodgson et al., 2011; Pothukuchi and Kaufman, 2000; Mendes, 2006; Mougeot, 2006).

#### **1.4 Roots of Land Insecurity**

Fundamentally, the challenge of UCG land security is an expression of the inherent tension between different property interests. Property is largely allocated through the 'hidden hand' of the market that maximizes exchange-values to ensure the 'highest and best' use of a given parcel. Tension occurs when use-values are incommensurate with market exchange valuations; thus property markets have inherent tensions at their core (Kaufman and Bailkey, 2000; Schmelzkopf, 2002; Harvey, 1973). There is a fundamental contradiction between those whose interests in property are primarily driven by exchange-value and those whose interests lie in use-values, creating an objective basis from which land use conflict can potentially arise<sup>5</sup> (Davis, 1991).

While UCGs hold values in both use and exchange for multiple and differentiated actors, they should be understood primarily as spaces of use-values that serve the accommodative needs of users (Schmelzkopf, 2002). These use-values often conflict with the exchange valuations of the market logic. Even the limited roles that UCGs serve in bolstering exchange-values are tenuous and lead to insecure futures. For example, Bassett (1979) contends that the 'primary function' of UCGs in American history has been as a buffering mechanism and helps support the cultural system during times of social and economic crisis. Thus, UCGs have gained popularity during periods

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<sup>4</sup> There are notable exceptions of cities that have taken innovative approaches to community gardens such as Detroit, Seattle and San Francisco.

<sup>5</sup> These conflictual interests can become the basis for collective action, but it is far from guaranteed. Davis (1991) notes the numerous social, political, and technical conditions that permit individuals with land-based interests to coalesce into politically active groups. Smith and Kurtz (2003) also emphasize the role of scale in facilitating collective mobilization.

of stress, only to wane in the years that follow, when such 'adjustive institutions' are no longer needed to legitimize the politico-economic institutional system (Bassett, 1979).

Similarly, others have suggested that municipal interest in UCGs is primarily financial, such as bolstering neighborhood property values (Fox et al., 1995; Landman, 1993). In this case, too, UCGs are only valuable so long as they maximize territorial property values. If other land uses can propel land values higher, then a UCG no longer serves an exchange-value function and will be replaced. Supporting this claim, Fox et al. (1995) note that many municipalities believe that land is simply too valuable to be held in long-term UCG production, a fact corroborated by an ACGA survey (1998) that found 20% of terminated UCGs were closed due to loss of land to public agencies. Thus, in addressing the challenge of land security (and the inherent tensions in the property market), exchange valuations alone are clearly insufficient. The UCG literature has focused on the need for alternative tenure strategies for securing UCG land based on accommodative use values (ACGA, 1998a; Brown et al., 2002; Kaufman and Bailkey, 2000).

### **1.5 Land Trusts**

Land Trusts are one such alternative form of tenure being implemented to improve UCG land security. A land trust is a legally recognized, non-profit organization that actively works to conserve land opportunities by holding some form of property right and by providing stewardship activities (Land Trust Alliance, 2011). Property rights can be secured through a number of arrangements such as holding fee-simple title, conservation easements and executing use agreements. The 'stewardship activities' are wide-ranging and include monitoring, management and enforcement of land regulations (Land Trust Alliance, 2011). The concept of a land 'trust' also has a deeper moral meaning. Land - being simply the inherited surface of the earth - is a 'fictitious commodity' (Polanyi, 2001) and a 'natural monopoly' (George, 1975) that cannot be

treated as other private property, but needs to be held in 'trusteeship' for future generations (Swann, 2010).

Land trusts have come under recent scrutiny as scholars debate the proper role of the 'third sector' (i.e. private, non-profits and voluntary institutions) vis-à-vis the state. The outsourcing of public responsibility to third sector organizations has been criticized as emblematic of 'roll-back neoliberalism' (Peck and Tickell, 2002; Pudup, 2008; Rosol, 2010). According to one study, a public park is 20 times more costly to develop, and 27 times more costly to maintain, while receiving only ¼ of the use of a community garden (Francis, 1987). However, this dramatic cost differential largely stems from uncompensated and unaccounted voluntary community labor, sometimes up to 80% of the total garden expense (Schmelzkopf, 1995). Others note that the private production of garden spaces may conflict with the very concept of public spaces as sites of appropriation and spatial reproduction (Stahaeli et al., 2002; Katz, 1998; Eizenberg, 2012; Pudup, 2008). Scholars have used the term 'privately public' (Mulder, 2003) and 'governance-beyond-the-state' (Rosol, 2010; Swyngedouw, 2005) to describe this ambiguous territory. Others have criticized community gardens as both a product, and a producer, of neoliberal ideology evidenced in its rhetoric of personal responsibility, efficiency, choice, consumerism, and competition (Lawson, 2005).

There are always tradeoffs between the role of land trusts and the state. Land trusts can be advantageous in their focus, flexibility, and ability to deliver long-term conservation and affordability (Campbell and Salus, 2003). However, Jacobs (2000) argues that land trusts should serve as a supplement to standard land-use regulations within a clear public sector planning framework that incorporates public input<sup>6</sup>.

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<sup>6</sup> While land trusts differ in their organizational structures, many do offer significant avenues for public input. For example, the 'classic' Community Land Trust model includes a tripartite governance structure with a board of directors comprised of one-third resident and leaseholder representatives, one-third surrounding community representatives, and one-third public officials and non-profit representatives (Davis, 2010a).



There are generally two types of land trusts. Conservation land trusts are often involved in preserving large swaths of rural land with more of a focus on the land itself, while community land trusts (CLTs) typically deal with urban issues and communities (Springer, 2006)<sup>7</sup>. The distinction between the two can become blurred as organizations take on multiple missions and various partnerships are formed. This study is interested in the potential of land trusts in relation to UCGs, so both types – conservation and community – will be examined. We will briefly look beyond legally defined land trusts to investigate similar non-profit organizations with tenurial arrangements that are functionally similar to those of UCG land trusts.

The bright line that functionally (though not legally) defines a land trust from other non-profits is often blurred when it comes to UCGs. The land trust literature is generally divided into two sub-literatures; the conservation land trust literature focuses on rural agricultural conservation through title acquisition and conservation easements (Merenlender et al., 2004), while the community land trust literature tends to focus on issues of urban affordable housing (Davis, 2006; Greenstein & Sungu-Eryilmaz, 2005; Curtin & Bocarsly, 2010; Thaden, 2011). However, despite the current emphasis on housing production, the community land trust model actually originated with agricultural issues in 1960s rural Georgia, with earlier agricultural influences such as the kibbutzim in Israel, the Gramdan villages in India, and the Garden Cities of Ebenezer Howard (Davis, 2010a; Shepard, 2010).

Within the land trust literature a twin movement has been occurring. Conservation land trusts are expanding their emphasis to tackle more urban issues (Campbell and Salus, 2003), while community land trusts are recognizing the need to move 'beyond housing' in community development efforts (Rosenberg, 2010). In this vein, recent studies document specific examples of land trusts and UCG partnerships

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<sup>7</sup> For a more detailed examination of the conservation and community land trust structures and the differences between them see: Institute for Community Economics, 2010 [1982]; Davis, 2010b.

(Rosenberg, 2010; Hersch, 2010, Campbell and Salus, 2003). However, Sheehan (2005) notes that UCG programs are complex arrangements that do not have standardized solutions. While individual case studies shed important light on specific practices, there is a need for broader research that examines the diversity of land trust arrangements. It is not enough to recommend the use of *the* land trust tool to secure UCG land; we need a more nuanced understanding of the different ways land trusts organizations are implementing UCG tenure arrangements and the relative success of these organizational forms in improving land security.

This study does not suggest that (1) UCGs are always an appropriate or necessarily desirable land use, (2) land insecurity is the only major challenge facing UCGs, or (3) land trusts are the best tool for addressing land insecurity. Other interventions such as government purchase, private and public partnerships, and flexible, short-term programs may be viable alternatives and should continue to be explored (Brown et al., 2002). The existing literature has explained the history of UCG programs, benefits and challenges facing UCG implementation, possible venues for policy intervention, and specific case studies of such interventions. This study fills a gap in the literature by taking a broader look at the multitude of institutional arrangements and their impacts on land security.

## **1.6 Methodology**

While land trusts and UCGs are respectively quite prevalent, there are relatively few organizations that have attempted to combine both. An initial list of potential organizations was identified by contacting individuals knowledgeable in both land trusts and UCGs. These included contacts at the National Community Land Trust Network, the Land Trust Alliance and the American Community Gardening Association. A purposive sample was selected to represent the largest variety of UCG arrangements. For the sake of concision, when similar organizations were identified, only one was

included in the study. Through the course of research, it became clear that the bright line differentiating UCG land trusts from other non-profit community garden organizations was actually quite blurry and the sample was then expanded to include a larger variety of institutional arrangements. For example, both legally defined land trusts and mission-driven, non-profits utilized fee-simple ownership and informal use agreements to secure community gardens. For the remainder of this study, the term 'UCG organization' will be broadly applied to mean mission-driven, non-profit, private-sector organizations involved in the creation and long-term maintenance of UCGs. This includes legally recognized land trusts (even those that do not hold title to land) and non-profits that are not legally recognized land trusts, but operate in a similar fashion (holding title to land, executing use agreements and providing stewardship). The identification of such organizations was supported by online and print research of publically available documents to determine the nature of each institutional arrangement. Some institutional arrangements will undoubtedly be missed. This represents only an early effort toward the analysis of UCG land trust tenure arrangements.

This typology of UCG organizations is based on factors including: organizational mission, scale of engagement, tenurial arrangement, organizational capacity, political leverage, and internal governance relations with gardeners. In addition to online and print research, structured interviews were the primary source for data collection.

### **1.7 Research Limitations**

This study examines the diversity of strategies employed by land trust organizations to secure land for UCGs and the relative success of these strategies in improving land security. Regarding limitations to this study, three are readily apparent. First, there is the risk of an incomplete sample arising for several reasons: relevant organizations could be unknown to the researcher and collaborating organizations, significantly unique organizations could be assumed to be similar, or relevant

organizations may have declined participation in the research. Further, this study only investigates mission-driven, non-profit, private-sector organizations and does not include one major holder of community gardens – local governments<sup>8</sup> (Lawson, 2005). While every variation of UCG land trust arrangement was not documented, the research sample was sufficiently large to capture general trends and movements in the field.

A second shortcoming arises from the interview protocol. The research methodology was restricted to interviews with practitioners from UCG organizations. Due to time and resource constraints, actual gardeners and community members could not be interviewed. The reality on the ground could be very different from the information being filtered through the parent organization. This is significant, as an important factor in land security is the notion of ‘ownership in use’ and the level of community formation and mobilization around land security threats. This methodology limits making conclusive statements regarding community activism and the meaning of UCG spaces.

Finally, many of the organizations in this study hold title to multiple properties, often including dozens of gardens. Given the large number of sites, detailed information about specific partnerships, funding sources, and tenurial patterns for individual gardens was impractical to acquire. For example, Capital District Community Gardens operates 48 UCGs spread across three municipalities (CDCG, Interview, 2012). Only broad generalizations about organizational differences can be offered here.

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<sup>8</sup> Purely Municipally owned and operated programs, such as New York City’s Operation GreenThumb, were not included in this classification as land trusts do not play a significant role in such partnerships. Seattle’s P-Patch program was largely excluded as well, though the P-Patch Land Trust, an affiliated support and advocacy private-sector organization was included. Public ownership does not guarantee UCG land security as local governments often view community gardens as temporary land uses and are incentivized to maximize property tax revenues (Lawson, 2005). However, there are a number of successful municipal programs. We do not discount these significant efforts and innovative municipal programs should continue to be explored.

## 2. Land Security Implications

The biological concept of heterosis – or hybrid vigor – suggests that the combination of organisms from diverse genetic backgrounds results in stronger, more resilient hybrid offspring. The term was popularized in application to the community land trusts movement by John Emmeus Davis, who suggests that different individuals and organizations with unique histories and perspectives can be hybridized to produce stronger, more resilient models of land tenure (Davis, 2010a). Land trusts have been implemented in the UCG context specifically to address land tenure security. However, the diversity of hybrid models suggests relatively different types (objective and subjective) and levels of land security. A number of variables can be used to analyze and categorize these organizational modes including (1) tenurial arrangement, (2) capacity, (3) political leverage, and (4) internal governance relations with local gardeners. These dimensions are fluid concepts that interrelate in complex manners. For example, increases in political leverage vis-à-vis state agencies can result in more secure tenurial arrangements. The ordering of organizations' modes into distinct taxonomic 'boxes' is a considerable simplification of reality. This classification is not a formal model but a schematic exercise to explore variations that emerge between UCG organizational forms and the relative level of success in securing land.

### 2.1 Tenurial Arrangement<sup>9</sup>

Tenurial arrangement refers to the dual question of who owns land and how. Three broad patterns of UCG organizational tenures are identified: fee-simple ownership, easements and use agreements. These arrangements are not mutually exclusive as UCG organizations frequently operate simultaneously with multiple forms. Each arrangement has relative strengths and weaknesses concerning land security for

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<sup>9</sup> Tenurial arrangements classifications are informed by “Ownership Options: Government, Land Trust, or Other” by Betsy Johnson of South End Lower Roxbury Open Space Land Trust.

UCG organizations. It is also important to make the distinction between land security for the UCG organizations and that of individual gardeners. Even when land is secured for a UCG organization, the level of security for individual gardeners is dependent on an organization's structure and governance relations with gardeners. For example, the internal system of waiting lists and garden-plot leases impacts the ability of a gardener to farm the same garden-plot year after year. However, it may not necessarily be desirable to ensure complete land tenure security for individual gardeners in perpetuity. Many organizations consider individual hardship and household need (rather than simply length of tenure) when allocating garden-plots.

#### *A. Fee simple Ownership*

UCGs organized in this pattern hold fee-simple title to community gardens. Fee-simple -also known as freehold or fee-simple absolute – is the most common form of property ownership and generally has the greatest number of ‘sticks’ in the bundle of ownership rights<sup>10</sup> (White, 2010). In urban areas, community gardens are often located on vacant or abandoned sites, where ownership responsibilities may be contested and long-term security uncertain. In such circumstances, fee-simple ownership is often considered the easiest way of insulating land from the speculative (exchange-value driven) exigencies of real estate markets and securing property for accommodative uses. However, fee-simple ownership alone does not guarantee long-term land security. As one respondent remarks, “even if you can own the land, there are other factors that make you vulnerable” (Interview, South End). Other conditions that affect land security include: organizational mission, funding and capacity limitations, political leverage, and internal governance relations. Within fee-simple ownership, there are considerable

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<sup>10</sup> Fee-simple is not absolute ownership, but can be encumbered in a variety of ways including: the public’s right to tax, regulate and take possession of property for a public purpose, utility and conservation easements, the duty to maintain property in reasonable conditions and the duty to operate such property in a manner that does not constitute a private nuisance (White, 2010). Deed-restrictions – such as those in homeowner association communities - can further encumber fee-simple property rights.

similarities between legally recognized land trusts and community-based, mission-driven, non-profit organizations that hold fee-simple title to land.

The organizational mission of the title-holding organization greatly impacts long-term security. After all, fee-simple ownership is merely one form of land tenure; its potential for increasing UCG land security is entirely dependent on the question of *who* owns the land and *how* parcels may be secured for the garden-level individuals who actually farm the land. Many UCG organizations in our sample have an organizational mission specifically dedicated to the creation and preservation of open spaces. Serving this single purpose helps these organizations to focus on doing one thing – holding title to land in perpetuity (Interview, Sawmill). Implicit in this formulation is the claim that community-established and community-maintained gardens are the ‘best use’<sup>11</sup> of a given parcel and should remain a permanent part of the urban infrastructure (Interview, NeighborSpace). These organizations view community gardens as being “different from, but alongside” the traditional city-operated, open-space system (Interview, NeighborSpace).

There are also many examples of non-profit organizations that hold fee-simple title to UCGs including churches, community-based housing developers, and private schools, yet security of tenure is far from ensured in all these cases (Interview, MACLT). Some non-profit UCG owners hold title to the gardens for many years and then abruptly decide to develop (Interview, NeighborSpace). For example, churches often will purchase extra land and bank it for later potential expansions while promoting community gardening as a short-term use (Interview, MACLT). In these cases, fee-simple ownership, even by a community-oriented, non-profit organization does not necessarily guarantee that land will continue to be used for community gardening; nor does it guarantee that individual gardens will have long-term security of tenure to

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<sup>11</sup> ‘Best use’ refers to balance between use and exchange values, which is distinct from the traditional formulation of ‘highest and best use’ based on purely market exchange.

continue gardening the same plots of land year after year. These gardens may be insulated from accumulative market pressures but are subject to differing accommodative claims that stems from differing organizational missions.

Again, this study does not assume that the UCG is necessarily the ‘best use’ for any given parcel. However, the issue is that the ‘best use’ for a given parcel, however determined, may or may not be in alignment with the internal, mission-driven interests of the title-holding organization. Housing developers strive to develop housing, churches want to expand their facilities, and open-space land trusts will want to expand open-space systems, sometimes excluding food production from occurring on these lands.<sup>12</sup> Most land trusts have necessarily narrow interests due to the nature of philanthropic grants and the limits of professional experience and liability insurance (Interview, LA NLT). The relative merits of privately-owned, public-spaces cannot be fully debated here; we merely note that the central mission of a title-holding organization has a very real impact on the long-term prospects of UCG spaces.

Even the different missions and goals of various land trusts - sustainable food systems, neighborhood development or agricultural research – can impact long-range outcomes. One respondent shared an experience between the title-holding land trust and the non-profit community organization that was in charge of managing the community garden. The executive director of the managing organization thought the gardens were not ‘pulling their weight’ financially and stimulated controversy by proposing the removal of organizational staffing, making the gardens purely volunteer supported<sup>13</sup> (Interview, MACLT). Thus, even when land is secured by a UCG

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<sup>12</sup> Many interviewees note that accommodative land use changes, though rare, are theoretically possible. If a community were to approach a land trust with a legitimate alternate use (from a garden to a playground) many would be willing to transfer title to a more suitable entity – such as the local parks department (Interview, Neighborspace).

<sup>13</sup> There was significant pushback to this proposal and the staff support was not removed. But the controversy contributed to the executive director leaving the organization.



organization, tensions can still arise from different organizational missions, interests, and management personalities.

Alternately, organizations with wider missions also have the potential to increase UCG land security through access to a greater variety of funding sources and cross-sectoral collaborations. For example, many community land trusts have a mission dedicated to broad neighborhood development with a strong affordable housing component. Access to housing-related funds can help cross-subsidize the acquisition of land for UCG purposes. The experience of Troy Gardens in Madison, Wisconsin highlights such possibilities<sup>14</sup>. At Troy Gardens, several long-standing community gardens were threatened when the county government placed the 31-acre parcel up for auction. Local groups organized to defend their community gardens and created an alternative plan that left 26 of the 31-acres (including the gardens) undeveloped while a cluster of affordable housing was sited on the remaining 5-acres. The Madison Area Community Land Trust (MACLT) purchased the entire 31-acre site using a variety of funding sources; 26-acres were purchased from the county using Community Development Block Grant funds for green space preservation and agriculture and the remaining 5 acres were purchased using funds from the Housing and Urban Development (HUD) Economic Development Initiative. By maintaining a wider development focus, MACLT was able to garner broad governmental support and leverage both housing and open space funds to make title acquisition of the entire 31-acre plot possible, thereby securing the contested community gardens.

Similarly, in the case of the Sawmill Community Land Trust (Sawmill CLT) in Albuquerque, New Mexico, a future community garden site has already been secured as part of a long-term development agreement between the land trust and the city. Sawmill CLT won the development bid from the City of Albuquerque to master plan and develop the 27-acre site, including affordable housing, economic development, and a

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<sup>14</sup> For further studies on the Troy Gardens experience see Campbell and Salus, 2003 and Rosenberg, 2010.

community garden component. The city is holding parcels of land until the community land trust is ready to develop, at which point title will be transferred to the Sawmill CLT. “They are essentially land banking it for us. We have the development rights [to build a community garden] on land that we do not even own yet” (Interview, Sawmill). Here, the ability to secure land for community gardens is strengthened by favorable government relations that are based around the larger planned unit development.

Of course, fee-simple ownership is always constrained by the ability to acquire land (Interview, OSALT). As one respondent remarks, “we try to acquire land in any way we can because land is so scarce” (Interview, Neighborspace Baltimore). Another adds, “[Land] doesn’t pop up everywhere. You are limited because you can only acquire so much and we wanted to go further” (Interview, OSALT). This organization, The Oregon Sustainable Agricultural Land Trust (OSALT) in Portland, Oregon has acquired title to seven community gardens in 17 years<sup>15</sup>. In contrast, the Kingston Community Land Trust, in Kingston, New York, was founded in 2008 and has already secured partnerships with 30 community gardens exclusively through use agreements. While fee-simple ownership is often viewed as the ideal, numerous organizational, technical and financial limitations may constrain the ability to access and secure land in this tenurial arrangement. Other arrangements have allowed some organizations to operate a larger number of UCG sites than would otherwise be feasible under fee-simple ownership.

### *B. Conservation Easements*

Conservation easements are voluntary restrictions that permanently limit the types of uses on land and are held by entities external to the titleholder (Land Trust Alliance, 2012). These arrangements can offer a similar (if not greater) level of land

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<sup>15</sup> OSALT also owns one urban farm. In 2009, OSALT launched a partnership program, Urban Farm Collective, to access privately owned land for urban agriculture through use agreements.

security compared to fee-simple ownership. One respondent holds, “ if a land trust can get hold of an easement that has been donated by a private landowner, then you’re done, land has been secured” (Interview, GP2). But the easement tool can be used in several ways with different implications for security and feasibility. In the most common form, a UCG organization holds the conservation easement while another party (often a private landowner) remains the titleholder. The titleholder can sell the land to another private party without affecting land security as stipulations in the easement permanently restrict the types of permitted uses on the site. So long as the easement is in place, secure tenure is ensured for the UCG organization. This strategy can be advantageous in terms of site acquisition as property owners can donate conservation easements and receive considerable tax benefits<sup>16</sup> (Interview, NeighborSpace Baltimore). For example, at NeighborSpace Baltimore in Baltimore, Maryland, a conservation easement over the site of an existing memorial garden was donated to the land trust by a private landowner in exchange for federal tax deductions (Interview, NeighborSpace Baltimore).

An inverse arrangement is also possible. Land trusts can hold title to land while selling or donating an easement to an external entity to hold. Southside Community Land Trust in Providence, Rhode Island is an open-space land trust that holds title to 15 community gardens. In recent years, they have sold the development rights associated with several of their community gardens to a state environmental department. This arrangement acts as a cash infusion from the state department that helps offset the land trust’s property acquisition expenses (Interview, Southside). In addition to subsidizing land costs, this strategy is likely to increase land security for the gardens; in order to build on the site, a potential developer needs to acquire both title (from the land trust) and the development rights (from the state department), both of which are held by organizations under the assumption of perpetuity (Interview, Southside). Further, state

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<sup>16</sup> Wright and Czerniak (2000) note that a conservation easement typically reduces the ‘paper value’ of a given property by 50%.

funds used in the purchase were secured through a dedicated open-space bond that restricts the range of potential land uses (interview, Southside CLT). Similarly, the P-Patch Land Trust in Seattle, Washington acquired title to several community gardens and later granted conservation easements on those sites now held by the City (Interview, P-Patch).

Troy Gardens employs a third derivation of the easement strategy where the title and the conservation easement are held by different land trust organizations. The Madison Area Community Land Trust (MACLT) is a community development land trust that developed a diverse range of land uses on a 31-acre parcel including: affordable co-housing, community gardens, commercial agriculture on an urban farm and rehabilitated open space. Title to the land is held by MACLT, while a conservation easement placed on the community gardens, urban farm and open space is held by a separate conservation land trust, the Center for Resilient Cities<sup>17</sup>. The community gardens are then separately leased out and managed by a third non-profit entity, Community Groundworks at Troy Gardens. In addition, a land-use restriction agreement was placed on the land as part of the Community Development Block Grant funding that financed the property acquisition. A total of three layers of protection – title held by land trust, easement held by a separate land trust, and land-use restriction tied to funding - secure the community gardens in place. One representative holds, “This is a bit of an overkill. There wasn’t really a great need to grant an easement for an external entity to hold due to our very mission as a land trust, but people wanted that extra layer of protection”(Interview, MACLT). Such arrangements undoubtedly offer a very high level of security, though simpler arrangements are likely to suffice.

While easements can effectively secure land, many practitioners note the impracticality of utilizing such arrangements on small, urban parcels (Interview, GP2).

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<sup>17</sup> The Center for Resilient Cities changed their name in 2007 from the Urban Open Space Foundation. Community Groundworks at Troy Gardens changed their name in 2008 from The Friends of Troy Gardens.

In particular, the small-scale nature of community garden parcels, and resulting high transaction costs typically render such arrangements prohibitively expensive (Interview, GP2). Further, easement donations resulting in tax-exemptions trigger a higher level of governmental oversight to ensure a public purpose is really being met (Interview, NeighborSpace Baltimore). One respondent observed, “the IRS is quite judicious about whether or not you are taking on something that really has conservation value, and it is harder to make the case on urban land (Interview, NeighborSpace Baltimore).

### *C. Use Agreements*

Beyond fee-simple ownership and easements, the majority of organizations in the sample employ various use agreements, including long-term ground leases, on public and private lands. One respondent notes “long-term leases get you to a very similar place as fee-simple ownership ... and it might make a lot more sense than outright purchase because you don’t have to buy the land.” (Interview, MACLT). The challenge however, is obtaining such long-term leases. Cities and private landowners are often wary of making long-term commitments, and even then, such agreements may be voided unless proper protections are written into the agreement (Interview, CDCG). For example, contractual clauses can be added to ensure long-term use of land even in the event of title changing hands. Organizations have overwhelmingly relied on short-term and ‘handshake’ agreements even though community gardens projects are nearly always seen as long-term endeavors - a contradiction that is a perpetual source of conflict. One interviewee sums the situation: use agreements can be “less secure but if you can’t access land you have to pursue other options” (Interview, OSALT). Five of the organizations in the sample have executed use agreements with private landowners (both individuals and corporations). In some instances, private landowners received tax benefits in exchange for rent-free access for community gardening projects (Interview, OSALT, Kingston). More common are use agreements with governmental agencies,

including nine organizations in the sample. Use agreements were secured with a range of local government agencies, the most typical being parks departments, school districts and public housing authorities.

Given the long legacy of urban gardening on vacant city-owned properties, it is only natural that UCG organizations have employed use arrangements on nearly all types of public lands. Public agencies often own numerous vacant urban sites and can offer in-kind contributions of water, materials and labor. However, cities are not always eager to lease such lands. Management of individual garden plots can be onerous and city insurance policies are often highly risk-averse, making it difficult to implement less traditional land uses such as UCGs (Interview, MACLT). One interview observes, “the city has to do so much more than just track land, it has to run a whole city” (Interview, Sawmill).

Public use agreements vary greatly in their respective levels of long-term security. Some are merely handshake deals<sup>18</sup> that permit access to public lands yet offer no long-term control or right to continued occupation and use of the site. For instance, Grassroots Gardens of Buffalo in Buffalo, New York is a non-profit organization that leases and indemnifies city land on behalf of local gardening groups. They do not have secure tenure on any of their UCG sites located in the city and can be evicted with 30 days notice if the city should decide to sell the property or convert to another land use (Interview, GGB). Similarly, despite persistent efforts to obtain a 99-year lease, the Sandhills Area Land Trust in Southern Pines, North Carolina was unable to convince their city council to grant them an easement or lease of any kind (Interview, Sandhills). Lacking these legal rights to the land, Sandhills has primarily relied on political leverage to maintain land security. While their garden is somewhat protected by being located in

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<sup>18</sup> Many UCG gardens have not even executed handshake deals but are technically ‘squatters’ on public lands, though there may be acquiescence by municipal officials.

a flood plain, one representative noted, “anyone can build on anything and [development pressure] was my greatest fear” (Interview, Sandhills).

City-owned land is not necessarily less vulnerable to accumulative real-estate pressures. Municipalities always have an interest (though not their only interest) in maximizing property tax revenues and have little incentive to lock-up land in long-term leases with no hope of future accumulation (Interview, MACLT). Even in the case of temporary gardens, one respondent observed, “we have a harder time getting land for new [temporary] gardens, the City doesn’t trust that there is such a thing a temporary garden, once you get people there, it’s hard to take it away again” (Interview, South End). It is an ongoing challenge for land trusts to make the case that the accommodative benefits of the UCG can exceed the opportunity costs of foregone tax revenues. The planning profession is also complicit in the framing of the problem. One respondent states, “there is still a sense from the office of taxation and the planning department that the best use [of land] is development because that brings property tax to the city.... but how do we start making the case for the value of functional food production sites in the city” (Interview, Southside). Others argue that cities have unrealistic optimism in anticipating real estate markets to rebound, especially in rustbelt regions with declining populations. In trying to convince a municipality to transfer title for several UCGs, one respondent expressed frustration stating, “no one is going to buy and develop a little lot propped between two houses in a city like that (rustbelt region with a declining population) and no one is going to want to take a community resource away from a community like that” (Interview, CDCG).

Given this vulnerability, many land trusts have looked to secure partnerships on more stable forms of public land. In particular, partnerships with schools districts and parks departments stand out as common types of public-private use agreements. These agreements vary widely in terms of land security. Some are long-term (25-year), contractual use agreements (Los Angeles Neighborhood Land Trust) and others are

simply informal handshake arrangements (CDCG). These types of institutional partnerships can be found throughout history, as they are highly compatible with the UCG themes of nature, education, and self-help through household food production (Lawson, 2005). In general, these arrangements have resulted in relatively secure tenure; schools are unlikely to sell land and have strategic opportunities through education to build engaged garden constituencies (Interview, LANLT). Parks partnerships can also be fruitful, as many cities have local ordinances restricting the sale of parkland (Interview, MACLT). However, unless a long-term lease is secured, land tenure still is not guaranteed. One respondent offered an experience with a local parks department that abruptly changed their mind about allowing UCGs on parkland after two years of community gardening and soil development (Interview, OSALT). Other land trusts have had difficulty in convincing local parks departments to allow community gardens, as local agencies question the public benefit of such gardens (Interview, Kingston).

Private use agreements can also offer low-cost access to land that can be secured at a relatively low cost and with minimal staff capacity (especially compared to easements). Many of these gardens have stood the test of time; one organization has entered into an annual use agreement with a private landowner for the past 30 years (Interview, CDCG). In some cases, these use agreements have been so effective that the original landowner loses track of the land and “wouldn’t even acknowledge that [the land] was theirs and completely ignored our letters”(Interview, CDCG). Ultimately, the strength of these partnerships relies on the duration and the quality of the contractual use agreement. For example, ground leases executed by many Community Land Trusts are legally defensible contracts that offer very secure, long-term land tenure. But not all use agreements are written in such rigorous terms and lower quality use agreements may offer only minimal or no legal standing. Thus, land security is highly dependent on the structure of the lease and the provisions it contains. Such provisions could include



the right to continued occupation and use in the event of a title transfer and the right of first refusal to purchase property in the event of a sale.

Lacking such rigorous contingencies, lower quality use agreements largely rely on the cooperation and benevolence of the private landowner. However, landowners often have the option to not renew short-term contracts even when significant investments have been made. One respondent states, “it’s their land and they can do what they want with it” (Interview, CDCG). Longer leases (5 - 10 years) do not necessarily offer greater security from eviction if they do not contain adequate provisions. One respondent holds that in some instances, use agreements “are basically worth less than the paper it’s written on” (Interview, CDCG). Further, when land is sold and title changes hands, the cost of improvements (built structures, fencing, water lines, soil improvements and sweat equity - sometimes adding up to over \$15,000) can be completely lost if adequate provisions are not written into the use agreement (Interview, CDCG). One interviewee offered, “It’s gotten so bad that we are actually getting gun shy now about entering into these agreements, it’s a big [financial] investment to lose, and people get very invested in these sites... it’s heartbreaking” (Interview, CDCG).

The tenuousness of short-term use agreements has important implications. One respondent emphasized the difficulty in raising funds for capital improvements for sites that lack long-term security (Interview, CDCG). Gardeners too are more hesitant to make long-term investments if land is insecure. After all, the commitment to build up healthy garden soil (which can take several years) makes little sense if a UCG is operated on a year-to-year lease (Interview, MACLT).

Several organizations observed the trend towards increasing utilization of short-term and relatively lax use agreements. These arrangements tend to require less financial and organizational capacity, and can be used to operate a larger number of UCG sites than would otherwise be possible through other tenurial arrangements. However, they do so at the expense of long-term land security. This trend raises the

question of the meaning and role of a land trust. Traditionally, land trusts have served the role of being stewards over land, a function that is increasingly in question as organizations move towards shorter-term and less secure forms of tenurial agreements. One land trust organization - Growing Power headquartered in Milwaukee, Wisconsin - operates primarily through use agreement and is currently reevaluating its legal status and identity as a land trust (Interview, GP1).

## 2.2 Capacity

Beyond tenurial arrangements, land security is also dependent on the capacity of the UCG organization. This includes the ability to secure operational funding and adequate organizational staffing to manage ongoing stewardship programs. Should a UCG organization ever dissolve, UCG site permanence may become threatened (Interview, Southside).

There are a number of basic operational services that many UCG organizations provide such as: liability insurance<sup>19</sup>, water infrastructure, environmental testing and emergency repairs. However, grant funding is frequently tied to the acquisition and creation of *new* community gardens with minimal funding opportunities for ongoing operations (Interview, CDCG). Many UCG organizations have struggled to develop sustainable revenue sources to support long-term operations. In particular, ongoing activities such as leadership training and organizing activities are central features and major costs for many UCG programs. "It is part of our mission and a challenge, we build community in perpetuity. As changes come to the neighborhood and the land, the community will have the capacity to manage it" (Interview, LANLT).

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<sup>19</sup> By becoming members of the national Land Trust Alliance, legally-recognized land trusts can enjoy reduced rates on liability insurance. Many of the land trusts in the sample participate in this program.

Finding operational funding can be difficult as the gardens themselves generate very little revenue<sup>20</sup>. Plots are usually leased for nominal fees with the explicit intention of remaining affordable to lower income residents. Due to limited funding sources, many organizations operate with completely voluntary staff. However, some land trusts, like OSALT, are reaching the limits of voluntary organizational capacity, “We need a full time staff if we are going to continue to grow” (Interview, OSALT). Another respondent felt discouraged about the constant struggle to meet basic requirements and felt that municipal ownership of community gardens simply made more sense: insurance and water are easily handled by local governments that have considerably more resources at their disposal to manage such simple expenditures (Interview, South End). Others echoed this sentiment, citing how long-term leases on municipal land could offer similar security to fee-simple ownership without shouldering the full cost of providing base services. However, municipalities are rarely willing to tie themselves to such long-range agreements (Interview, MACLT).

The issue of limited capacity rekindles the debate of government offloading to ‘third sector’ organizations without a concomitant increase in funding mechanisms. The experience of the South End Lower Roxbury Open Space Land Trust in Boston, Massachusetts is indicative of this trend. The Boston Redevelopment Authority had acquired so much vacant and abandoned land throughout the 1970-80s, that they were very eager to devolve land (and maintenance responsibilities) to a third sector organization. The land trust now manages, maintains, and makes capital improvements on as many open space parcels in the neighborhood as the parks department, only without the support of public tax dollars (Interview, South End). In fact, the land trust often must compete with the city itself in seeking private sources of grant funding. One

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<sup>20</sup> One respondent notes the potential of scaled pricing for UCG organizations. A percentage of garden plots could be set aside for entrepreneurial commercial growers and leased at higher rates (Interview, MACLT).

representative notes the problem of third-sector devolution, “In retrospect, we let government off the hook way too easily” (Interview, South End).

The level of support provided by local governments is one of the key variables in determining the potential for long-term security (Interview, MACLT). Governmental support can come in many different forms. At its inception, the Los Angeles Neighborhood Land Trust was awarded \$400,000 in start-up grants from the City of Los Angeles. In Chicago, there is a twenty-year intergovernmental agreement between the City of Chicago, the City Parks District and the Forest Preserve District that provides \$100,000 in annual funding to support Neighborspace operations. In Seattle, the P-Patch program is municipally owned and operated with the P-Patch Land Trust acting in a supportive role as advocate and occasional titleholder. Such strong public sector commitment to UCGs is unusual. “In other cities, [local governments] were not willing to give away land for free. In Chicago they said, we aren’t giving it away, this is an investment in our communities and our open space” (Interview, Neighborspace). Other land trusts receive various types of governmental support including in-kind contributions of labor, materials, and water, the option to purchase vacant land for nominal fees and political backing in planning and development efforts.

### **2.3 Political Leverage**

The political leverage to negotiate effective external relations adds another dimension to the land security equation. Some organizations, like Growing Power, headquartered in Milwaukee, Wisconsin, have gained relatively secure access to UCG lands not through strong tenurial arrangements but by leveraging the considerable political weight of their name. Growing Power’s founder Will Allen is a star in the burgeoning food movement, receiving considerable media accolades especially following his 2008 reception of a MacArthur Fellows Grant. While Growing Power currently has a high level of confidence in their ability to access land, the long-term

sustainability of this strategy is uncertain (Interview, GP1). What will happen when Allen one day steps down? One respondent keenly observes, “the best time to secure land is when there’s the least need to do so” (Interview, MACLT). After all, political climates are vulnerable to sudden changes as economic conditions vary and new administrations are elected. Similarly, the Sandhills Area Land Trust, unable to secure a long-term lease from the municipality, has turned to political pressure to keep the garden in place. “All the movers and the shakers in the city funded [the garden] so heaven help the city if they try to get rid of it now” (Interview, Sandhills). Some neighborhood non-profits have even gone so far as to voluntarily pay property taxes (despite their tax-exempt non-profit status) in order to strengthen their political voice (Interview, GP2).

A particular facet of political leverage relates to organizational scale. ‘Scale’ here refers primarily to absolute size of an organization - staffing, budgets, number of gardens, and number of garden constituents – although geographic scale, defined as physical dispersion across territories, can also impact land security through broad political coalition building. Three organizational scales were identified: single-site, intermediate neighborhood scale, and city/regional scale. Single-site organizations operate around a single community garden. While very small in scale, such organizations are likely to be very numerous (Interview, South End). Intermediate neighborhood-scale organizations concentrate at a neighborhood or sub-neighborhood level and city/regional scale organizations operate many gardens spread throughout a single city or multiple city-regions.

Organizational scale impacts the potential for political leverage with external actors such as philanthropic organizations and governmental agencies. Larger organizations tend to have greater visibility and access to philanthropic communities (Interview, South End). Further, larger scale organizations have greater bargaining power and political clout vis-à-vis state actors. Several interviewees observe the

uncertainty and antagonism that can sometimes characterize relations with local governments. For example, one respondent holds, “there is no such thing as absolute community garden permanence because there is always the threat of eminent domain and they can always come up with something and say it’s a higher and better use... having a land trust does not protect us from politics and the whims of various government agencies”(Interview, South end). This organization operated on ambivalent terms with local authorities for years until a recent administration was elected. Since then, they have faced numerous administrative hurdles; for example the simple act of installing a new garden fence was delayed 9 months and required filing for a zoning variance, which the zoning commission later agreed was unnecessary (Interview, South End). This organization is now in the process of merging with a larger, city-wide, non-profit that holds over 50 community gardens. The larger organization, by virtue of its size, “does not get pushed around by the city the way we do” (Interview, South End). This arrangement also has the potential to increase their capacity and clout, and will allow the land trust to secure substantial new operational funds (Interview, South End).

Different scales of engagement can suggest different roles for UCG organizations. Smaller scale organizations are more closely involved with garden users and organizing efforts. At larger scales, organizations concentrate more on holding title and providing stewardship activities while devolving many operational and organizing responsibilities to local groups. This is not to say that larger organizations are not active in community organizing, but that their role shifts from day-to-day garden management to that of leadership development and training. Larger UCG organizations tend to have less interaction with on-the-ground garden users, and frequently operate through intermediaries. One large city-wide organization held that, “it is not really a democracy, more of an oligarchy or a representative democracy” (Interview, Neighborspace). It should be noted that some UCG organizations have been criticized as lacking

transparency, accountability and representation with individual garden-level users (Eizenberg, 2012).

Several organizations are in the process of shifting to larger scales of action through various partnerships strategies. For example, OSALT is looking to increase their impact by expanding beyond fee-simple ownership through their Urban Farm Collective, a program that secures use agreements on private lands for urban agriculture. Southside CLT is looking to enlarge their programming and site acquisitions to a city-wide scale, but in a manner that does not overextend their capacity limitations. They have partnered to create the Providence Community Gardens Network, a decentralized system of 40 gardens. Individual neighborhoods have a garden hub location that serves as an educational and resource distribution center. This model is described as “a more organic system, and not done in a way that is top-down” (Interview, Southside). Finally, the South End Lower Roxbury Open Space Land Trust seeks to increase their organizational scale for political and capacity reasons by merging with a larger, city-scale non-profit, but will exist as a semi-autonomous unit within the larger organization (Interview, South End).

#### **2.4 Mission and Internal Governance**

UCG organizational modes and their resulting impacts on land security can be differentiated along two final interrelated dimensions – organizational mission and internal governance with garden-level users. Through the interview protocol, we found subtle differences in organizational missions and goals in regards to UCGs.

Organization mission is discussed above (Section 2.1) in relation to different land uses including housing, religious institutions and open-space. Here we revisit the issue of organizational mission in the specific context of community gardens spaces. These are only preliminary observations as the scope of the study was necessarily narrow,

preventing the possibility of speaking directly with garden users in order to assess their perspective. Still, a general distinction can be made between organizations that view community gardens as an end rather than a means. The former category tends to promote UCGs primarily for individual, tangible benefits – improved physical and mental health, aesthetics, education, and food security. The latter category tends to emphasize the value of gardens as sites where communities are formed, relationships forged, and people come together. One interviewee described this difference in organizational missions as the “build it and they will come model versus building sustainable community to support the garden” (Interview, SELROSLT). Of course, all UCG organizations exhibit qualities from both categories, the distinction being merely a matter of degree. In fact, different individual garden-users can even fill differentiated roles within a single gardening community: some gardeners just want to grow food, some want to coordinate events and activities, and some are interested in politics and governance (Interview, MACLT).

The difference in organizational mission - means versus ends – interrelates with the internal governance relations with gardeners. In general, organizations that value UCGs as an end tend to be more top-down in governance and largely rely on objective legal property rights to secure land. In contrast, organizations that value UCGs as a means to community development tend to emphasize bottom-up processes, and secure land through objective property rights and by engendering subjective meaning and ‘ownership in use’. A simplified classification can be constructed to describe this organizational diversity (See Figure 1.)

Regarding top-down governance, some organizations take a more hands-on approach, managing site acquisition, garden design and construction while overseeing plot-waiting lists for individual gardens. These organizations see their role as preserving access to community gardens for gardening's sake. “Some people are very clear they just want to come and do their gardening. They don’t want to socialize. They want to garden



to get away from it all” (Interview, CDCG). Such organizations emphasize the role of a ‘strong board of directors’ for funding and innovation and the importance of having numerous committees (Interview, Kingston).

		<b>Organizational Mission</b>	
		UCG as Means	UCG as an End
<b>Internal Governance Relation</b>		Bottom- Up	Top-Down
	<b>Land Security</b>	Objective Property Rights & Ownership in Use	Objective Property Rights

**Figure 1.** Relations between organizational mission, internal governance relations and types of land security.

In contrast, other organizations value gardens primarily as sites where bottom-up, community formation can occur. “The real activity is happening at the site themselves, not at the top management level, not at the board level” (Interview, OSALT). Similarly, another interviewee holds that “the community comes first, gardening is really just a wonderful, beautiful and delicious excuse for the community to come together, explore its own becoming and put its ideas into practice” (Interview, Neighborspace). Another organization requires all new gardens to partner with local non-profit organizations to build community buy-in and cohesion (Interview, LANLT). These organizations emphasize leadership training and structured representation avenues. For instance, Southside Community Land Trust requires 51% of their board to

be elected directly from the gardeners (Interview, Southside). Paradoxically, these organizations tend to take a less active role in management as gardens evolve over time. “The community groups will slowly take over the role of leadership but the land trust will always be there” (Interview, LANLT). Though one respondent notes that even when a UCG organization holds title, and the community is managing the garden, “you still need strong oversight and basic guidelines to help” (Interview, NeighborSpace).

Those that view gardens as a means tend to also support gardens as sites of democratic action. One organization encourages gardeners to self-organize into any leadership structure as long as three garden leaders are identified; “Within a basic set of rules, each garden can define its own self-determination... it’s democracy writ large” (Interview, NeighborSpace). The very act of discussing the potential location and identity of a community garden with neighbors and local politicians can serve as an organizing catalyst. “If you can pull off a community garden you can pull off a lot of things. You have to learn how to run a meeting, how to communicate with your block and fundraise, how to maintain safety, and because of land politics you inevitably have to deal with your local alderman and the police. This opens up new lines of communication” (Interview, NeighborSpace).

The organizational mission and internal governance relations with garden level users can affect the subjective meaning of UCG spaces. Organizations that emphasize garden-scale organizing and autonomy are more likely to engender spatial meanings that encourage ‘ownership in use’ of a site (Stahaeli et al., 2002). A representative of one such organization holds, “a community garden is like an ‘etch a sketch’ you create something wonderful and then shake it up after three years, it’s constantly changing and evolving with different people” (Interview, NeighborSpace). This organization sees the UCG as an “entry point into democracy”, where “communities can put their ideas into practice in a more immediate way than can be typically done in modern cities” (Interview, NeighborSpace). Similarly, at Troy Gardens, existing community gardens

provided the entry point for community mobilization to prevent loss of the site and to advocate for a new development vision. “Community gardens saved Troy Gardens... community gardens are the best engine of community building that I have ever seen, crossing every conceivable boundary of class, race and culture (Interview, MACLT).

These two aspects of land security – objective and subjective - are closely related as the relative level of land security, in the legal sense, affects the subjective meaning of community garden spaces, and vice versa. One respondent, commenting on the desirability of gaining a more durable hold over urban gardening sites, notes “it isn’t a secret that if we were able to provide longer term solutions, folks would dedicate more time and resources and view the community gardens more as an active fabric of their neighborhoods” (Interview, GGB).

### **3. Policy Implications**

The strengths and challenges associated with different UCG strategies suggest several planning and policy opportunities to improve UCG land security.

#### *3.1 Role of the Public Sector*

There are many opportunities to increase the role of the public sector – both in terms of level of support and the diverse kinds of support - in partnering with UCG organizations. UCGs play a vital role in the urban open space system that is “different from but alongside” traditional public spaces (Interview, Neighborspace). They provide public amenities and access to open space, opportunities to build active citizenry and mobilized communities, and reduce the maintenance responsibilities for local governments. Given these public benefits, a lack of public funding essentially “let[s] government off the hook”(Interview, SELROPLT). Localities need to be pushed to

recognize the economic, environmental and social value of UCG spaces and to reframe these spaces as permanent investments in neighborhood infrastructure.

Greg Rosenberg, the former executive director of MACLT, has a saying that holds, “Everyone should do what they are good at”. In the UCG context, this means that land trust should focus on being stewards of land, local groups should focus on community organizing and day-to-day UCG operations, and local governments should focus on setting public priorities, ensuring equitable distribution of resources and providing financial, policy and in-kind support. This closely mirrors the concept of “nonprofit federalism” as developed by Salamon (1987). Theoretical clarity on this point is needed. The traditional (and flawed) theory of the welfare state posits that third-sector organizations fill the gaps where both market and governmental failures occur. This assumption should be turned on its head, with the public sector filling the gaps where market and third-sector organizations struggle to meet social needs (Salamon, 1987). Government is not a substitute, but a supplement to third sector action as the strengths of the public sector – raising funds and creating democratic avenues for a (relatively) just distribution of resources – corresponds well with the inherent weaknesses of the third sector (Salamon, 1987). Understanding that the public sector is well positioned to take a larger presence in UCG activities simply requires us to take a broader view of the public role beyond mere public ownership.

UCG partnerships via ‘nonprofit federalism’ can come in a variety of forms. Direct funding can manifest in organizational start-up grants (Los Angeles Neighborhood Land Trust), on-going operational appropriations (Neighborspace, NeighborSpace Baltimore), or purchase of easements and development rights (Southside CLT and P-Patch). City officials can partner with land trusts to transfer title or easements on suitable municipal lands (CDCG, SELROSLT), encourage UCGs as catalyzing features in wider development projects (Troy Gardens, Sawmill CLT), and offer in-kind contributions of water, materials and labor (Southside, Sandhills Area).

Finally, municipal governments can even own and operate garden programs with UCG organizations, playing a supporting role in land ownership, stewardship and advocacy (P-Patch).

### *3.2 Cross-Sectoral Partnerships*

A second opportunity exists to build broad complementary partnerships between UCGs and other accommodative land uses. Much of the community garden discourse has emphasized conflicts that arise between different accommodative land uses, most notably pitting community gardens against affordable housing (Schmelzkopf, 1995). As one representative of New York City's Housing and Preservation Department once put it, "Gardens are great, but not at the expense of new housing" (Madsen, 2002). Framing the issue as housing versus gardens is misleading and assumes a zero-sum contestation that can fragment and undermine fragile accommodative alliances (Smith & Kurtz, 2004). However, the experience of several land trusts in our sample<sup>21</sup> suggests that communities can effectively balance these competing uses of land. There is a tremendous opportunity to take a more holistic approach to neighborhood development with community gardens complementing other accommodative uses such as housing, human services and neighborhood retail (Rosenberg, 2010). At Troy Gardens, the community gardens served as the flash point for an organizing movement that effectively secured property for both the existing community gardens and affordable housing (Campbell and Salus, 2003). If not for the activism around community gardens, the land would likely have been converted to a market-rate suburban subdivision that included no affordable housing (Interview, MACLT).

Further, community gardens can serve as a catalyst for wider redevelopment efforts. As the UCG is typically popular and non-threatening to neighborhood residents,

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<sup>21</sup> Madison Area Community Land Trust, South End Lower Roxbury Open Space Land Trust, Sandhills Area Land Trust, P-Patch Community Gardening Program

it can help deflect the criticism that often mounts around affordable housing development (Interview, MACLT). Similarly, UCGs can be used to illustrate the virtues of community ownership. “People love hearing about community land trust and community gardens. Everybody loves it. If you tell them about the housing first, they don’t get [the ownership structure] at all, the model makes much more intuitive sense for agriculture than for housing” (Interview, MACLT).

Gardens are also strategically important in development efforts as they can be implemented relatively quickly, and offer a highly visible and tangible symbol of neighborhood revitalization (Interview, Sandhills). They are a less risky investment in places and times when residential real estate markets are in turmoil. In contrast to the simplistic affordable housing versus gardens framing, is the experience of the Sandhills Area Land Trust. The city’s initial grant proposal to secure federal HOPE VI housing funds was not accepted. However, they resubmitted the grant and included a community garden as a central redevelopment feature and were successful in securing \$20 million grant (Interview, Sandhills). The success of the funding cannot be attributed solely to the community garden but illustrates that these uses are not contradictory and can be used to support one another.

Placing a greater emphasis on community gardening as a central piece of community development efforts can even strengthen land trust organizations themselves (Interview, MACLT). A representative of the Sandhills Area Land Trust observed how taking on a UCG project, “opened up and brought an entirely new audience to conservation that normally would never think of such things and that was the real jewel, to reach another population group that typically was not involved in conservation” (Interview, Sandhills). UCG programming can also considerably expand the scope of potential philanthropic support. “Urban agriculture puts you in conversation with people you would never talk to if it was just housing because the philanthropic community understands food” (Interview, MACLT).

But the reverse is also true, as cross-sectoral partnerships can in turn strengthen community gardens programs. Some elitist UCG organizations lack transparency and accountability to garden-level users and residents of the surrounding neighborhood (Eizenberg, 2012). Adding a community development element to such existing organizations can open up new avenues for additional accountability and local representation. Despite potential conflicts around missions and goals, cross-sectoral partnerships between differing accommodative land uses offers a fertile nexus that has been underutilized thus far.

#### **4. Conclusion**

UCG organizations have adopted a variety of organizational modes to address the issue of UCG land security with different levels of success. Land security is objectively achieved through legal property rights and subjectively shaped through the notion of 'ownership in use' and by encouraging the formation of mobilized communities. This study analyzes the variety of organizational modes – differentiated by tenurial arrangement, capacity, political leverage and organizational mission/internal governance relations – and the resulting impacts on the type and level of land security. Three key themes emerge from this analysis.

First, many organizations are balancing the trade-offs between maximizing land tenure security and operating a larger number of UCG sites under less secure tenure arrangements. On one hand, organizations can maximize security by using more costly, but highly secure, forms of tenure (like fee-simple ownership) on a limited number of garden sites. Alternatively, organizations can strive for a larger scale impact (both in terms of absolute number of gardens and scale of geographic territory) by controlling many gardening sites through forms of tenure that are financially and politically easier to acquire but that only provide short-term, precarious hold over those sites.

Fee-simple ownership can be a very secure form of tenure, but can also limit the potential scale of the UCG organization as the financial burdens and legal risk of fee-simple ownership can be prohibitively costly to utilize in large scale. Conservation easements can also result in secure land tenure without the financial burden of purchasing the land, though legal transactions costs can sometimes be prohibitively expensive. Use agreements vary widely, ranging from those that offer minimal legal protection for the occupation and use of garden plots to those that provide long-term security of tenure for UCG organizations, and for the gardeners themselves. Simple and rudimentary use agreements may be the most financially and politically feasible option for accessing a large numbers of garden sites and to expand the geographic and organizational scale of UCG programs given very limited resources. However, this trend raises questions about the appropriate role of land trusts and the public sector in enabling accommodative uses on land. What makes a land trust a land trust if it doesn't have long-term control of land? Should land trusts (and other third sector organizations) bear the majority of the costs in these providing public amenities and neighborhood investments?

Second, organizational capacity and political leverage can greatly influence land security. Organizational constraints of limited staffing and operational funding are major obstacles to realizing more secure forms of tenure. Further, the political leverage of a UCG organization in relation to external funding sources and state actors is also crucially important. In general, larger organizations have more political leverage and visibility to access funds. Several smaller land trusts are in the process of moving to larger organizational and geographic scales to have a greater impact and to increase political leverage. The role of UCG organizations also changes at different organizational scales. Single-site and intermediate/ neighborhood scale organizations are more directly involved in maintenance and organizing efforts, while larger city/ regional scale organizations tend to devolve such responsibilities to local community groups and focus



more on leadership training. Some have suggested that larger scale organizations can help individual gardeners feel less isolated and empower the synthesis of a larger gardening and public space movement (Smith and Kurtz, 2004).

Finally, the organizational mission and internal governance relations between UCG organizations and garden-level users influence the subjective meaning of UCG spaces. Organizations that emphasize garden-level organizing and autonomy have greater potential for fostering a sense 'ownership in use' and engendering community formation and mobilization around land security issues.

This analysis should be viewed as an early exploration into the role of land trusts in community gardens and more broadly, urban agriculture. Further research is needed to examine the possibilities for engagement with urban entrepreneurial/commercial agricultural operations. Such operations may offer use-value centered opportunities to expand the scope of local food production, build wider political constituencies, and result in more sustainable funding mechanisms. In the end, practitioners and policymakers must continue to find innovative models for securing land in a way that ensures accommodative needs are met.

## Appendix

### List of Organizations in Sample

<i>Organization</i>	<i>Location</i>
Capital District Community Gardens	Capital District Region, NY
Grassroot Gardens of Buffalo	Buffalo, NY
Growing Power	Milwaukee, WI/ Chicago, IL
Kingston Land Trust	Kingston, NY
Los Angeles Neighborhood Land Trust	Los Angeles, CA
Madison Area Community Land Trust	Madison, WI
Neighborspace	Chicago, IL
NeighborSpace of Baltimore County	Baltimore, MD
Neighborhood Gardens Association/ A Philadelphia Land Trust	Philadelphia, PA
Oregon Sustainable Agricultural Land Trust	Portland, OR
Pottstown Community Land Trust	Pottstown, PA
P-Patch Land Trust	Seattle, WA
Sandhills Area Land Trust	Southern Pines, NC
Sawmill Community Land Trust	Albuquerque, AZ
South End Lower Roxbury Open Space Land Trust	Roxbury, MA
Southside Community Land Trust	Providence, RI

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