

**Testimony of Pattye Green
Senior Business Manager, Fannie Mae
Senate Committee on Indian Affairs
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Thank you, Chairman McCain, Ranking Member Dorgan, and Members of the Committee.

My name is Pattye Green and I am the Senior Business Manager for Rural/Native American Initiatives with Fannie Mae. In that role I work across our company's business lines to develop market strategies that enable us to make investments that have a positive impact on the affordable housing market throughout Indian Country. I have over 28 years of mortgage lending experience and, prior to coming to Fannie Mae, was the director of the Home Finance Department for the Housing Authority of the Choctaw Nation of Oklahoma. And, I am a Choctaw Tribal Member myself.

I want to thank you for inviting me to testify on the state of affordable housing on tribal lands and to commend the members of this Committee for your leadership on this issue. Your concern and attention has been and will continue to be critical to the success of public and private sector efforts to expand homeownership opportunities in the Native American community.

I am pleased to be here today to discuss the barriers to capital access that we see on tribal lands, and to share with you the steps that Fannie Mae is taking to help overcome those barriers and expand homeownership and affordable rental housing opportunities in tribal communities.

Fannie Mae's Congressionally-granted mission is to expand homeownership, with a special focus on helping underserved Americans. Finding ways to create affordable housing opportunities for Native American families living on tribal lands is one of the toughest challenges we face.

Many American Indians live on restricted land that is owned by the federal government and held in trust for their tribe. They experience chronic housing problems such as overcrowding, substandard conditions, inadequate infrastructure and a lack of availability of affordable financing. According to the National American Indian Housing Council, nearly 33 percent of homes on tribal lands—more than six times the national average—are overcrowded, less than half of the homes in Indian Country are connected to public sewer systems, and 16 percent of these homes lack complete indoor plumbing. Almost half of Indian households pay more than 30 percent of their income for housing expenses, compared to 23 percent of all households in the U.S.

The homeownership rate on reservations is 41 percent, well below the national average of approximately 68 percent. An absence of conventional mortgage lending is a major factor behind the gap.

There are a number of explanations for this lending gap. Historically, tribes did not have adequate foreclosure laws in place. Consequently, primary lenders did not offer conventional mortgages on trust land because they could not sell the loans in the secondary market.

As a result, American Indians interested in purchasing homes on tribal land had few options. They could borrow through federal mortgage programs that made only a limited number of loans per year, or they could turn to high-cost or predatory lenders. Thanks to several dedicated housing partners, American Indians on trust lands are now entering a new era in which they can obtain traditional mortgages to build or purchase their own homes.

To help meet this challenge, Fannie Mae is working with Congress, Native American tribes, the Bureau of Indian Affairs, the Department of Housing and Urban Development, the Department of Agriculture, mortgage lenders, and other housing leaders to put private capital work on Tribal Lands, creating safer, decent and affordable housing opportunities for more Native Americans.

Our goals are simple: We want to increase access to homeownership, alleviate the critical need for new affordable housing units on tribal lands, and play a meaningful role in addressing the systemic barriers to housing and community development that exist today on tribal lands. In order to meet these goals, our challenge is to build partnerships that will help make our current system of housing and mortgage finance as ubiquitous on tribal lands as it is elsewhere throughout the United States.

Overcoming Barriers

I would like to share with you some of the barriers Fannie Mae has experienced while working on tribal housing issues, as well as what we are doing to try and meet these challenges.

Economic and Infrastructure Barriers

The most stubborn and overwhelming barrier to capital access in Indian Country is the lack of economic opportunity. Poverty rates are 26 percent for Native Americans, over double the national average of 12 percent. In Navajo country, 43 percent of the people live below the poverty level; the per capita income is \$7,300 and the unemployment rate reaches almost 25 percent.¹

And in many tribal communities the economic base is negligible, leading to substandard infrastructure. Many Native American reservations and tribally designated

¹ According to 2000 Census of Population and Housing.

lands suffer from a limited housing stock and a lack of road and utility infrastructure to support new housing.

In light of these severe socio-economic conditions, Fannie Mae is taking a three pronged approach to expanding affordable housing on Tribal Lands: First, by developing the right mortgage products that make it easier for our lender partners to do business on tribal lands; second, by working with developers and tribal housing authorities to address the critical shortage of affordable housing units that currently exists; and finally to develop broad partnerships throughout the housing finance and tribal communities to focus on the long term systemic barriers to housing and community development that exist in Indian Country today.

Increasing Homeownership:

Against this backdrop of extreme poverty, it is not surprising that the Native American homeownership rate lags far behind the national rate and that Native Americans are pessimistic about the lending process. A 2000 survey by the Treasury Department found that 65 percent of tribal members viewed conventional home mortgages as “difficult” or “very difficult” to obtain.

Fannie Mae is working with our lender partners to tailor lending products to meet the needs of tribal members who lack the resources to qualify for traditional financing. In 1999 we launched our Native American Conventional Lending Initiative (NACLI), designed to make conventional lending possible for Native Americans on tribal trust or otherwise restricted lands. Through this initiative, the full range of our low down payment mortgage product options, as well as specific accommodations responsive to the unique circumstances of Native American borrowers, are available to lenders working on tribal lands.

Fannie Mae has also customized its suite of Community Lending mortgage products to respond to the unique needs of Native American communities. Our Community Lending products are designed to help borrowers overcome the two primary barriers to homeownership — lack of down payment funds and qualifying income -- through lower cash requirements for down payment and closing, reduced qualifying income requirements, and higher acceptable debt-to-income and loan-to-value ratios than required for traditional conventional mortgages. We have worked with tribes to add unique features to this product line, including tribally-provided homebuyer education, down payment assistance programs and intervention programs for borrowers who get into difficulty.

We currently have relationships with 112 lenders to make loans to Native Americans on tribal lands. Some of our major partners include Countrywide Home Loans, First Mortgage Company, and Washington Mutual.

Additionally, Fannie Mae uses automated underwriting to bring our most flexible underwriting options to Indian Country. The Chickasaw Nation and Choctaw Nation of

Oklahoma and the Aleutian Housing Authority in Alaska have developed the capacity, using our Desktop Originator technology, to act as a loan origination source, expanding availability of low down payment loans to tribal members. Since 2001, Fannie Mae has helped our lender partners serve over 8,535 Native American families by providing more than \$839 million in affordable mortgage financing on Tribal Lands.

Expanding the Supply of Affordable Housing:

Perhaps the most serious challenge to affordable housing in the near term is the critical shortage of affordable housing units. According to the National American Indian Housing Council, there is an immediate shortage of 200,000 housing units on Tribal Lands in the United States. The Navajo Housing Authority (NHA) estimates that it alone needs 21,000 new housing units to satisfy the unmet needs of all Navajo families – including 12,000 new homes for purchase. To make this situation even more critical, Census figures indicate the tribal population for most of our larger tribes is relatively young, with the largest demographic groups being under 22 years of age. In other words, as the large segment of the Native American population grows older, the current need for affordable housing units will only increase.

As is the case with many of our larger Native American Reservations, many of the Navajo families live with extended families in overcrowded conditions, and a majority of families are unable to qualify for mortgage loans due to lack of credit, credit problems, or lack of finances to make down payments. Consequently, our focus needs to not only be on providing opportunities for affordable homeownership, but also on creating more opportunities for affordable rental housing.

Fannie Mae has worked closely with tribes and other housing partners to support both the construction of new units and rehabilitation of existing units through investments in low-income housing tax credit investments (LIHTC), collateralized revenue bonds and HUD guaranteed Native American Housing Assistance and Self Determination Act (NAHASDA) Title VI loans. We have also begun to provide Tribal Housing Authorities with additional financing via our Community Lending business channel to help bridge funding gaps during the construction phase of their developments.

An excellent example of how the private sector can work with tribal governments to increase the supply of affordable housing can be found on the Standing Rock Reservation in North and South Dakota. Working together with Fannie Mae and Raymond James, the Standing Rock Housing Authority has effectively used tribal housing funds and the Low Income Housing Tax Credit program to build and rehabilitate 248 units of affordable rental housing in the past 5 years.

Nationwide, Fannie Mae has invested over \$160 million in Low Income Housing Tax Credits, over \$51 million in HUD Title VI loans, and \$1.5 million in additional financing to support the construction and rehabilitation of units on Tribal Lands since 2001.

By supporting the successful efforts of tribes such as the Standing Rock Sioux and helping to share that technical expertise and knowledge with other Tribal Housing Authorities, we are committed to increasing these investments to further address the critical shortage of affordable housing units on tribal lands throughout the country.

Legal and Regulatory Barriers

One of the single greatest obstacles to creating more affordable housing opportunities in Indian Country is the lack of a well developed formal property law and recordation system that allows individual tribes and their members to fully access and utilize the capital from their property assets.

Noted Third World Economist Hernando De Soto writes that the formal property system in countries such as the United States works by processing “assets into capital by describing and organizing the most economically and socially useful aspects about assets, preserving this information in a recording system—as insertions in a written ledger or a blip on a computer disk—and then embodying it in a title.” De Soto further states that “A set of detailed and precise legal rules governs this entire process. Formal property records and titles thus represent our shared concept of what is economically meaningful about any asset. They capture and organize all the relevant information required to conceptualize the potential value of an asset and so allow us to control it.”

While many of us may take this formal property system for granted in the United States, it does not currently exist on most Tribal Lands.

In order to develop a better formal property system on Tribal Lands, we first need to support the development of a formal property law system for each tribe that takes into consideration the unique nature of the Tribal land that is held in trust for them by the federal government.

Trust land is inalienable, being subject to transfer restrictions imposed by Indian treaties, Acts of Congress and proclamations of the Secretary of the Interior, and is generally subject to the jurisdiction and laws of the tribe, which is protected by sovereign immunity. Tribal sovereignty generally entails the right to govern, adjudicate disputes, and be immune from lawsuits. While some tribes have fully developed commercial codes, others maintain a tribal council or executive body as a legal enforcement mechanism, and some have no court system at all. As a result many lenders have concerns about the enforceability of contractual obligations and of the legal remedies available, and so find it difficult to provide capital in the face of such legal uncertainty.

Even for the willing lenders, the legal environment creates many additional hurdles. For example, there is a very limited market from which lenders can obtain data for the purposes of determining property values, and the restrictions against alienation further diminish market values. In addition, the making of a home loan on tribal land generally requires the tribe to be a party to the transaction and contracts related to the property that require the tribe to be a party are not enforceable unless the Federal Bureau

of Indian Affairs (BIA) approves the contract. The BIA, as administrator of trust lands, also has to provide title status reports on land covered under any mortgage.

Addressing the legal issues such as tribal sovereignty and tribal court jurisdiction is a prerequisite for increasing the flow of capital to tribal lands. But it is not an easy task, since each tribe is sovereign and acts independently.

Tribal governments have recognized this and have taken steps to clarify tribal sovereignty and sovereign immunity, particularly regarding business and housing development, but resolving this issue requires partnership from the private and public sectors. Fannie Mae has worked with HUD, the USDA and Treasury to support tribes in creating standardized documents and model legal ordinances to support government guaranteed and conventional mortgage activity. It is important to note that Fannie Mae no longer requires tribes to make limited waivers of their sovereign immunity for mortgage lending transactions and we also consent to tribal court jurisdiction. Additionally, we have approved the use of cost-based valuations for homes on tribal trust lands to help our lenders better determine market values.

We will continue to look for other modifications to our policies that will make it easier for our lender partners to serve the Native American community. We recognize the importance of supporting the ongoing evolution of each tribal government's legal framework and will continue to support these efforts.

Of equal importance are the regulatory barriers that pertain to the current title search and land recordation process for Tribal Lands.

If you are interested in buying a parcel of land in the United States, there is a relatively easy process that allows you to determine whether or not there is a clear title to that property. It is also relatively easy to obtain an accurate description of the property's boundaries, ownership interests, easements, restrictions, and any rights of way. This information is critical to any property transaction and lies at the foundation of how our economy functions.

On most tribal lands, obtaining this information is, at best, a difficult and complicated process. At worst, it can be impossible. In either case, it is rarely certain. In order to leverage the inherent value in a piece of property, the private sector needs to have certainty in knowing that the recording and descriptions of property on tribal lands are recorded and valid. Consequently, the establishment of a formal property system that guarantees this certainty is essential to future housing and economic growth.

Some tribes are already working to address this situation – with progress being made by the Saginaw Chippewa and Salish Kootenai Tribes in Michigan and Montana. Helping other tribes learn from these efforts will be a Fannie Mae priority in the years ahead. In fact, today, in Albuquerque, New Mexico, we are meeting with tribal leaders, representatives from HUD, the Bureau of Indian Affairs, the National Congress of American Indians, the National American Indian Housing Council and other leaders from

the non-profit, insurance and lender communities to begin developing a strategy to help more Native American Tribes address this critical issue.

Educational Barriers

Finally, financial experience poses a barrier to capital access for Native Americans. Many Native Americans do not have banking relationships, and in many Native American economies, financial transactions have long been conducted in cash. As a result, many Native Americans have little regular familiarity with banking, credit reporting, and the loan qualification process and standards. And unsurprisingly, they have difficulty obtaining credit through traditional means. In 2002, the conventional loan denial rate for Native Americans borrowers was 23 percent, the second highest among ethnic groups after African-Americans (26 percent).

This lack of experience and familiarity with bank practices and products also leaves many Native communities vulnerable to unscrupulous financial practices that undermine communities' efforts to build financial assets. In a 2003 survey by the National American Indian Housing Council, 53 percent of respondents believed that lenders discriminated based on race and identified predatory lending in their tribal areas as a serious concern.

Fannie Mae is committed to supporting local home buyer education initiatives and making available our Home Counselor Online software to tribal housing authorities and non-profit service providers. Additionally, we are supporting the efforts of the National American Indian Housing Council, First Nations Oweesta Corporation, and the Native Financial Education Coalition to increase financial literacy for families throughout Indian Country.

Native American borrowers also need to know how to deal with blemished credit when they enter the mortgage process. One of the products that Fannie Mae has tailored for lenders to help those with impaired credit is our Expanded Approval mortgage product with the Timely Payment Rewards feature. This product helps borrowers obtain affordable housing finance, while simultaneously helping to repair their credit. With this mortgage, a borrower who makes 24 on-time mortgage payments is eligible for up to a 1 percent rate reduction.

Fannie Mae's Long Term Commitment to Native American Borrowers and Communities

Lastly, Mr. Chairman, I would like to briefly mention our own efforts to institutionalize our commitment to Native American housing issues. In January of this year, Fannie Mae created a new business unit that focuses on addressing the toughest housing challenges in our distressed urban areas, rural communities, AND Tribal Lands. In addition to supporting our business units as they seek to make investments in these areas, we are also developing targeted, place-based strategies to create long term solutions that are both transformative and scalable. Ultimately, our goal is not just to

make investments in the short term, but also to play a meaningful role in transforming these distressed areas into healthy and vibrant markets, where access to private capital is indistinguishable from other more established areas of the United States.

One of the best examples of this type of place-based strategy has been on the Blackfeet Reservation in Montana, where Fannie Mae's partnership with Tribal Housing leaders seeks not only to make additional housing investments in the short term, but also to develop long term, institutionalized affordable housing solutions.

One of the goals of our partnership with the Blackfeet has been to help their Tribal Housing Authority maximize the leveraging capacity of their existing allocation of federal housing funds. In 2001, for instance, the Blackfeet spent over \$25,000 per unit of their tribal housing funds to construct their first Low Income Housing Tax Credit project. Last year, by leveraging additional financing from USDA, the Federal Home Loan Bank and Fannie Mae, they spent less than \$5,000 per unit of their tribal housing funds on LIHTC projects.

With the funding saved from leveraging outside resources, the tribe was able to use their remaining tribal housing funds to construct a Seniors Center for Tribal Elders and address other unmet housing and community development needs.

By developing a place based focus, we believe that we can learn from our experiences with tribes such as the Blackfeet to help create similar affordable housing solutions with other tribes throughout the country.

I hope that with these commitments, Fannie Mae has begun to make progress in expanding homeownership for Native Americans, but it is important to recognize that we have so much more to do and we will continue to listen closely to Indian Country leaders to build long-term partnerships and address the tough housing and economic challenges facing Native American communities today.

I want to thank Chairman McCain, Ranking Member Dorgan, and the Members of the Committee for their leadership and their commitment to expanding homeownership opportunities for Native Americans. You have been champions of developing housing in Indian country and supporting tribal members' efforts to revitalize their communities. We look forward to working with the Committee to continue making progress.

Thank you, and I would be happy to answer any questions.