

Public Land Leasing for Affordable Housing by All Levels of Government

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Outline

- Why This is an Important Issue
- Why Public Land Leasing
- Land Leasing and Land Value Capture
- Benefits of Public Land Leasing
- International Experience
- Canadian Experience: Historic and Recent Policy
- Summary/Conclusion

Why Public Land Leasing

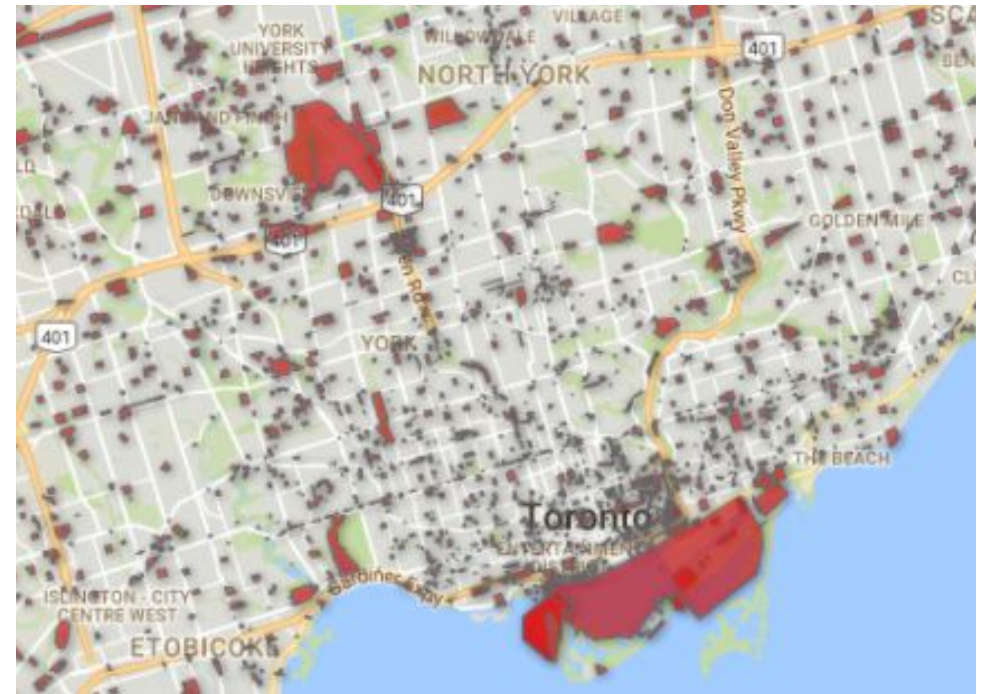
- Governments derive public benefit use of their sometimes-underutilized existing assets
- It is the Land Value Capture Tool that can provide income flows and public benefits
- For providing affordable housing, it may be preferable to providing direct housing subsidies
- It can be coupled with subsidy programs, including across levels of government

Land Leasing and Land Value Capture

- Land leasing is a long-term land value capture tool and local governments are becoming increasingly interested
- Captures economic rents caused by public expenditure, which is returned to fund those expenditures
- Maximizes vacant/underutilized land by increasing its value and retaining that increased value for public good

Benefits of Public Land Leasing (PLL)

- Long Term Revenue Stream
- Multi-Generational
- More Development and Land Use Controls
- Captures Value Uplift – Both from public and private investments
- Future Urban Redevelopment
- Ownership Retention
- Long Term Affordability



Picture: Lynn Duong, 2017, Greater Toronto/Hamilton Area (GTHA) Government-Owned Public Lands Inventory Web Map

Historical Examples of PLL



Picture Left: Aman Singh 2017; Picture Right: The Daily Conversation

Amsterdam

- **Introduced in 1896 as Land Disposal Policy**
- **80% City Owned** – Amsterdam is 21.907 hectares
- **Normally 50-year terms** – 2017 New Perpetual lease system adds clarity
- **Derived from Napoleonic Code** – Right of Rem.
- **Lease Structures** –
 - Limited period ground lease;
 - Perpetual ground Lease;
 - Perpetual ground Lease without revision



Picture: International Cities of Peace 2013

Hong Kong

- **Rail + Property Model** – Fueled by PLL
- **Leased by HKSAR** – Normally 50-year terms. General halt in leases for post 2047
- **Upfront Premium Model** – 97% of value upfront and an annual ground rent of 3%
- **30,000 leases in the New Territories** – Most expiring about 2047
- **39% Uplift Capture** – A 1999 Report found that Hong Kong captured an average of 39% of uplift



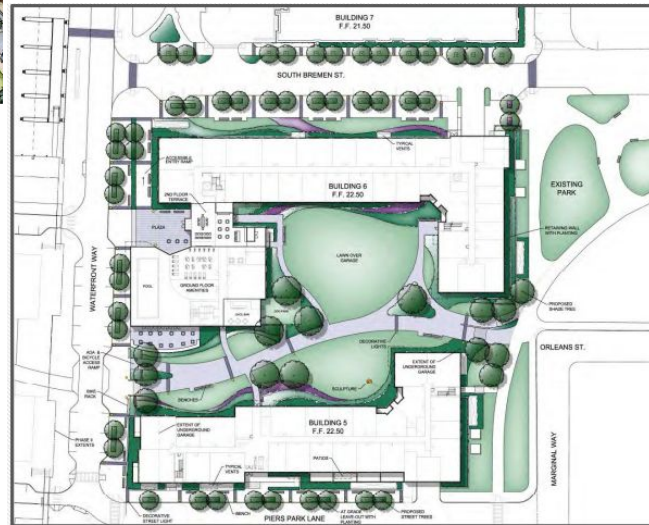
Picture: Savills 2017; Report: Yu-Hung Hong, 1999, *Myths and Realities of Public Land Leasing: Canberra and Hong Kong*, Land Lines March 1999

American Examples



Picture Left: Connecticut Backgammon Community 2017; Picture Right: Sarathc 2017

Boston – Massport: Portside at East Pier Phase 2



- **Recession –**
Required project changes and phasing
- **Ground Lease –**
A 7 building project on a 1,132,520 square feet ground lease

Massport Development Process

- Build infrastructure, early: roadways, utilities, open space
- Pre-permit entire site
- RFP parcels to developers
- Enter into ground leases
- Developers construct buildings

Boston – Open for Business

Typical Lease Structure

The leases are normally on a term of 30-95 years depending on private investment. They then have the options of:

1. **Fixed Rent**
2. **Participating Rent**
 - a. Percentage of Gross Income
 - b. Minimize Exclusions from Gross
3. **Transaction Rent**
 - c. On Sales
 - d. On Refinancing

Boston – MBTA: North Quincy Parking lot



Picture Left: Bruce Mohl 2016 Picture Right: Nestor Ramos 2016

- **99 Year Term** – \$230 million over the lease (NPV \$20 million)
- **TOD** – Creating direct housing support to transit infrastructure
- **Property Tax** – \$1.6 Million Annually

New York City

- Over 100 properties
- Trinity Church Property
- World Trade Center Property
- Battery Park City

NYC Residential Land Leases

- Residential Land Leases on Government Land
- Residential Land Leases on Institutional Land
- Residential Land Leases on Private Land

Canadian Governments and Land Leasing

- Federal Government
 - Beyond Crown Land into the National Housing Strategy
- Provincial Governments
 - British Columbia and Ontario
- Local Governments
 - Toronto Example

Federal Government

National Housing Strategy

- Initially CMHC was to make Government lands available for affordable housing
- 2024 under the “***Public Lands for Homes Plan***,” the Government announces the establishment of the “***Canada Public Land Bank***”

Public Lands for Homes Plan

- Announced in the 2024 Budget to support “***Canada’s Housing Plan***”
- Partner with all levels of government to build housing on surplus and underutilized
- It will provide \$500 million to launch the public lands acquisition fund to buy land from other levels of government
- Canada Lands in collaboration with CMHC is administering the “call for proposals” to acquire the ability to build housing on these lands that are part of the *Canada Public Land Bank*

Canada Public Land Bank

- Initially 56 Properties have been identified as being available for housing with a number of these being available for leasing and ready to build housing
- In October the list had grown to 70 properties representing 385 hectares of available land (Toronto, Edmonton, Calgary, Ottawa, Montreal)
- They indicate where possible, they will use “*a novel long term land lease*” (long term land leases at discounted value)

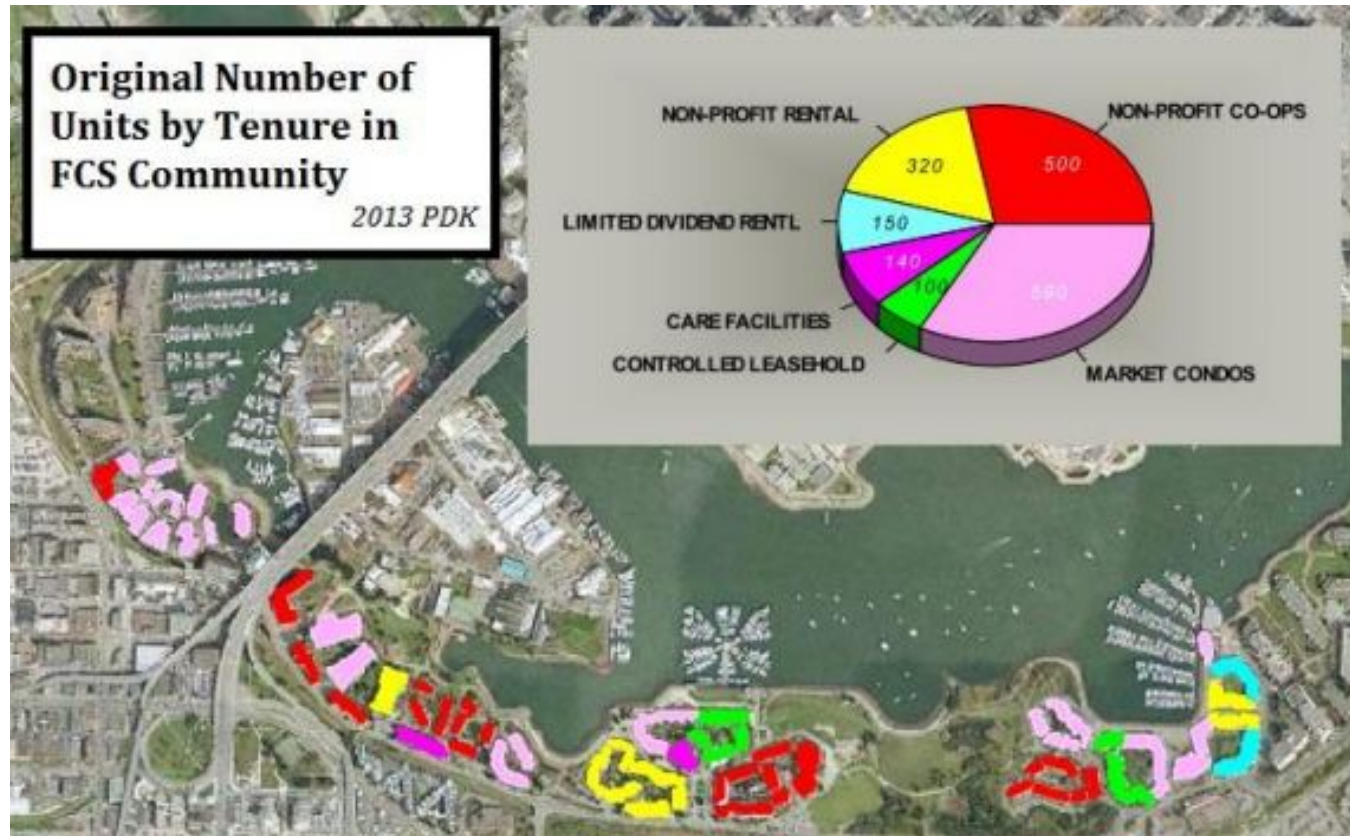
Provincial Governments: Applications/Opportunities

- British Columbia
 - History of Applications
- Ontario
 - Limited Applications but Opportunities

BC Housing

- Early 1990's
- 60-year leases to the non-profit sector
- Also operating subsidies
- Later sale of these lands
- Changes to the program in recent years

British Columbia - South False Creek



Picture: Woodward, K., Woodward, J., Krause, P., & May, L. (2016, July). White paper: Historical and legal context for false creek south residential strata leases.

- Big move to PLL in the 1970s
- Controversial around periodic lease revisions for not premium units
- Politics around renewal of contracts

British Columbia – UBC Endowment Lands



Picture: UBC Properties Trust 2017

- Public Ownership transferred to the University
- All Developments on ground leases normally 99-year terms
- Landlord for 30% of which only half is for students and staff. Remaining 70% set at market rates.

Waterfront Toronto – Water Innovation Centre



Picture: Menkes Development Submission 2017.

- 99 Year lease from Waterfront Toronto / The City of Toronto
- Intended to jump start innovation in the area
- Land use control as part of lease

West Don Lands



Picture: Waterfront Toronto 2017

- Missed opportunity
- Large scale redevelopment
- Funding for affordable housing on site

Toronto Port Lands – Ownership Map



Picture: Toronto Port Lands Corporation 2017

- Large concentration of public land
- Revitalization Area –value capture of gentrification
- Waterfront – retains long term value

Municipal Applications: Toronto

- Toronto Portlands Corporation: Historic Commercial Application
- Toronto Affordable Housing Office/ CreateTO: Housing Now Program

Toronto Portlands Corporation

- Long Term Leases: The Film Studio: 100 Year
- Adjustments every 5 years
- Medium Term Leases: Concrete Campus: 25 Year Leases
- Long enough for investments in structures
- Potential for 2 five-year extensions
- Short Term Leases: 10 Years and Less
- Annual increases
- Even several months at annual rates pro rated

Housing Now Program

- Program under Toronto's "HousingTO 2020-2030 Action Plan"
- The program currently includes 22 city-owned properties (program inception January 2019)
- There are currently development approvals of 10 properties
- Objective to create homes for a diverse range of incomes between 40% to 80% of city's average market rents
- Estimated yield to be 15,000 units which will include over 5,000 affordable rental units

Housing Now Program

- Development is in conjunction with private sector and non-profit partners
- Maintain public land ownership (99-year land leases)
- Incentives in the development process are provided to attract developers: development charge, fast track, property tax, etc.
- The program uses National Housing Strategy funding
- Rental construction financing loans
- National Housing Co-Investment Fund (for non-profits)

Advantages of Land (Ground) Leases

- Captures portion of value increases including those caused by public investment
- Retains control over uses, design, operations through contract rather than regulation
- Provides steady stream of income rather than one-time hit
- Can compel completion of improvements as planned
- Land returns someday....kept in public ownership

Downsides to Land Leasing

- Adds complexity to financing
- Value discount
- Long negotiations
- Legal fees
- Ongoing responsibilities
- Complex provisions must be managed

Conclusion

- Land Leasing is widely used for multiple objectives:
 - It can be used as a land value capture tool
 - It can generate significant income streams
 - It can be applied to residential development, including affordable housing

Discussion

- **What is your agency's experience with land leasing?**
- **Do your land leasing outcomes meet your objectives?**
- **What do you view as the major problems or impediments in undertaking “your”, or a new land leasing applications?**
- **What changes do you recommend for improving your application, or recommendations for others in undertaking a land leasing strategy?**