

PREPARED STATEMENT OF CHERYL A. CAUSLEY  
CHAIRWOMAN - NATIONAL AMERICAN INDIAN HOUSING COUNCIL  
TO THE UNITED STATES SENATE COMMITTEE ON INDIAN AFFAIRS  
OVERSIGHT HEARING  
“IDENTIFYING BARRIERS TO INDIAN HOUSING DEVELOPMENT  
AND FINDING SOLUTIONS”

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Good afternoon Chairwoman Cantwell, Vice Chairman Barrasso, and distinguished members of the Committee on Indian Affairs. Thank you for the opportunity to appear before you today to help the Committee to identify barriers to Indian housing development as well as propose solutions to these difficult challenges.

My name is Cheryl Causley and I am the Executive Director of the Bay Mills Indian Housing Authority. I am an enrolled member of the Bay Mills Indian Community located in Brimley, Michigan, and am here today in my capacity as Chairwoman of the National American Indian Housing Council (NAIHC).

**Background on the National American Indian Housing Council**

The NAIHC was founded in 1974 and for nearly four decades has served its members by providing invaluable training and technical assistance (T&TA) to all tribes and tribal housing entities; providing information to Congress regarding the issues and challenges that tribes face in terms of housing, infrastructure, and community and economic development; and working with key federal agencies to address these important issues.

The membership of NAIHC is expansive, comprised of 274 members representing 473<sup>1</sup> tribes and tribal housing organizations. NAIHC’s member tribes span the entire country from Florida to Alaska, from New Mexico to Maine, and reside in each and every state represented by the Members of this Committee. Our members are deeply appreciative of the consistent leadership this Committee provides in Congress related to issues affecting tribal communities.

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<sup>1</sup> There are 566 federally recognized Indian tribes and Alaska Native villages in the United States, all of which are eligible for membership in NAIHC. Other NAIHC members include state-recognized tribes eligible for housing assistance under the 1937 Housing Act and that were subsequently grandfathered in the Native American Housing Assistance and Self-Determination Act of 1996; and the Department of Hawaiian Home Lands, the state agency that administers the Native Hawaiian Housing Block Grant program.

NAIHC's primary mission is to support tribal housing entities in their efforts to provide safe, decent, affordable, and culturally appropriate housing for Native people.

As this Committee knows, tribal communities suffer from some of the worst housing conditions in the United States. The causes are many, but can be broken down largely into four categories:

1. Federal delays in providing necessary approvals and funding;
2. Lack of technical capacity enabling tribes to maximize scarce resources;
3. Lack of physical infrastructure; and
4. Weak tribal economies that fail to provide jobs and income to Native families, resulting in an ongoing inability to finance homes and related capital assets.

Solutions include new and innovative partnerships between the federal and tribal governments --- as well as the private sector --- that could provide tribal communities the tools they need to meet the longstanding housing challenges and build better housing environments.

### **Tribal Surface Leasing Authority: Potential for Expedited Lease Approvals**

In the last session of Congress, the NAIHC was the lead proponent of the *Helping Expedite and Advance Responsible Tribal Homeownership Act* (HEARTH Act), one of only eight Indian tribal bills enacted into law in the 2011-2012 timeframe. The HEARTH Act builds on the *Navajo Surface Leasing Reform Act of 2000*, and authorizes Indian tribes in general to lease surface tribal trust lands pursuant to their own tribal surface leasing ordinances. Once a tribal surface leasing ordinance is approved by the Interior Secretary, the tribe may pursue surface leasing of its tribal trust lands for a variety of purposes, including home site leases, without the review or approval of the Secretary.

While this may sound elementary to some, these amendments strengthen tribal self-determination and give tribes a tool they will assuredly use to expedite leasing decisions and to improve the approval process that housing development relies upon.

### **General Economic Conditions in Indian Country**

Recently, our country has gone through an economic downturn that many have described as the worst recession since World War II. This economic reality is greatly magnified in Indian communities. The national unemployment rate peaked at an alarming rate of nearly 10 percent and still hovers around 8 percent. The rate in tribal communities is 49 percent.<sup>2</sup> The highest unemployment rates are on the Plains reservations, where the average rate is 77 percent.<sup>3</sup>

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<sup>2</sup> Bureau of Indian Affairs Labor Force Report (2005).

<sup>3</sup> Many of these reservations are in the state of South Dakota, which has one of the lowest unemployment rates in the nation. On some SD reservations, the unemployment rate exceeds 80 percent.

Because of the remote locations of many reservations, there is a lack of basic infrastructure and economic development prospects are difficult to identify and even more difficult to pursue. As a result, the poverty rate in Indian Country is exceedingly high at 28.4 percent, nearly three times the national average.<sup>4</sup> These employment and economic development challenges exacerbate the housing situation in Indian Country.

- According to the 2000 U.S. Census, nearly 12 percent of Native American households lack plumbing compared to 1.2 percent of the general U.S. population.
- According to 2002 statistics, 90,000 Indian families are homeless or under-housed.
- On tribal lands, 28 percent of Indian households were found to be over crowded or to lack adequate plumbing and kitchen facilities. The national average is 5.4 percent when structures that lack heating and electrical equipment are included.
- Seventy percent of the existing housing stock in Indian Country is in need of upgrades and repairs, many of them extensive.
- Less than half of all reservation homes are connected to water sanitation facilities.

There is consensus in Congress, the federal government, tribal leaders, and tribal organizations that there is a severe housing shortage in tribal communities; that many homes are, as a result, overcrowded; that many of the existing homes are in need of repairs, some of them substantial; that many homes lack basic amenities that many of us take for granted, such as complete kitchens and plumbing; and that at least 250,000 new housing units are needed in Indian Country.

These issues are further complicated by the status of Indian lands, which are held in trust or restricted-fee status by the United States for the benefit of the tribes or their members. As a result, private financial institutions are leery of lending for new construction or home improvements. Private investment, therefore, in real estate in Indian Country is virtually non-existent, with tribes almost entirely dependent on the federal government for financial support in meeting their growing housing needs.

### **Brief Summary of the Problems Regarding Housing in Indian Country**

The *Housing Act of 1937* authorized local governments to organize public housing agencies that received federal subsidies to improve living conditions for low-income families. It was not until 1961 that the Public Housing Administration recognized tribal governments as local governing bodies that could establish Indian Housing Authorities under tribal law. The ensuing three decades led to improved housing conditions throughout tribal communities, however, enormous hurdles plagued most tribal housing programs.

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<sup>4</sup> US Census Bureau, *American Indian and Alaska Native Heritage Month: November 2011*. See <http://www.census.gov>.

Numerous tribal leaders, tribal housing advocates and Members of Congress recognized a need for significant changes to federal law to provide tribes access to federal housing funds in a manner consistent with tribal self-determination.

### **The Native American Housing Assistance and Self-Determination Act**

In 1996, Congress passed the *Native American Housing Assistance and Self-Determination Act* (NAHASDA) to address the housing crisis in Indian Country by consolidating and block granting federal housing programs directly to Indian tribes or their tribally-designated housing entities (TDHEs). For seventeen years, NAHASDA has been the cornerstone for providing housing assistance to low-income families on Indian reservations, in Alaska Native villages, and on Hawaiian Home Lands.

The Indian Housing Block Grant (IHBG) is the centerpiece of NAHASDA, and since its first fiscal year of funding in 1998, NAHASDA has been the single largest source of funding for tribal housing.

Administered by the Department of Housing and Urban Development (HUD), NAHASDA specifies which activities are eligible for funding.<sup>5</sup> Not only do IHBG funds support new housing development, acquisition, rehabilitation, and other housing services that are critical for tribal communities, they cover essential planning and operating expenses for tribal housing entities. Between 2006 and 2010, a significant portion of IHBG funds, approximately 24 percent, were used for critical planning, administration, and housing management and services.

Despite advances made by some tribes since 1996, many tribes lack administrative capacity to manage their block grants in effective and efficient ways. After formal hearings and much deliberation, section 703 of NAHASDA reflects congressional authorizers' thoughtful conclusion that T&TA is critical to the success of NAHASDA's block grant regime.<sup>6</sup> Congressional appropriators share this view. In the Fiscal Year 2013 Transportation, Housing and Urban Development spending bill considered last June, appropriators acknowledged an enormous need for T&TA in Indian Country.

One of the most important services the NAIHC has provided for more than a decade is T&TA to tribes and their TDHEs. Reflecting the importance of T&TA and the value they place on NAIHC-provided assistance, tribes have voted each year since 2006 to "shave" their respective block grant amounts and allocate the funding to NAIHC for its T&TA program. Despite the plain language of section 703, recent changes to appropriations bills have radically changed how training funds are allocated.

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<sup>5</sup> Eligible activities include, but are not limited to, down-payment assistance, property acquisition, new construction, safety programs, planning and administration, and housing rehabilitation.

<sup>6</sup> Section 703 of NAHASDA is titled, "Training and Technical Assistance," and provides that "(T)here are authorized to be appropriated for assistance for a national organization representing Native America housing interests for providing training and technical assistance to Indian housing authorizes and tribally-designated entities such sums as may be necessary [for subsequent fiscal years]." 25 U.S.C. §4212.

Fiscal Year 2012 funding, for instance, was provided to NAIHC but also to other tribal organizations and at least one non-Indian organization. We point out that neither tribal leaders nor tribal housing managers were consulted before these changes were implemented by HUD.

In addition to its key T&TA role, and in anticipation of NAHASDA's reauthorization this year, NAIHC also undertook a comprehensive outreach process to encouraging open discussion about the Act from inception to the present, from the perspective of the tribes and their TDHEs.

The outreach facilitated in-depth, ongoing discussions to assess the effectiveness of the Act, its individual components, and its rules and regulations in meeting its intended purpose(s). The objective of this extensive outreach process was to have a reauthorized Act that more effectively accomplishes its objectives.

With this process now complete, NAIHC has shared a discussion draft bill with Members of Congress and interested stakeholders. NAIHC encourages the swift reauthorization of this important statute.

### **Leveraging Housing Funds**

Relying on appropriated dollars to build and renovate homes has been the standard practice in Indian Country. Alternatives, such as leveraging existing funds with guarantees or investing borrowed money, can bring new opportunities to Native families in search of housing.

The tools provided in NAHASDA have spurred several tribes into exploring partnerships with lenders or utilizing existing funds to enhance the effectiveness, efficiency, and success of housing projects.

For example, tribal housing entities are increasingly encouraged to leverage their IHBG funding to secure other sources of financing, such as Low Income Housing Tax Credits. They are also beginning to combine funding streams from multiple sources such as the U.S. Department of Agriculture Rural Development, U.S. Treasury Department's Community Development Financial Institutions Fund, the Federal Home Loan Bank, private foundations, and commercial banks. Even a simple "pooling" of existing resources is difficult because compliance requirements vary from program to program, presenting barriers to efficient administration of multiple funding streams and limit the ability of tribes to access multiple programs in an effort to reach adequate scale.

While tribes are doing their best to minimize these barriers and achieve economies of scale that accompany resource "pooling," a better solution would be for the federal government to launch a demonstration project authorizing tribes to reach across the spectrum of federal programs to access currently disparate programs and resources. This is already being done in the realm of labor and employment training with the universally popular *Indian Employment, Training and Related Services Act* (Pub.L.102-477) otherwise known as the "477 Program."

It should also be noted that eligibility to receive funding available through various federal housing programs is not consistent. A number of organizations in Alaska and Oklahoma, for example, cannot be accurately characterized as either tribes, units of local government or

501(c)(3) non-profit organizations. A simple solution would be to review eligibility requirements for federal housing programs and, whenever possible, extend eligibility to entities that have been designated as TDHEs for one or more Indian Tribes for the purposes of NAHASDA.

### **Title VI Loan Guarantee Program**

Under Title VI of NAHASDA, HUD is authorized to guarantee notes or other obligations issued by tribes, or tribal housing entities, if approved by the tribe, for the purpose of financing affordable housing activities as described in section 202 of NAHASDA. IHBG funds may be used as security for the guarantee or other obligations. The objectives of the program are to enhance the development of affordable housing activities, increase access to capital to further economic growth, and encourage participation in the financing of tribal housing programs or financial institutions that do not normally serve tribal areas.

#### **Case Study: Passamaquoddy Tribe of Maine**

The Passamaquoddy Tribe of Maine has found creative approaches to maximize the impact of NAHASDA funds they receive. Using the Title VI loan guarantee program to attract other sources of capital, the Tribe successfully leveraged its IHBG funds to enhance its housing development strategies. The flexibility of the Title VI program criteria allows financing of any NAHASDA-eligible affordable housing activity for a period of up to twenty years. Title VI has also proven to be a cost-effective source of gap financing during initial stages of a housing project.

The Tribe used Title VI to construct twenty-eight low-income housing tax credit units and a community center. The balance on the Title VI loan was paid down with the tax credits and Federal Home Loan Bank of Boston's Affordable Housing Program funds.

### **Section 184 Home Loan Program**

HUD's section 184 program is a mortgage loan product designed to resemble a conventional or private housing loan, and there are no income limits for the section 184 Loan program. Because the section 184 loan program is guaranteed by the federal government, the program has provided much needed access to capital to many individuals and Native families who might otherwise struggle to obtain home financing.

#### **Case Study: White Mountain Apache Tribe**

The White Mountain Apache Tribe of Arizona utilized a blend of funding streams including NAHASDA, section 184 guarantees, and tribally-issued, tax-exempt bonds to develop a 250 unit single-family housing project. This project provides long-term rentals (amount paid determined on family's ability) with the housing entity as the lessor and the tenants have the opportunity to purchase their units.

## **Case Study: Bay Mills Housing Authority**

The Bay Mills Housing Authority of Michigan developed a tri-party agreement that included the Central Savings Bank, which was able to offer the section 184 loan program, USDA Rural Development loans, or tribal loans to members of the Tribe. Bay Mills used NAHASDA funds as down-payment assistance of up to 10 percent of the loan (not to exceed \$8,000) to families with incomes at or below 80 percent of the area median. The Tribe provides similar opportunities to families with higher incomes.

As the case studies above demonstrate, the 184 program has been a success when the program is viable and has funding available. In recent years, however, uncertainty caused by delay in congressional enactment of annual appropriations bills has prompted HUD to place restrictions on the 184 program. Most recently, on March 8, 2013, HUD announced that it would no longer issue firm commitments under the 184 program until Congress appropriated additional funds. This resulted in some borrowers and lenders being forced to secure alternative financing.

### **Non-Profit Incorporations to Enhance Access to Funding**

Some tribes have created 501(c)(3) non-profit corporations for the purposes of establishing an independent organization that accesses additional housing funding opportunities. Forming a 501(c)(3) is a multi-step process. First, the concept must be endorsed by the tribe's governing body. Once the concept is approved by the tribal government, a charter must be developed and submitted to the tribe and approved. Once approved and chartered, the non-profit must maneuver through a complex field of Internal Revenue Service rules and regulations to appropriately establish a non-profit entity. Based on multiple tribal housing examples, this process has provided increased access to a variety of funding possibilities and a greater ability to serve the individual housing needs of tribal members.

## **Case Study: Yukon-Koyukuk Elder Assisted Living Facility**

The Yukon-Koyukuk Elder Assisted Living Consortium (YKEALC) is a 501(c)(3) organization founded to develop the Yukon-Koyukuk Elder Assisted Living Facility in Galena, Alaska. The facility is located on the banks of the Yukon River in central Alaska and was completed in 2011.

Five federally-recognized Alaska Native tribes came together to create the facility: Nulato Tribal Council, Loudon Tribal Council, Koyukuk Tribal Council, Ruby Tribal Council and Kaltag Tribal Council. Total investment in this assisted living center was \$7.8 million.

These tribes needed a closer facility to provide housing and services to their elders. Without a closer facility, elders would have been forced to move, and this would have put them far from their families, friends and culture. Through the development of YKEALC the elders can remain in their tribal communities and receive top quality housing and health care.

The New Markets Tax Credit financing will allow the facility to purchase medical supplies, install solar panels on the roof and install a wood-based heating system. These energy

efficiency measures are critically important due to the very high cost of energy in this very remote region. The financing also provides working capital to help fund operations at the facility. The project created twenty-eight construction jobs and ten permanent jobs.

YKEALC will also work to keep the elders connected to the community—a crucial element of elder care. This is done through volunteer efforts of local residents bringing fish and game to the facility for community meals.

### **Native Community Development Financial Institutions**

Increasingly, tribal housing programs are exploring the advantages of instituting and working with Native Community Development Financial Institutions (Native CDFIs) in an effort to leverage resources for homeownership. Native CDFIs were created when the *Community Development Banking and Financial Institutions Act of 1994* established the CDFI, whose purpose is to promote economic revitalization and community development through investment and assistance to fund-certified CDFIs. The Fund offers grants, loans, equity investments, and other forms of assistance on a matching funds basis. CDFIs are administered by the U.S. Treasury Department.

These Native CDFIs must demonstrate their independence from tribal government and inclusion of the tribal target population on its board of directors to obtain funding from the Fund. This structure is intended to assure separation from tribal politics and sound lending practices. CDFIs may also attract financial support from banks and other lenders and are especially conducive to tribal housing programs that seek focus on homeownership loans.

It is the goal of most Native CDFIs to bring in funding from various sources to lend back to tribal community members at favorable rates or provide the necessary financial education and credit counseling to increase tribal members' access to lending products. Native CDFI's not only help to boost homeownership through providing loan products and other services, but they provide tribal members with the knowledge and skills in building productive financial opportunities.

#### **Case Study: New Mexico Native CDFIs**

In New Mexico, 10.7 percent of the population is identified as American Indian and/or Alaska Native (AI/AN)—making it the third highest AI/AN populated state proportionate to the rest of the state's population. Out of the twelve certified CDFIs in the state there are four Native CDFIs that provide varied services to the tribal communities of Laguna Pueblo, Ohkay Owingeh, Isleta Pueblo, and the Navajo communities near Gallup, New Mexico. They provide mixed lending products, such as home mortgage loans, home rehabilitation loans, and construction lending. In addition, they provide homeownership education, financial education, and credit counseling and repair.

The financing of the Native CDFIs are diverse, and underscore the multifaceted contribution from various funding sources to meet the housing needs in the New Mexico tribal communities. Three of the New Mexico Native CDFIs receive direct funding from their



respective TDHE, two CDFIs receive funding from the New Mexico Mortgage Finance Authority (a state agency), and two CDFIs receive funding from non-profit entities. The Tiwa Lending Services (TLS) receives direct funding from the Pueblo of Isleta, which transferred its home loan portfolio and tribal funds to TLS.

### **Case Study: Ho-Chunk Community Development Corporation**

The Ho-Chunk Community Development Corporation (HCCDC) is an emerging CDFI, and was formed by and partners with the Winnebago Tribe and its entities. The Mission of the Ho-Chunk Community Development Corporation is to raise the socio-economic and educational levels of Native American communities and the people of Thurston County, Nebraska. A goal of HCCDC is to decrease substandard housing, increase housing opportunity, increase clients' ability to access housing, and increase capital available locally.

The Winnebago Reservation lacks affordable housing and tribal members who are able to afford a mortgage are forced to live elsewhere. Other tribal members lack the funds for the initial down payment to purchase a home. Using the Winnebago Tribe's other private subsidiary, Ho-Chunk Inc., the HCCDC and the Winnebago Tribe have worked together to develop a Housing Down Payment Assistance Program that provides a significant portion of a standard down payment for a new homeowner. The homeowner is required to go through a special financial and homeownership education course and must meet other criteria to qualify.

In 2010, Ho-Chunk, Inc. and the Winnebago Tribe authorized a \$1 million Housing Stimulus Program to set aside Ho-Chunk, Inc. dividends and other tax revenues to offer \$50,000 in down payment assistance to up to twenty new homeowners who build a home on the Winnebago reservation. Through these combined efforts, housing on their reservation is more affordable and tribal members can start building the traditional wealth that other non-Native homeowners have gained.

Beyond their down payment assistance program, the HCCDC has invested in Ho-Chunk Village, a modern comprehensive subdivision that incorporates their traditional village design. The Village will provide both commercial and residential development with a senior-living housing project, private homes, a 20-unit apartment complex, and 10 unit townhouses. On the commercial side, the Village will include a commercial office building, laser art panels, veteran's park, sculpture garden, theater, playground, and public-use building. Beyond creating the needed affordable housing opportunities, the development of the Ho-Chunk Village is raising the tribal economy and creating much-needed jobs.

### **Conclusion**

Given the funding constraints in the tribal housing arena and the need to not only maintain existing units, but keep up with growing tribal populations and meet the tremendous existing housing backlog, tribes have, out of necessity, been very creative in developing partnerships and crafting innovative solutions to meet their unique housing needs and expand community development.

In closing, I want to thank you Chairwoman Cantwell, Vice Chairman Barrasso, and all Members of the Committee for holding this hearing and for the opportunity to highlight solutions that help meet the overwhelming housing needs in tribal communities. Your continued support of tribal communities is truly appreciated, and NAIHC is eager to work with you and your staff on these often-challenging issues.