

HOUSING WORKSHOP 1

BUYING AND OWNERSHIP OF LAND

3 Facilitators Needed

Estimated Time: 1 hr 50 min

Things to Prepare BEFORE WORKSHOP

ITEM	APPENDIX #	PAGE # USED
Flip Chart 1-1	A-1-1	1-2
Flip Chart 1-2	A-1-1	1-3
Handout 1-1 <i>Buying and Ownership of Land</i>	A-1-3	1-6
Evaluation Form	Trainer's Section	1-9

Activity	Page	Time	Materials
Introduction <ul style="list-style-type: none"> • Introduction of facilitator and participants, icebreaker. • Review of workshop objectives 	1-2	15 min 5 min 20 min	<input type="checkbox"/> Blank Flip Chart/Markers <input type="checkbox"/> Flip Chart 1-1 Workshop Objectives
Learning Activity 1: Contract Issues <ul style="list-style-type: none"> • Role Playing • Group Discussion 	1-3	20 min 15 min 35 min	<input type="checkbox"/> Blank Flip Chart/Markers <input type="checkbox"/> Flip Chart 1-2 Role-play Main Points
Break	1-5	15 min	
Learning Activity 2: Land Issues <ul style="list-style-type: none"> • Land Issues 	1-6	30 min 30 min	<input type="checkbox"/> Blank Flip Chart/Markers <input type="checkbox"/> Handout 1-1 Buying and Ownership of Land
Wrap Up <ul style="list-style-type: none"> • Workshop Evaluation 	1-9	10 min 10 min	<input type="checkbox"/> Evaluation Form

Introduction

Time: 20 min

Materials: Prepared Flip Chart 1-1

Reminder: The Trainer's role is always to *educate*, not to provide *advice*

- **Introduction of Facilitator and Participants**

- Welcome the participants and introduce yourself to the group.
- Ask the participants to introduce themselves and conduct one Icebreaker selected by the facilitator from the Icebreaker list.
- Tell the group that this session will give some advice to Owners or perspective buyers of Land.

- **Workshop Objectives**

- Show Flip Chart 1-1: Objectives and review it with participants the objectives
- Hang the flip chart so it is visible to the entire group

Learning Activity 1: Land Issues

Time: 35 min

Materials: Blank Flip Chart, Flip Chart 1-2, Markers

This activity will require three trainers

- **Role Play:**

- You will be reading a short skit addressing important concepts about land issues. One of the trainers will play the role of Arturo, another the role of Jaime, and the third will play the role of Lalo.

Arturo: Companeros, did you hear what happened to Miguel? He lost his house, the house he built himself because he missed two payments on his land!

Jaime: What a shame! Anyone can get behind two payments these days – what with slow work, layoffs, family emergencies. . . You’d think they’d have given him a chance to work things out and catch up. His home was important to him. I’m sure he would have caught up if they’d let him.

Lalo: Are you kidding? The owner not only got the land back, but now it has a water tank, a septic system and a house on it. The owner will make even more money selling it now.

Arturo: I heard that Miguel went to an attorney, but they couldn’t help him because he bought the land under a Contract of Sale, also known as a Contract for Deed and didn’t actually own the land, although he thought he did. The attorney told him that the contract said the owner would transfer title to the land **AFTER** he made the last payment. Until then, he was more like a renter.

Jaime: That worries me. I’m not sure what my contract says. I’m going to show my loan documents to Angel, the counselor at the community center and ask him to explain them to me. My house is almost finished and I don’t want to end up like Miguel, with nothing to show for all the hard work he put into his house.

Note to Trainer: Jaime and Lalo are no longer in the skit at this point, so one of the trainers can now take on the role of Angel.

Read – “LATER THAT DAY”

Jaime: Angel thanks for seeing me so soon, but I'm really worried. I heard what happened to Miguel, losing his home because he missed two payments, and I don't want the same thing to happen to me.

Angel: Let's take a look at your loan documents.

Note to Trainer: Angel should act as if he is reviewing several sheets of papers (the "loan documents").

Angel: Well Jaime, I'm sorry to say that you also have a Contract of Sale. Getting behind could be disastrous! But don't panic, the center is administering a deed conversion program that might be able to help you. If you qualify, state funds will pay off the balance of what you owe and you will pay the state instead of the greedy land company. Interest rates are low and you will have the right kind of ownership – a deed for your property instead of a Contract of Sale. I'll give you an application.

Jaime: Thanks Angel. I'll get it back to you within a few days. Meanwhile, I am going to hold on to the money I put away when I received my income tax return. It's not much, but in case work slows down, at least I'll have something to fall back on.

Angel: Good thinking Jaime. So many people use their refunds without putting anything away for any emergency.

Note to Trainer: Read: "A few days later Lalo, Arturo and Jaime meet again."

Jaime: Arturo, I'm glad you told me about poor Miguel. I went to the community center for help. They looked at my contract and I had the same problem as Miguel. Luckily, they are helping people in my situation to convert their contracts to deeds so they can actually own their property. I qualified for the Deed Conversion Program and within a few more weeks, I'll have a Deed instead of a Contract of Sale.

Lalo: I'd better go to the center and have them look at the papers for my lot too.

Jaime: The counselor said that anyone with a Contract of Sale should always try to save some money for an emergency so they don't wind up in trouble like Miguel. So many people in our neighborhood work at jobs that have slow seasons and when things get rough they are all at-risk of losing their homes.

Arturo: Sounds like good advice. We all work so hard to get ahead. It's important to know these things so we don't lose what we have.

- **Group Discussion:**

- Ask the group: What are the main points of the skit?

- Write down their responses on a blank flip chart
- Compare their responses to Flip Chart 1-2 Role-play Main Points.
- Now follow the structure of figure 1-1 to identify the main characteristics of the two types of contracts.

-----15 min BREAK-----

Learning Activity 2: Land Issues.

Time: 30 min

Materials: Handout 1-1, Blank Flip Chart, Markers.

• Land Issues

□ Distribute Handout 1-1 Buying Land.

- The objective of this activity is to learn and understand the main issues related to buying and/or owning land.
- Tell the group that there are some principles they should be aware of before they consider buying land. These could become real problems if not taken in consideration.
- Land Issues: Information that relates to the property itself
- Contract Issues: Terms and conditions of the contract
- Financing Issues: Amount of money you will pay to finance your house and lot
- Many of the problems are due to a lack of affordable housing and access to financing in southwestern counties. People needed housing looked outside the city limits in mostly rural areas to buy land to build their homes.
- Review the definitions in the brochure and give additional information and examples of each of them. Use a blank flip chart to write down the examples. See figure 8-2 for examples. The main topics are as follow with additional information:
 - **Zoning and Platting:** Zoning addresses the architectural design of structures, the area to be occupied by them, and the use to which the property may be devoted. Each year counties process requests for platting subdivisions. This information is recorded in plat books available for public review in the county planning office. Platted subdivisions do not necessarily indicate actual growth, but they do indicate potential growth, since the subdivided parcels are available for development.
 - **Contract of Sale (also known as a Contract for Deed):** Many *colonia* residents bought land under Contract of Sale because they had neither the credit history nor the resources to qualify for traditional financing. It is very important to know whether you purchased your property under a Contract of Sale or a traditional Deed, and what the difference between the two is. As stated, a Contract of Sale is a type of contract that permits “possession” of the property until the entire contract is paid in full, at which time the Seller conveys or transfers title to the Buyer by giving him or her a Deed. **The Buyer does not legally own the property until the Seller delivers a deed to the buyer after all payments have been made under**

the Contract for Deed. Possession and ownership are not the same. People who bought lots and were given Deeds to the property have legal ownership of the property even though there is a lien against it in favor of the Seller. People who bought property under a Contract for Deed have far less rights than those who bought property with a Deed, with their rights being similar to renters.

- **Recording:** Recording is controlled by statute (law) and usually requires the witnessing and notarizing of an instrument to be recorded. Deeds of Trust are generally recorded in the County where the land is located, but Contracts of Sale are not usually recorded.
- **Infrastructure:** During the past 10 years, Texas, for example, has taken steps to improve *colonia* living conditions through legal means and to stop the spread of *colonias* with little or no infrastructure (electricity, water and sewer systems). In 1995, Texas passed a law that prohibits developers from selling lots in existing *colonias* without water and wastewater treatment services. Unfortunately, even though these laws now exist, some cities and counties lack staffing to enforce the complex law. Without aggressive enforcement, many of the problems continue.
- **Environmental Issues:** In areas where groundwater levels are deep, soils are sandy, and development scattered, septic tank systems have worked satisfactorily. According to a 1995 survey by the Texas Department of Human Services, more than two-thirds -- 66% -- of El Paso County *colonia* residents relied upon cesspools or outhouses for their wastewater "treatment" service.
- **Other Issues:** inability to obtain clear title or a good deed – Buyers of unplatted or improperly platted lots that were not properly subdivided may be unable to obtain clear title (ownership) of their property even though they have paid off the loan to purchase the property or the Contract of Sale.

Inability to sell or transfer the property – similar to the above issue, if the lot was not properly subdivided the Buyer may be unable to transfer or sell the property.

Value of land – sales price of lots may be excessive and not have the same value as the price the Buyer paid. Land value may not have appreciated.

Flood insurance – if you obtain a loan to purchase your home, the lender would likely require flood insurance (in addition to hazard insurance) if your property is located in a floodplain.

- **Unfavorable Clauses:** Contracts of Sale may contain several clauses that are unfavorable for the Buyer. Here are some of them:

- ❑ Water Rights Payments and taxes – requirements to make payments for water rights payments and taxes – irrigation knowing that there are no ditches and you will not be able to access the water.
- ❑ No liens against the property – inability to use the property as collateral for home improvement loans. Buyer must pay cash for all costs of improvements, and the improvements will become a part of the property. If the contract is cancelled and Buyer's interest is forfeited, the improvements will be owned by the Seller.
- ❑ Immediate surrender of property if contract is cancelled – buyer loses right to possess the property, after receiving notice required by the State Property Code, and can easily be evicted.
- ❑ Seller's liens on Buyer's lots – Seller has encumbered the property with liens that can be renewed or extended without Buyer's permission. In most cases, Seller agrees to pay the note and to obtain a release of lien before transferring title to the Buyer.

WRAP UP

Time: 10 min

Materials: Evaluation Form

- **Evaluation of Workshop**

- Distribute Evaluation Forms.
- Ask the group to please complete Evaluation Form with their comments
- Let them know that their comments are important to further improve the module
- Thank them for taking the time to attend this workshop and ask them if they have any questions.
- If you cannot answer a particular question, write it down along with the contact information for the person who asked the question. Contact them later with an answer.

FLIP CHART 1-1 Workshop Objectives

WORKSHOP OBJECTIVES LEARN ABOUT

Contracts for Deed vs. Deeds of Trust

Principles of Buying Real Property

Land Issues
Contract Issues
Financing Issues

FLIP CHART 1-2 Role Play Key Points

- Types of contracts
- Knowing your contract
- Deed conversion
- Saving for an emergency

Figure 1-1 Example Contract Characteristics

<u>Contract Characteristics</u>	
Contract for Deed	Deed of Trust
Borrower's rights are similar to that of a tenant	Traditional form of ownership giving better protection to the borrower

Figure 1-2 Land Issues

Basic amenities – condition of roads, arteries and those responsible for maintenance
Infrastructure – potable water, sewer, natural gas, location in floodplain or water ponding area
Environmental issues – proximity to waste dumps, platted lots, lot approved for a septic tank

Contract of Sale

A Contract of Sale is a financing arrangement in which land ownership remains with the seller until the total purchase price is paid.

It is very important to know whether you purchased your property under a Contract of Sale or a traditional Deed, and what the difference between the two is.

Recording

Recording is the filing of documents affecting real property as a matter of public record. Filing gives notice of ownership to future purchasers, creditors, or other interested parties.

Many Contracts for Deed include clauses that prohibit their being recorded.



Infrastructure

Many of today's *colonia* residents still use cesspools and septic tanks, and many buy water either by the bucket and drum or use potentially contaminated wells. Even though some *colonias* have water and sewer systems in place, many *colonia* residents do not have hookups because their houses can't pass inspections to qualify and the owners can't afford repairs or improvements to meet codes.

Environmental Issues

Environmental and health problems can result when septic tanks are improperly constructed or installed, or where the area is not suitable for their use. (For example wastewater bubbling up to the surface). Similarly, flood plain areas could result in wastewater contaminating either underground aquifers or the ground.

Tips on Septic Systems:

- An on-site sewerage system should not be treated as if it were a city sewer.
- Economy in the use of water helps prevent overloading of a sewerage system.
- Faucets and commode fill-up mechanisms should be carefully guarded and kept in good repair.
- Garbage grinders can cause a rapid buildup of sludge or scum that then requires more frequent cleaning and possible system failure.
- Excessive discarding of grease should be avoided.

BUYING AND OWNERSHIP OF LAND Real Estate Issues



Handout 1-1
A-1-3

ISSUES

Land Issues

Relates to information about the property itself.

1. Basic amenities – conditions of roads, arteries and those responsible for maintenance
2. Infrastructure – water, sewer, oil, natural gas
3. Location in floodplain or water ponding area
4. Environmental issues – such as proximity to waste dumps
5. Platted Lots
6. Lot approved for a septic tank



Financing Issues

Relate to the amount of money you will pay to finance the lot.

1. Interest Rate
2. Total Interest to be Paid
3. Late fee terms
4. Prepayment penalties
5. Cost of Utilities

Contract Issues

Relates to the terms and conditions of the contract.

- Right to ownership (Contract of Sale or Deed)
- Disclosures
- Other contracts to buy same property
- Whether construction of a house is prohibited
- Other restrictions on the property
- Right to obtain survey of the plat of the property
- Copies of documents in Spanish if sale was negotiated in Spanish
- Right of Cancellation
- Explanation of default and what can be done to keep the land
- Ability to use equity in the property as security for home improvement loans
- Enforceable building codes
- If model subdivision code adopted, is the property grand-fathered?.
- Receiving title within reasonable time after final payment is made



Other Issues

- Inability to obtain clear title
- Inability to sell or transfer the property
- Value of land
- Flood insurance

Zoning and Platting

Generally, the division of an area into districts and the regulations that govern growth and development in each district is referred to as **zoning**.

For example, zones may be limited to residential use or commercial use.

In rural areas that lack zoning, counties must utilize other means to determine potential growth. **Subdivision platting** is the most reliable alternative available.

A number of existing *colonias* are either not platted or are not platted legally or properly. This means that land sales are difficult. Owners living on these lots may be unable to obtain title.

