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# Building the Future: A Blueprint for Change

“By Our Homes You  
Will Know Us”



**FINAL REPORT OF THE NATIONAL COMMISSION ON AMERICAN INDIAN,  
ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING**

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**T**he National Commission on American Indian, Alaska Native, And Native Hawaiian Housing was established by Public Law 101-235 to evaluate factors currently impeding the development of safe and affordable housing for Native Americans and to evaluate alternative strategies for the development, management, and modernization of housing for Native Americans. The Commission is required to submit a final report to the Secretary of the Department of Housing and Urban Development and the Congress of the United States.



Washington : 1992



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\*For the purposes of this report, "native Hawaiian" refers to beneficiaries of the Hawaiian Homes Commission Act (HHCA) of 1920, as amended, and "Native Hawaiian" refers to the larger beneficiary class of individuals with any amount of Hawaiian ancestry.



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## CHAIRMAN'S PREFACE



On June 26, 1992, the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing (referred to hereinafter as "the Commission") approved a set of recommendations which we believe, if implemented, gives Tribes, Congress, and the Administration a basis to move effectively toward satisfying the housing needs of Native American people. Following months of intensive investigation and information gathering, members of this Commission arrived at a set of findings that convey a disturbing and urgent message. Simply put, the majority of this country's first residents continue to live, as they have for far too long, in substandard housing.

Our nation has a responsibility and moral obligation to provide safe, decent, and affordable housing to its Native people. At the outset, it must be recognized, understood, and accepted that the situation of Native Americans is fundamentally different from that of the general population of the United States. This difference originates in the uniqueness of the relationship of Native Americans to the government of the United States. Through the several treaties between the original Native American governments and the government of the United States, the Native American governments are in fact recognized as dependent sovereign nations; actually a relationship not unlike that of the 50 states to the United States. There is, however, a significant difference in that the status of the 50 states is established by the Constitution of the United States and the status of the Native American peoples as sovereign is established by treaty as well as by the United States Constitution.

In exchange for concessions with respect to our lands and freedom of our right of self-determination, the Native Americans were promised the support of the United States, which, as a result of the concessions made, was essential to our survival and well-being. In the event, our "well-being" has deteriorated to the point of misery and our survival as peoples and individuals is threatened to the point of extinction. Rather than the beneficiaries of the promised support, we became the helpless victims of

vacillating United States government policies, self-serving bureaucracies, and continuing public hostility, mis-understanding and indifference. Rather than being regarded as dependent sovereign peoples, we are regarded as dependent supplicants; and as such our rights and entitlements are not distinguished from those of the general population of the United States.

In one sense, to regard the Native Americans in this way is only half wrong. We are indeed, as individuals, citizens of the United States, and as such are entitled to our share of United States—provided services and the benefit of United States government programs, including specifically those related to health, education, and housing. But, in addition to, not instead of, our due as citizens, we are owed the support promised to us as dependent sovereign peoples for our well-being and survival. To the shame of the United States, we have received neither our due as United States citizens nor the justice and consideration promised us as dependent sovereign peoples.

This is particularly true for native Hawaiians. Although the United States passed the Hawaiian Homes Commission Act in 1921, which we believe established a basis for a trust obligation, the United States government continues to deny that it bears any type of trust responsibility to the native people of Hawaii and refuses to acknowledge them as a sovereign people. Giving native Hawaiians access to the federal dollars and programs available to other Native American groups is fundamental to correcting past wrongdoings.

Since the satisfaction of the housing needs of Native peoples is the business of this Commission, our recommendations are confined to those needs and address them in terms of the Native American dual status as United States citizens and as dependent sovereign peoples. With respect to our status as citizens, this report recommends legislative, regulatory, and procedural changes that will enable Native Americans to enjoy our share of the several United States government housing and related health and education programs. Recognizing that these programs must generally suit circumstances applying to the general United States population, the report calls for the creation of a Native American intermediary financial institution to make possible the use of those programs within the circumstances that affect and inhibit their delivery to the benefit of Native Americans. Based on the unique status of Native Americans as constitutionally and treaty-created sovereign peoples, the report

recommends in part that the United States government provide adequate funding for this intermediary institution.

When we began our duties as Commissioners, we did not expect to find any simple solutions to the housing problems of Native people. And indeed, after conducting eight hearings throughout Native areas and after receiving formal testimony from more than 100 people involved in Native housing programs, we have found that there is no "quick fix" for the crisis that Native communities are experiencing across the Nation. Certainly, the problems facing our communities are uniquely complex. Whether the issue is housing, economic development, education, or health, the causes of (and solutions to) problems are overlapping. In the area of housing, for example, the causes of sustained underdevelopment and overwhelming need are many.

Addressing the housing problem in its entirety thus demands a recognition of multiple, linked impediments. Solutions must be similarly comprehensive and interconnected in order to be lasting and effective.

This is not the first time that a special body has been convened for the purpose of addressing the housing problems of Native communities. Other reports have been submitted; other recommendations, not unlike our own, have been made and have gone largely unheeded. That said, this Commission does represent a new approach. For the first time, a group composed almost entirely of Native Americans with broad-ranging expertise in Native housing issues has been assembled to identify needs and make recommendations. Some members of the Commission were appointed directly by Congress; others were appointed by the Department of Housing and Urban Development (HUD). Selections were made from nominations received by Indian tribes, federal agencies, Indian housing authorities, and other Native organizations.

Each member of the Commission possesses special expertise in such areas as federal Indian housing programs, housing development and finance, tribal government, or housing programs available to Alaska Natives and native Hawaiians. Despite the diversity of our backgrounds, professions, and philosophies, we share a common commitment to improving housing conditions for Native Americans. This shared commitment has held us together through many a debate and has allowed us to achieve a genuine consensus. This Commission is thus uniquely positioned to assess and explicate the problems it has examined—and to generate viable, aggressive solutions to those problems.

The National Commission on American Indian, Alaska Native, and Native Hawaiian Housing was created by Congress pursuant to Public Law 101-235, the HUD Reform Act of 1989. The last commissioner was sworn in on April 4, 1991. Our mandated task was to assess impediments to safe, decent, and affordable housing for Native Americans. Our mission was to set forth recommendations for an action plan that will facilitate comprehensive changes in existing housing programs and ultimately improve the delivery of housing to Native people.

Beginning in June 1991 and continuing through January 1992, the Commission scheduled field hearings throughout Indian Country as well as Alaska and Hawaii. Hearings were conducted in Juneau, Alaska; Washington, D.C.; Seattle, Washington; Tulsa, Oklahoma; Mesa, Arizona; San Francisco, California; Honolulu, Hawaii; and Denver, Colorado. Collectively, we heard from over 130 individuals, including Native leaders, elected officials, tribal housing personnel, housing program participants, national Native American organizations, architects and engineers, and representatives of federal agencies, among others. We also received numerous written comments representing a broad range of individuals and organizations concerned with Native housing issues.

In addition to our hearings, the Commission met with the four federal agencies now administering housing programs for Native Americans. These meetings were a first-of-its-kind opportunity to engage in open, frank exchanges with agency personnel regarding Native housing program needs. Participants included the HUD Assistant Secretary for Public and Indian Housing, representatives of the Farmers Home Administration (FmHA), the Assistant Director of the Indian Health Service, and the Assistant Secretary of the Bureau of Indian Affairs (BIA). While we were glad to have had this opportunity to exchange information and views, it became apparent to us that agency personnel in general lack the necessary insights and experience to address adequately the unique housing needs of Native peoples. That said, the Commission does acknowledge there are those individuals who have worked long and hard to help bring about improved housing conditions for Native people, and of their efforts, we are deeply appreciative.

Our report, *Building the Future: A Blueprint for Change*, has four chapters. Chapter I provides a historical overview of the federal policies and body of law affecting Native Americans and (either directly or indirectly) the condition of Native housing across the nation. Chapter II describes the



existing housing programs in which Native people may participate; these descriptions are set in a historical and political context. Chapter III discusses in detail various impediments to the provision of safe, decent, and affordable housing for Native Americans. Finally, Chapter IV presents a set of recommendations—in essence, an agenda for meeting the housing needs of Native peoples in the 1990s and beyond.

In an effort to keep our perspective broad and future-oriented, this report offers a comprehensive recommendation for a reversal in current federal attitudes and actions affecting Native citizens—in short, a much-needed, basic change in the content and focus of federal policy. With this as our foundation, we also recommend policy, regulatory, and statutory changes as well as new home-financing opportunities and training and education offerings, which are designed to enable Native Americans to receive their share of various public housing programs.

We believe that our report amply documents the nature and scope of the current housing crisis in Native areas. It is also our belief that this report conveys a careful, thorough analysis of the extraordinarily complex and unique impediments to the delivery of housing to Native Americans—obstacles that, as we have repeatedly stressed, stem from the multiple and interconnected political, economic, and social problems that have plagued our communities since the earliest days of this nation.

These impediments will not be overcome quickly. While we were struck, during our research, by the energy and commitment of many individuals involved in Native housing, we were also deeply disturbed by the chronic despair experienced in Native communities. Reservation-based or urban, in tribes large and small, Native American families and individuals delivered to us a remarkably similar—and consistently urgent—message: “We must be heard, and we cannot go on living like this.”

I would like to end my introductory remarks with a brief story that highlights, for me and my fellow Commissioners, the difficulties we heard about as we visited with Indian Housing Authority (IHA) staff and as we observed the often brutal conditions in which many Native people are forced to live. This story took place at Walker River Indian Reservation, located a little over an hour from Reno, Nevada—a very hot, dry place in the summer and a very cold, windy place in winter.

In the early 1980s, HUD approved a 20-unit housing project for Walker River. Construction was to be based on the turnkey method of development, and HUD approved the use of manufactured housing units.



The Walker River IHA tried to hire an architectural firm familiar with turnkey development but was discouraged by HUD because of budgetary restrictions. The IHA then hired a less-experienced architectural service to assist in the design and preparation of the sites.

After the contract was awarded and approved by HUD, the manufactured units began to arrive at Walker River. Immediately, the IHA began to have questions about the quality of the construction. Apparently, the IHA, the architect, and HUD had unknowingly approved units manufactured according to a less stringent set of standards than the minimum standards (MPS) typically used by IHAs and HUD for public housing.

After delay and controversy, the IHA hired a more experienced architectural firm to help salvage the project. Although most of the IHA's questions were answered by its new contractor, some serious problems remained unresolved because of the different MPS established for manufactured housing. In the end, a lawsuit was avoided by a negotiated settlement, and the IHA requested amendment funds to finish the project.

Ultimately, however, everyone was dissatisfied with the final results. The units ended up with an average per unit cost of \$85,000, which prompted loud complaints from homeowners. Indian families had paid high prices for units that could not be expected to last anything close to 25 years, the length of the Mutual Help agreement.

What went wrong? Physically, things were literally falling apart. The units' pressboard siding and trim were unable to withstand the area's climatic extremes. The houses' unframed doors simply hung on their framing studs; most were missing their screens, which had been blown away by severe local winds. Low water pressure (caused by undersized plumbing) and water heaters prone to freezing in cold months were among the owners' ongoing problems. Insulation and weatherstripping were woefully inadequate, so utility costs soared in winter. Lawns and landscaping, both contracted for by the IHA, were nonexistent. Water leaks around improperly installed window flashing, caulked-over cracks near untapped wall joints, and very thin roof decking (which caused sagging between roof joists)—all of these indicators of exceedingly poor quality were in evidence. One mother of two small children told us that she had recently had to vacate her house after occupying it for only two years.

But the physical details belie another kind of breakdown—a falling apart of an entire mode of delivery of public assistance to needy citizens. The Commission found no evidence of fraud or misconduct on the part of any of the parties involved, yet the entire system itself had led to the approval and, ultimately, the construction of blatantly inappropriate and very expensive housing. Well-intentioned people in several agencies and organizations had collectively failed to meet the needs of Walker River residents for decent, affordable homes. Hampered by budgetary constraints, insufficient training, and lack of information, the IHA had done its best only to discover that it had obtained, in conjunction with HUD, completely substandard housing for its population. HUD, on its side, had not only failed to provide the oversight necessary but had also forced the IHA to settle for inexperienced technical assistance. Throughout the entire process, communication had been notably absent. Among a multitude of problems, these stood out:

- lack of oversight,
- lack of coordination and information-sharing among agencies,
- lack of technical assistance, and
- instability of the housing authority.

While these were the most apparent problems, they are only some of the many issues that in essence served to facilitate a systemic breakdown of the delivery of housing to Native people.

This Commission has had an important and unique opportunity to communicate and work with many individuals and groups involved in and dedicated to the provision of safe, decent, affordable housing for Native Americans. We hope that our work will help bring about a sustained improvement in the condition of Native housing across the nation. Our goal is to eliminate the debilitating problems faced by Walker River and other housing authorities serving Native areas and to see that all of our nation's first residents have the opportunity to be housed safely, comfortably, and affordably. Such a result would indeed enable us to take honest satisfaction in our efforts.

The Commission and I believe this goal can be met.



George Nolan  
Chairman

# BUILDING THE FUTURE: A BLUEPRINT FOR CHANGE EXECUTIVE SUMMARY

**F**or over 200 years, Congress has vacillated between two conflicting themes in its approach to Indian policy: self-government for tribes and assimilation of Indian people and reservations into the existing framework of state and local government. The tension between the two is obvious. A fundamental ambivalence on the part of the policymakers is likely to persist, with ongoing and unfortunate consequences for Native Americans for some time to come.

The history of federal policy concerning Indian people follows a path from early treaty negotiations through the violent appropriation of land and rights to the present-day situation in which Indian self-determination vies with federal power over Indian affairs.

Since the late eighteenth century, a special trust relationship has held between the United States and American Indian tribes. This special relationship can be viewed as both legal and moral in nature. In the broadest sense, it obligates the federal government to protect Indian citizens pursuant to its fiduciary duties. More specifically, through a series of legislative enactments Congress has imposed numerous duties on the executive branch of the government. Among these is the duty to help procure decent, safe, and affordable housing for Native American families and individuals.

That goal has not been realized for many Native peoples, despite important advances over the past two decades. Indian housing has been and remains grossly substandard in comparison with housing nationwide. Public health, social conditions, education, economic opportunity, and a host of other facets of Indian life have been negatively affected by the protracted housing crisis suffered by our nation's first residents.

The Commission believes that the federal and state agencies involved in Indian affairs have failed to recognize and meet a desperate need for housing assistance. The federal government's trust responsibility toward Native Americans has been essentially unfulfilled with respect to housing,

and this failure has had ripple effects in a variety of social and economic arenas in Indian Country. Although homeownership and rental opportunities are available through federally subsidized programs, and although some private foundations have also contributed money and technical assistance to tribally based housing efforts, serious problems persist: inadequate design and construction, lack of infrastructure, and sometimes destructive struggles between tribes and agencies involved in the administration of housing funds, to name just a few.

A host of individuals—ranging from committed tribal leaders to hard-working employees of Indian housing authorities—have tried their best to deal with a situation in which overcrowding and mounting desperation are the norm. The Commission recognizes and commends these individuals; their persistence in the face of huge systemic obstacles is truly inspiring. For it is our view that the problems that attend Indian housing are indeed systemic and require comprehensive solutions. The time has come for the creation of a new and innovative agenda so that a brighter future can be constructed for Native Americans.

The U.S Department of Housing and Urban Development (HUD), the Bureau of Indian Affairs (BIA), the Indian Health Service (IHS), and various other federal agencies are involved in the provision of housing assistance to Native citizens in Alaska and the “Lower 48.” (Native Hawaiians face a very different housing situation, as will be seen in this report.) HUD is the largest player of all the agencies involved. Additional programs are administered by the Department of Veterans Affairs, (VA) the Farmers Home Administration, the Bureau of Indian Affairs, the Federal Housing Administration, and the Indian Health Service. These existing programs are listed below.

### **Bureau of Indian Affairs**

- Housing Improvement Program

### **HUD Housing Assistance**

- Section 5(h)
- Mutual-Help Homeownership Program
- Comprehensive Improvement Assistance Program
- Low-Income Rental Housing
- HOME Program
- HOPE Program

## **Federal Housing Administration (HUD)**

- FHA Section 248 Mortgage Insurance Program

## **Farmers Home Administration Rural Housing Programs**

- Section 502 Homeownership Loans
- Section 504 Rural Housing Loans and Grants
- Section 515 Rural Rental Housing
- Section 514/516 Farm Labor Housing Loans and Grants
- Section 533 Housing Preservation Grants

## **Department of Veterans Affairs Housing Assistance**

- VA Loan Guaranty Program

## **Indian Health Service**

- IHS Sanitation Facilities Construction Program (SFCP)

## **State Programs**

- The Minnesota Tribal Indian Housing Program (MTIHP)

## **Impediments to the Provision of Native Housing**

As currently experienced by Native Americans, obstacles to the provision of housing fall into the following categories:

- lack of funds;
- the consequences of termination policies;
- agency-related impediments;
- limitations of tribal housing management capabilities;
- limitations of political support for appropriations and legislation;
- lack of access to conventional financing;
- regulatory constraints;
- lack of cultural sensitivity; and
- tensions between tribal councils and IHAs.

Each is summarized briefly below.

### *The Consequences of Termination Policies*

The termination era left many tribes in a kind of disastrous Catch-22. Urged to assimilate, their members had already been deprived of the means to do so; they were largely unequipped for mainstream American life. Moreover, federal policy had taken away many tribes' hopes for a solid economic base, jobs, education, and housing for their members. Thus, although most tribes managed to survive termination, they were left with serious social problems.

### *Agency-Related Impediments*

Three federal agencies are heavily involved in Indian affairs nationwide: HUD, the BIA, and IHS. Although numerous individuals within each of these agencies are talented and committed, the institutions themselves have thus far failed to address, meaningfully and systematically, either the nature or the scope of current Indian housing needs.

These agencies represent a collective "stop-gap"—a set of mostly inadequate and short-sighted measures that simply cannot deal with the mounting crisis in Indian Country. Removing the obstacles that are posed (and experienced) by these agencies will not be a straightforward task.

### *Limitations of Tribal Housing Management Capabilities*

One of the major problems in Indian housing is the inability of housing authority personnel to maintain and manage a successful operation. Often, tribal councils change the leadership and personnel of IHAs solely for political reasons rather than for misconduct or poor performance. Such political changes have long-lasting negative consequences for the IHAs' efforts to meet the housing needs of their tribal populations.

Technical assistance is sorely needed for members of tribal councils, local housing commissioners, housing staff, and housing participants. The administration of even a small-scale housing project takes not only time and money but also experience, special skills, and knowledge. Historically, however, Native peoples have been denied access to the education and work experiences that alone can equip them for the important tasks involved in housing project management. Once again, this denial of access is linked to many other social and economic problems rampant in Indian Country; it is difficult to separate one obstacle from the others.

Tribal leaders have worked diligently but with woefully inadequate resources—human as well as financial—to help their members locate and use available forms of federal housing assistance. The federal government

and its agencies have abdicated responsibility for ensuring that tribal leadership receives the management training and education it needs to sustain meaningful “self-help” efforts.

*Limitations of Political Support for Appropriations and Legislation*

Appropriations for Native housing programs have generally received a great deal of support from committed leaders and Members of the House and Senate. In contrast, new construction programs have received little or no support in the last 12 presidential budget requests. Without the help of a few deeply concerned Senators and Congressmen of both parties, Indian housing programs would remain at much lower levels of appropriation.

One reason for the lack of budgetary support is the missing involvement of tribal leadership in support of federal Native housing programs. Because of their own financial constraints and concerns, Indian tribal leaders sometimes tend to focus more on appropriations from the Department of the Interior rather than on housing programs administered by HUD. As an alternative, they may request their IHA or its board of directors to seek appropriations for housing needs. Those tribes and IHAs that have participated jointly in the federal appropriations process have gained a wealth of experience and knowledge of the federal budgetary system and have been able to procure some of the much needed housing for their communities.

In addition, much of the current congressional leadership remains unfamiliar with the complexity of Native housing needs and programs; its focus is on the broader spectrum of housing needs for the country as a whole. (Illustrative of this are the recently enacted HOME and HOPE programs, which provide very limited opportunity for Native areas, despite their virtues for other population sectors.) Thus, much of the authorizing legislation affecting Native housing comes up short or is misunderstood or ultimately rejected by Indian Country because of lack of insight and, in particular, because Congress and the federal agencies have not consulted adequately with the tribes themselves.

*Lack of Access to Conventional Financing Mechanisms*

At present, little if any, conventional lending is available to Native people seeking to buy homes in Alaska, Hawaii, or the “Lower 48.” A system for providing single-family mortgages as well as appropriate conventional market-rate loans for the development of rental housing is virtually nonexistent in areas with high concentrations of Native people.

This situation raises a host of policy issues for existing housing programs and for the creation of additional lending capacity.

There are three major reasons for the present lack of conventional lending capacity: (1) lack of conventional credit; (2) dispersion of Native populations over vast areas and problems with physical access to landholdings; and (3) poor information gathering and dissemination as well as inadequate understanding of available resources on the part of both the tribes and the federal agencies involved in Native housing.

#### *Regulatory Constraints*

Regulatory obstacles to the delivery of housing assistance to Indians first arose with the ordinance creating IHAs. Those obstacles then increased as housing needs mounted and as it became clear that the IHAs lacked the technical expertise required to administer large-scale projects and budgets. Finally, the drafting of the Inter-departmental Agreement, which was expected to improve coordination, brought new complications into a welter of rules and regulations.

The federal statutes and implementing regulations that have evolved since the early 1960s are characterized, to an unfortunate degree, by inflexibility and insensitivity to demographic, geographic, and cultural differences among tribes. These statutes and regulations are also exceedingly complex. To be workable and effective, they require constant interagency communication and sophisticated systems for information gathering and dissemination—none of which has been in place to the degree necessary.

#### *Lack of Cultural Sensitivity*

The statutes and regulations governing Native housing programs were an extension of those of public housing programs; they were conceived with little or no input from the Indian community. As a result, few provisions have yet been made for traditional or cultural design elements. Design of the units is based on economics and urban images of suitable housing, and features and elements that would be more culturally appropriate are given only minor consideration or disregarded completely in order to meet a woefully inadequate per-unit budget.

Because the HUD housing units are not meeting the various cultural needs of Native people, many Indian homeowners or renters have little pride in these units. Underlying this problem is a serious lack of adequate funding. Consequently, many houses are not maintained properly; they

deteriorate and eventually become substandard. This causes an increased demand for funding for maintenance and repair. Moreover, each project is funded only to supply a predetermined number of houses; infrastructure too is generally designed and sized only for that project. Additional costs are incurred when future projects are added to the system, at which time utilities and streets must be improved to meet the new demand. A system for the funding of comprehensive master planning is needed to coordinate the future programs of the Bureau of Indian Affairs (roads), the Indian Health Service (water, sewer, sanitation), and the tribal housing authorities (housing). Additional monies are needed for design and installation of utilities, streets, and related improvements of adequate scale to accommodate future projects.

### **Impediments to Housing for Oklahoma, Hawaiian, and Alaska Natives**

#### *Impediments in Oklahoma*

The nonreservation-based tribal governments in Oklahoma and their IHAs have more favorable access to financial markets than do most reservation-based tribes. This is primarily because the legal status of land in Oklahoma is generally more familiar and acceptable to traditional financial institutions and lenders. In most cases all restrictions or trust requirements have been removed, and clear, transferable titles to land owned by Native Americans can be provided. Although there are many scattered parcels of land on which such restrictions have not been removed, the majority of sites for home construction can be acquired through exchange of an unrestricted warranty deed.

Other impediments pertaining specifically to Oklahoma include the inability to exercise Indian preference in the low-rent program.

#### *Impediments in Hawaii*

Since its inception as a federal program to its current role within the state government system, the Hawaiian Home Lands (HHL) Program has never been provided the resources it needs to successfully carry out its mission. The Department of Hawaiian Home Lands (DHHL) remains the smallest department within the state's executive branch.

The major impediment to developing the administrative capacity for carrying out the department's mission has been lack of financial resources. A joint federal-state task force reviewed the administration of the Hawaiian



Home Lands Program in 1983 and recommended that federal and state funds be provided to the department to enable it to carry out its mission more effectively. To date, the State of Hawaii has provided about \$100 million to the program; the federal government continues to be engulfed by legal arguments that further delay funding to this program.

Like American Indian tribal lands, Hawaiian Home Lands are trust lands and are therefore inalienable in terms of satisfying financial obligations. Banks and other financial institutions cannot receive any collateral from these lands for loans. Thus, the present FHA program involving HHL is extremely important for native Hawaiians wishing to construct homes on Hawaiian Home Lands. FHA financing will give homestead lessees access to mortgage funding from conventional lenders.

Prior to 1987, the primary source of financial assistance for home construction by homestead lessees was DHHL's General Loan Fund. Because the Home Lands are inalienable, private lenders were precluded from placing mortgage liens on these lands; as a result, Native Hawaiian lessees could not obtain conventional financing. In 1987, DHHL and HUD entered into an agreement allowing native Hawaiians to obtain an FHA-secured loan on Hawaiian Home Lands, using the improvements as collateral and with DHHL guaranteeing the loan.

It is projected that over the next decade, a total of \$1.4 billion will be needed in external mortgage funds to satisfy native Hawaiian financing demands. An additional \$100 million will be required for interim loan financing.

Native Hawaiians generally fall in lower-income categories and do not qualify easily for available financing because of cash-flow and/or other financial problems related to down payments and closing costs. Moreover, many native Hawaiians with sufficient cash flow do not have enough savings for the required down payments and closing costs, and FHA does not allow these to be borrowed unless secured by other assets. A further problem is that financial institutions located outside the urban hub of Honolulu generally are unfamiliar with FHA lending practices on Hawaiian Home Lands and have been hesitant to make loans because of the inalienability factor.

#### *Impediments in Alaska*

No accurate data exist on population, home weatherization, housing inventories, waiting lists, water and sewer systems, new housing starts, and

other concerns of rural Alaska Native villages. Moreover, there are no long-range plans for economic development or for technical assistance for villages, communities, and individuals. In fact, no agent of the federal government has taken time to develop a home for the tundra.

Federal agencies have failed to adequately disseminate information on alternative development opportunities in Alaska. The use of private-sector resources to meet the housing needs of low-income and Alaska Native households is uncommon because of the high construction costs, remoteness of Native villages, and fluctuating local economies, which involve considerable risks for developers and landlords. Other impediments include the high cost of shipping construction materials to off-road locations and the difficulties of coordinating shipments with summer barge traffic. Also, skilled housing developers and craftsmen are often not readily available in rural areas. Finally, the variability of Alaska's economic conditions tends to discourage housing investment, especially in the multi-family rental housing market.

### **Recommendations of the Commission**

In the final chapter of our report, we offer recommendations for a fundamental change in the federal government's policy toward Native Americans as well as for various changes in existing housing programs. These changes will not only improve the status quo, which is clearly insufficient, but will also allow a new, brighter future to be constructed. In urging policymakers to adopt our recommendations, we call upon the federal government to honor its responsibilities and moral obligations to Native Americans.

As our report repeatedly affirms, addressing the Native housing problem means first and foremost acknowledging multiple, interlocking economic, political, and social problems that demand an integrated solution. With this premise in mind, the Commission sets forth its recommendations in the following categories:

#### *Fundamental Changes in Policy*

**The Commission recommends that in partial fulfillment of the federal government's legal and moral obligations to Native people and as a matter of official policy, the federal government as a whole renew its commitment to the provision of safe, decent, and affordable housing for Native people by adequately funding Native housing programs.**

The Commission recommends that the federal government acknowledge and fulfill its trust responsibility to native Hawaiians under the Hawaiian Home Commission Act of 1920, as amended.

In addition, we believe that tribal and Native leaders have a responsibility to meet the needs of their constituents and one of those needs is housing. It is only through a cooperative effort between tribal governments and their housing authorities that we can begin to effectively address the extraordinary housing needs of our people. It is in this spirit that we urge tribal and Native leaders to add housing issues to their priority lists and to more aggressively and actively lobby for an improved system of home availability to Native American people.

The Commission recommends that each Native area receiving assistance from HUD be adequately funded to prepare a comprehensive housing inventory and needs survey.

*Enhancing Home Ownership Opportunities*

The Commission recommends the creation of a Native American Finance Authority, administered in the majority by Native people, that would be charged to act primarily as a source of funding for Native populations. This agency shall be an intermediary financing institution eligible for substantial federal subsidy to assist Native communities in developing affordable housing and infrastructure.

Its functions shall include but not be limited to the following:

1. Packaging mortgage loans for Native people.
2. Utilizing creative financing mechanisms.
3. Providing grants to Native communities to assist them in developing affordable housing and infrastructure.
4. Providing technical assistance and education to develop the capacity among Native peoples to wholly administer the agency, and to underwrite, package, and originate loans.
5. Serving as a clearinghouse of information for alternative financing programs and resources.
6. Acting as a resource and information center to other existing loan underutilized in Native areas such as

Veterans Affairs, Federal Housing Administration, and Section 248 programs.

7. Assisting in making existing programs more efficient and effective by performing such tasks as an in-depth analysis of demographic data pertaining to Native people.
8. Facilitating access to credit markets and making available other resources for Native people.

As part of any new funding effort, monies for the development of lending capacity within Native housing organizations should be provided, along with financial incentives for cooperation between Native organizations and private or public lenders interested in the delivery of mortgages to Native families. (Such funding could provide training for Native staff handling the mortgage origination and loan-underwriting process as well as homeownership counseling.) Demonstration programs would be a useful tool for piloting various lending programs and illustrating their “real-world” operation in Indian settings.

#### *Training and Technical Assistance*

The Commission recommends that training should be made available for federal government personnel who often have little or no experience dealing with Native American governments and individuals.

#### *Improvements to Existing Programs*

##### **Statutory and Regulatory Changes**

The Commission recommends that the provisions of the Davis-Bacon Act (40 U.S.C. 276(a)) be waived in conjunction with any construction, alteration, or repairs, including painting and decorating, carried out pursuant to any contract entered into in connection with any housing project.

The Commission recommends that the HUD prescribed Model Ordinance for establishing Indian Housing Authorities be reviewed and amended to effectively reflect current conditions and relationships among various levels of tribal, federal, and state government.

The Commission recommends that the Mutual Help and Occupancy Agreement (MHOA) be amended to *require* the IHA to take a mortgage and convey the Mutual Help unit when the

participants' monthly payment equals the monthly debt service on the unit plus the monthly administrative charge.

The Commission recommends that HUD evaluate the existing Indian housing accounting system and develop accounting and reporting processes that follow generally accepted accounting principles.

The Commission recommends that the accessibility of the Monthly Equity Payment Accounts (MEPA) established under the Mutual Help Occupancy Agreement be appropriately limited and be monitored for compliance by the participants and IHAs.

The Commission recommends that the Annual Contributions Contract be expanded to allow for operating subsidy to assist Mutual Help participants with incomes of less than 50 percent of the median income for a given service area.

The Commission recommends that all income derived from treaty and trust rights be excluded from the definition of income.

#### *Changes to the 1937 Housing Act*

The Commission recommends a waiver of the application of Title I, Section 3(a) of the 1937 Housing Act, the provision of the Brooke Amendment (i.e., 30 percent Rule), to Indian housing programs.

The Commission recommends that Subtitle C, Section 572(c), the income exclusion provisions of the Cranston-Gonzalez National Affordable Housing Act, be amended so as to apply to Indian housing programs.

The Commission recommends that a handicapped assistance allowance deduction (to gross income) be permitted to enable any handicapped member of a family to be employed or to further his or her education.

The Commission recommends that Title I, Section 3(a)(5)(D) of the Housing Act be amended to permit deductions for both child care and travel expenses.

The Commission recommends that actual alimony and/or child support paid by a member of the household be deducted from income.

The Commission recommends that Indian housing authorities be permitted to apply Indian preference to the low-income rental program.

The Commission recommends that Title II of the Housing Act be amended to include native Hawaiians with appropriate additional funding.

The Commission recommends that Section (3)(11)(B)(ii) of Title I of the Housing Act be amended to include native Hawaiians with appropriate additional funding.

The Commission recommends that the Family Self-Sufficiency Program authorized under Title I, Section 23 of the Housing Act be optional for Indian housing authorities and that the FSS program be expanded to permit participants who have successfully completed the FSS requirements to participate in state and federally assisted housing programs (i.e. Mutual Help, HOPE, and HOME) without forfeiture of their escrowed accounts.

The Commission recommends that the word “single” be deleted from Section 202(b)(2) of Title II of the Housing Act so that multiple grants under the Comprehensive Improvement Assistance Program are possible in the Mutual Help Homeownership Program and available for existing Turnkey III units.

The Commission recommends that Section 8 of Title I of the 1937 Housing Act be amended to include urban IHAs that have been created under state law with appropriate additional funding.

The Commission recommends that the ceiling for rents in the low-income rental program should be no more than 50 percent of the average established fair-market rental process of a given geographic area.

#### *Additional Recommendations*

The Commission recommends that a federal source of funding be authorized specifically for Native community fire protection.

*Changes in Agency Mandates*

The Commission recommends that the VA should be mandated to pursue vigorously the accommodation of direct home mortgages to Native veterans on trust land.

The Commission recommends that the Farmers Home Administration reevaluate its commitment and approach to addressing the housing needs of Native Americans.

In particular, the FmHA should consider the following:

- employing Native Americans in policy-making and programmatic positions within the Office of the Administrator;
- undertaking a more active outreach initiative by consulting with Native American groups and Native government representatives to build a program sensitive to rural Native housing needs; and
- mandating a minimum of 500 federally guaranteed home loans for Native Americans in the Section 502, 504, and 515 programs, among others, in each federal fiscal year, beginning in FY93.

*BIA Programs*

The Commission recommends that the Housing Improvement Program (HIP) and the Road Construction Program within the Bureau of Indian Affairs should be adequately funded for the next 10 years.

This funding would provide for:

- \$125 million for construction of approximately 1,800 new units per year;
- \$62.5 million for repair or rehabilitation of approximately 1,800 units per year; and this includes eligible old Mutual Help and Turnkey III units;
- \$300,000 per year for the BIA to provide housing maintenance training for all housing participants; and
- \$25 million per year for new road construction.

*Special Recommendations: Hawaii*

The Commission recommends that appropriate legislation be enacted to allow Community Development Block Grant (CDBG) funds to be expended on Hawaiian Home lands.

The Commission recommends that the federal government continue to provide funding under HUD's Special Purpose Grants program to the State of Hawaii for infrastructure development on Hawaiian Home Lands.

The Commission recommends that the definition of Native Hawaiian organizations prescribed in Section 603(e) of P.L. 101-235 be amended to include the State of Hawaii's Department of Hawaiian Home Lands.

The Commission recommends that the VA explore the feasibility of allowing Hawaiian Home Lands lessees to participate in its Direct Loan Guarantee Program.

The Commission recommends that the Department of Hawaiian Home Lands be included in any federal home-financing programs available to housing agencies for individuals meeting specific eligibility criteria.

PART ONE

I. HOUSING AND HISTORY:  
AN OVERVIEW OF  
FEDERAL POLICY



*1 Bedroom Home*



*1 Bedroom BIA Home*

*2 adults, 5 children, insufficient insulation,  
therefore very cold in winter months. Inadequate  
living conditions.*

*Both photos Diomedes Island, Alaska*

**B**y our homes you will know us.

ELDER OF THE KICKAPOO TRIBE

(Kansas)

## I. HOUSING AND HISTORY: AN OVERVIEW OF FEDERAL POLICY

**A**lthough the primary focus of this report is the future of housing for Native Americans, some understanding of the nature and development of the relationship between the United States and Native governments and people must be present if readers of this report are to appreciate the nuances and complexities that surround housing-related issues in Native communities. This section of our report is thus devoted to a discussion of the evolution of federal policy toward Native peoples as a way of setting the stage for a closer examination of Indian housing problems and opportunities.

For over 200 years, Congress has vacillated between two conflicting themes in its approach to Indian policy: self-government for tribes and assimilation of Indian reservations into the existing framework of state and local government. The tension between these two aims is obvious. A fundamental ambivalence on the part of policymakers is likely to persist, with ongoing and unfortunate consequences for Native Americans, for some time to come.

The history of federal Indian policy follows a path from early treaty negotiations through the violent appropriation of land and rights to the present-day situation in which Indian self-determination vies with federal power over Indian affairs. (Congress has what is referred to as "plenary" or broad power over Indians in the United States; this includes the authority to decide which peoples are and are not officially recognized as Indian tribes.) The evolution of this policy can be divided into five general categories: (1) pre-constitutional policy; (2) the formative years; (3) the era of allotment and assimilation; (4) the termination era; and (5) the self-determination era. Each is briefly discussed below.<sup>1</sup>

**T**he situation in which Native Americans find themselves with respect to housing is beyond that of a destructive cycle; it's genocidal, and it's unpardonable.

**REPRESENTATIVE  
HENRY GONZALEZ**

Chairman, House  
Subcommittee on Housing  
and Community  
Development, U.S. House  
of Representatives

**M**ore than a decade has passed since the existence of a housing problem among the Indians was first recognized by the federal government. Despite this recognition, housing conditions for the vast majority of Indians have not improved, and it is questionable whether the situation will change substantially in the coming decade.

ROBERT C.  
STENBERG AND  
CATHY M. BISHOP

"Indian Housing: 1961-  
1971: A Decade of  
Continuing Crisis"

## Pre-Constitutional Policy

During the seventeenth century, the administrators of some British and Spanish colonies in the Western Hemisphere began negotiating treaties with Indian tribes. As a result, those tribes were accorded a sovereign status equivalent to that of the colonial governments with which they were dealing. To the extent that the negotiated treaties involved the ceding of Indian territory or resolved boundary disputes, they also affirmed the colonial powers' recognition of tribal ownership of the lands that Indians used and occupied. (These rights had in fact been asserted a century earlier by Spanish theological jurists.)

Just before the middle of the eighteenth century, the British Crown appropriated certain administrative responsibilities with regard to Indian tribes that it previously had allowed the colonial governments to exercise. By this time, the practice of negotiating with Indians through treaties had been well established.

The Articles of Confederation of the United States, effective in 1781, were ambiguous concerning federal and state power over Indian affairs. They gave the federal government "sole and exclusive" authority over those affairs, "provided that the legislative right of any state within its own limites [sic] not be infringed or violated."

## The Formative Years

During the so-called formative years (1789 to 1871), significant foundations were laid for the development of Native American law and policy. In the legal arena, Supreme Court Chief Justice John Marshall wrote three legal opinions, known as the "Worcester Trilogy," which were to have a lasting effect on the shape of federal law and policy regarding Indians.<sup>2</sup> In addition, the Indian Commerce Clause of the new Constitution declared that "Congress shall have power...to regulate Commerce with foreign nation, and among the several States, and with Indian tribes," thereby subordinating state control over Indian tribes to federal power.

During this time, Congress established a comprehensive program regulating Indian affairs. Perhaps most significant among Congress' initiatives was the Indian Trade and Intercourse Act of 1790, which brought nearly all interactions between Indians and non-Indians under federal control. One of the more crucial provisions of the act prohibited the sale of Indian land without federal approval. This requirement of federal approval continues to affect housing issues today.

Beginning in the 1830s, many tribes across the country were “removed” from their aboriginal lands to other lands, frequently a great distance from their homelands. In particular, numerous tribes were removed to what is now the state of Oklahoma. In addition, when the federal government moved several tribes onto a single reservation, the residents at each reservation were regarded by the government as a single tribe despite the existence of distinct internal divisions.

Until 1871, Congress dealt with individual tribes through formal treaties. However, in 1871 Congress provided that the United States would no longer make treaties with Indian tribes, although all rights under existing treaties were to be protected. In the enforcement of these treaties, Congress had begun developing a system of services and benefits for Indian tribes and individuals. Such programs include but are not limited to health, education, and welfare.

### The Era of Allotment and Assimilation

Originally, reservation land was owned communally by the tribes; only a few treaties provided for some parcels of land to be held by Indian individuals. In 1887, however, Congress passed the General Allotment Act, known as the Dawes Act—one of the most significant federal statutes in the area of Indian law and policy. The Dawes Act delegated authority to the Bureau of Indian Affairs (BIA) to allot parcels of tribal land to individuals. Each individual allotment would remain in trust for 25 years (with certain exceptions).

During this same period, large amounts of tribal land not allotted were open to homesteading by non-Indians. Although some compensation was made to the tribes for the sale of these surplus lands, Indian landholdings decreased from 138 million acres in 1887 to 48 million acres in 1934. In addition, ownership by tribes, individual Indians, and non-Indians assumed a fragmented or “checkerboard” pattern that caused serious jurisdictional and management problems.

Allotment of lands was one of several policies intended to assimilate Indians into the dominant society. BIA boarding schools were established at which Indian youth were required to abandon their languages, native dress, religious practices, and other traditional customs. Native religious practices generally were suppressed. Tribal governments were discouraged from exercising their governing authority, and the local BIA superintendent essentially governed many reservations. Finally, as a means both to provide equity and promote assimilation, all Indians were made U.S. citizens in 1924 under the Indian Citizenship Act.

**The loss of a tribe's most talented individuals because of a lack of suitable housing goes far beyond the impact on that one family. It creates a loss of talent for potential economic growth and role models for young people. It forces young families to leave the reservation and, in some cases, forget their traditional culture and values.**

JOSEPH W. HIFF

Assistant Secretary for  
Public and Indian  
Housing HUD

## Indian Reorganization

In 1928, the Brookings Institution published an influential study called the Meriam Report that set the tone for a reform movement in Indian affairs. The Meriam Report publicized the deplorable living conditions on reservations and recommended that health and education funding be increased, the allotment policy ended, and tribal self-government encouraged.

Many of the recommendations in the Meriam Report became legislative initiatives in the Indian Reorganization Act (IRA) of 1934. One of the goals of this act was to stabilize the tribes' landholdings by providing that no new allotments would be made and by extending the trust period for additional allotments. The act sought to promote tribal self-government by encouraging tribes to adopt constitutions and to form federally chartered corporations.

Tribes were given a two-year period to accept or reject the IRA. One-hundred and eighty tribes accepted it, perhaps motivated by the act's objective of eliminating the Interior Department's absolute discretionary power over the tribes. Of the 77 tribes that rejected the IRA, many did so based on the view that the act's proscribed method for establishing tribal governments served only to perpetuate the paternalistic assimilation policy.

The most significant contribution of the IRA was to promote the exercise of self-governing powers. Despite its shortcomings, the act has been important in providing a framework for tribal political authority.



*Zuni*  
Photo credit: National  
American Indian Housing  
Council

## The Termination Era

A policy of rapid assimilation through termination of the federal trust responsibility was not officially adopted by the federal government until 1953, when Congress passed House Concurrent Resolution 108. However, movement in that direction had already begun in the late 1930s in the form of congressional criticism of Indian reorganization policies. This attack gained momentum throughout the 1940s and culminated with the so-called termination legislation of the 1950s.

In a narrow sense, termination was an experiment imposed on some 50 tribes and California rancherias that essentially ended the special relationship between those tribes and the federal government. The assimilationist policies of the era, however, had much broader implications. Those tribes not terminated were subjected to a series of laws transferring important areas of responsibility from the BIA to other federal agencies as well as to the states. Large amounts of Indian land were once again allowed to pass into non-Indian hands. Indians were encouraged to leave their homelands, and tribal economic development was largely ignored. The consequences of termination were, of course, psychological as well as political and social. To this day, Native Americans fear that the federal government has not given up on its efforts to assimilate them into the mainstream culture and to destroy their traditional cultures.

In 1946, through the Indian Claims Commission Act, Congress created a tribunal for the express purpose of providing Indian tribes with an opportunity to obtain damages for the loss of tribal lands. Prior to 1946, Indian tribes lacked a forum in which to sue the federal government for action (or lack of action) that tribes considered detrimental to their welfare. Under the act, the Indian Claims Commission acted as a special court authorized to hear and decide cases of action prior to the year of its creation. Tribes were given until 1951 (five years) to file their claims.

Although the claims process resulted in substantial recovery for some tribes, many of its restrictions have been heavily criticized. For example, the United States was allowed offsets, equal to the amount of past services awarded to tribes, against claims awarded to tribes. Furthermore, no interest was allowed on takings of aboriginal land titles or "executive-order" lands. Finally, monetary awards were distributed to individual tribal members rather than to tribes, so that any opportunity to strengthen tribal institutions was lost; and shortly thereafter, some 47 tribes and rancherias

**W**e are a diverse people. What is good for one tribe may not be good for another. We would like to be thought of as intelligent enough to promulgate our own rules and regulations without interferences from bureaucratic officials looking over our shoulders. We do not want federal officials and their employees treating us like children.

EDITH S. LAUKEE

Vice-Chairman, Nez

Perce County IHA

(1980)

were terminated. Many more tribes saw their sovereignty greatly diminished during this era, even though they were not actually terminated.

### **The Era of Self-Determination**

This era, which extends to the present, has generally been characterized by expanded recognition and application of the powers of tribal self-government and by the general exclusion of Indian reservations from state authority. (This exclusion has certain negative financial implications. Tribal governments do not generally receive supplemental funding from state governments on the same basis as do county and municipal governments. Most tribal governments have no other means of raising revenues, and there is little or no private capital on which tribal governments can rely.)

In essence, the policy of self-determination holds that Indian tribes should be the basic governmental units of Indian policy. Although progress has not always been uniform (tribes have suffered setbacks, especially in courts of law), tribes and individuals have benefitted from more favorable legislation, judicial decisions, and increased funding during this era of self-determination than during any other period in this country's history.

Probably the most significant piece of legislation of the self-determination era is the Indian Civil Rights Act of 1968 (ICRA), which extended most of the protections of the Bill of Rights to tribal members in dealing with their tribal governments. The ICRA also contained important provisions that helped reverse some of the negative effects of Public Law 280, passed in 1953—a law that had extended state jurisdiction to Indian Country. (Under the ICRA, states could transfer jurisdiction back to the tribes and the federal government.)

Another major statute of this era was the Indian Self-Determination and Education Assistance Act of 1975. Passed as Public Law 93-638 (and often referred to as "638"), the Act encourages tribes to assume administrative responsibility for federally funded programs designed for their benefit and administered previously by employees of the BIA and the Indian Health Service. Also passed in the late 1970s were the Indian Child Welfare Act and the American Indian Religious Freedom Act.<sup>3</sup>

Significant changes have occurred at the tribal level as well. The number of tribal courts has risen markedly, and those courts have become increasingly professional. Tribal councils have chosen to exercise their



*Sauk & Fox  
Courtesy:  
Smithsonian  
Institution*

powers to a much greater degree, passing tribal ordinances with respect to zoning, environmental quality, hunting and fishing, and so on. Tribes have also attempted, with varying degrees of success, to implement the contract provisions of the Indian Self-Determination Act of 1975.

Finally, it should be stated that tribes are becoming increasingly sophisticated in wielding political power. Tribal lobbying at both the national and state levels is becoming more and more effective. National Native American organizations are increasingly important voices in the formulation of policy. In short, though the battle for sufficient funding levels for Native programs continues, Native peoples are beginning to exercise sufficient clout to make their presence felt.

### **The Federal Trust Responsibility**

One cannot engage in a discussion of the status and rights of Native people without having some understanding of the backbone of federal Indian law and policy—the legal concept of trust responsibility. The special trust relationship between the United States and American Indian tribes has many unique features that have influenced, in some fashion, most aspects of Indian law.

“Trust responsibility” is a judicially defined term that describes the consequences of the legal relationship between the federal government

**I**t's very easy to stereotype Native American communities as carbon copies of one another. We know this is absolutely untrue. The cultural and economic diversity of this nation's Indian population is immense.

**JOSEPH SCHIFF**

Assistant Secretary for  
Public and Indian  
Housing HUD

and American Indians and Alaska Natives. The early conception of Indian tribes as "domestic dependant nations" under the "protection" of the United States was established by Chief Justice Marshall writing for the Court in *Cherokee Nation v. Georgia*.<sup>4</sup> In *Cherokee Nation*, Marshall characterized the relationship between Indian tribes and the federal government as one "resembling that of a ward to his guardian." The Chief Justice more fully developed this conception and its jurisdictional implications in *Worcester v. Georgia*.<sup>5</sup>

The federal government does not owe a duty to Indians because they are wards within the customary meaning of common law. The fiduciary duty of the federal government as trustee emanates from both the role of guardian that the government assumed in its course of its dealings with the tribes and the promises it made in treaties to protect the tribes. One of the most frequently quoted statements regarding the ward-guardian relationship is found in *United States v. Kagama*,<sup>6</sup> in which the Court recognized that the states had no jurisdictional authority over a reservation and that Congress had assumed the role of surrogate state government in Indian Country. If one can put aside the obvious racial prejudice of the statement that follows, it is useful as an explanation of the evolution of the trust doctrine, and it locates the legal and political foundations of the federal government's obligation:

*These Indian tribes are wards of the nation. They are communities dependant on the United States. Dependant largely for their daily food. Dependant for their political rights. They owe no allegiance to the states, and receive from them no protection. Because of the local ill feeling, the people of the States where they are found are often their deadliest enemies. From their very weakness and helplessness, so largely due to the coarse dealing of the federal government with them, and the treaties in which it has been promised, there arises the duty of protection, and with it the power. This has always been recognized by the Executive and by Congress, and by this court whenever the question has arisen (United States v. Kagama, 118 U.S. at 383-4).*

Various treaties and statutes thus acknowledge the federal government's trust obligations. The special relationship can be viewed as both legal and moral in nature. In the broadest sense, it obligates the federal government to protect Indian citizens pursuant to its fiduciary duties and standards.<sup>7</sup> In addition and more specifically, under the general trust doctrine,

Congress has imposed numerous duties on the executive branch of the government through a series of legislative enactments.

One question that arises constantly in discussions of the trust doctrine is whether the "special trust relationship" is permanent.<sup>8</sup> Different eras of Indian history have provided different answers to this question. At the turn of the century, the trust relationship was seen as short-term. Indian land was to be protected until Indian individuals could be assimilated into "mainstream" society. Later, however, the trust relationship was used as the basis for Congress to pass legislation allowing tribal landholdings to be broken into individual allotments.

More recently, the view of the trust relationship has broadened. The trust doctrine is now seen as one that supports progressive federal legislation enacted for the benefit of American Indian and Alaska Native people. The doctrine also influences contemporary interpretations of treaties and statutes.

In light of the federal government's historical and special relationship with and resulting responsibilities to American Indians and Alaska Natives, we believe that the government has an obligation to help procure decent, safe, sanitary, and affordable housing for Native American families and individuals. That goal has not been realized for many Native peoples, despite important advances over the past two decades.

### **Data and Policymaking**

No discussion of Native housing can be meaningful unless it is set in the context of current demographic and socioeconomic data. The numbers of Native Americans overall (including Alaskans and Hawaiians), along with their income levels and housing situations, are crucial pieces of information in any assessment of Native housing needs and impediments to the provision of decent housing.

The U.S. Bureau of the Census is responsible for gathering this type of information. As of the publication of this report, however, the Census Bureau had released only minimal and preliminary 1990 data on the nation's Native population. Thus, the only full-scale census data available currently date from 1980—over a decade ago. Efforts by the Commission to gain access to complete decennial data from the 1990 survey have been met with only partial success. (The Office of Policy Development and Research of the U.S. Department of Housing and Urban Development reports a similar inability to obtain such data.<sup>9</sup>)

**T**he homelessness in Indian Country is very difficult to understand for a lot of folk, and one of the reasons is because it's not visible. You're having this doubling up and tripling up of many families into one small house. It certainly does not have the same visibility as the homeless situation you would see in Washington, DC, for example, but it's

the

TEU

Commissioner

The Commission has therefore had to rely on data that are obviously obsolete and incomplete as descriptors of the state of Native housing. This lack of accurate data creates major problems for any analysis of housing needs. Here are a few key examples of the problems that arise:<sup>10</sup>

- The 1990 census reports that there are nearly 2 million Native Americans (American Indians and Alaska Natives) in the United States, as compared to roughly 1.5 million in 1980. Some of this increase (an unspecified percentage) is attributed to increased self-reporting by Native people. Preliminary data available for the 10 largest reservations indicate that 17 percent of all owned housing units and 19 percent of all rental units are overcrowded. However, these percentages are known to be variable among reservations—in some cases, they are much higher than these figures suggest.
- The 1980 data on housing conditions indicate that 16 percent of all homes in Indian Country had no electricity; 21 percent, no piped water; 24 percent, no complete plumbing; and over half, no central heating. Of the total number of Native households, 43 percent were below the poverty line. These numbers, too, vary among reservations: the Navajo reservation reported that just over half of its households had no running water, whereas the Blackfeet reservation reported that only 4 percent lacked piped water. Current (1990) data are not available.
- Data amassed nonsystematically by the Bureau of Indian Affairs indicate that, as of 1990, nearly 50,000 Native households needed new or replacement housing (because they lack a house or live in severely substandard homes). Census data for 1990 are not available to confirm the BIA data.

In the view of this Commission, the lack of accurate statistics has impeded all efforts, public or private, to address the housing crisis in Indian Country. That a crisis exists is indisputable; however, because relevant and important information is lacking, initiatives to deal effectively with the serious housing problems confronting Native Americans are necessarily weakened. The failure of the Census Bureau to release complete data in a timely manner has serious political implications. It is nearly impossible to set meaningful policies without a reliable picture of the full scope and seriousness of Native housing needs and how they relate

to other social and economic hardships faced by *America's first citizens*. This situation needs to be rectified as quickly as possible.

### Special Policy Histories: Oklahoma, Alaska, and Hawaii

Three states—Oklahoma, Alaska, and Hawaii—have unusual policy histories that set them apart from other states with Native populations and that complicate their housing issues. The factors that distinguish these states can be summarized as follows:

- Oklahoma has no Indian reservations. Its Indian housing authorities serve non-Indian as well as Native populations and are subject to state law and tribal law.
- Alaska has obvious climate and geographical conditions that differentiate it from all other states and that make housing construction physically problematic (i.e., temperatures in some areas preclude year-round building). Moreover, tribal councils in Alaska are organized according to a corporate model, not a governmental one. Finally, a special act (the Alaska Natives Claims Settlement Act) determines which tribal lands in the state can be developed.
- The federal government has refused to acknowledge that it has a trust responsibility for native Hawaiians. As a result, the Department of Hawaiian Home Lands has been denied access to federal funding and programs on the argument that the department “discriminates” by limiting its programs to a “racial class.” In this regard, Hawaii differs from every other state in the union, each of which has an acknowledged right to such assistance for its Native people by virtue of the government’s special trust responsibility for those citizens.

These policy histories are elaborated in the discussions below, which reveal the unusually problematic nature of Native housing issues in these three states.

#### *Oklahoma*

The State of Oklahoma is the home of a large number of Indian tribes and distinct tribal subgroups. Considerable federal legislation has focused solely on the Oklahoma tribes; despite this separate treatment, however, these tribes’ political and governmental status is similar in many respects to that of other tribes throughout the country.

**T**he housing needs and desires of Eskimos, Aleuts, Interior Indians, and coastal Indians differ greatly from those of Native Americans living outside Alaska or Hawaii.

NILES CESAR

BIA, Juneau Area  
(Alaska)”

**V**illage sanitation systems in Alaska are failing, and far too many communities are still living with the “honey-bucket” method of sewage disposal. EPA ranks Alaska as having the highest concentration of Native sanitation needs in the nation.

NILES CESAR

BIA Juneau Area  
(Alaska)

Prior to the European settling of the United States, few of the tribes currently in the state occupied the geographic area of what is now Oklahoma. Most of the tribes were resettled there (primarily involuntarily) under the federal government’s nineteenth-century “removal” policy. (During the early development of this country, tribal communities within states and organized territories were under constant pressure from settlers and local governments to give up large tribal land holdings. The federal government often induced, tricked, bribed, or threatened tribes to exchange their easternmost lands for new homes on unorganized federal domain in the West, where supposedly no conflicts with local non-Indian governments would arise. Eventually, use of these lands by their original inhabitants was made illegal, and Indian people had little choice but to leave.)

Before 1890, the 39 tribes in the area now known as Oklahoma possessed all the governmental powers of Indian tribes in general. In 1890, under the Oklahoma Organic Act, Congress created two territories in what is today Oklahoma. A formally organized territory was created in western part of Oklahoma to provide for a non-Indian government; tribal land was then allotted, and tribal influence began to decline. The second region created by Congress was called Indian Territory, now comprising eastern Oklahoma. Tribes in that region suffered relatively little land loss as a result of the Organic Act itself, but the federal government began to pursue the allotment process vigorously.

The extension of federal laws and jurisdiction to Indian Territory in Oklahoma resulted in a loss of tribal governmental powers. The Five Tribes Act of 1906 provided for allotment and affirmed the tribal government of the so-called Five Civilized Tribes (so named because before their removal from their ancestral homelands, these tribes acclimated themselves to a European lifestyle).<sup>11</sup> However, the Five Tribes Act also limited tribal legislative sessions to 30 days annually and required executive approval for all tribal legislative acts and contracts. In the year after this act was passed, the forced annexation of Indian Territory by Oklahoma Territory occurred, and the State of Oklahoma was thus formed.

Oklahoma was exempted from many of the important provisions of the Indian Reorganization Act (IRA) passed in 1934. Two years later, however, Congress passed the Oklahoma Indian Welfare Act (OIWA), which extended most IRA provisions to the Oklahoma tribes. The OIWA also provided for the formation of local Indian cooperatives for credit

administration, product marketing, consumer protection, and land management.

In practice, little use has been made of the OIWA beyond its provisions for tribal constitutions. Nevertheless, Oklahoma tribes recently have been very active in reestablishing tribal regulatory powers, forming tribal courts, and asserting tribal prerogatives such as hunting and fishing rights.

### *Alaska*

Alaska is home to a Native population of over 85,000 Alaska Indians, Aleuts, and Eskimos. These Native groups live in approximately 220 villages and cities scattered across Alaska's vast area of 586,400 square miles.

Alaska Natives experienced relatively little contact with non-Indians following the cession of Alaska by Russia to the United States in 1867, when the area's "uncivilized" tribes were made subject to U.S. laws and regulations. Until Alaska statehood in 1959, however, the federal government was involved only minimally with Alaska Natives. No treaties were negotiated with them, few reservations were established, and appropriations to them were small.

The originally created IRA did not apply fully to Alaska Natives but was amended in 1936 to take account of unique needs. Amendments to the IRA permitted the Secretary of the Interior to designate public lands actually occupied by Natives as reservations or as additions to reservations. Natives were permitted to organize under the IRA if they maintained a common bond of occupation or association or if they resided in a well-defined community. Numerous lands were withdrawn and councils created, but ensuing litigation called into question the permanence of the reserves and the nature of Native claims to land. In 1963, federal and state policy began encouraging the incorporation of Alaska Native communities under state law. Many Native communities that chose to incorporate also included IRA provisions in



*Rental home in White Mountain, Alaska*

**N**ative Hawaiians, like American Indians and Alaska Natives, are the Native peoples of the United States. They have always had that distinction, and it is my hope that they always will.

SENATOR DANIEL K.  
INOUYE  
U.S. Senate

their charters. Today, approximately 127 predominantly Native communities are organized under Alaska's state municipal incorporation statute; thus, the IRA and state statutes coexist. Not all villages chose to incorporate; at least 75 villages are unincorporated and are governed by village or traditional councils.

Potential Native land claims were noted in the Treaty of Cession and acknowledged in the Organic Act of 1884, which provided for civil government in Alaska. Other legislation also preserved Native land claims, and the Alaska Statehood Act further acknowledged such claims. However, the significance and extent of Native land entitlement was not fully defined until the Alaska Native Claims Settlement Act of 1971 (ANCSA), which was intended to resolve the land rights of the Alaska's Native inhabitants.

ANCSA essentially annulled all Native claims to Alaska land. In return, Congress authorized payment of \$962.5 million in a separate Alaska Native Fund. ANCSA also provides for land title to 43.7 million acres of land to be transferred to regional Alaska Native Corporations or local village corporations. ANCSA also addressed other federal objectives by providing for the withdrawal of up to 80 million acres of land for such uses as national parks, forests, and wildlife refuges and for the creation of a joint federal-state Land-Use Planning Commission to develop and recommend policies affecting public lands in Alaska. There have been 35 amendments in the 21 years since the passage of ANCSA. Congress has repeatedly amended the original Act in other legislation and confirmed the special relationship of Alaskan Natives to the federal government.

Under ANCSA, Natives were permitted to enroll and be issued stock in one of 13 regional corporations and in one of more than 200 village corporations or the two urban corporations. Native corporations are profit-making entities chartered under state law to perform proprietary functions. Housing needs for Alaska Natives were never addressed by ANCSA. According to the 1980 Census Alaska had one of the highest percentages of substandard housing.

#### *Hawaii*

Hawaii differs from other states in one fundamental way. Although American Indians and Alaskan Natives enjoy a special trust relationship with the federal government, the United States has refused to acknowledge that it has any trust responsibility for Hawaii's Native population. Native Hawaiians are viewed as a "racial class" by the federal government. They

have been denied access to the range of federal housing programs that are available to other Native American groups on the basis that limiting program services to a racial class would be in violation of the equal rights provisions of the U.S. Constitution.

On July 9, 1921, the Congress enacted the Hawaiian Homes Commission Act of 1920 (HHCA) for the purpose of rehabilitating "native Hawaiians" (defined as individuals with at least a 50 percent quantum of Hawaiian blood) by returning them to the land. Since the inception of the Hawaiian Home Lands Program, no federal financial support has ever been provided, and the United States has repeatedly indicated that it does not view the passage of the act as having created a trust obligation on the part of the federal government.

To understand the nature of the obligation that the United States incurred with the adoption of the HHCA, it is necessary to review briefly how the United States acquired the lands that it then designated as "Hawaiian Home Lands" and how, with the passage of the act, the U. S. government accepted specific obligations and duties to manage approximately 203,500 acres of public lands for the benefit of qualified Native Hawaiian beneficiaries.

**Traditional Land Tenure System.** Early Hawaiians had no concept of fee-simple land ownership. The land was viewed as belonging not to one individual but to the gods; all the people, including the high chiefs (ali'i), merely administered the land for the benefit of the gods and society as a whole.

An important unit of land was the ahupua'a, an area that extended from a mountain to the sea. Ranging in size from 100 to 100,000 acres, each ahupua'a provided fish and seaweed at the seashore; taro, bananas, and sweet potatoes from the lowlands; and forest products from the mountains.

**The Mahele.** The arrival of Westerners altered socio-economic patterns in Hawaii. During the first part of the nineteenth century, Hawaii evolved from a basic subsistence economy into an important trading center. With these changes came increasing pressure to change the land tenure system.

The Mahele, or division, took place in 1848. King Kamehameha III set aside approximately 1.5 million acres for public use (the Government lands) and kept for himself, his heirs, and successors approximately 1 million acres (the Crown lands). The remaining 1.5 million acres were awarded to the chiefs.

**P**roponents of Hawaiian rehabilitation through homesteading were forced to concede to such an extent that the original goals of the HHCA were severely compromised—the homelands trust consisted largely of the worst lands in the territory—remote, inaccessible, arid, and unsuitable for productive development.

GAVAN D. ...

Shoal of Time (1974)

**Ceded Lands.** In 1893 the Kingdom of Hawaii's last reigning monarch, Queen Liliu'okalani, was overthrown. Following the overthrow of the Hawaiian government, the newly formed Republic of Hawaii seized control of what remained of the former Crown and Government lands, approximately 1.75 million acres. These combined lands, termed "public lands," were "ceded" to the United States in 1898 under the Joint Resolution of Annexation ("Newlands Resolution").<sup>12</sup> Although legal title to the "ceded" lands was transferred to the United States, the lands actually remained in possession and under control of the Territory of Hawaii as stipulated in the Organic Act of 1900. It is from this body of public lands that Congress subsequently identified "available lands" for the purposes of the Hawaiian Homes Commission Act in 1921.

**Hawaiian Homes Commission Act.** During the early 1900s, widespread concern for the plight of the Hawaiian people began to emerge. Many

Hawaiians had moved to urban areas and experienced serious disruption in their lives. They were without a means of making a living and did not have decent shelter.

With the opening of the Tenth Territorial Legislature in 1919, Senate Concurrent Resolution 2 (introduced by Senator John Wise) requested that "suitable portions of the public lands of the Territory of Hawaii" be set aside for use by Hawaiian lessees. This resolution was passed by the legislature and forwarded to the U.S. Congress for action. Prince

Jonah Kuhio Kalaniana'ole (Prince Kuhio), Hawaii's delegate to Congress, worked closely with the territorial legislative delegation in Washington to ensure favorable action on passage of the resolutions.

Other territorial resolutions forwarded to the U.S. Congress proposed that public lands in sugarcane cultivation be withdrawn from the general homestead laws of the Territory and be leased to the highest bidder at



*Hawaiian legislative commission at the Shoreham Hotel, Washington, D.C. January 1920. (Prince Jonah Kuhio Kalaniana'ole is third from the left.)*

public auction. These lands were under leases that were to expire between 1917 and 1921.

The proposals for Hawaiian rehabilitation and for public land law amendments, as originally conceived, were contradictory. One set of proposals would retain the best agricultural lands in the hands of the sugar interests. The original Hawaiian rehabilitation proposal, however, would have made these lands available for homesteading.

Senator Wise and Prince Kuhio worked closely with the U.S. House Committee on Territories in early 1920 to focus on Hawaiian rehabilitation. A political compromise was worked out between the sponsors of the rehabilitation measure and the sugar interests supporting the public land law amendments. The two proposals were made interdependent by earmarking 30 percent of the revenue derived from leasing of the cane lands as the major source of income for the rehabilitation program. All acreage cultivated for sugar or held under special leases was excluded from the lands to be made available for homesteading by Hawaiians.

With the passage of the Hawaiian Homes Commission Act (HHCA) on July 9, 1921, approximately 203,500 acres of "available land" were set aside for the program. The Hawaiian homesteading proposal was substantially weakened, however, by the exclusion of some of the best agricultural lands of the Territory. The quality, characteristics, and location of the remaining lands severely handicapped achievement of the program's stated purpose, which was to rehabilitate Native Hawaiians through a government-sponsored homesteading program.

*Passage and Provisions of the Act.* Two major factors prompted Congress to pass the Hawaiian Homes Commission Act. First, the native Hawaiians were a dying race. Population data made part of the Congressional Record showed that the number of full-blooded Hawaiians in the Territory had decreased from an 1826 estimate of 142,650 to only 22,600 in 1919. Second, Congress recognized that all previous systems of land distribution were totally ineffective when judged practically by the benefits accruing to the Hawaiians from the operation of such systems.

The U.S. House Committee on Territories recommended passage of the measure, stating:

*Your committee believes it necessary to provide another and different method of homesteading in the Territory of Hawaii, as a basis for the solution of the*

*problem confronting it. Your committee is, however, of the opinion that (1) the Hawaiian must be placed upon the land to insure his rehabilitation; (2) alienation of such land must, not only in the immediate future but also for many years to come, be made impossible; (3) accessible water in adequate amounts must be provided for all tracts; and (4) the Hawaiian must be financially aided until his farming operations are well under way.<sup>13</sup>*

Congress enacted and the President signed into law the Hawaiian Homes Commission Act on July 9, 1921. It established a five-member commission to be known as the "Hawaiian Homes Commission" (HHCA section 202), whose chairman was to be the governor of the Territory of Hawaii. The four remaining members were to be appointed by the governor; three were to be native Hawaiians. The Commission was not made part of the executive branch of the territorial government. Congress reserved to itself the power to amend or modify the HHCA (section 223).

The Act designated certain public lands in the Territory located on the five major islands as "available lands" (section 203). Upon passage of the HHCA, available lands not then encumbered under a general lease were to assume the status of "Hawaiian Home Lands" under the jurisdiction and control of the Commission (section 204). Each homestead lease was subject to the following conditions:

- The lessee must be a native Hawaiian, defined as "any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778."
- The lease was for a term of 99 years at \$1 per year.
- The lessee must occupy and use or cultivate the tract within one year after the lease is made.
- The lessee must thereafter, for at least such part of each year as the Commission prescribes, occupy and use or cultivate the tract on his own behalf.
- The lessee could not in any manner transfer to or mortgage, pledge, or otherwise hold for the benefit of any other person his interest in the tract, except a native Hawaiian, and then only upon the approval of the Commission.
- The lessee was required to pay all taxes assessed upon the tract and any improvements thereon, except that the lessee was exempt from all taxes for the first five years from the date of the lease.

So that native Hawaiians could begin farming and to provide for the expenditures of the Commission, a Hawaiian Home Loan Fund was established with a ceiling of \$1 million (section 213). The primary source for this revolving fund was 30 percent of the rentals obtained by the Territory from the leasing of the cultivated sugarcane lands, from water licenses, and from the leasing of the Hawaiian Home Lands returned to the commissioner of public lands.

**Statehood Admission Act.** In 1959, the Territory of Hawaii was granted statehood and became the fiftieth state of the union, pursuant to the Admission Act of March 18, 1959. Prior to this, title to Hawaiian Home Lands was vested in the United States. Under section 5 (b) of the Admission Act, the United States passed title to public lands, including Hawaiian home lands, to the State of Hawaii. Section 5 (f) of the Admission Act provided that federal lands granted to the state upon admission were to be held by the state as a public trust for several purposes, including the betterment of conditions of "native Hawaiians" as defined in the HHCA.



*First Hawaiian homesteaders - Kalaiananoale Settlement, Molokai 1924*

The State of Hawaii entered into a compact with the United States and assumed the management and disposition of Hawaiian Home Lands. The state further agreed to adopt the HHCA as a provision of its constitution. The applicable law says in part: "As a compact with the United States relating to the management and disposition of the Hawaiian Home Lands, the Hawaiian Homes Commission Act, 1920, as amended, shall be adopted as a provision of the Constitution."<sup>14</sup>

The state and its people reaffirmed this compact by adding another provision to the Hawaii state constitution whereby they accepted specific trust obligations relating to the management of the Hawaiian Home Lands imposed by the federal government:

*The State and its people do hereby accept, as a compact with the United States, or as conditions or trust provisions imposed by the United States, relating to*



*Hawaiian homestead community at Anahola, Kauai. Circa 1950*

*the management and disposition of Hawaiian home lands...the state and its people do further agree to declare that the spirit of the Hawaiian Homes Commission Act looking to the continuance of the Hawaiian home projects for the further rehabilitation of the Hawaiian race shall be faithfully carried out.<sup>15</sup>*

**Home Lands Development.** The Hawaiian Home Lands trust includes 34 tracts of land on five major islands in the State of Hawaii. Together, these tracts encompass some 187,413 acres of land. The Department of Hawaiian Home Lands has recently initiated claims to thousands of additional acres that should be part of the Home Lands trust.

As noted earlier, although the areas initially selected for the Home Lands Program were generally isolated and less desirable, most of these areas have in fact become very valuable as the state's population and economy have grown. Despite untold hardships, the first homesteaders made their land entitlements productive, and their legacy is the hugely enhanced value of the Home Lands trust and its assets.

Just as the efforts of the first homesteaders strongly influenced current development decisions, so will new homesteaders influence future decisions. Remaining undeveloped home lands at Waimea on Kauai; Kahikinui on Maui; and Humuula, Piipihonua, Kawaihae, and Kamamaoa-Puueo on Hawaii represent the future for native Hawaiian homesteaders and other beneficiaries throughout the state.



PART TWO

II. EXISTING HOUSING  
PROGRAMS: INTENTIONS  
AND EFFECTS



*Acoma, New Mexico*

**I**n Indian Country is it the absence of alternatives which dominates the housing picture.

"Indian Housing in the 1990s: Still Waiting," a report of the National American Indian Housing Council

## II. EXISTING HOUSING PROGRAMS: INTENTIONS AND EFFECTS

**T**he story of housing assistance for Native peoples in Alaska and the “Lower 48” begins with legislation creating the Bureau of Indian Affairs (BIA) in 1832. This agency became the major conduit for all federal services rendered to Indians. Nearly a century after the BIA’s creation, the Snyder Act of 1921 was passed. It authorized the agency to direct “the expenditure of congressional appropriations for the benefit, care, and assistance of the Indians throughout the United States.”

### The Snyder Act of 1921

The Snyder Act’s broad declaration of purpose authorized expenditures for many BIA activities, including health, education, employment, administration of Indian property, and irrigation. Over time, the original authorization was expanded by subsequent legislation.<sup>16</sup> Yet despite the broad mandate of the Snyder Act, for a *40-year period* (from 1921 to 1961), no public housing assistance reached our nation’s original residents. During this time Indian housing was grossly substandard, and Indian health conditions were deplorable. The BIA, as well as other agencies, and the executive branch failed to advocate on behalf of Native populations in desperate need of housing assistance. Indeed, according to a current BIA staffperson, there are no records of *any* housing-related programs initiated by the BIA during this entire period. The agency simply did not fulfill its role as stipulated in the Snyder Act, and the federal trust responsibility was thus essentially unfulfilled with regard not only to housing but also to health, education, and other personal and social needs—all of which were powerfully affected by the lack of decent living conditions in Indian Country.

It should be stressed that this failure of the agency chiefly responsible for Indian housing occurred in a broader political context. The 1940s

It’s hard for me to tell my own people, “I have no home for you,” because they’re standing there with little kids and I know they’ll have to go back to their parents’ house.

Seneca Nation Housing  
Authority Employee  
(New York)

witnessed increasing BIA budget cuts, congressional pressure to repeal the Indian Reorganization Act, and moves to terminate all federal responsibility toward Indians.<sup>17</sup> These forces ushered in the termination era, during which Indian housing suffered even greater setbacks and the BIA moved even further away from the fulfillment of its stewardship role. In line with the termination policies of the 1950s, the national BIA leadership sought to weaken local agency influence over Indian affairs, to minimize development planning, and to formulate withdrawal programs—in short, to pursue an aggressive assimilationist policy.

Illustrative of this pursuit was the appointment in 1950 of Dillon S. Meyer, former director of the War Relocation Authority (which designed a system of detention camps for Japanese-Americans), as Commissioner of Indian Affairs. Meyer instituted a reorganization of the Bureau's structure that resulted in the weakening of local agency control and strengthening of the power of the national BIA leadership. His administration generated much controversy during its active pursuit of termination goals. One 1953 article asserts that numerous violations of Indian rights by Bureau personnel occurred from 1950 to 1953.<sup>18</sup>

### **The Housing Act of 1937**

In 1937, Congress passed the nation's first Housing Act. This act was amended and funded for over 20 years before the BIA's Office of the Solicitor determined, in 1961, that Indian tribes had legal authority to establish tribal housing authorities that could develop and operate public housing. This administrative determination launched the first real housing program on reservations and other Indian areas.<sup>19</sup>

In the early 1960s, Special Program 13 under the then Federal National Mortgage Association (Fannie Mae) gave the Fannie Mae the ability to buy mortgages insured by the Federal Housing Administration (FHA). Although the Fannie Mae did not actually purchase Indian-held mortgages, the creation of this program prompted discussions between the BIA and the FHA concerning other possible programs to provide housing assistance to the large and growing number of low-income Indians.

At this time, the seriousness of the Indian housing problem began to register at the federal level. It was the frustration and anger of tribal leadership, however, that sparked real change. Various tribal governing bodies seized the initiative and began urging that the federal government provide, through the BIA, desperately needed housing assistance for

Indians. Spurred by these efforts, the BIA launched its Housing Improvement Program in 1965 under the authority of the Snyder Act.

### *The Housing Improvement Program*

The Housing Improvement Program (HIP), created under the authority of the Snyder Act, was established in 1965. It was the BIA's own internal policy that this program be designed to serve "the neediest of the needy."

Every Indian person who is a member of any of the tribes recognized as receiving services from the BIA is entitled to participate in this program, provided that such services can be delivered to the geographic area where that person resides. HIP offers four categories of assistance:

1. *Category A:* emergency repair grants, limited to \$2,500 on a one-time basis.
2. *Category B:* repair assistance that allows a home to be brought up to standard. The assistance is limited to \$20,000 grants on a one-time basis and is geared toward disabled and elderly populations.
3. *Category C:* down payment assistance, limited to \$5,000. (The BIA notes that this amount is inadequate for equity investments.)
4. *Category D:* grants for the construction of new homes that are modest, safe, decent, and sanitary. Category D grants are limited to between \$45,000 and \$48,000 (\$55,000 in Alaska).

HIP services have typically concentrated on the repair or enlargement of existing housing stock (which means that the responsibility for most new home-building efforts lies with other federally assisted programs). Basic,

modest, and safe are the principles guiding construction, repair, or renovation of a house.

HIP is a popular, simple, and tribally contractible program that has assisted many tribal citizens in multiple ways. Small tribes terminated in the 1960s that have not received any other type of housing assistance have been able to employ HIP funds to address immediate or emer-

**A** new approach to the design and implementation of housing programs on Indian reservations must be developed. The public housing model simply doesn't work. It is inappropriate for the housing needs of Indian reservations.

JAMES SOLEM

Commissioner



*BIA Housing Pine Ridge, South Dakota*

**BIA Housing Improvement Program funds for our tribe are so small that we must carry them over for periods of years in order to be able to fund a project.**

VELMA BAHE

Kootenai Tribe of Idaho  
(Idaho, Montana, and  
Canada)

agency needs while they prepare to reorganize or to apply for HUD funds. Because HUD's application process is lengthy and requires tribal or state law to establish a housing authority,<sup>20</sup> HIP funds have been able to address immediate needs when no other funds are available.

HIP has grown from a beginning annual appropriation of \$500,000 (in 1964) to roughly \$23 million from 1984 to 1988; its budget has stabilized at between \$22 million and \$25 million for the past three fiscal years (90, 91, and 92). Although the HIP appropriation for FY92 was \$25.2 million, the BIA's request for FY93 has shrunk to \$18 million.

From 1964 through FY92, 71,697 housing repairs and 13,387 new housing units were completed with HIP funds. The latest HIP statistics (as of 1990) indicate that there is a need for 49,913 new homes and 38,776 housing repairs. The BIA claims that about 150 new houses are constructed and about 1,300 repairs made annually.<sup>21</sup> However, administrative costs can account for 25 to 40 percent of the total amount earmarked for a particular tribe, thereby reducing the amount of funds actually available for construction and repair.

#### *HIP Funding Distribution*

The general distribution of HIP funds among the tribes is based on the BIA's certified inventory of tribal housing needs and a workplan for the improvement of housing. These housing inventory figures are quoted by every federal agency handling housing programs for Indians. Although the inventory is criticized by Indians and other agencies as being incomplete and inaccurate, it is the recognized basis for annual federal funding allocations for Native housing.

In 1985, through a congressional directive, the BIA initiated a plan to satisfy 10 percent of new housing needs and 90 percent of housing repairs. However, because of the low level of HIP funding provided by the current administration, the BIA has not been able to keep pace with HIP plans that were redirected in 1985 by the congressional mandate, which called for improvements in service delivery as well as program management.

#### *HIP Funding Levels*

According to the 1989 BIA consolidated Indian housing inventory, 91,388 Indian families living on reservations, in Alaska Native villages, and in other Indian areas needed either new or substantially rehabilitated homes. Yet in its FY91 budget submission, the BIA eliminated its new construction program. Low annual HIP appropriations (see Table 1) have been further

diminished by the escalating costs of construction materials, labor, project administration, historical preservation, environmental assessments, and site development. (These costs are presently being reviewed by the Office of Management and Budget (OMB) to justify an increase in HIP appropriations beginning in FY94.)

Currently, the BIA and tribal leadership are reviewing existing HIP regulations concerning the definition of a standard home, the repair of

**F**irst of all, we have found that there is a lack of sufficient funding for developments to meet the needs and demands of Indian tribes.

JANICE LOPEMAN

Executive Director,  
Southern Puget Sound  
Inter-Tribal Housing  
Authority (Washington)

TABLE 1

**BIA Housing Improvement Program:  
Final Appropriations (in current \$K) Thousands**

Fiscal Year	Appropriation
1965	\$500
1966	1,000
1967	1,000
1968	3,080
1969	3,671
1970	7,774
1971	8,817
1972	10,992
1973	12,944
1974	12,906
1975	13,203
1976	14,359
1977	15,319
1978	20,353
1979	24,438
1980	19,380
1981	22,380
1982	29,810
1983	53,298
1984	23,000
1985	22,736
1986	42,564
1987	22,606
1988	22,827
1989	22,823
1990	22,463
1991	23,750
1992	25,211
1993 (requested)	18,706

Sources:

FY65-74: Arnold C. Sternberg and Catherine M. Bishop, "Indian Housing: 1961-1971, A Decade of Continuing Crisis."

FY75-91: Department of the Interior, Office of Policy, Management, and Budget (unpublished data).

FY92-93: BIA Budget Justification, FY93, p. 255.

**T**wenty years ago I testified as to the grievous housing conditions of Ninilchik's members.

I am here today to tell you the situation has not changed—it has not been made better. Since my last testimony, our tribe received a new housing construction grant for one house from the Bureau of Indian Affairs.

Because of bureaucratic bungling and red tape, it is taking longer to construct this \$50,000 house than for us to construct a quarter-million-dollar subsistence project.

GRASSIM OSKOLKOFF

Chairman, Ninilchik  
Traditional Council  
(Alaska)

HUD houses, applicant eligibility criteria, natural disaster housing assistance, multi-unit housing, accurate and verifiable housing inventories, limitations on new repair costs, and use of the latest building construction technology.

### HUD Native Housing Assistance

In 1937, Indians became eligible for public housing funds by virtue of being low-income citizens. The Indian housing program of the Public Housing Authority (HUD's forerunner) thus became the primary and often the only source of affordable, decent, safe, and sanitary shelter in Native areas, excluding Hawaii. Nearly 25 years later, in 1961, the Solicitor of the Interior determined that Indian tribes could establish Indian housing authorities (IHAs).

#### *Indian Housing Authorities*

IHAs are equivalent in structure and function to public housing authorities. An IHA may be created by tribal government action or pursuant to state statute; in either case, the IHA is vested generally with the authority to administer and supervise housing programs within areas of its jurisdiction. (Where an Indian tribal government has established a governing body with sufficient powers of self-government and police power to promote the general welfare within its reservation boundaries, this governing body may perform all legal functions with regard to the administration of federally assisted low-income housing programs.)

*Model Tribal Ordinance.* HUD regulations specifically provide that a tribal government body may create an IHA.<sup>22</sup> When the model was introduced in 1962, the applicable tribal ordinance was required to follow the exact format prescribed by HUD. In 1976 all IHAs adopted a new ordinance with a provision permitting tribal councils to amend certain parts of the ordinance with the approval of HUD.

The provisions of this ordinance are similar in form and substance to a set of corporate



*Portion of a substandard home.  
Diomed Island, Alaska*



*HUD-Mutual help home Standing Rock, South Dakota  
Courtesy: HUD*

by-laws. With few exceptions, most of the provisions require HUD approval before they can be amended. The ordinance creates a special relationship between the tribal governing body and the IHA:

- The IHA is established as a separate body so that the tribal government is protected from any debts and obligations incurred when the IHA borrows money to develop projects.
- The tribal government is not responsible for the day-to-day supervision of the IHA's activities or for the IHA's legal obligations or debts.
- The tribal government maintains a reasonable amount of control over the activities of the IHA by retaining authority to amend the tribal ordinance to designate the method of selection of the members of the board of commissioners and its chairperson, the number of commissioners, and the length of terms of commissioners, to require regular reports, and to remove a member of the board for serious inefficiency, neglect of duty, or misconduct in office.<sup>23</sup>

The model ordinance notes that the shortage of decent, safe, and sanitary low-income housing for Indians cannot be remedied through the operation of private enterprise. The provision of adequate housing is expressly declared to be a "governmental function of tribal concern" to the tribal council, and the property of the IHA is deemed to be "public property used for essential public and governmental purposes" and exempt from all taxes and special assessments of the tribe.

Article II of the model ordinance lists the three primary purposes for which an IHA is created: (1) to remedy unsafe and unsanitary housing conditions on the reservation; (2) to supply decent, safe, and sanitary housing for persons of low income; and (3) to provide employment opportunities through the construction, repair, and operation of low-income dwellings.

The model tribal ordinance also establishes the organizational structure, powers, and duties of the IHA. The board of commissioners (typically consisting of five members) retains authority to set the IHA's policies. The IHA also employs a staff, headed by an executive director, which is responsible for the daily operation of the IHA and for carrying out the policies established by the board.

The powers of the IHA are set forth in article V, section 3 of the model tribal ordinance. An examination of the 20 enumerated powers evidences the intent of the tribe and of HUD that the IHA should be a separate corporate body with the freedom to contract and conduct business with other entities as well as the federal government. However, each IHA's initial and most important contractual relationship is with HUD.

Upon the execution of an annual contributions contract (ACC), federal monies become available to fund IHA housing projects. These federal funds generally are the sole source of financial assistance provided to the IHAs to develop and manage the projects. Article VIII of the model ordinance states that the tribal government will cooperate with its IHA in connection with the construction and management of housing on a reservation. Article VIII is similar in nature to the cooperation agreements required of non-Indian public housing authorities as they deal with their local governing bodies.

*Scope and Distribution of IHAs.* As of 1992, there are 183 Indian Housing Authorities (IHAs) operating in reservation areas as well as in Oklahoma, California (i.e., rancherias), and Alaska. These IHAs represent 267 Indian tribes and 199 Alaska Native villages. Certain "umbrella" IHAs serve the needs of anywhere from 2 to 15 tribes. In Alaska, 14 IHAs serve many villages within 1 of 12 regional Native Corporation jurisdictions<sup>24</sup>

Most IHAs administer fewer than 500 units. A number of IHAs, particularly in Oklahoma, operate HUD Section 8 existing programs, and a growing number are utilizing housing vouchers where feasible. New IHAs are created every year as Indian tribes seek to establish stronger tribal organizations and utilize available federal housing programs.

In 1975, HUD formed the Office of Indian Housing (OIH) to carry out housing programs especially for Indian tribes, in recognition of the fact that "only Indian tribes themselves know what is best for their people."<sup>25</sup> OIH has six regional offices that serve as HUD's primary liaisons with the IHAs. Since the start of HUD's Indian housing program, over 70,000 housing units have been built. In 1991, approximately 8,000 units were in development; for FY92, Congress appropriated funds for 2,200 additional new units.

#### *HUD Homeownership Opportunities*

HUD-related homeownership opportunities for Indians began with two programs: Turnkey III and the "old Mutual Help" program. Both of these programs were eliminated by HUD in 1976. (Most Indian public housing units that are now paid off originated in one of these programs.)

*Section 5(h).* In 1974 the Section 5(h) Homeownership Program was added to the provisions of the Housing Act of 1937. This section of the law allows public housing agencies and IHAs to sell individual units and developments to residents of public housing. It also allows HUD to continue servicing debt on original acquisition, construction, or modernization costs. Although there are limitations on requirements of other sections of the act, the statute gives the HUD secretary complete discretion to implement homeownership programs under Section 5(h).

Despite the fact that this program could be of use to Native Americans, at present it is virtually unused. HUD does not promote it, and most IHAs are unaware of its existence.

*Mutual Help Homeownership Program.* The Mutual Help Homeownership program (the "new Mutual Help" program) was established in 1976. A variant of the old Mutual Help program, the Mutual Help Homeownership program allows IHAs to build homes for low-income Indians and Alaska Natives. (Indian housing programs were separated from public housing by P.L. 100-358, the Indian Housing Act of 1988.)

HUD Mutual Help is a lease-purchase program. An IHA leases a home to a prospective owner for a period of up to 25 years. Home buyers are usually Indians of lower income who are required to make an initial contribution (equivalent to at least \$1,500 in land, cash, labor or materials). (Other than labor, this contribution may be made by the tribe on behalf of the buyer.)

**The resources are out there; we just need to use them. All the agencies involved in Native housing need to tap into programs available in multiple areas, public and private. Educating ourselves, and disseminating accurate information, must be top priorities.**

JACKIE JOHNSON

Commissioner



*Taos Pueblo - Courtesy: HUD*

During the lease term, the buyer makes monthly payments to the housing authority. These payments are based on the buyer's income and must, at a minimum, equal 15 percent of the participant's adjusted monthly income or the housing authority's administrative cost, whichever is greater. Any payment in excess of the monthly administrative fee is credited to the buyer's equity

accounts. Buyers also are responsible for all utility costs and maintenance. Participants are considered eligible to purchase the home when their equity account and reserves are sufficient to pay the outstanding balance as calculated by the IHA.

In addition to providing authority to IHAs to fund the construction of units and amortization costs, HUD also provides funds to IHAs for home buyer counseling, staff training, audits, certain rehabilitation costs, and collection losses.

As of September 30, 1990, over 47,800 homeownership units had been developed. This represents approximately 62 percent of the total HUD Indian units built since the old program began. Of this total, approximately 6,000 units have been paid off by the home buyers and are no longer part of the program. The old Mutual Help program produced 16,579 units at a total cost of over \$439 million. The new Mutual Help program has produced 31,317 units of new housing (as of 1990) at a total cost of \$2.11 billion.<sup>26</sup>

***Comprehensive Improvement Assistance Program.*** Section 14 of the amended Housing Act of 1937 authorized a Comprehensive Improvement Assistance Program (CIAP) to modernize deteriorating public and Indian housing. This program provides federal assistance to IHAs to fund comprehensive capital and management improvements. Program goals include improving the physical condition of existing public and Indian housing projects and upgrading the management and operations of such projects. In recent funding years, Indian housing has received between 2 and 3 percent of the total funds appropriated each fiscal year under this program (see Table 2).

TABLE 2

CIAP Funding for Indian Housing, 1981-1992

Fiscal Year	Appropriation
1981	\$14,218,093
1982	19,771,977
1983	22,870,830
1984	10,812,919
1985	11,228,545
1986	14,136,391
1987	28,770,482
1988	54,895,154
1989	44,687,046
1990	53,277,677
1991	67,365,000

Assistance under the CIAP program is available primarily to low-income rental projects currently under an annual contributions contract (ACC) with HUD. However, certain health and safety, energy conservation, and development-related design and construction deficiencies may be funded through the Mutual Help program. HUD lists its general categories of modernization as follows:

- comprehensive;
- emergency;
- special-purpose; and
- homeownership.

In 1991, an additional component was added to the CIAP program: the Comprehensive Grant Program (Comp-grant). Comp-grant is designed for IHAs with more than 500 units (250 units in FY93), which limits its use within the overall Indian housing program. Current CIAP regulations will continue to apply to IHAs with fewer than 500 rental units.<sup>27</sup>

The 1990 Cranston-Gonzalez National Affordable Housing Act contains a major legislative change that now allows CIAP funds to be used in a comprehensive manner for Mutual Help units. Previously, CIAP funds could be used for Mutual Help units only for limited purposes such as emergencies, energy efficiency, and construction and design deficiencies.

**S**ome homes constructed under the Mutual Help program in New Mexico have been built in the pueblos themselves. The first units were frame construction, but later units were adobe brick. Living and dining space, and often kitchens as well, were combined to accommodate large gatherings. But adobe prices increased labor and construction costs, so now only a small proportion of Mutual Help homes in the Pueblo region are built of adobe brick.

HUD, "Homeownership and Affordable Housing: The Opportunities" (1991)

*HUD Low-Income Rental Housing*

HUD low-income rental housing is a permanent housing resource available to eligible applicants through their IHA authorized by Title I of the 1937 Housing Act. The IHA is responsible for helping prospective tenants with the application process, verifying incomes, determining and collecting monthly payments, and performing all routine and nonroutine maintenance on the units. To accomplish these functions, each IHA maintains an administrative and maintenance staff. Staff salaries, equipment, supplies, and other expenses are paid with income received from rental payments, which are 30 percent of adjusted income and (as

necessary) operating subsidies from HUD. These payments are based on the performance funding system (PFS), a formula that calculates the amount of operating subsidy on the basis of the per-unit allowable expense level. (It should be noted that the PFS was designed to distribute operating subsidies, in a comprehensive and equitable manner, to public housing authorities, not IHAs.)

The IHAs' allowable expense level is based on their historical per-unit income and expense data. There is no consideration for remote locations or for particularly high costs of maintenance. Independent audits, certain costs

attributable to deprogramed or vacant units, and added costs due to statutory or regulatory revisions are additional allowable expenses.

Each IHA submits to HUD an annual operating budget and supporting documentation for its expenses related to the rental program. HUD reviews and approves these budget submissions. At the beginning of the budget year, HUD also establishes a schedule for the payment of operating subsidies to each IHA. The approved budget thus constitutes an agreement between the IHA and HUD as to how income will be spent for the year. (Budget revisions may be authorized after a revised budget is submitted to HUD.)

For the Alaska rental housing program, operating subsidies for all IHAs are based on operating budgets approved by HUD field offices and not on the PFS system of subsidy calculation.



*Low-income rental housing units, Reno-Sparks IHA.*

Once a family has been determined eligible to participate in the low-rent program, it will pay the greater of 30 percent of its adjusted monthly income or 10 percent of its gross income. As a sole exception, where the IHA has approved a "ceiling rent" permitted under the Housing and Community Development Act of 1987 (which allows the IHA to establish a maximum rent for a class of units based on a HUD established formula involving debt service and operating expenses), residents pay the lower of their calculated monthly payment or the approved ceiling rent.

HUD provided operating subsidy payments to IHAs in the amount of \$58,150,423 in FY90. This total is composed of the following amounts:

PFS funding	\$45,432,016
Insurance Premiums	307,804
Mutual Help Subsidies	9,298,138
Turnkey III Subsidies	716,268
Subsidy for Alaska	2,396,197

Since the first application for a rental unit project was received from the Oglala Sioux Housing Authority of Pine Ridge, South Dakota, in 1961, HUD has funded a total of approximately 27,000 rental units for \$1.34 billion. These projects comprise approximately 35 percent of the total Indian housing inventory.

TABLE 3

Operating Subsidies for Indian Housing Authorities (1980-1990)

Fiscal Year	Appropriation
1981	\$11,463,408
1982	16,723,969
1983	22,730,642
1984	19,623,329
1985	27,131,857
1986	33,512,149
1987	46,124,433
1988	49,813,998
1989	55,200,515
1990	58,150,423

**What may be desirable for inner-city and more affluent areas does not necessarily apply in traditional Indian Country.**

**THOMAS  
BLACKWEASEL**

**Blackfeet IHA  
(Montana)**

### *The HOME Program*

The HOME Investment Partnerships Program (HOME) was enacted in 1990 under Title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA) (P.L. 101-625). The NAHA authorized funds totaling 1 percent (or such percentage as authorized by Congress) of the amount appropriated for the entire HOME program to expand the supply of affordable housing for Indians.

HOME awards competitive block grants to Indian tribal governments to provide affordable rental and ownership housing through the acquisition, rehabilitation, and new construction of housing and through tenant-based rental assistance. HOME project awards are based on three criteria:

1. the degree to which tribes address their housing needs and their ability to deliver housing to low-income families;
2. the tribal government's administrative and financial capacity to successfully carry out a HOME project; and
3. the use of alternative sources of assistance, including mortgage insurance, state funds, and private contributions used in conjunction with HOME funds to carry out projects.

HOME funds may be used by an Indian tribe to provide incentives to develop and support affordable housing and homeownership opportunities through the acquisition of existing units; assistance for first-time homebuyers; and new construction, reconstruction, or moderate or substantial rehabilitation of housing. Tribal governments can also use HOME funds as equity investments, interest-bearing loans or advances, noninterest-bearing loans or advances, interest subsidies, or other forms of assistance approved by HUD.

In FY91, HOME received no appropriations from Congress. The President's FY92 budget requested funds only for the HOME program and proposed the elimination of the existing 30-year-old Indian Mutual Help program, which provided much-needed new housing construction. Similarly, in the President's FY93 budget, no request was made for funding for the existing new-construction program. HOME funds for Indians were requested in the amount of \$125 million. This represents the authorized 1 percent and an additional \$100 million for a special Indian HOME "set-aside."

### *The HOPE Program*

HOPE is the acronym for Home Ownership and Opportunity for People Everywhere. HOPE was first authorized by the 1990 National Affordable Housing Act. It is a grant program designed for selling rental or vacant government housing units to residents.

IHAs and Indian tribes can apply; there are no special set-asides, although Indian applicants are exempt from certification of a Comprehensive Housing Affordability strategy (CHAS). In FY91, \$500 million was earmarked for the HOPE program; in FY92, \$650 million. For 1993, HOPE has received \$1 billion in budget appropriations.

Because of the severe shortage of vacant housing HOPE has limited potential in Native areas. Few tribes have the financial and administrative capability to pursue use of the HOPE program for their areas.

### *FHA Section 248 Mortgage Insurance Program*

The Section 248 Mortgage Insurance Program on Indian reservations and other restricted lands, a program of the Federal Housing Administration (FHA), was made available by HUD in 1986. The program insures the mortgage that an Indian family obtains from a private lender, which means that a family whose income is too high to qualify for housing through the local housing authority now has another method for buying a home. If the family fails to make its payments and the mortgage is foreclosed, the family loses the home; the FHA pays off the lender and attempts to resell the home. The land is secured by a lease and cannot be sold or removed from the land trust.

HUD developed this program at the request of tribal leaders to address the concerns of lenders. Afraid that they cannot foreclose on a property and meet all the HUD requirements, many lenders are very reluctant to make loans. As presently constituted, however, the Section 248 program has failed to allay lenders' concerns. FHA and HUD have not adequately promoted this program; as with the Section 5(h) program, this lack of information and advertising has left many IHAs unaware of a potentially useful resource. Lenders remain reluctant to make loans, and would-be homeowners find themselves increasingly without options for obtaining a mortgage on trust lands.

### *Farmers Home Administration Rural Housing Programs*

The Farmers Home Administration (FmHA), an agency of the U.S. Department of Agriculture, provides a broad range of financial assistance

in rural areas. Programs include financial assistance for housing, farming, communities, and business enterprises. FmHA housing programs provide subsidies for homeownership, rental projects, home repair, and rehabilitation. They also provide direct loans. These programs are operated through a system of 1,900 county, 260 district, and 46 state offices nationwide. Allocations are based on formulas consisting primarily of factors for rural population, poverty, and substandard housing. (According to FmHA, different formulas are used for different programs).

While FmHA programs have been devised to address rural areas, Native areas are underserved and underpromoted by the FmHA. Past findings of housing reports prepared by Congress indicate that the primary barrier to implementation of FmHA programs is lenders' perception that they lack access to Indian trust lands in the event of default.

Congress has attempted to remedy this misperception by including the following section in the 1990 National Affordable Housing Act:

*Section 708. Disposition of Interests on Indian Trust Land*

In the event of default involving a security interest in tribal allotted or trust land, the Secretary shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe or tribes. If the Secretary subsequently proceeds to liquidate the account, the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property except to one of the entities described in the preceding sentence.

(It should be noted, however, that this Commission received testimony from FmHA state offices in 1991 stating that they had not been informed by FmHA about Section 708, although they are responsible for serving Indian areas.) On April 22, 1992, FmHA issued Administrative Notice 2522; clarifying the handling of Rural Housing problem loans and investing on tribal allotted or trust land (Indian Reservations).

Unlike HUD programs, most of FmHA's programs are not dependent on banks or other approved lending institutions. FmHA is a lender of last resort, making loans and other financial assistance directly to eligible families, sponsors, or borrowers, including public bodies and nonprofit organizations.

Applications for assistance under most of FmHA's housing programs are processed directly by FmHA employees. Applications for single-family

housing are submitted to the FmHA county office serving the area; its personnel not only receive and process the applications but also provide minimal counseling, supervision, and site inspections and service the loans. Applications for multi-family housing community assistance and business assistance are processed by the FmHA district office serving the area but may be submitted through the county office.

With the exception of the FmHA farm labor housing program, also available in urban areas, FmHA makes housing loans and grants only in rural areas. For housing programs, FmHA defines rural as:

- open country that is not part of or associated with an urban area; or
- any town, village, city, or place, including the immediately adjacent densely settled area, which:
  - (a) has a population not in excess of 2,500 and is not part of or associated with an urban area;
  - (b) has a population under 10,000 if it is rural in character;
  - (c) has a population of under 20,000, is outside a metropolitan statistical Area (MSA), and has a serious lack of mortgage credit for low-income families as agreed to by the Secretaries of Agriculture and HUD; or
  - (d) was determined to be rural prior to October 1, 1990, and has a population that did not exceed 25,000 on or after the 1990 decennial census.

#### *FmHA Section 502 Homeownership Loans*

Section 502 funds may be used to repair homes, purchase existing ones, or build modest homes. Direct loans may be made for these purposes. Loans may be made up to the appraised value of the property and are secured by a mortgage on the property. Some closing costs may be included in the loan, up to the loan limit.

The interest rate for these loans is based on current market rates. They may be amortized over a period of up to 38 years. The rate may be subsidized to an effective rate of as low as 1 percent on the basis of the applicant's income; however, all or part of the subsidy may have to be recaptured by the government upon a profitable sale of the home. Applicants must:

- have a dependable income that meets the low-income guidelines (i.e., 50 percent below median income and unable to afford a 38-year mortgage);
- show adequate ability to repay the mortgage; and
- have a good credit history.

The local FmHA County Office processes applications, although the process may vary slightly among counties. Applicants are usually given an application and information package and may be asked to attend an information meeting. The application process, loan eligibility requirements, and the type of home that can be financed under this program are discussed with the applicant. FmHA assists the applicant in developing a realistic family budget (including potential homeownership expenses) and orders a credit report.

According to the Housing Assistance Council, the application process works best when there is a loan packager involved (i.e., a nonprofit or developer).

Once an eligibility determination is made, the applicant is asked to submit an option or sales agreement for an eligible home or construction lot and suitable house plans. FmHA completes an appraisal of the property requested and determines if there is adequate security for the loan before approval. When the loan is approved, the title is checked or title insurance is obtained to ensure that FmHA can obtain the required mortgage.

This program has tremendous potential for use in Native areas. In FY91, \$1.27 billion was appropriated for the Section 502 program. This funding provided approximately 23,000 homes for low-income and very-low-income families in rural areas. One-hundred and ninety-one Indian loans were processed. In FY92, FmHA was also allocated \$329.5 million to implement an unsubsidized guaranteed loan program for single-family housing. This program is targeted to moderate- and low-income families. For this program, applicants apply directly to a conventional lender, who in turn applies to the FmHA state office for a guarantee of the mortgage.

Because of the selling price of comparable existing properties located on many trust lands, the cost of constructing new homes often exceeds the market value of the completed homes. Moreover, because unemployment rates in Native areas are often high, applicants may have difficulty showing repayment ability for loans—even with interest credit and 38-year terms.

The BIA must approve all mortgages taken on trust property. This necessitates a close working relationship between area representatives for FmHA and the BIA.

*FmHA Section 504 Rural Housing Loans and Grants*

This program provides loan funds at 1 percent interest for expansion or improvement of existing homes or to remove health and safety hazards from existing dwellings already owned by low-income applicants. Loans may not exceed \$15,000, and loans of \$2,500 or more must be secured by a mortgage. Grants of up to \$5,000 may be provided to elderly low-income homeowners who cannot show repayment ability for the loan. In FY92, \$12.5 million was allocated for Section 504 grants; for FY93, approximately \$5 million has been requested. There have been no Indian grantees to date. The demand for this program exhausts funds early in the year in some areas.

All major hazards in the dwelling being repaired must be removed after planned repairs are completed. If needed repairs exceed the loan grant limit and additional funds are not available from another source, the dwelling may not be eligible for repair under this program. Finally, the BIA must approve all mortgages taken on trust property, which again requires a close working relationship between area representatives from FmHA and the BIA.

*FmHA Section 515 Rural Rental Housing*

Under this program, insured loans are made to a variety of entities, including individuals, trust associations, state and local governments, tribes and tribal organizations, and nonprofit organizations. In FY92, \$573.9 million was allocated for the program; \$341 million is the budget request for FY93. Congress is likely, however, to appropriate a larger amount.

Loan funds may be used to finance the construction or purchase and repair of rental and cooperatively owned, multi-family housing units. These units must be for occupancy by low-, very low-, and moderate-income families or elderly or handicapped residents. A loan may be subsidized to an effective rate of as low as 1 percent. Loans are secured by a real-estate mortgage.

All applicants are required to provide initial operating capital of at least 2 percent of the project cost. However, many tribes lack the resources to provide these funds in addition to other costs associated with development.

Loan funds can be extended for this cost to government and nonprofit entities (over and above the property's appraised or security value). The BIA must approve all mortgages taken on trust property and must thus collaborate with area representatives for FmHA.

Section 521 Rental Assistance is also available. It subsidizes the difference between rent and utilities and 30 percent of a family's or tenant's adjusted income. Nationwide in 1992, sufficient rental assistance was appropriated to cover 80 percent of the units produced under Section 515. (In 1991, 15,400 rental units were produced.)

*FmHA Section 514/516 Farm Labor Housing Loans and Grants*

This program provides financing for low-rent housing amortized over 33 years, for domestic farm laborers. The interest rate is 1 percent. A grant may be obtained for up to 90 percent of the cost of the project in order to permit low-income persons to occupy the units. Loans are secured by a real-estate mortgage.

The need for housing specifically for domestic farm laborers must be established; this program cannot be used for any other purpose. The BIA must approve all mortgages taken on trust property. In FY91, \$16.3 million was allocated for Section 514 loans, and \$11 million was allocated for Section 516 grants.

*FmHA Section 533 Housing Preservation Grants*

Section 533 is a competitive grant program that issues an annual Request for Proposals (RFP) for interested applicants. Funds allocated to this program are used to provide qualified private and nonprofit organizations, tribes, units of local government, and states with grants to establish financing assistance programs to assist very-low-income and low-income homeowners in repairing and rehabilitating their homes. Programs established by these organizations may be in the form of loans, grants, or interest reduction on commercial loans and may be used only to repair homes in rural areas. In FY91 and FY92, \$23 million was allocated annually; the proposed level for FY93 is a much-reduced \$10 million.

According to testimony received in Commission hearings, this program is used very little by Indian tribes and IHAs. FmHA has focused its funding priorities on previous and current grantees; new grantees and new applicants are usually not given full consideration.

*Department of Veterans Affairs Housing Assistance*

According to the 1990 U.S. census, approximately 2 million Native Americans live in the United States. Of this population, the census estimates that nearly 170,000 are veterans (representing less than 1 percent of all veterans in civilian life).

Native American veterans are eligible, along with all other veterans, to participate in the Department of Veterans Affairs (VA) Loan Guaranty Program. In this program, a veteran applies for a mortgage loan through a private lender. The lender is provided incentives by the VA, through the department's guaranty, to offer a loan of this type for a lower down payment and without requiring mortgage insurance.

The VA Loan Guaranty Program has not been adequately promoted by the VA and it is generally underutilized by Native American veterans. Lenders are often reluctant to originate or service loans to Native veterans. Indeed, only 15 loans to Native veterans living on trust property have been issued between 1961 and the present (see Table 4).

A recent study conducted in 1990 by the department concludes that the utilization rate for all veterans participating in the VA Loan Guaranty Program is 0.67 percent, while the utilization rate for all Native American veterans participating in the program is 0.96 percent. In contrast, use by Native veterans on trust land is 0.07 percent. Native veterans living on trust land clearly do not participate sufficiently in this program, despite the benefit it offers—nor has the VA strongly advocated its use by this group.

The 0.07 percent utilization rate represents 15 direct loans made between 1961 and 1977 and recorded in BIA title plants. While information on only five of these loans was available, all were made to American Indians with individually allotted lands. In each case these lands were titled to the veteran, providing security for the loan (as the land can be sold to anyone in the event of foreclosure).

The VA home loan benefit offers reduced down payment and qualifying income requirements for mortgage loans made to veterans. This loan is offered by private-sector lenders to qualifying veterans under the direction of the VA. Lenders who provide this loan to eligible veterans profit from origination fees, servicing fees, and interest on the mortgage loan.

TABLE 1

## VA Program Rate of Use by Selected Veterans' Groups, 1988

Group	Population	Number Participating	Veteran Population Participating in Loan Guaranty Program (%)
Veterans	17,424,014 <sup>1</sup>	186,000 <sup>2</sup>	0.67% <sup>3</sup>
Native American	159,900 <sup>4</sup>	1,536 <sup>2</sup>	0.96%
Native American Veterans on Trust Land	21,204 <sup>5</sup>	15 <sup>6</sup>	0.07%

Sources: U.S. Department of Veterans Affairs, *Final Report: Assessment of the Utilization of the VA Home Loan Benefit by Native American Veterans Living on Trust Land* (November 28, 1990).

## Notes:

1. Estimated participation rate.
2. American Indian, Alaska Native, and Asian/Pacific Islander. For calendar year ending December 31, 1988. Loan Guaranty Division, Property Management Operations, Minority Participation Report Number RCS 20-0201.
3. "Statistical Brief: Native American Veterans." Department of Veterans Affairs, October 1985, Publication Number SB 70-8.
4. *Characteristics of American Indians by Tribes and Selected Areas: 1980*, Section 2, U.S. Department of Commerce, Bureau of the Census, Publication Number PC80-2-1C.
5. *1987 Survey of Veterans*, Department of Veterans Affairs, July 1989.
6. "1986 Total, Veteran Population/Projects by Age and Period of Service (1980-2040)." Department of Veterans Affairs, May 1989.
7. Hard data are not available to determine the number of participating Native American veterans on trust status land for CY89. A participation rate of .001 would result from 21 loans made to Native American veterans on trust status land for CY88. Our best judgment is that this figure (.21) is significantly higher than the actual number of loans made to Native American veterans on trust status land in CY88.
8. These 15 loans represented loans denoted "VA" by BIA area office title plants. These loans were made from 1961 to 1992. We believe that all 15 of these loans were direct loans made to handicapped veterans living on trust lands for specially adapted housing. The BIA title plants record all land transactions on the reservations. No other source of data exists to determine the number of Native American veterans participating in the loan guaranty program and living on trust land.

### IHS Sanitation Facilities Construction Program

Native Americans began to have access to medical care in the early 1800s, when various treaties between tribes and the federal government provided for the interim services of local doctors.<sup>28</sup> At the same time, hospitals and infirmaries serving students at Indian boarding schools began to be

constructed, although it was not until much later that general hospitals were constructed on reservations. In 1873, a Division of Education and Medicine was established within the BIA; by 1890, 83 full- and part-time physicians were providing medical care to Indians. In about 1910, the BIA began a health education campaign to educate Indians about the disease-prevention benefits of improved personal hygiene, waste disposal, and diet.

Generally, however, sanitation conditions on reservations were unsatisfactory and contributed to the spread of disease. Although the need for a specific program to improve sanitation conditions was cited in a Public Health Service (PHS) report to Congress, it was not until the late 1920s that sanitation efforts extended beyond occasional "clean-up" campaigns and physicians' inspections of homes, schools, and Indian agencies. Beginning in 1927, sanitary engineers of the PHS assisted BIA staff in surveying water and sewer systems and assessing other basic sanitation problems. PHS officials focused on BIA compounds (e.g., schools, hospitals, agency headquarters) and paid little attention to Indian houses and communities themselves.

Information collected from a PHS survey in the 1950s showed that more than 80 percent of all Indian and Alaska Native families were hauling or carrying water for household use, and 70 percent of this water came from contaminated or potentially contaminated sources. More than 80 percent of the dwellings surveyed had inadequate waste disposal facilities; 12 percent had no facilities at all. PHS officials also learned that tens of thousands of Indians and Alaska Natives were hauling water for domestic use from open ditches, creeks, stock ponds, and unprotected shallow wells and springs. Many were hauling water for distances of at least a mile. As a result, water usage of as little as one gallon per person per day was typical. This low level of usage was particularly shocking in light of the fact that at this time the average urban resident used 50 to 60 gallons of water every day.

Initially, the PHS stressed health education efforts and "do-it-yourself" home and community sanitation projects. Most Indian families had little if any money for such projects; however, they



*Zuni - Courtesy: National American Indian Housing Council*

made small improvements when technical help was provided by the government. Yet it was apparent that the educational/motivational approach could not alone correct basic sanitation deficiencies in Indian communities. The cost of improvements represented an impossible financial burden for the Indian people; some form of direct federal assistance was required.

In the Indian Health Care Amendments of 1988 (P.L. 100-713), Congress declared that "it is in the interest of the United States, and it is the policy of the United States, that all Indian communities and Indian homes, new and existing, be provided with safe and adequate water supply systems and sanitary sewage waste disposal systems as soon as possible." Citing this policy, Congress reaffirmed the primary responsibility and authority of the Indian Health Service "to provide the necessary sanitation facilities" as provided for in Public Law 86-121. From 1988 to 1992, the administration requested the elimination of this important program; in FY93, the President's budget requested \$47 million for the program—the first such request for funds.

Protecting the health of and preventing disease among American Indian and Alaska Native populations are primary Indian Health Service (IHS) objectives. In the clinical environment, medical care providers work to restore the health of ill patients. However, improving the environment in which Indian people live and sensitizing them to interact positively with that environment can result in significantly healthier populations. Sanitation facilities and better-quality housing are environmental improvements that have clear benefits for health.

The provision of domestic water supplies and sewage/solid waste disposal facilities for Native American homes and communities was authorized in July 1959 by Public Law 86-121, the Indian Sanitation Facilities Act. The Sanitation Facilities Construction Program (SFCP) of the Indian Health Service has carried out IHS responsibilities under the act. The program works with tribes, communities, and/or groups of American Indians and Alaska Natives to improve their health status by:

- (1) cooperatively providing safe water supplies and adequate means of liquid and solid waste disposal to every Native American home;
- (2) providing technical assistance and encouragement to the tribal organizations and individuals who operate and maintain

completed facilities, thereby assuring continued health protection and associated benefits in the future; and

- (3) providing engineering consultation to Native American individuals and organizations on environmentally related public health issues.<sup>29</sup>

Since 1959, approximately 6,100 sanitation facilities projects have been undertaken to provide water supply and sewage disposal facilities roughly to 182,000 homes. The residents who will be served by the facilities help carry out SFCP projects. The tribe or other appropriate authority operates and maintains the completed facilities. Individual homeowners assume responsibility for the continued operation and maintenance of on-site facilities. They receive ongoing technical assistance from IHS but do not receive any federal financial assistance.

### **Tribal Initiatives: Alternative Financing Mechanisms in Minnesota**

Since 1976, Minnesota has been assisting its American Indian population in the realm of housing opportunities. The Minnesota Tribal Indian Housing Program (MTIHP), administered through the Minnesota Housing Finance Agency (MHFA), is funded by the state legislature. The Commission commends the Minnesota state legislature for its support of this program and encourages other state governments to support similar efforts.

Three tribal housing corporations have been established by Minnesota tribal governments: (1) the Minnesota Chippewa Tribe Housing Corporation, (2) the Red Lake Housing Finance Corporation, and (3) the Minnesota Dakota Indian Housing Authority.

The role of the MHFA in relation to the MTIHP is to act as a conduit between organizations involved in the state housing process.

#### *Tribal Housing Corporations*

Each of the individual MTIHP participants has been developed by the tribal housing corporations in a cooperative effort with the MHFA. The corporations consist of either a board of directors or a board of commissioners, which are tribally elected council members or their appointees. These boards meet on a monthly basis to make policies that the staff implements.

The corporations have each developed programs to address the unique housing needs of their particular area. These programs provide an array of

housing options for the 11 Minnesota reservations in both rural and urban areas. The programs include rental assistance and mortgage financing for new construction, purchase, and/or rehabilitation of existing homes. Interest rates available for program borrowers vary from 4.5 to 8 percent, depending upon the program.

#### *Program Requirements and Operation*

Because the law allows for considerable autonomy on the part of each tribal housing corporation, each program has its own house price limits, income guidelines, interest rates, selection process, service area, and application process.

In addition, each housing corporation has developed its own procedural manual that outlines program operation. One specific area covered by this manual is that of loan servicing. The servicing procedures followed by each of the corporations are the same and cover such areas as maintaining loan files; ensuring prompt monthly payments; establishing appropriate escrow accounts for taxes, insurance, and other related expenses; and dealing with delinquency issues. In addition, the corporations make use of notices, letters, telegrams, telephone and personal contacts, and in general all collection media normally employed by a reputable private mortgage servicer in order to follow through on borrower delinquency issues. The aim is to eliminate the need for the foreclosure process.

Under each tribal housing program, revolving loan funds have been set up. As loans are disbursed by the MHFA to each tribal housing program, the loans are closed and the borrowers make their monthly mortgage payments directly to the tribal housing corporation. In return, these monies (as well as any prepayment and interest earnings) are placed into a revolving loan fund that can be used to finance other mortgage loans, including interim construction financing and rehabilitation loans, as well as administrative costs associated with each tribal housing program.

#### *Borrower Selection*

Another integral element of the MTIHP is the borrower selection process, which is basically the same for each tribal program. The tribal housing corporations use a "first come, first served" policy to determine the priority of borrower selection. As a result, they maintain extensive waiting lists for their programs.

However, the Minnesota Chippewa Tribal Housing Corporation (MCTHC) has also developed a detailed borrower selection and processing

procedure that provides for special situations, as when the borrower is a first-time home buyer, a household in which a family member is physically disabled, or a household that is displaced by natural causes or employment or housing crises beyond the family's control. Also addressed by the MCTHC are the ever-present overcrowding or substandard living conditions prevalent on its reservations.

As a result of these appropriations, loan activity for the three years from 1988 to 1991 provided housing opportunities for average-sized families of 3.3 persons with an average household income of \$18,545 and an average mortgage amount of \$42,282.

As the tribes face new needs and issues, MHFA works in concert with tribal governments, the state legislature, and other interested parties to amend existing laws in order to deliver housing more effectively. After 16 years, the success of Minnesota's programs is evidenced by the 1,353 American Indian households in the state that have received housing through such programs. From the initial application process through the ultimate goal of providing attractive and affordable housing, the Minnesota tribal housing corporations have become self-sufficient entities providing guidance and service to members of their communities. They are a useful model for Native communities and governments in other states to adopt.

### III. IMPEDIMENTS TO THE PROVISION OF NATIVE HOUSING



*Planning Session, Standing Rock, S.D.  
Courtesy: HUD*

Let us have final authority over planning, development, funds distribution, and actual construction, with technical assistance from the governmental agencies, HUD, and the BIA—not the other way around. No more projects not started because the agency is two years behind in its project schedule. No more projects stalled midway because the BIA lost our reports and didn't request the funds. No more of Indian people living in the worst housing conditions in this nation. I'm afraid my testimony of 20 years ago fell on deaf ears—I wasted my breath. Twenty years from now, will my children have to appear before you and repeat my words of today?

GRASSIM OSKOLKOFF

Chairman, Ninilchik Traditional Council  
(Alaska)

### III. IMPEDIMENTS TO THE PROVISION OF NATIVE HOUSING

**S**ince the turn of the century and continuing to the present, Native Americans have experienced extraordinary problems and faced unique obstacles in attempting to develop decent, affordable housing and related infrastructure for their communities. Historically, many of these problems have their roots in cultural, political, and philosophical differences between the European settlers and the more than 500 separate Indian tribes and villages (each with its own beliefs and practices) that had existed in the so-called New World since time immemorial.

It is important to note, at the outset of this chapter of our report, that the federal government has made numerous and repeated promises and commitments regarding the provision of decent, safe, and affordable, housing for Native Americans. The U.S. Constitution gave Congress the authority to establish a comprehensive program regulating Indian affairs, and by the mid-eighteenth century the concept of federal trust responsibility had come into existence. Since that time, the trust doctrine has influenced virtually all federal legislation and interpretations of treaties and statutes pertaining to Native populations. Yet despite this history of promises and the reality of the trust doctrine's influence, Indian people find themselves facing an overwhelming need for decent, safe, and affordable housing.

Our discussion of impediments is set in this context of unmet promises and obligations. In the view of this Commission, it is important to call attention to this context in order to stress not only the grievous nature of the Indian housing crisis itself but also the profound sense of frustration and even betrayal that many Native Americans have experienced during decades of deferred action and lost hope.

Although few records exist, it appears that virtually no federally assisted housing appeared in Indian Country until the passage of the Snyder Act in 1921. That act was intended to empower the BIA to remedy a host of social

**A major inadequacy of existing housing programs is the constant lack of funding. By the time Congress has appropriated money and it goes through the federal bureaucracy, the dollar shrinks.**

MARTHA SCOTT

Nez Perce Tribe  
(Idaho)

and economic problems facing Native populations across the nation. Yet from 1921 to 1961, despite the trust responsibility articulated by the U.S. government as its policy toward Native Americans and the many treaties entered into between Native governments and the federal government, the BIA and other agencies made almost no progress in reducing the number of Indians living without decent shelter and adequate sanitation facilities. The "checkerboarding" of Indian landholdings during allotment resulted in complicated jurisdictional and management problems that grew over time, further impeding efforts to assist Indian governments with their housing needs. And with the onset of the federal government's policy of assimilation, obstacles to the provision of decent housing multiplied as Indian need and desperation mounted. By the 1960s, it had become apparent that the federal government had failed in its duties as trustee—although few non-Indian Americans knew of the inhumane conditions in which the nation's Native citizens were forced to live.

Underlying the many obstacles to the provision of housing for Native people is the fundamental problem of inadequate funding. All existing housing programs for Native people are significantly underfunded. *Over-regulation* and *over-administration* constitute additional basic problems. Other obstacles to the provision of housing fall into the following categories:

- the consequences of termination policies;
- agency-related impediments;



*BIA built home, Pine Ridge, South Dakota*

- limitations of tribal housing management capabilities;
- limitations of political support for appropriations and legislation;
- lack of access to conventional financing;
- regulatory constraints;
- lack of cultural sensitivity; and
- tensions between tribal councils and IHAs.

Each of these types of obstacles, discussed in the following sections, is itself difficult to overcome. Collectively, they form a barrier that for most Native Americans has proved insurmountable.

The obstacles faced by Native Americans living in Oklahoma, Alaska, and Hawaii differ in certain key respects from those faced by Indians in other states. This chapter ends with a discussion of these special barriers.

### **The Consequences of Termination Policies**

The termination policies of the 1950s and 1960s, designed to eliminate Indian reservations and assimilate Indians into mainstream America, had decidedly negative effects. Although the proponents of termination claimed that it would streamline the federal bureaucracy with regard to Indian affairs, termination policies actually destroyed the lives of many Indians. Large number of Native people lost their jobs, their land, and the rich natural resources of their reservations. Individual allotments became subject to state taxation, which owners of the allotted land often could not afford to pay; as a result, many allotments were sold and thus lost to non-Indians. Lacking education and work experience and newly deprived of their homelands, many Indians found themselves adrift—without a home or the hope of procuring one.

**The termination era left many tribes in a kind of disastrous “Catch-22.” Urged to assimilate, their members had already been deprived of the means to do so; they were largely unequipped for mainstream American life. Moreover, federal policy had taken away many tribes’ hopes for a solid economic base, jobs, education, and housing for their members. Thus, the tribes survived as tribes, but the people suffered as individuals.**

Housing was among the leading crises. The basic ingredients necessary for the development of housing—physical infrastructure, clean water, access roads, and so on—did not exist within most Native areas. Private ownership of land by Indians was for the most part nonexistent. In

addition, a tremendous amount of confusion surrounded the status of reservation land. Indian law and non-Indian law were often inconsistent on issues of jurisdiction and rights, and the BIA was largely unable to help tribal governments make their way through a legal and bureaucratic morass.

With termination, therefore, Native communities lost not only land but a sense of order. They no longer knew where to turn for help; the BIA had become effectively unconcerned, and the federal government as a whole had failed to fulfill its obligations to Native people. Tribal councils could no longer assert the federal government's trust responsibility with the expectation that it would be honored; that pledge had been permanently weakened. In short, Indian peoples found themselves increasingly unhoused and uneducated in a new era characterized by extreme jurisdictional and regulatory confusion.

### Agency-Related Impediments

#### *U.S. Department of Housing and Urban Development*

The U.S. Department of Housing and Urban Development (HUD) exerts tremendous influence over Indian affairs generally and over housing issues in particular. The HUD housing assistance program, administered by the Office of Indian Housing (OIH) and its six regional branches, the Offices of Indian Programs (OIP), utilizes a network of Indian housing authorities (IHAs), to serve nearly 300 tribes. Since the program began, over 70,000 housing units have been built. HUD administers homeownership and

housing modernization programs, and it implements the Section 248 Mortgage Insurance Program of the Federal Housing Administration. HOME and HOPE are additional HUD-based homeownership programs. HUD also provides low-income rental housing through the IHAs.

In short, HUD's involvement in Indian housing is extensive—a situation that has created many negative consequences for Indian tribes and their members. Given that the 1937 Housing Act was designed to address urban needs, it is not surprising that



*Zuni Housing*  
Courtesy: National American Indian Housing Council

the development and support of programs are not suited to Native American areas and are incompatible with Native American cultures. This situation is aggravated by inconsistent interpretation and application of rules and regulations by the offices of the several regional administrators and offices of the regional OIPs.

Due to the lack of other housing options in most Native areas, this problem is compounded when the HUD program becomes the "one size fits all" housing program for Native Americans. Problems such as those posed by the Brooke Amendment, known as the "30% Rule," are magnified when Native American earnings cause rents to rise and Native American families cannot afford alternative market-priced homes. The "30% Rule" was designed to keep subsidized housing in the hands of the truly needy. In Indian Country, it has had exactly the opposite effect. It becomes a serious disincentive to Native American families.

HUD is a huge agency, and its administrative processes for the delivery of housing assistance are lengthy, complex, and varied. In addition, HUD/OIH must interact routinely with the BIA, IHS, and other federal (and some state and county) entities involved in Indian affairs, which are often mired in beauracritic morass of their own. The result has been a response to the Native American housing crisis which remains grossly inadequate. For many years communication and information sharing among HUD/OIH, HUD/OIPs, the IHAs, the BIA, IHS, and other agencies concerning the real nature of Indian housing needs has also been inadequate. Although this dynamic has improved somewhat recently, unfortunately there has been no improvement in the allocation of resources and program funds in such important categories as new construction. Despite recent efforts by the OIH to improve information dissemination, various obstacles remain in place which limit access to useful resources and potential opportunities for support. These include inconsistent dissemination practices by the regional OIPs, as well as in some cases, the limited capacity of the IHAs.

The impediments posed by HUD are difficult to disentangle from those related to other federal agencies with which HUD interacts in dealing with Indian affairs. (It must be said that at present, all of the agencies collaborating on Indian housing issues lack not only adequate funds but also (and equally importantly) a strong voice to express to Congress the real nature of the impediments they face.) The Commission believes, however, that the standard ordinance creating IHAs remains a major problem, as is the Inter-departmental Agreement.<sup>30</sup>

**F**ishing incomes have driven up rental payments substantially. But since fishing incomes are sporadic and seasonal, often the residents are unable to make their payments. This causes tenants' accounts receivables to increase, which in turn is seen as a black mark against the housing authority. The result of this cycle is that the housing authority may be labeled as administratively incapable.

JANICE LOPEMAN,  
EXECUTIVE DIRECTOR

Southern Puget Sound  
Inter-Tribal IHA  
(Washington)

Many Indian tribal councils simply did not realize what they were agreeing to when they accepted the standard ordinance. Some ignored its provisions, and many are still floundering as they attempt to grasp the nature of their own roles and responsibilities, those of the IHA, and those of HUD. In fact, most tribes would probably not accept the standard ordinance if it were proposed today.

Implementation of the Inter-departmental Agreement, a 1976 pact involving HUD, the BIA, and the IHS, has proved complex and costly. Housing projects are routinely delayed because of the difficulties in bringing together the relevant parties at the right times and coordinating varying funding cycles throughout the government. Certain IHAs have been penalized for delays in the completion of housing projects—delays over which they have had little control. Communication and information sharing are basic problems that the Agreement itself has heightened, resulting in the loss of both housing and money.

#### *Bureau of Indian Affairs*

Like HUD, the BIA has played an influential role in the history of federal assistance for Indian housing. Yet this agency has been similarly distanced from the reality of the Native housing crisis as it has evolved over the decades.

Through our hearings, it became clear that many Indian people believe treaty and trust obligations entitle them to free basic housing, without strings attached. Housing received via the HUD programs is neither free nor without strings and is therefore misunderstood and often resented. In effect, the BIA appears not only to have abdicated its direct responsibility, but has further failed to effectively advocate for the provision of safe and affordable housing for Native people.

The BIA currently defers to HUD as the primary resource for housing Indians, though HUD expressly denies it has any responsibility for the provision of Indian housing and makes its programs available to Native people based solely on their low-income status. In fact, the BIA asserts that its own program, the Housing Improvement Program, is designed to serve those only those Indians not eligible for the HUD programs, and yet, fails to support the HUD programs. Further, the Bureau, while charged with the task of protecting Native lands and resources, often remains unfamiliar with the workings of Native areas, fails to provide land surveys, leases and road assistance, thereby actually impeding housing development.

The BIA has consistently failed to fulfill its responsibility to Native American people mandated by the Snyder Act. In testimony before the Commission, the BIA has admitted that it has failed to meet its own goals for providing basic housing needs. Its major housing program for Indians, the Housing Improvement Program, has functioned for over 20 years as a self-perpetuating bureaucracy unable to bring about any significant improvements in the Native housing crisis. BIA has underestimated housing needs and has built only a fraction of the new homes desperately required in Indian Country. Annual HIP appropriations have been significantly below the BIA's own declared need.

#### *Indian Health Service*

The Indian Health Service, as a public health provider, is charged with providing safe drinking water and sanitary waste water disposal for all Indian people regardless of their income levels. Due to 11 consecutive years of \$0 funding for new construction, the burden of new systems construction has too often fallen on HUD. Scarce new construction dollars have been spent to construct and rebuild tribal sanitary and safe water systems.

Decent, safe housing requires safe drinking-water supplies and adequate waste disposal facilities. Technical assistance and training in the operation and maintenance of sanitation facilities and monitoring of environmental factors in Indian country are therefore increasingly vital IHS responsibilities.

Yet, more than 25,000 Indian homes are without piped water and/or sewer service. Over 2,000 feasible projects (costing approximately \$594 million) have been identified to address these deficiencies. The IHS Sanitation Facilities Construction Project faces huge challenges as it works to upgrade existing sanitation facilities and to service isolated Native homes. The program's activities are crucial, but they are also quite costly. A large responsibility also falls on tribes and communities themselves: they must adopt water conservation measures and augment their facilities operation and maintenance practices.<sup>31</sup>

#### **Limitations of Tribal Housing Management Capabilities**

One of the major problems in Indian housing concerns the managerial capability of housing authority personnel to maintain successful operations. More often than not, tribal councils change the leadership

**D**ue to the high turnover of staff and commissioners of small housing authorities, there is a higher-than-normal need for training. One of the biggest reasons for turnover is the Tenant Accounts Receivables (TARS) rate. If a housing authority has a high TARS rate, HUD usually sends a memo addressing this issue, and this can lead to panic on the part of the commissioners or tribal council. Staff are then put on notice or, if the TARS rate doesn't come down, are terminated. Then we have to start all over again.

JESSE HOWELL,  
EXECUTIVE DIRECTOR

Otoe-Missouria Housing  
Authority  
(Oklahoma)



FORT BERTHOLD HOUSING AUTHORITY



*Courtesy: Ft. Berthold Housing Authority*

and personnel of IHAs solely for political reasons rather than for misconduct or poor performance. Such changes have long-lasting negative effects on efforts to meet the housing needs of tribal populations. In many instances, turn-over of IHA personnel can delay projects for up to one year or until such time that new staff can attain professional levels of production. Reaching those levels usually takes six months to one year with adequate technical assistance; however, when new housing directors lack any prior experience, projects and housing programs can be delayed indefinitely. These types of problems sour community relationships and cause dissatisfaction with as well as

mistrust of an IHA and its programs, thus resulting in personnel turnover and a renewed cycle of attrition. Technical assistance is needed for members of tribal councils, local housing commissioners, housing staff and housing participants.

### **Limitations of Political Support for Appropriations and Legislation**

Appropriations for Indian housing programs have generally received a great deal of support from committed leaders and members of the House and Senate; in contrast, new home construction has received little or no support in the last 12 Presidential budget requests. (New construction funds for Indian housing have decreased nearly 87 percent from funding levels of the 1970s and early 1980s.) HUD has made modernization and rehabilitation of older units a priority by increasing CIAP funding levels. Although this has resulted in an increase of total dollar funding, new construction remains critically under-funded. And in general, despite the help of certain concerned Senators and Congresspeople, new construction funding for Indian housing programs remain at much lower levels of appropriation.

A major reason for the lack of support for appropriations is the missing involvement of tribal leadership in federal Indian housing programs. Indian tribal leaders tend to focus solely on appropriations from the Department of the Interior rather than on HUD housing programs. They rely on their IHAs and/or their boards to pursue federal funding to meet

tribal housing needs. Those tribes with IHAs that have actively participated in the appropriations process have gained a wealth of experience as well as knowledge of the federal budgetary system and needed housing for their communities.

Similarly, the current Congressional leadership remains largely unfamiliar with the complexity of Native housing programs and issues; its focus is on the broader spectrum of housing needs of the nation as a whole. Illustrative of this focus are the recent HOME and HOPE programs, which provide very limited opportunity for Native residents. As a result of this lack of in-depth knowledge, much of the legislation affecting Indian and Native housing comes up short or is misunderstood or ultimately rejected by Indian Country because of its lack of insight and, even more important, because of the lack of consultation with the tribes themselves.

At present, Congress, depends largely on the expertise of IHAs and the National American Indian Housing Council, which has served as the sole source of information on Native housing needs and problems. Congressional staff members who have taken the initiative to acquaint themselves with actual needs and issues have become invaluable to advocates of Native housing.

As this Commission noted, other reports have come before Congress only to go unheeded. This Commission (created by Congress and the Administration) is the first with controlling Indian leadership providing the long overlooked insight to housing issues concerning Native areas.



*Creek Nation housing unit, Glenpool, OK  
Courtesy: Lou Weller*

**T**he current promotion of the HOME and HOPE programs is geared for public housing problems that arise in urban areas.

LT. GOVERNOR DAVID  
BROWN

Chickasaw Nation  
(Oklahoma)

**The Commission must caution the federal government to consult fully with Indian tribal governments before eradicating any existing housing authorities. This is absolutely critical.**

**DON ALLERY**

National Congress of  
American Indians  
(Washington, DC)

With respect to those legislative initiatives, concerning which the Commission's opinion was asked, we found that, though well-intentioned, not all initiatives realistically addressed the housing problems of Native Americans.

### **Lack of Access to Conventional Financing Mechanisms**

At present, little if any conventional lending is available to Native people seeking to buy homes in Alaska, Hawaii, or the Lower 48. A system for providing single-family mortgages as well as appropriate conventional market-rate loans for rental housing is virtually nonexistent in areas with high concentrations of Native people—as is the case, it should be noted, in rural areas in all parts of the country. This situation raises a host of policy issues for existing housing programs and for the creation of additional lending capacity. The problem of access to lending sources is an impediment that has never been fully addressed by the federal government. At present, no enforceable legislation exists to generate new and useful policies with regard to financing mechanisms.

**There are three major reasons for the present lack of conventional lending capacity: (1) lack of conventional credit; (2) dispersion of Native populations over vast areas, and problems with physical access to landholdings; and (3) poor information gathering and dissemination as well as inadequate understanding of available resources on the part of both the tribes and the federal agencies involved in Native housing.**

#### *Lack of Conventional Credit*

Most conventional lending criteria simply have no relevance to the circumstances in which the majority of Native households find themselves today. Native incomes are often irregular, and are generally lower than the national average; thus, conventional interest rates tend to be unaffordable by Native Americans. Furthermore, there is no delivery system for originating and packaging loans with the necessary guarantees often required by lenders. At present, no sources of high-risk capital are available. (A high risk might be due to remote geographical location, unconventional title issue, irregular income, and/or general unfamiliarity with conventional lending practices). Finally, the status of Native American trust land (which precludes alienation of title) renders it faulty as collateral in the view of many lenders.

Current income data for Native Americans in Indian Country have not been made available by the U.S. Bureau of the Census, although they have

been gathered. (It should be noted that Indian-related data from the 1980 census were not disseminated until nearly 10 years after they were gathered.) Thus, lending institutions lack up-to-date information on the borrowing capacities of Native individuals and families.

*Population Dispersion and Lack of Physical Access*

Native peoples often reside in remote areas not readily serviced by lenders. Access to Native landholdings can be problematic: lenders worry, sometimes rightly, about their ability to reclaim their assets in the event of a mortgage foreclosure on trust lands. (This concern stems in part from the inalienability of such lands.) Physical access may be blocked by neighboring Indian landholders or made difficult by poor or nonexistent roads or challenging terrain or climatic conditions.

*Inadequate Awareness and Information*

Both the public and private lending communities as well as the tribes themselves should be able to deliver conventional mortgage financing to Native families. For this to happen, a workable mortgage insurance program must be readily available and easily understood and used by both lenders and Native housing organizations. Tribal organizations need to understand the requirements that any mortgage insurance program will place on the legal system of the tribe; in turn, lenders need to understand the assurances that tribal legal systems provide.

Most Indian tribes are simply unaware of the lending resources and financing mechanisms available to them. HUD, the BIA, the Farmers Home Administration, and the various lending agencies have failed to advertise or promote adequately various potential resources such as the Section 248 Insurance Program or set-asides from the Federal Home Loan Bank Board or the Farmers Home Administration.

The FHA Section 248 Program in particular has potential as a lending tool, but only five loans to Indians have been made during the entire course of this program. This situation is especially troubling in light of the fact that Section 248 was designed for trust and restricted lands and can facilitate lender access—which makes the program well-suited to the requirements of lenders in Indian Country. Outreach by HUD to lenders and tribal members is important but has thus far been minimal.

Other programs have not sufficiently leveraged the resources of federal agencies in addition to HUD. The set-aside of the FmHA Guaranteed Loan Program could be designed such that the Federal National Mortgage

**We know of no financial institutions that will lend money for housing to Indians on trust land. Therefore, we are at the mercy of HUD's administration.**

Walker River Housing  
Authority  
(Nevada)

**Our tribal leaders adopted a resolution that placed ceiling rents on our Mutual Help projects. However, HUD's administration will not accept this. Our tribal leaders and elders ask, "Who has the final voice in these matters?" The tribal council is the governing body on our reservation, and as such it has inherent powers. Here, a tribal resolution is recognized as law.**

Walker River Housing  
Authority  
(Nevada)

Association or similar entity could service mortgage loans for Native households, using the Guaranteed Loan Program as a guarantee. A government-supported enterprise such as Fannie Mae would thus provide opportunities for capacity building without increasing federal costs. Yet without information sharing, neither the agencies nor the tribes have been able to identify new possibilities for resolving the lending problem.

Housing assistance programs for Native families currently lack funds to provide an additional writedown of interest rates or assistance with down payments and closing costs.

This lack, however, is only part of the problem. Also sorely lacking at this time is homeowner counseling to assist Native families in understanding the process and responsibilities of homeownership. Without such counseling, some owners *do* default on their loan payments, and this only serves to increase lenders' misgivings about loans to Native Americans; a vicious circle is the result.

Education is the best solution to these intertwined problems. Unfortunately, however, Native Americans have been denied not only access to financing mechanisms but also information and education to enable them to act as responsible homeowners. Tribes are often unaware of the potential for obtaining home-financing assistance from state agencies, the federal programs, and private foundations. Various housing assistance programs that have been implemented successfully in non-Indian rural areas have yet to be used in Indian Country. As a result, Native Americans lack valuable models for sound approaches to home financing.

### Regulatory Constraints

In 1956, the BIA Task Force on Indian Affairs examined housing conditions in Indian Country and found them sadly inadequate. The Task Force recommended federal assistance well beyond the limited scope of assistance provided at that time by the BIA. This recommendation inaugurated a number of changes in the structure and administration of housing-related services for Native Americans.

Unfortunately, Native people had no input or voice in the development of housing programs. While some of the changes brought much-needed improvements to living conditions in Indian Country, they also involved HUD and other public agencies in a new and highly complex regulatory and bureaucratic relationship with tribal governments and their members.

Furthermore, the housing programs developed by the federal agencies were often based on urban models and brought to Native areas a myriad of new problems.

The federal statutes and implementing regulations that have evolved since the early 1960s are characterized, to an unfortunate degree, by inflexibility and insensitivity to demographic, geographic, and cultural differences among tribes. These statutes and regulations are also exceedingly complex. To be workable and effective, they require constant interagency communication and sophisticated systems for information gathering and dissemination—none of which has been in place to the degree necessary.<sup>32</sup>

### Lack of Cultural Sensitivity

The rules and regulations governing HUD's Indian housing program were an extension of those of public housing programs; they were conceived with little or no input from the Indian community. As a result, no provisions were made for traditional or cultural design elements. At present, design of the units is based on economics and on urban images of public housing. Features and elements that would be more culturally appropriate are given only minor consideration or disregarded completely in order to meet a woefully inadequate per-unit budget.

Because the HUD funded housing units are not meeting the cultural needs of Native people, many Indian homeowners or renters have little pride in these units. Consequently, many houses are not maintained properly; they deteriorate and eventually become substandard. This causes an increased demand for funding for maintenance and repair work.

Disrespect for the HUD funded house is not true in all cases. Many occupants have accepted the living arrangements necessitated by HUD cost restrictions and have adjusted their lifestyle accordingly. Many units are well maintained, and pride of ownership is evident in those individuals who have adjusted. However, cultural awareness has been compromised.

Gone are most of the traditional ways of constructing homes. Indigenous materials have been replaced by manufactured materials, which are more readily available. For example, stucco, wood, and metal siding and shingles are now used in place of traditional materials such as wood planks, adobe, grass, or earth. Modern technology—electricity, plumbing, heating and cooling, and other equipment—has replaced many of the materials that shaped the lives of Native peoples.

**S**ome HUD regions are flexible and develop partnerships with Indian housing authorities. Others practice over-excessive monitoring similar to a dictatorship. I strongly believe efforts must be made to educate people about their role in implementing the regulations—for the sake of consistency and fairness.

JANICE LOPEMAN,  
EXECUTIVE DIRECTOR

Southern Puget Sound  
Housing Authority  
(Washington)

**A** “cookie-cutter” design approach may be administratively convenient, but it demonstrates a lack of appreciation and respect for our people and does no one any good.

NILES CESAR,  
BIA AREA DIRECTOR

Juneau Area  
(Alaska)

It is not reasonable, of course, to assume that all original traditional practices are desirable to the modern American Indian, as so much has changed in the last 500 years. However, many cultural and traditional practices and characteristics have been and should be retained, including numerous arts and crafts, ceremonials and rituals, and religious beliefs along with a respect for nature, the extended family, and tribal identity.

Architecture has always reflected a society’s economic, technological, ecological, social, and religious traits. The traditional Indian home did just that; it evolved out of available materials, was constructed to fit the climate and terrain, and was appropriate for Indian lifestyles and religious beliefs. It was a living thing, part of the daily lives of the people, and it had a spirit. Although the current HUD funded house does



*Tohono O’Odham Housing Unit, San Xavier, Arizona  
Courtesy: HUD*

provide shelter using modern technology, the traditional cultural elements so essential to Indians are too often missing.

One of the deficiencies relating to appropriate design is inadequate space in the living/dining area. Native people typically have large extended families. Gatherings for feasting, ceremonials, and wakes are very restricted in the standard HUD-funded house. Larger kitchens are needed, as the frequent large gatherings require more space for food preparation.

The design of outdoor living areas is also usually inadequate. For hundreds of years, Native Americans have enjoyed the outdoors. Many HUD-funded houses have adjacent shade structures or “Indian houses” built by the occupants for outdoor activities. Cooking, socializing, and religious activities of-ten occur outside. The incorporation of comfortable outdoor living areas into housing design would greatly enhance the cultural appropriateness of Indian public housing.

An eastward orientation of the units’ entrances to allow the sun to bring warmth and light to each day, or an orientation toward the waters

where spirits live or toward mountains or other natural features of spiritual importance, is seldom considered in the overall design plan for a Native housing development.

Typically, units are built close together along the shortest, straightest road possible so that related infrastructure (water, sewer, gas, power and streets) can be built at minimum cost. Subdivision and "cluster" housing has been provided for many projects. Although it is economical to build within a confined area, some Indian people, unaccustomed to living in close proximity to others, have great difficulty in adjusting to what is essentially an urban style of living. This contributes to sociological problems, including arguments and fighting as well as drug and alcohol abuse and high suicide rates (twice the rate for all other nonwhites). Scattered housing or larger lots to maintain an acceptable spacing between units would be more desirable and appropriate.

Moreover, regional lifestyles have not been considered in determining a prototype cost for housing units. Due to budget constraints which limit the size of homes, there is seldom enough area for the storage of equipment used for hunting and fishing, activities that many Native peoples have retained as an integral part of their culture. Storage for boats, nets and fishing equipment, traps, stoves, and other hunting equipment may be needed, as well as areas for smoke houses, game hanging, and drying sheds. Many Native Americans still grow gardens or raise farm animals; hence, site planning that addresses the cultural and economic activities of the occupants of each particular region is important.

Usually missing in current Indian housing development is master planning by each tribe. Each project is funded only to supply a predetermined number of houses. Infrastructure, too, is designed and sized only for that project. Additional costs are incurred when future projects are added to the system, at which time utilities and streets must be up-sized to meet the new demand. There should be a system for funding of master planning to coordinate the future programs of the Bureau of Indian Affairs (roads), the Indian Health Service (water, sewer, sanitation), and the tribal housing authorities (housing). Additional monies are needed for design and installation of utilities, roads, and related improvements of adequate scale to accommodate future projects.

HUD acknowledges that Indians themselves can best determine what they need and what best fits their lifestyle. If consulted more frequently, they will more readily accept the units as homes rather than mere shelters.

**T**oo many times in the past, IHAs have been literally forced to do things in a manner that has created many of today's problems in Indian Country. Our cultural, spiritual, and other specific traditions must be recognized, respected, and properly addressed.

THOMAS  
BLACKWEASEL

Blackfeet IHA  
(Montana)

Moreover, consideration should be given to the selection of designers of Indian housing. With the growing awareness that cultural design elements are desirable, Indian architects and engineers should be selected to coordinate and design housing projects. An organization such as the American Indian Council of Architects and Engineers could locate such professionals; its members are Native Americans familiar with Indian lifestyles, problems, and concerns. They can thus be a valuable asset in interpreting the housing needs of Native peoples.

HUD has asserted that "when funds allow," tribes are allowed to "inject" their culture into their home designs. The hard facts, however, are that funds have *not* allowed a genuine integration of traditional materials and techniques into the construction process. The Commission finds it disingenuous for HUD to claim that "there is no reason why Indian tribes can't have the best of both worlds."<sup>33</sup> In fact, there is one very good reason: lack of sufficient funds and of the political will required to support culturally sensitive housing projects for Indians.

## Impediments to Housing for Oklahoma Indian

### *Tribal Administrative Capacity*

There are 39 tribal governments in Oklahoma. The 20 tribes with housing authorities created their IHAs pursuant to the Oklahoma Housing Authorities Act of 1965, which enables tribal governing bodies to appoint commissioners to a board that is ultimately responsible for all aspects and operations of the IHA. Because they are state agencies as well as elements of tribal governments, they serve non-Indian as well as Indian populations. Some of these IHAs are seen as isolated from their tribal governments' administration and thus as relying on their own independent administrative systems for day-to-day operations.

As is the case elsewhere, Oklahoma's IHA board members are sometimes appointed and removed by tribal governing bodies for purely internal political reasons rather than on the basis of qualifications. If an incumbent tribal leader is not reelected, one of the first actions of the new leader is typically to appoint new commissioners to the IHA board. These newly appointed commissioners are often told to replace the current IHA administrators with individuals more closely aligned with the politics of the newly elected tribal leader. This situation leads to a weakening of the housing authority's administrative capabilities that can take years to restore.

### *Access to Oklahoma and Other Financial Markets*

The tribal governments and their IHAs have more favorable access to financial markets than do most reservation-based tribes. This is primarily because the legal status of land in Oklahoma is generally more familiar and acceptable to traditional financial institutions and lenders. In most cases all restrictions or trust requirements have been removed, and clear, transferable titles to land owned by Native Americans can be provided. Although there are many scattered parcels of land on which such restrictions have not been removed, the majority of sites for home construction can be acquired through exchange of an unrestricted warranty deed.

In Oklahoma the Mutual Help program offers advantages to tribes primarily because it contains a provision for Indian preference. (Other programs cannot allow Indian preference.) Other potential forms of conventional financing for Oklahoma tribes have not been as heavily explored as they might be. The major obstacles to their use have been (1) the tribes' lack of understanding of these resources; (2) the perceived (if not always actual) exclusion of tribal members from consideration by lending institutions; and (3) the failure of the agencies or institutions to promote full use of available programs for financial assistance.

## **Impediments to Housing for native Hawaiians**

### *General Demographics*

There are an estimated 207,000 persons of part Hawaiian ancestry living in Hawaii. Eligibility under the Hawaiian Home Lands Program is limited to individuals with at least fifty percent quantum of Hawaiian blood. Nearly 50,000 native Hawaiians are believed to fall into this category.

For the purposes of this report, "native Hawaiian" refers to beneficiaries of the Hawaiian Homes Commission Act of 1920, as amended, (HHCA) and "Native Hawaiian" refers to the larger beneficiary class of individuals with any amount of Hawaiian ancestry.

The Department of Hawaiian Home Lands (DHHL) is responsible for administering the homesteading program established under the Hawaiian Homes Commission Act. Residential, agricultural and pastoral homestead leases are awarded to eligible native Hawaiians. The land is held in trust by the department and is leased to qualified applicants at a nominal fee of \$1 per year for 99 years. The cost of all offsite and onsite infrastructure

**A**s an Indian Housing Authority, we are taking the first few "baby steps" toward looking beyond HUD funding. We are researching a way to obtain some type of program to serve Native American veterans through the V.A. Home Loan Program. The problems we're running into are lending agency assistance and trust property status of the land. These are the same problems that the Native American veteran runs into when he or she applies for housing through the V.A. program.

JAN KOMARDLY,  
ACTING DIRECTOR

Kiowa Tribal Housing  
Authority  
(Oklahoma)

improvements is borne by DHHL. The lessee only pays for the cost of the home. The land entitlement provided under the HHCA, therefore, enables eligible native Hawaiians to obtain housing at an affordable cost.

DHHL has a current waiting list of more than 22,000 applications for a homestead lease. Eligible native Hawaiians are able to apply for a residential *and* either an agricultural or pastoral award. As a result, it is estimated that more than 12,000 families are represented among the applicants for a homestead award. To meet the demand for housing among native Hawaiians, DHHL estimates that approximately 14,000 new housing units will need to be developed over the next decade.

#### *Lack of Funding*

Since its inception, the Hawaiian Home Lands program has never been given the resources it needs to carry out its mission successfully. It is estimated that DHHL will need more than \$1 billion for infrastructure improvements to accomplish its 10-year home construction goal.

The major impediment to the development of housing for native Hawaiians has been a lack of financial resources. A joint federal-state task force reviewed the administration of the Hawaiian Home Lands Program in 1983 and recommended that federal and state funds be provided to the department to enable it to carry out its mission more effectively. Since 1985, the State of Hawaii has allocated more than \$116 million to the program. On the other hand, the federal government continues to deny that it has any trust responsibility for native Hawaiians and has questioned the constitutionality of providing funding to the Department of Hawaiian Home Lands.

***Federal Trust Responsibility.*** The United States Department of the Interior has repeatedly indicated that it does not view the Hawaiian Homes Commission Act as having created a trust obligation on the part of the federal government. Prior to 1989, little federal funding was provided to support the purposes of the HHCA. Between 1989 and 1992 Congress appropriated nearly \$4.8 million for infrastructure development on Hawaiian Home lands through HUD's CDBG and Special Purpose Grants programs. However, release of these funds was delayed because the Justice Department asserted that federal dollars could not be used to benefit a "racial class" unless that group is a federally recognized tribe. Although corrective legislation covering the specific appropriations was subsequently enacted, the issue of whether the Department of Hawaiian Home Lands will be eligible to receive funds from the federal government in the future

to support its housing program remains unresolved. Until the United States acknowledges its trust responsibility to Hawaii's native people, access to the range of federal programs which are available to other Native American groups will continue to be denied.

**Infrastructure Development.** Housing costs in Hawaii are among the highest in the United States. The median price of a single-family home in Hawaii has been reported at nearly \$385,000. At this level, most native Hawaiians simply cannot afford a home in the private sector.

In an effort to keep the cost of housing for its lessees at an affordable level, DHHL currently subsidizes the cost of all offsite and onsite infrastructure improvements. This cost ranges between \$40,000-\$60,000 per unit, depending on the location of the housing project. In many instances, Hawaiian Home lands are located in remote areas which are not readily accessible to existing utilities and infrastructure. As a result, it is often more costly to provide the necessary improvements required to support homesteading.

Until fairly recently, DHHL had to rely on its own funding and state capital improvement program (CIP) appropriations for infrastructure development. In 1989, the Hawaii State Legislature authorized DHHL to issue \$43 million in special purposes revenue bonds to finance infrastructure development on Hawaiian Home lands. The impact of this authorization has been limited, however, by DHHL's ability to repay the bonds. Based on its projected revenue stream from the general leasing of its lands, only \$18 million in revenue bonds could be issued. DHHL lacks sufficient revenues to support the repayment of bonds beyond this amount.

#### *Access to Financial Markets*

Like Indian tribal lands, Hawaiian Home lands are trust lands and therefore inalienable. Since these lands cannot be sold, they also cannot be mortgaged or used as collateral for borrowing purposes. Because of this restriction, Hawaiian Home lessees have had difficulty in obtaining mortgage financing from conventional lenders.

In 1987, DHHL and HUD entered into an agreement enabling native Hawaiians to obtain an FHA insured mortgage loan using the improvements as collateral. This program is extremely important to native



*New Homeowners of Self Help Home, Hilo, Hawaii  
Courtesy: National Commission files*

Hawaiians wishing to construct homes on Hawaiian Home lands. Prior to the inception of the FHA program, the primary source of financial assistance for home construction by homestead lessees was DHHL's General Home Loan Fund and the Farmers Home Loan program. FHA financing affords homestead lessees access to mortgage funding from conventional lenders. All loans are guaranteed by DHHL. Over the past three years, over 100 eligible Hawaiian Homes lessees have received an FHA loan.

It is projected that over the next decade, approximately \$1.4 billion will be needed in external mortgage funds to satisfy the demand for housing among Hawaiian Homes applicants.

Native Hawaiians generally fall into the lower-income categories and do not qualify for available financing because of cash-flow and/or other financial problems. The native Hawaiians with sufficient cash flow do not have enough savings for the required down payments and closing costs, and FHA does not allow these to be borrowed unless secured by other assets. Another problem is that lending institutions located outside the urban hub of Honolulu generally are unfamiliar with FHA requirements and lending practices and have been reluctant to make mortgage loans because of the inalienability factor.

### Impediments to Housing for Alaska Natives

Housing for low-income and Alaska Natives has typically been assisted through several state and federal programs that help with financial and technical requirements. However, yet the poor funding levels of these programs have resulted in a situation in which only a fraction of the need for new or improved housing, especially for Alaska Natives, has been met.

Alaska Native houses tend to be small, cramped, and overcrowded, with three to four generations living together because of the shortage of homes within the community. These conditions foster social ills such as abuse of drugs and alcohol and child abuse. Moreover, lack of fresh water, sanitation systems, and sound hygienic practices has led to higher rates of communicable disease for Alaska Native villages. Also many vacant houses are uninhabitable during the winter in the Arctic climate.



*Alaska Native Housing, Kotzebue, Alaska  
Courtesy: Northwest Inupiat Housing Authority*

Because of the lack of information, a comprehensive, coordinated, and computerized data base is needed. There are no accurate data on population, weatherization, housing, waiting lists, water and sewer systems, new housing starts, and other concerns of rural Alaska Native villages. No long-range plans exist for economic development or for, technical assistance for villages, communities, and individuals. Federal agencies have failed to adequately disseminate information on alternative development opportunities.

In 1990, HUD/OIP stated that \$2.192 billion would be required to meet the housing needs of Alaska Natives, at an average cost of \$130,000 per unit. HUD Indian housing programs currently supply \$110,000 per unit, matched with state funds of \$20,000 from supplemental housing programs in the state's Department of Community and Regional Affairs (DCRA).

Most of the funds for housing in Alaska rely on public resources for low-income and Alaska Native housing requirements.

Non-native and some Native housing needs have frequently been met through a combination of federal and state programs under HUD public housing programs and the Alaska State Housing Authority, which supplies and manages low-income family and elderly housing throughout the state. Traditionally, Alaska Native housing has been provided by the federal government through HUD Indian housing programs, the regional Indian housing authorities, and the BIA. Because of poor economic conditions and a lack of financial support from the public sector, however, only 874 units have been constructed since 1988 under state and federal programs for Alaska Native and low-income families.

Solving the housing needs of low-income and Alaska Native households through private-sector resources does not often occur in rural Alaska because of the higher construction costs, remoteness of Alaska Native villages, and fluctuating local economies, which involve considerable risk for developers and land-lords. Other impediments exist, such as the cost and difficulties in shipping construction materials to off-road locations and the problem of coordinating with summer barge traffic. Housing developers and skilled craftsmen are seldom available in rural areas. Additionally,



*Housing for Alaska Natives, Shaktolik, Alaska  
Courtesy: Bering Straits Regional Housing Authority*

**N**ative Alaska is approximately 200 rural Native villages located along the coastline of Alaska or along one of our major river systems. The villages are not connected by roads to any of the urban areas. The logistical challenge of communicating with these communities is overwhelming. Obtaining labor and materials for housing programs is a very complicated task. It is a task that can only be accomplished in some kind of coordinated fashion.

DON MITCHELL

Alaska Federation of Natives, testifying on the Indian Housing Act of 1983

variability in Alaska's economic conditions tends to discourage housing investment, especially in multi-family, rental housing.

#### *Weatherization and Energy Costs*

The average monthly costs of heating a home during an Alaska winter for Alaska Natives was \$192 per month or roughly \$1,500 per year—a substantial cost for Native households with annual incomes of less than \$20,000.

When compared to the quality of construction of public housing for non-Native people in rural areas, that of housing for Native people in Alaska is considerably poorer. Ground thawing and freezing causes building foundations to shift or move, often causing homes to split open. Gaps in the roofs and ceilings allow moisture to gather, creating mold or mildew.

A special weatherization program was started in 1970 by DCRA. Nearly 20,000 homes have received assistance to make insulation, door/window sealing and other energy conservation improvements. Yet a 1988 report by DCRA stated that approximately 40,000 rural homes still lacked sufficient insulation.

#### *Sanitation Systems*

Nearly \$1 billion has been expended since 1980 to improve sanitation conditions in Alaska Native villages; nearly the same amount needs to be spent to bring piped water and sewer to the state's Native communities.

In 1990, when DCRA surveyed 140 Native villages, only 60 villages had piped water systems. About half of the 140 surveyed were served only by washeterias; 11 or more were served by simplistic watering points, and the rest had individual wells and septic tanks. The essential problem for numerous remote rural villages is an inadequate supply of fresh water and poor water quality.

In many locations, sewage is disposed of by the "honey bucket" method, where human waste is collected in a five-gallon bucket, taken to the edge of town and dumped. The lack of adequate sanitation facilities poses a significant health hazard. Additionally, sanitation systems are plagued with maintenance and operational problems because of underfunding. It is reported that the majority of rural, remote villages sanitation systems are either financially troubled or bankrupt. Moreover, it is estimated that the costs of operating indoor water and sewer systems would average \$100 to \$125 per month per Native Alaskan household.

As noted, many existing systems are underfunded and experience continual problems in financing operations and maintenance; only a handful are estimated to be operating "in the black." Even if modern systems are constructed in all remote villages, there still remains a serious question. How can residents afford to pay the monthly fees required to support the system?<sup>34</sup>



*Kotzebue, Alaska*  
Courtesy: Northwest Inupiat Housing Authority

**T**he need for an Alaska Native housing program has been demonstrated time and time again.

The most recent statistics available from the Bureau of Indian Affairs indicate that there are 4,900 homes in Alaska Native villages that just need to be bulldozed. They are not fit for human habitation. They need to be destroyed and something with some human dignity constructed to take their place.

DON MITCHELL

Alaska Federation of  
Natives, testifying  
on the Indian Housing Act  
of 1983

PART FOUR

IV. RECOMMENDATIONS:  
BUILDING THE FUTURE



*Courtesy: HUD*

**T**he kind of affirmative action that is needed to free tribes from the over one century of oppressive federal policy is going to be a politically treacherous task that lies ahead of us. But that substantial federal commitment to a well-conceived, multi-disciplinary strategy must be attained or .... Congress simply should admit that it has no federal Indian policy and that Congress chooses instead overtly to sustain essentially systemic degrading poverty on the Indian reservations.

SUE WILLIAMS, ESQ.

Testifying on an Oversight Hearing on Tribal Initiatives for the 1990s, Senate  
Select Committee on Indian Affairs

## IV. RECOMMENDATIONS: BUILDING THE FUTURE

**M**

embers of this Commission have discussed and debated at length various recommendations that we feel improve the availability of housing for American Indians, Alaska Natives, and Native Hawaiians. First, we offer a recommendation for fundamental changes in the federal government's policy toward Native Americans. We believe this change will serve not only to improve the status quo, which in our view has clearly fallen short of meeting the housing needs of Native American people, but will allow a new, brighter future to be constructed. In urging policymakers to adopt our recommendation for fundamental changes in policy, we call upon the federal government to renew its commitment to its responsibilities and moral obligations to Native Americans.

Believing the housing problem is solvable, this Commission also offers specific recommendations that we feel will improve significantly existing housing programs. These recommendations address changes in the following categories: (1) home financing opportunities, (2) training and education, (3) statutory and regulatory changes, and (4) other areas.

### Fundamental Changes in Policy

The National Commission on American Indian, Alaska Native, and Native Hawaiian Housing was established in 1989 pursuant to P.L. 101-235 and officially began operation in April 1991. This Commission does not represent the first group of people assembled to address shortcomings in housing programs for Native Americans. Over the past 30 years, various reports addressing Native housing issues have been written, and accompanying recommendations have been submitted. Indeed, many of our recommendations are similar to those that have already been made.

That said, the work of this Commission does reflect an exceptionally wide-ranging expertise in the area of Native American housing. The majority of this Commission's members are actually Native Americans—a

fact that by itself distinguishes this group from its predecessors. However, simply assessing the housing needs of Native people and then reporting on various findings are activities that fall far short of actually removing the impediments to the provision of safe, affordable, decent housing for Native Americans. It is our strongly held belief that a fundamental change in programs and policy is critical.

Addressing the housing problem means first and foremost recognizing multiple, interlocking problems that demand an integrated solution. The causes of sustained underdevelopment and overwhelming need include the following:

- lack of adequate funding;
- uncertainties concerning tribal, federal, and state jurisdiction over Native American lands;
- lack of proper infrastructure to support development;
- exceedingly high unemployment rates; and
- a grossly inadequate educational system.

Furthermore, the federal government must acknowledge the weight of history as it bears on the questions we are confronting here. Beneath the many problems this Commission has been assembled to address lies over a century of ill-conceived, inconsistent governmental actions that have created some of the worst social and economic conditions witnessed in this country. It is imperative that the federal government reverse such a history and commit itself to fulfilling its responsibilities and moral obligations to Native American people. Accordingly, the Commission has concluded that the following basic change in federal policy is essential:

**The Commission recommends that in partial fulfillment of the federal government's legal and moral obligations to Native people and as a matter of official policy, the federal government as a whole honor its commitment to the provision of safe, decent, and affordable housing for Native people by adequately funding Native housing programs.<sup>35</sup>**

During the past 12 years, new construction dollars for Native housing have been cut by approximately 87 percent. The budgets for the BIA housing program and IHS have also experienced severe cuts. In short, the

overwhelming needs have continued to grow while the federal dollars necessary to address directly the needs have continued to dwindle. Meanwhile, Administrations have been forthcoming with policy statements asserting their commitment to the well-being of Native Americans. We believe these statements are nothing more than mere rhetoric if they are not accompanied with the resources necessary to realize such a commitment. It is in this spirit that we urge Congress to call for a renewal of the federal government's commitment to the provision of housing for Native people. It is imperative that such a commitment include adequate funding and cooperation on behalf of the agencies in developing applicable housing programs.

**The Commission recommends that the federal government acknowledge and fulfill its trust responsibility to native Hawaiians under the Hawaiian Home Commission Act of 1920, as amended.**

The Hawaiian Homes Commission Act (HHCA) set aside approximately 203,500 acres of public lands for native Hawaiians. The Commission received testimony describing the management and funding problems that have plagued the Hawaiian Home Lands Program since its inception in 1921. These problems include a lack of adequate funding, improper uses of trust land, and illegal transfers of land out of the trust without adequate compensation.

Many of these problems can be directly traced to the federal government's role in the administration of the Hawaiian Home Lands Program. Despite federal law, little or no federal funding has been provided to support the purposes of the HHCA. The U.S. Department of the Interior has repeatedly indicated that it does not view the HHCA as having created a trust obligation on the part of the United States. Moreover, recent efforts by Congress to provide funding assistance have been hampered by questions regarding the constitutionality of allowing federal dollars to be used to benefit a "racial class" unless that group is a recognized tribe with a sovereign government acknowledged by the United States.

The Commission concludes that recognition and acknowledgment by the federal government of its trust responsibilities to native Hawaiians under the HHCA is fundamental to correcting past wrongdoings and to



giving native Hawaiians access to the range of federal dollars and programs that are available to other Native American groups.

In addition, we believe that tribal and Native leaders have a responsibility to meet the needs of their constituents and one of those needs is housing. It is only through a cooperative effort between tribal governments and their housing authorities that we can begin to effectively address the extraordinary housing needs of our people. It is in this spirit that we urge tribal and Native leaders to add housing issues to their priority lists and to lobby more aggressively and actively for an improved system of home availability to Native American people.

**The Commission recommends that each Native area receiving assistance from HUD be adequately funded to prepare a comprehensive housing inventory and needs survey.<sup>36</sup>**

This type of survey would permit Native leaders to seek assistance specific to the members' needs. For example, if a Native community has a large number of elders who will require full subsidy, the need will be readily identifiable and the appropriate assistance can be sought. A Native area with healthy economic development potential might seek assistance developing financial markets and leave their staff free to act as developers. In sum, having the specific information compiled and on hand will facilitate a more accurate focus of efforts geared toward addressing the housing needs of Native people.

Various agencies have presented testimony establishing the current housing needs for Native Americans at somewhere near 100,000 units of new housing. Almost no specific information exists that would profile, tribe by tribe, the typical family waiting for assistance. To eliminate waiting lists in Native housing in 10 years, the Commission recommends that Congress fund Indian housing annually at the following levels:

Department of Housing and Urban Development		(millions)
New Construction (Minimum)	5,500 units	\$ 460.0
Operating subsidy - low rent (with 3-5% annual increments)		45.0
Operating subsidy - Mutual Help (new) (with 3-5% increments per year)		45.0
Comprehensive planning (300 tribes @ avg. \$50,000)		15.0
CIAP/Comp Grant		125.0
	HUD TOTAL	690.0

**Bureau of Indian Affairs**

HIP New Construction Grants	1,800 units	125.0
Rehabilitation	1,800 units	62.5
Roads		25.0
	<b>BIA TOTAL</b>	<b>212.5</b>

**Farmers Home Administration (FmHA)**

Section 502 set-aside	500 units	\$	25.0
Section 515 set-aside	500 units		25.0
	<b>FmHA TOTAL</b>		<b>50.0</b>

**Indian Health Service**

Sanitation Facilities Construction Program	\$	125.0
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**Alternative Sources**

Veterans Administration	1,000 units	
FHA Section 248 (tribal)	2,000 units	
Native Housing Finance Agency (first year start-up only)		35.0

Total annual housing delivery 13,100 units

**Enhancing Home Ownership Opportunities**

Historically, one of the major impediments to the development of Native housing programs has been the lack of access to more conventional means of home financing on Native trust lands. The Commission has pursued the development of alternative strategies for enhancing home financing opportunities. We have concluded that the federal government, lending institutions, and Native American governments and entities must collectively assume responsibility for pursuing innovative solutions to financing access problems.

The need and opportunity for all levels of income housing development in Native communities throughout the United States is well established and documented. The challenge is finding and/or developing the institutions and vehicles necessary to leverage available funds, augmenting those funds where possible, to maximize the housing potential.



*Indian housing, Flandreau, South Dakota  
Courtesy: Bill Nibbelink*

The Commission recommends the creation of a Native American Finance Authority, administered in the majority by Native people, that would be charged to act primarily as a source of funding for Native populations. This agency shall be an intermediary financing institution eligible for substantial federal subsidy to assist Native communities in developing affordable housing and infrastructure.

Its functions shall include but not be limited to the following:

1. Packaging mortgage loans for Native people.
2. Utilizing creative financing mechanisms.
3. Providing grants to Native communities to assist them in developing affordable housing and infrastructure.
4. Providing technical assistance and education to develop the capacity among Native peoples to wholly administer the agency, and to underwrite, package, and originate loans.
5. Serving as a clearinghouse of information for alternative financing programs and resources.
6. Acting as a resource and information center to other existing loan programs underutilized in Native areas such as VA, FHA, and Section 248 programs.
7. Assisting in making existing programs more efficient and effective by performing such tasks as an in-depth analysis of demographic data pertaining to native people.
8. Facilitating access to credit markets and making available other resources for Native people.

We believe the establishment of a Native American Finance Authority (referred to hereinafter as "the Authority") with the prerogatives of making loans, insuring and guaranteeing loans and entering into the secondary market either with existing institutions such as Federal Home Loan Mortgage Corporation (Freddie Mae), Government National Mortgage Corporation (Ginnie Mae), or Fannie Mae to ensure a market for housing loans, or via the creation of a separate remarketing authority, is necessary to alleviate the critical housing problem faced by Native people. It should be understood that Fannie Mae and Freddie Mac are basically remarketing authorities—issuing underwriting guidelines as to the types of loans it is

willing to buy. Fannie Mae buys the loans from private lenders, then packages them into pools of mortgages which are then resold. The very availability of this secondary market causes private lenders to make loans that could not otherwise be made in the absence of such a market.

Fannie Mae and Freddie Mac each conduct a series of programs for homebuyers that merit consideration for joint operation or relationships with the Native American Finance Authority. Working with Fannie Mae would require that the needs of Native Americans with regard to housing be clearly defined such that the underwriting standards developed by Fannie Mae would reflect the uniqueness of Native American needs.

The following are but some examples of the special areas of consideration necessary for the Authority to be successful:

- To leverage available funds adequately, the Authority must have the ability to segregate its market into conventional and non-conventional markets—subsidizing the activity of the non-conventional with the programs of the conventional. Low-income housing tax credits could be bought and sold by the Authority.
- The Authority must work collectively with the federal government, non-profits, existing home mortgage authorities, and the private sector. Targets must include the moderate- and high-income homebuyer as well as the low-income homebuyer. Creative leasing, tax and regulatory incentive advantages can be used to offset the land ownership restrictions.
- The Authority must have the ability to create a rental program. The same set of financial skills outlined above can be applied to the use of rental dollars. Further, Low Income Rental Tax Credits can be sold to Fannie Mae and others who buy these credits. Capital for mortgages can come from state and federal sources. Equity could come from Tribal investments as well as non profit organizations that exist or that may be created for this purpose.
- The Authority should have the prerogative to sell tax-exempt bonds on its own credit, or to instigate sale of such bonds through an appropriate state or local housing authority. Tax-exempt bonds can make possible low-income financing to low-income individuals.
- The Authority should be empowered to oversee the implementation of the Home Mortgage Disclosure Act and the Community Reinvestment Act by federal regulatory agencies to establish working relationships

with lending institutions in proximity to concentration of Native populations.

- The Authority should have the power to enter into equity sharing arrangements with potential homebuyers—essentially acting as partners to the transaction—acquiring a share of any appreciation in exchange. Such programs have worked well in various parts of the country for younger, moderate-income homebuyers.
- The Authority should have, from its initial capitalization, the ability to conduct a home renovation and rehabilitation housing revolving fund that would, at market rates of interest, provide capital for home repair prior to resale.

The special demands and unique needs that will be placed on the Authority will require substantial capitalization with creative support vehicles. This could prove to be a major opportunity to a tribal and Native coalition that would enhance the credit enhance Native loans. The amount of needed capital and choice of sources should be determined by studies and a review of existing sources. We anticipate the initial amounts to be in the tens of millions.

A Native American Finance Authority will be built on tribal and Native awareness of financing availability; avoidance and/or resolution of land alienation issues; direct tribal and Native participation and sponsorship; use of available organizations and their resources; and federal support and assistance.

With few exceptions, the Native housing authorities that currently exist are creations of HUD and provide only HUD-funded programs. As noted, it is imperative that other options for home financing, including the use of conventional borrowing mechanisms, be made available to Native households. Because private lenders either do not have or will not develop lending capacity on or near reservations, the ability to use conventional lending mechanisms must be developed by Native housing authorities.

**As part of any new funding effort, monies for the development of lending capabilities within Native housing organizations should be provided, along with financial incentives for cooperation between Native organizations and private or public lenders interested in the delivery of mortgages to Native families. (Such funding could provide training for Native staff handling the mortgage origination and loan-underwriting process as well as homeownership counseling.) Demonstration programs**

would be a useful tool for piloting various lending programs and illustrating their “real-world” operation in Indian settings.

To achieve economies of scale in the provision of complicated technical services, the possibility of regional capacity building should be built into any demonstration program.

Native housing organizations have already demonstrated their ability to cooperate with HUD in the provision of existing housing programs and the delivery of complex housing-related financial products. Such cooperation can result in significant savings. This same model should be used in the development of conventional lending capacity.

The availability of demonstration programs to show conventional lenders that loans can be originated in and around Native areas would be an important additional element in enforcing the requirements of the Community Reinvestment Act (CRA). With the delivery of mortgage loans in a variety of settings, lenders could learn about mechanisms that provide for the appropriate delivery of loan products to Native households; in those areas with large Native populations, lenders could also take advantage of economies of scale in homeowner training and related services.

### Training and Technical Assistance

At present, funding for the training of housing personnel is inadequate. Federal staff who handle mortgage origination and loan underwriting, along with homeowner counselors, are important players in the realm of Native housing. However, they are too often ignorant of cultural and political realities in Native communities.

**The Commission recommends that training should be made available for federal government personnel who often have little or no experience dealing with Native American governments and individuals.**



*Courtesy: Zuni Housing Authority*

## Improvements to Existing Programs

**T**he Indian and Alaska Natives cover a vast range with respect to degrees of development.

Some tribes have launched economic development efforts that have been successful, while others have not been successful or are not yet ready to develop.

It is very important that education and training go hand in hand with economic development. Indians and Alaska Natives have previously found themselves sometimes trained, through vocational educational or other job training programs, for that which did not exist in the local economy, and they then went back for more training either in hopes of gaining a locally marketable skill or to keep money coming into the family from the stipend or compensation paid to them during training. There must be coordination between training provided and tribal economic development efforts or the labor force needs of the communities bordering the reservations. Conversely, tribal economic development without education and training of Indian people can result in tribal enterprises run by non-Indians and continuing high Indian unemployment.

National Advisory Council on Indian Education 1991 Annual Report

Throughout our hearings, a number of witnesses were forthcoming with insightful criticisms of existing federal housing programs. We have concluded that, although existing programs are in need of a complete realignment over the long term, certain statutory and regulatory changes and, in particular, certain technical changes to the federal Housing Act of 1937, can alleviate some of the immediate problems within housing programs. Accordingly, the Commission makes the following recommendations.

### *Statutory and Regulatory Changes*

**The Commission recommends that the provisions of the Davis-Bacon Act (40 U.S.C. 276(a)) be waived in conjunction with any construction, alteration, or repairs, including painting and decorating, carried out pursuant to any contract entered into in connection with any housing project.**

Historically, Davis-Bacon wage rates requirements have posed unique obstacles for economic self-sufficiency for Native communities. Although no studies have been done regarding the Act's effectiveness, we heard several times throughout our hearings that the mandatory wage rates required by the Act were simply not appropriate for most Native area economies. Therefore, we recommend that the requirements of the Act be waived as outlined above and that Native governments and entities be permitted to set their own wage rates in accordance with the local economy or where appropriate to allow IHA's to use the prevailing wage rates scale established by the Tribe or local Native government.

Because of the high-unemployment and unskilled labor rates in Native areas, some contractors will import journeymen to fill their labor needs, thereby eliminating job opportunity for the local population. The use of import labor paid at Davis-Bacon wages creates or adds to existing tensions between the IHAs, Tribal councils, and the local community.

**The Commission recommends that the HUD-prescribed Model Ordinance for establishing Indian Housing Authorities be reviewed and amended to reflect effectively current conditions and relationships among various levels of Tribal, federal, and state government.**

The Model Ordinance originated at the end of the termination era, and amidst the political turmoil of the early 1960s. This resulted in the mechanism for the creation of Indian Housing Authorities based upon the Public Housing Model. Tribes had little or no input in this process. The Commission acknowledges and encourages the more modern trend toward Tribal and Native self-determination and self-governance. Accordingly, we believe it's time to update the model ordinance to reflect the current relationship between the federal government, Native governments, Indian Housing Authorities, and where applicable, state governments.

**The Commission recommends that the ranking criteria for all existing HUD programs should be amended to allow for the allocation of units based on actual need rather than family size.**

In particular, the Commission recognizes that most Indian housing authorities have a greater need for housing for large families rather than for smaller families, including the elderly who may only require one- or two-bedroom units. However, there are those IHAs that have determined there exists a greater need for housing smaller families. Therefore, the Commission believes that equitable standards must be created to ensure that all development proposals are reviewed and permitted to stand on their own merit based on actual need rather than family size. Such a change will in turn allow IHAs to meet their responsibility of providing safe, decent, and affordable housing for all Native American people, not just those with large families.

**The Commission recommends that the Mutual Help and Occupancy Agreement (MHOA) be amended to require the IHA to take a mortgage and convey the Mutual Help unit when the participants' monthly payment equals the monthly debt service on the unit plus the monthly administrative charge.**

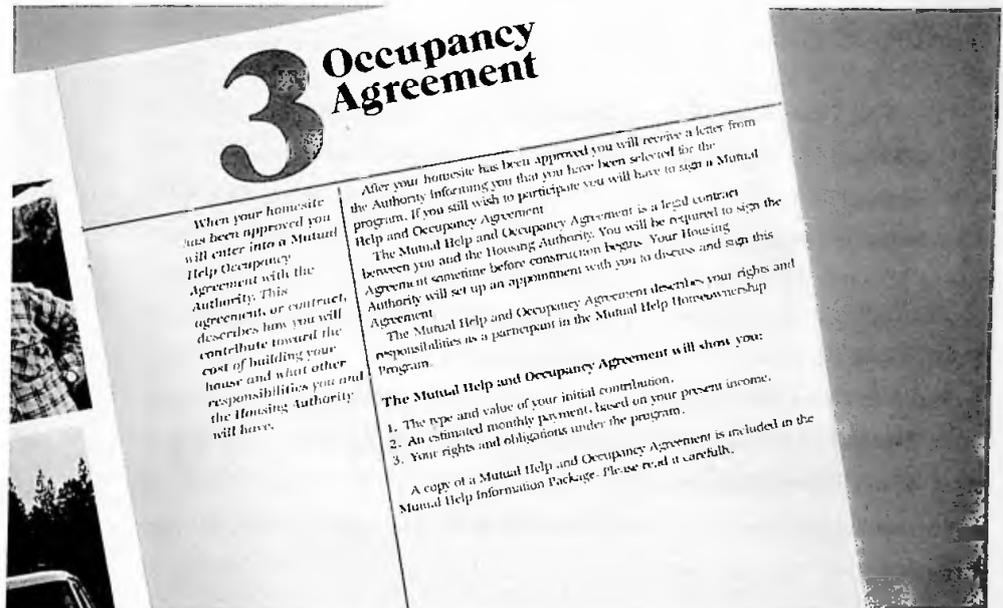
Article VIII of the MHOA allows conveyance under certain conditions. The Commission believes those participants who can afford to pay



*HUD-funded home, Kotzebue, Alaska  
Courtesy: Northwest Inupiat Housing Authority*

for a part of their housing cost should do so. This Amendment would allow IHA's the option of selling the mortgages to the Native American Finance Authority, thereby creating capital for additional housing. The conveyance of title would be mandatory. Home-buyers would be eligible for subsidy if income should decline at a later date.

**The Commission recommends that HUD evaluate the existing Indian housing accounting system and develop accounting and reporting processes that follow generally accepted accounting principles.**



Courtesy: HUD

Throughout the hearings Commissioners heard testimony regarding the accounting practices required by HUD. We were told time and again that the current procedures are frequently misunderstood, expensive to administer, and impossible to explain to Boards and tribal councils. One example of the confusion is that the current HUD budget is not in the same format as the financial statements which are due semi-annually and annually. This inconsistency in turn creates additional confusion.

Money invested in a simplified, easily understood format would save millions of scarce subsidy dollars currently spent on technical assistance and fee accountants, not to mention the improved management capacity of the IHAs.

**The Commission recommends that the accessibility of the Monthly Equity Payment Accounts (MEPA) established under the Mutual Help Occupancy Agreement be appropriately limited and be monitored for compliance by the participants and IHAs.**

Over the last few years, access to MEPA accounts has been expanded to allow for payment of accounts receivable, and in some cases, improvement to Mutual Help units. The Commission feels that funds in these accounts are appropriately used for the unmet needs of other families waiting for a homeownership opportunity and therefore should be protected until the ownership of the fund transfers to the IHA.

**The Commission recommends that the Annual Contributions Contract be expanded to allow for operating subsidy to assist Mutual Help participants with incomes of less than 50 percent of the median income for a given service area.**

Throughout the hearings, Commissioners heard repeated stories of families placed in the Mutual Help program whom did not have adequate incomes to meet the demands of homeownership. Two common reasons contributing to this unfortunate situation include the fact that many Tribes and housing authorities do not understand the full cost of homeownership, made determination solely on the fact that the mutual help program allowed rents at 15 percent of income versus 30 percent in the low-rent program. The second factor was in areas such as Oklahoma; Indian preference was allowed in mutual help and not in low rent. These two factors contributed to a large number of families in Mutual Help that would be eligible for subsidy (assistance under low rent).

**The Commission recommends that all income derived from treaty and trust rights be excluded from the definition of income.**

Many Native groups actively exercise their rights to hunt, fish, trap, gather on, or work and operate their lands for subsistence. These rights are guaranteed by congressionally ratified treaties or Executive Agreements between the United States and individual Native groups. These rights are a continuation of practices that pre date the founding of the United States

and were by no means devised in any part to ever be a burden or considered as an income but as a benefit of the Tribe.

*Changes to the 1937 Housing Act*

**The Commission recommends a waiver of the application of Title II, Section 202(2) of the 1937 Housing Act, the provision of the Brooke Amendment (i.e. 30% Rule), to Indian housing programs.**

The single most emotional issue in Native American housing today is the Brooke Amendment calling for 30 percent of adjusted gross income as rental housing payments. The reason the Commission recommends a waiver of this amendment is that *no alternative housing exists* for Native Americans to move into when their rents increase. This is a disincentive for tribes to offer employment. The last option open to members is to move away from their communities and families. Building solid and viable communities is essential to our survival. Providing affordable housing for Indian professionals is impossible under the "30% Rule" when the only housing in most Native American areas are HUD low-rent units.

**The Commission recommends that Subtitle C, Section 572(c), the income exclusion provisions of the Cranston-Gonzalez National Affordable Housing Act, be amended so as to apply to Indian housing programs.**

Beginning in October 1992, the Cranston-Gonzalez Act facilitates a change in the definition of adjusted income which will increase certain deductions for public housing programs from \$480 to \$550. As currently written, this expanded definition does not apply to Indian housing programs. The Commission considers it a mere oversight and recommends that the Cranston-Gonzalez provision be reflected in Title I, Section (3)(a)(5) of the 1937 Housing Act so that Native housing programs are permitted the increased deduction.

**The Commission recommends that a handicapped assistance allowance deduction (to gross income) be permitted to enable any handicapped member of a family to be employed or to further his or her education.**

Under Title I, Section 3(a)(5)(c)(ii) of the Housing Act of 1937, deductions are permitted “to the extent necessary to enable any member of such family (including such handicapped member) to be employed.” As written currently, no provisions are in place to permit such a deduction to be used to further a handicapped person’s education. The Commission believes that in many instances, it may be necessary for a handicapped Native person to further his or her education before he or she can actually be employed. The existing statutory language places such a person in a no-win situation. Accordingly, we believe this section should be amended to include the following language: “to be employed *or to further his or her education.*”

**The Commission recommends that Title I, Section 3(a)(5)(D) of the Housing Act be amended to permit deductions for both child care and travel expenses.**

As currently written, a deduction may be made for the greater of either child care expenses or excessive (employment or education-related) travel expenses. The Commission believes that often both types of expenses place a significant burden on an Indian household’s income because most working members of Native American families must travel usually long distances to work and pay for child care to be able to work. Accordingly, we recommend that the “*or*” at the end of Title I, Section 3(a)(5)(D)(i) be amended to “*and.*”

**The Commission recommends that actual alimony and/or child support paid by a member of the household be deducted from income.**

Although it is required all alimony and/or child support payments be reported as income by the receiver, under Title I, Section 3(a)(5)(F). The payments made by a member of a family for the support and maintenance of any child, spouse or former spouse can only be deducted as follows: “not to exceed the lesser of (1) the amount that is legally obligated, or (2) \$550 for each individual for whom such payment is made”. Therefore, the Commission recommends that the exclusion income addressed in Subpart (F) be revised to state “*any legally obligated payments made by a member of the family for the support and maintenance of any child, spouse, or former spouse who does not reside in the household.*”

**The Commission recommends that Indian housing authorities be permitted to apply Indian preference to the low-income rental program.**

Notwithstanding Title I of the Fair Housing Law, the Commission believes that it is an oversight that the Indian preference provisions of Section 202(d)(1) of Title II of the Mutual Help Homeownership Opportunity Program are not included in Title I of the Housing Act. Accordingly, the Commission recommends that the following language be added to Title I: *“Except as provided in paragraph (2), assistance under this section may be limited to Indian low-income families on Indian reservations and other Indian areas.”* We believe that this will enhance the options for Indian housing authorities, particularly those located in Oklahoma and Alaska.

**The Commission recommends that Title II of the Housing Act be amended to include native Hawaiians with appropriate additional funding.**

Currently, the housing programs authorized under Title II of the 1937 Housing Act are applicable to American Indians and Alaska Natives. It is the position of the Commission that native Hawaiians are indeed a sovereign people and should be recognized as such by the federal government. Therefore, the Commission recommends that Title II of the Housing Act of 1937 be amended so as to include native Hawaiians in addition to American Indians and Alaska Natives, thereby making native Hawaiians eligible for the Mutual Help Homeownership Program.

**The Commission recommends that Section (3)(11)(B)(ii) of Title I of the Housing Act be amended to include native Hawaiians with appropriate additional funding.**

Generally, part II of the Section 3 of the Housing Act defines an Indian housing authority. More specifically, subpart (ii) provides that an entity is an Indian housing authority if it is established *“by operation of State law...for housing authorities for Indians, including regional housing authorities in the State of Alaska.”* We recommend that this language be expanded to include native Hawaiians.

**The Commission recommends that the Family Self-Sufficiency Program authorized under Title I, Section 23 of the**

**Housing Act be optional for Indian housing authorities and that the FSS program be expanded to permit participants who have successfully completed the FSS requirements to participate in state and federally assisted housing programs (i.e. Mutual Help, HOPE and HOME) without forfeiture of their escrowed accounts.**

The FSS program was designed to assist eligible families to achieve financial independence. The thrust of this program is to connect participating families with numerous social services necessary to upgrade job skills and educational levels and provide transportation and child care, in order that participating families can maintain a job or career situation. Program contracts between IHAs and FSS participants will provide, among other things, that the participating family will move out of assisted housing after completion of the contract term and into other housing not assisted in order to receive their escrowed accounts. The definition of assisted housing, according to the FSS program, applies to the receipt of any federal, state, or other public assistance. In most Native areas, there is insufficient private housing stock that is not assisted by state or federal programs and there is a lack of availability of social services and jobs necessary to ensure the success of participants in the FSS program.

**The Commission recommends that the word “single” be deleted from Section 202(b)(2) of Title II of the Housing Act so that multiple grants under the Comprehensive Improvement Assistance Program are possible in the Mutual Help Homeownership Program and available for existing Turnkey III units.**

Generally, part (b)(2) of Title II addresses eligibility for CIAP funds under the Mutual Help Homeownership program. As currently written, the statutory provision limits CIAP financial assistance to “*a single grant for each housing project.*” It is the position of the Commission that this restriction severely limits an IHA’s long-term maintenance needs.

**The Commission recommends that Section 8 of Title I of the Housing Act of 1937 be amended to include urban IHAs that have been created under state law with appropriate additional funding.**

United States Census Bureau statistics reveal that over 60 percent of American Indians no longer live within reservation boundaries. Many have moved to major metropolitan areas. Currently, these urban Indians are excluded from HUD Indian housing programs. Accordingly, the Commission recommends that the provisions of Section 8 of Title I of the Housing Act of 1937 be expanded to permit the creation of urban Indian housing authorities under the authority of appropriate state law.

**The Commission recommends that the ceiling for rents in the low-income rental program should be no more than 50 percent of the average established fair-market rental process of a given geographic area.**

Without a doubt, inflation has had a significant impact on Native communities. More than ever, Native American families are relying on multiple incomes to make ends meet. In Native communities (which are predominantly rural), housing authority homes are typically the only units available for families and individuals.

Currently, Native families and individuals who work are finding that rental prices increase dramatically as their income increases. Often, the rental payments become simply unaffordable. Ceiling rents would help to remove this barrier while still providing some flexibility for housing authorities to adjust rental prices so that they are reflective of the tribal economy.

### **Additional Recommendations**

**The Commission recommends that a federal source of funding be authorized specifically for Native community fire protection.**

We received testimony from AMERIND Risk Management Corporation, a membership risk management pool servicing nearly all Indian housing authorities, which stated that as recently as five years ago, the majority of AMERIND's member IHAs accepted fires, deaths from fires, and injuries from fires as a fact of life. The infrastructure for public fire protection is largely nonexistent. However, there is a belief at most IHAs that something can be done to reduce fires and that Native governments and housing authorities are assuming that responsibility. Although most other

American communities can rely on a local fire department, Native governments and/or IHAs must frequently undertake this protective role themselves. Indeed, IHAs are beginning to create proactive programs, often with little outside support.

Volunteers lack the training and the time to devote to public education regarding fire protection in Native communities. The organizational structure of Indian housing authorities, though not designed for fire safety education, lends itself well to a fire safety effort. Counseling and maintenance staff who have regular access to Native homes can and do make a difference.

#### *Changes in Agency Mandates*

The Commission heard time and again, during testimony from Native people as well as from the involved agencies, that Native people lack basic knowledge of available housing programs. We believe generally that the federal agencies are doing a less-than-adequate job of servicing Native people—beginning with the fact that their communication and information-sharing practices are intermittent and ineffective. We found this to be particularly true of the Department of Veterans Affairs and the Farmers Home Administration.

Accordingly, we make the following recommendations:

**The Commission recommends that the Department of Veterans Affairs should be mandated to pursue vigorously the accommodation of direct home mortgages to Native veterans on trust land.**

There are approximately 159,900 Native American veterans, among whom approximately 21,000 live on trust land. Yet since 1961, only 15 loans have been made as home loans to Native veterans living on such land. In its July 18, 1991, final report, "Assessment of the Utilization of the VA Home Loan Benefits by American Veterans Living on Trust Land," the Department of Veterans Affairs identified three primary barriers to the use of the VA Loan Guaranty Program



*HUD-Mutual Help Home,  
Hungry Valley, NV  
Courtesy: Commission Files*

on trust land: (1) lack of security, (2) logistical and financial problems in loan origination, and (3) logistical and financial problems in loan servicing.

We recommend that (1) Native American governments be allowed to assume the majority of risk and act as lenders with VA guaranty; (2) Indian and Native housing authorities be permitted to service VA loans; and (3) the private sector be induced to originate VA loans on trust land by increasing the origination fee.

The Commission encourages the Department of Veterans Affairs to take the initiative in adequately promoting its programs and making them accessible to Native American veterans living on trust land. Further, it is imperative that the VA promote its programs to local lending institutions.

**The Commission recommends that the Farmers Home Administration reevaluate its commitment and approach to addressing the housing needs of Native Americans.**

In particular, the FmHA should consider the following:

- employing Native Americans in policy-making and programmatic positions within the Office of the Administrator;
- undertaking a more active outreach initiative by consulting with Native American groups and Native government representatives to build a program sensitive to rural Native housing needs; and
- mandating a minimum of 500 federally guaranteed home loans for Native Americans in the Section 502, 504, and 515 programs, among others, in each federal fiscal year, beginning in FY93.

#### *BIA Programs*

**The Commission recommends that the Housing Improvement Program (HIP) and the Road Construction Program within the Bureau of Indian Affairs should be adequately funded.**

In 1965, the Bureau of Indian Affairs received funding for a Housing Improvement Program (HIP) that provides assistance to needy Indians unable to obtain housing assistance from any other source. It is a grant

program involving principally the repair or enlargement of existing housing and the construction of some new homes in isolated areas for those Indians who reside on reservations or trust lands operating under some degree of federal responsibility. However, because of the program's extremely low level of funding and annual appropriations, the BIA has not been able to keep pace with HIP assistance plans mandated by a congressional directive to improve service delivery and program management. Accordingly, the Commission strongly encourages a significant increase in HIP funding—beginning in FY94. This amount would provide for:

- \$125 million for construction of approximately 1800 new units;
- \$62.5 million for repair or rehabilitation of approximately 1800 units; and this includes eligible old HUD Mutual Help and Turn-Key III units;
- \$300,000 for the BIA to provide housing maintenance training for all housing participants; and
- \$25 million for new road construction.

### **Special Recommendations: Hawaii**

**The Commission recommends that appropriate legislation be enacted to allow Community Development Block Grant (CDBG) funds to be expended on Hawaiian Home lands.**

In 1989, Congress appropriated funding under the HUD Community Development Block Grant (CDBG) program for infrastructure development on Hawaiian Home Lands. Release of these funds to the Department of Hawaiian Home Lands was delayed because the Department of Justice asserted that federal dollars cannot be used to benefit a racial class unless that group is a federally recognized Indian Tribe. Although corrective legislation covering the specific appropriations was subsequently enacted, the issue of whether the Department of Hawaiian Home Lands will be eligible to use future CDBG appropriations on its lands remains unresolved. Specific legislation clearly authorizing expenditures of CDBG funds on Hawaiian Home Lands would remove this difficulty.

**The Commission recommends that the federal government continue to provide funding under HUD's Special Purpose Grants program to the State of Hawaii for infrastructure development on Hawaiian Home Lands.**

Currently, over 12,000 native Hawaiian families await a homestead award under the Hawaiian Home Lands Program. One of the major problems confronting the program has been the lack of funding to develop Hawaiian Home Lands for homesteading. Congress appropriated funding under HUD's Special Purpose Grants program for infrastructure development on Hawaiian Home Lands in FY91 and FY92. The Commission recommends that the federal government continue to provide Special Purpose Grants funding to the Department of Hawaiian Home Lands for this purpose.

**The Commission recommends that the definition of Native Hawaiian organizations prescribed in Section 603 (e) of P.L. 101-235 be amended to include the State of Hawaii's Department of Hawaiian Home Lands.**

This amendment will ensure that the Department of Hawaiian Home Lands will be eligible to receive any funding from the Department of Housing and Urban Development resulting from the Commission's recommendations and action plan.

*Enhancing Home Financing Opportunities*

The Commission received testimony regarding the Department of Hawaiian Home Lands' need for external mortgage financing to satisfy native Hawaiian demands. Testimony was also received on the high cost of housing in Hawaii and the difficulties encountered by many native Hawaiians in qualifying for available financing. As has been noted previously, one of the major impediments to the development of housing for native Hawaiians has been lack of access to convention home-financing markets. The Commission has pursued the development of alternative strategies for enhancing these home financing opportunities, which include service to native Hawaiians.

**The Commission recommends that the Department of Veterans Affairs explore the feasibility of allowing Hawaiian home lands lessees to participate in its Direct Loan Guarantee Program.**

In 1987 the Department of Hawaiian Home Lands received approval to participate in the FHA mortgage loan program. Prior to that time, mortgage loans were available only from the department or the Farmers Home Administration (FmHA). The addition of FHA financing resulted in an increase in the number of houses constructed on homestead lots. Currently, a total of 114 FHA and 279 FmHA mortgage loans have been made to native Hawaiian beneficiaries of the Hawaiian Home Lands Program. Participation in the VA-Guaranteed Loan program would provide an additional source of financing to Hawaiian Home Land lessees.

**The Commission recommends that the Department of Hawaiian Home Lands be included in any federal home-financing programs available to housing agencies for individuals meeting specific eligibility criteria.**

In accordance with the provisions of the Hawaiian Homes Commission Act and laws of the State of Hawaii, the Department of Hawaiian Home Lands has been designated the principal public agency in Hawaii responsible for providing housing assistance to native Hawaiians. Participation in all federal home-financing programs will enhance DHHL's ability to serve the housing needs of its beneficiaries.

PART FIVE

V. CONCLUSION



*Alaska Native family, White Mountain, Alaska  
Courtesy: Commission files*

Our homes have a very critical part in our daily lives from the day we are born. They have a very important role to play in our lives as well as in our traditional activities.

JOE LABAN

Executive Director, Hopi IHA (Arizona)

## V. CONCLUSION

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any of us have been involved in Native American housing for years and were excited with the opportunity to assess the state of American Indian, Alaska Native, and Native Hawaiian housing, and more important, make recommendations for change based on a comprehensive analysis of the problem.

None of us was prepared for the despair and anger that concerned Native people brought to us on virtually every Native soil visited. None of us was surprised at the level of need, but all of us were moved by the urgency and desperation that their voice brought to us. Many pleaded with us to do something. Some scolded us for our role in what they perceived to be a sustained conspiracy of denial of their basic right to shelter. One man, sitting stoically, and without apparent emotion, told us he had given the same testimony over 20 years ago and shared that he didn't really expect anything different from us.

We have jointly committed our energies and spirits to follow the recommendations contained in this report and to respond to all questions and requests. We acknowledge that many issues affecting Native American housing today are not recognized in this report. We consider our efforts a beginning and we believe that true solutions require a collective effort. We challenge each of you who are able to join in a relentless pursuit of solving the overwhelming housing crisis faced by our nation's first citizens.

## NOTES



## NOTES

<sup>1</sup>See American Indian Resources Institute, *Indian Tribes as Sovereign Governments*, (Oakland, CA: AIRI, 1991). See also Felix S. Cohen, *Handbook of Federal Indian Law*, (Charlottesville, Virginia: The Michie Company, 1982), pp. 1-248.

<sup>2</sup>The "Worcester Trilogy" includes the following cases: *Johnson v. M'Intosh*, 21 U.S. (Wheat.) 543 (1823), *Cherokee Nation v. Georgia*, 30 U.S. (5 Pet.) 1 (1831), and *Worcester v. Georgia*, 31 U.S. (6 Pet.) 515 (1832). These are leading court decisions that have served as the foundation for such important doctrines as the federal trust responsibility.

<sup>3</sup>The 1970s and early 1980s were extraordinarily active years for Indian litigation; during the 1970s alone, the Supreme Court heard some 33 cases pertaining to Indian law. In its 1984 term, the Court handed down seven Indian cases. Overall, these cases have held in favor of Indian prerogatives.

<sup>4</sup>30 U.S. (6 Pet.) 1, 16-17 (1831). An action was brought by the Cherokee Nation to prevent interference with its territory and citizens by the State of Georgia. Chief Justice Marshall opined that the Cherokee Nation was a "domestic dependant nation" under the "protection" of the United States rather than a "foreign nation" within the meaning of Article III, Section 2 of the Constitution. See Laurence H. Tribe, *American Constitutional Law* (2nd ed.), (Mineola, NY: The Foundation Press) pp. 1468-1469.

<sup>5</sup>31 U.S. (6 Pet.) 515, 559-562 (1832). In this case Marshall asserted, "The Indian nations had always been considered as distinct, independent political communities, retaining their original natural rights, as the undisputed possessors of the soil. The very term nation, so generally applied to them, means a people distinct from others. The constitution, by declaring treaties already made, as well as those *to be made*, to be the supreme law of the land, has adopted and sanctioned the previous treaties with the Indian nations, and consequently admits their rank among those powers who are capable of making treaties." *Id.*

<sup>6</sup>18 U.S. 375 (1886).

<sup>7</sup>See generally *Administration of Native Hawaiian Home Lands*, Joint Hearings before the Senate Select Committee on Indian Affairs and the House Committee Interior and Insular Affairs, Testimony of Susan M. Williams (August 8, 1989) pp. 22-33.

<sup>8</sup>American Indian Resources Institute, *Indian Tribes as Sovereign Governments* (Oakland, CA: AIRI, 1991), p. 31.

<sup>9</sup>Office of Policy Development and Research, U.S. Department of Housing and Urban Development, "Feasibility of Expanded Use of Section 8 Vouchers by Indian Housing Authorities" (HUD, March 1992), pp. 1-3.

<sup>10</sup>*Ibid.*

<sup>11</sup>Many of the homes of the Five Civilized Tribes were built in conventional log, Victorian, and Colonial styles. These tribes also adopted and practiced slavery much like their white neighbors. They had schools, churches, and townships patterned after their European counterparts, as well as a two-party form of government.

<sup>12</sup>Public Resolution No. 51, 55th Cong., 2nd Sess., 30 Stat. 750 (July 7, 1898).

<sup>13</sup>H.R. Rep. No. 839, 66th Cong., 2d Sess., 1 at 7 (1920).

<sup>14</sup>Admission Act of March 18, 1959, Sec. 4, P.L. No. 86-3, 73 Stat. 4.

<sup>15</sup>Hawaii Constitution, Art. XI, Sec. 2 (1959), renumbered Art. XII, Sec. 2 (1978).

<sup>16</sup>F. Cohen, *Handbook of Federal Indian Law* (1982 ed.) at pp. 141-142.

<sup>17</sup>*Ibid.*, pp. 156-158.

<sup>18</sup>*See* Cohen, "The Erosion of Indian Rights 1950-1953: A Case Study in Bureaucracy," 62 *Yale Law Journal* 348 (1953).

<sup>19</sup>Indian housing in the U.S.: A History, The Housing Assistance Council, February 1987.

<sup>20</sup>24 CFR 905.126.

<sup>21</sup>HIP statistics may not accurately reflect the needs of those who are less than one-quarter Indian. This is indicative of an ongoing internal inconsistency: on the one hand, tribes are allowed to set their own membership criteria (on the basis of blood quantum levels); on the other hand, the BIA does not use those criteria to determine housing needs. Actual need may thus be underestimated.

<sup>22</sup>24 CFR 905.126, 1991.

<sup>23</sup>The Commission heard testimony from tribal councilpersons stating that they were often not aware of the ordinance authority. Often IHA board members are removed for political reasons rather than for the aforementioned reasons.

<sup>24</sup>HUD: Office of Indian Housing, "The Indian Housing Program: Program Briefing and Statistical Summary."

<sup>25</sup>"A History of Indian Housing," videotape produced by HUD/OIH, (1991).

<sup>26</sup>*See* HUD, Office of Indian Housing, "The Indian Housing Program: Program Briefing and Statistical Summary."

<sup>27</sup>*Id.*

<sup>28</sup>This section is adapted from "30 Years of Progress," a report on the SFCP published by the IHS in 1989 to commemorate the program.

<sup>29</sup>"Environmental Health and Engineering", Indian Health Service, (1989).

<sup>30</sup>Created in 1976, the Interdepartmental Agreement sets forth the responsibilities of the agencies responsible for the delivery of assisted Indian housing. Under the Agreement, HUD is generally responsible for the construction of homes, IHS for water and sanitation services, and the BIA for roads and the BIA-HIP program. *See* 94 C.F.R. 905 (c).

<sup>31</sup>"Environmental Health & Engineering," Indian Health Service, (1989).

<sup>32</sup>Native housing is made even more complex by the 22 laws, which to varying degrees, affect the HUD Indian housing programs. These laws include:

1. U.S. Housing Act of 1937, as amended (Title I).
2. U.S. Housing Act of 1937, as amended (Title II).
3. Social Security Act.
4. Development Disabilities Assistance and Bill of Rights Act.
5. Indian Civil Rights Act of 1968.
6. Civil Rights Act of 1964.
7. Fair Housing Act.

8. Flood Disaster Protection Act of 1973.
9. Davis-Bacon Act.
10. Uniform Relocation Assistance and Property Acquisition Policies Act of 1970.
11. Rehabilitation Act of 1973.
12. Architectural Barriers Act of 1988.
13. Coastal Barriers Resource Act.
14. Indian Self-Determination and Education Assistance Act.
15. Alaska Native Claims Settlement Act.
16. Indian Financing Act of 1974.
17. Age Discrimination Act of 1975.
18. Controlled Substances Act.
19. Lead Based Paint Poisoning Prevention Act.
20. National Environmental Policy Act.
21. Single Audit Act.
22. National Historic Preservation Act of 1966.

Prepared by the U.S. Department of Housing and Urban Development, Office of Indian Housing.

<sup>33</sup>"A History of Indian Housing," videotape produced by HUD/OIH (1991).

<sup>34</sup>See "1991 Housing Needs Assessment Study", State of Alaska, Department of Community and Regional Affairs, (conducted by ASK Marketing and Research Group), June 1991.

<sup>35</sup>See Funding Recommendation at page 79-80.

<sup>36</sup>The Commission is aware that states receive funding for the Comprehensive Housing Assistance Survey (CHAS).

# APPENDIX

# NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING

Centennial Hall - Sheffield Room #2  
Juneau, AK

*June 14, 1991*

Mr. Howard Monroe  
Northwest Inupiat Housing Authority  
Kotzebue, AK

Ms. Anna Katzeek  
Juneau, AK

Written testimony of Karen King  
Read by Jackie Johnson  
Kodiak Island Housing Authority

Mr. Albert Kowchee, PE  
Kowchee, Inc.  
Anchorage, Alaska

Ms. Kimberly Johnson  
Executive Director  
Bristol Bay Housing Authority  
Juneau, AK

Ms. Jacqueline Johnson  
Executive Director  
Tlingit and Haida Housing Authority

**Seattle International Trade Center  
Seattle, WA  
August 12 - 13, 1991**

*Monday, August 12, 1991*

**List of presenters and testimonies received (oral and written):**

Mr. Bill Sullivan, Housing Improvement Program  
Bureau of Indian Affairs - Portland Area Office

Mr. Rich Truitt, Director of Environmental Health  
Indian Health Service - Portland Area Office  
(present but did not submit written testimony)

Connie Wilson, Executive Director  
Quinault Housing

Ms. Yvonne Smith, Executive Director  
& Ms. Elena L. Bassett, Housing Program Manager  
Yakima Nation Housing Authority

Ms. Judy Chaney, Director of Affordable Housing Program  
Seattle Federal Home Loan Bank

Ms. Patty Rude  
Chairperson of Tulalip Tribal Housing Authority

Ms. Martha Scott, Secretary  
Nez Perce Tribal Housing Authority  
& Ms. Edyth Powaukee, Vice Chairman, IHA  
Board of Commissioners

Ms. Connie Hoffman, Executive Director  
Siletz Indian Housing Authority

Mr. Henry Cagey, Chairman  
Lummi Indian Nation

Mr. Joseph Oriero  
Indian Business Council and  
Board Member Lummi Housing Authority

Mr. Fred Cooper, P.E. Consulting Engineer  
Cooper & Associates

Mr. David Easchief, Executive Director  
Colville Indian Housing Authority

Mr. Mike Graklanoff,  
Farmers Home Administration, State of Washington  
(present but did not submit written testimony)

Mr. Don Wagner, Chief of Rural Housing,  
FmHA, State of Idaho  
(present but did not submit written testimony)

*Tuesday, August 13, 1991*

**Presentors:**

Mr. Victor Sansalone  
Confederated Tribes of Coos, Lower Umpqua, Siuslaw

Mr. Mike Quinn, Executive Director  
Swinomish Housing Authority  
(present but did not submit written testimony)

Mr. Henry SiJohn  
Chairman of the Coeur D'Alene Housing Authority  
Board of Commissioners

Ms. Sidney Richards  
Community Development  
Coquille Indian Tribe, Coos Bay, Oregon

Ms. Janice Lopeman, Executive Director  
Southern Puget Sound Housing Authority

Ms. Lucinda Jordan, HIP Coordinator  
Coeur D'Alene Tribe  
(present but did not submit written testimony)

Mr. John Parker  
Executive Director  
Makah Indian Housing Authority  
(present but did not submit written testimony)

Ms. Velma Bahe, Chairperson  
Kootenai Tribe

Mr. Noel Sansaver  
CIAP Coordinator  
Ft. Peck Tribe

Ms. Helen Harrison  
Member, Quileute Tribal Council

Mr. Jeff Robinson  
Housing Finance Unit Manager  
State of Washington

**Hyatt Regency on Capitol Hill  
Washington, DC  
September 19 - 20, 1991**

*Thursday, September 19, 1991*

**Presentors:**

Mr. Alan Parker, Director  
National Indian Policy Center  
Washington, DC

Mr. Gary Hartz, Director of Environmental Health  
Indian Health Service  
Rockville, MD

Mr. Larry Gaynor, Chief Sanitation and Facility Coordinator  
Indian Health Service  
Rockville, MD

Mr. Clyde Beall, National Indian Coordinator  
Farmers Home Administration  
Washington, DC

Mr. Don Allery, Administrative Manager  
National Congress of American Indians  
Washington, DC

Ms. Bernadette Harlan, Executive Director  
Seneca Nation Indian Housing Authority  
Irving, NY

Ms. Barbara Thompson, Administrative Assistant  
Seneca Nation Indian Housing Authority  
Irving, NY

Mr. Jacob Osceola - Seminole Tribal Housing Authority  
Mr. Mitchell Cypress - Seminole Tribal Housing Authority  
Hollywood, FL

Mr. Lionel John, Executive Director  
United South and Eastern Tribes  
Nashville, TN

Ms. Marti Gallo  
Representative from Department of Veterans Affairs

Mr. Beasley Denson, Chairman, Choctaw Housing Authority  
Mississippi Band of Choctaws  
Philadelphia, MS

*Friday, September 20, 1991*

**Presentors:**

Mr. Dan Morgan, Housing Coordinator  
Bureau of Indian Affairs  
Washington, DC

Ms. Ruth Jaure - Housing Assistance Council  
Washington, DC

Mr. Moises Loza  
Housing Assistance Council  
Washington, DC  
(submitted written testimony)

Ms. Hilda Garcia, Executive Director  
Akwesasne Indian Housing Authority  
Hogansburg, NY

Ms. Virginia Spencer, Executive Director  
National American Indian Housing Council  
Washington, DC

Mr. Clyde Bellecourt, Executive Director  
Little Earth Housing Project  
Minneapolis, MN

Mr. Gregory Richardson, Executive Director  
North Carolina State Indian Housing Authority  
Fayetteville, NC

Dr. Roderick Harrison  
Ms. Joan Greendeer-Lee  
Mr. Richard Bitzer  
U.S. Census Bureau, Suitland, MD

The following were not present but submitted written testimony for the record:

Mr. Mike Bishop  
Poarch Creek Indian Housing Authority  
(submitted written testimony)

Ms. Jane Weeks  
Alabama Indian Affairs  
(submitted written testimony)

Ms. Laurie J. White  
The Wampanoaga Tribal HA of Gay Head  
(submitted written testimony)

**Camelot Inn  
4956 South Peoria  
Tulsa, OK 74105**

*Thursday, October 10, 1991*

**Presentors:**

Chester Crosby, for the Honorable Hollis Roberts  
Chief Choctaw Nation

Mr. Dale Cox  
Council Member, Choctaw Nation

Ms. Debbie Bailey, Delaware Tribal HA  
& Mr. Harold B. Thomas, Chairman, Delaware  
Tribe of Oklahoma

Mr. Lewis B. Ketchum  
Delaware Tribes of Oklahoma  
(not present but submitted written testimony)

Ms. Sharon Goode,  
Chairman of the Seneca-Cayuga Housing Authority

Mr. Gale Andrews  
Farmers Home Administration  
Stillwater, OK

Ms. Arlene Kauley  
Cheyenne-Arapaho Tribe

Mr. Joel Thompson, Executive Director  
Cherokee Nation Housing Authority

Mr. Ralph Simon Sr., Housing Authority Chairman  
Mr. Howard Leederman, Executive Director  
Kickapoo Housing Authority

Mr. Jess Howell  
North Central Oklahoma Indian Tribes

Ms. Jan Komardley, Acting Acting Director  
Kiowa Tribal Housing Authority

Mr. Luke Toyebo  
Apache Tribe

*Friday, October 11, 1991*

Mr. Kirk Perry  
Seminole Nation Housing Authority

Mr. Ron Scott, Deputy Director  
Creek Nation Housing Authority

Mr. Wayne Sims  
Executive Director  
Absentee/Shawnee Housing Authority

Mr. John Thorpe, Executive Director  
Sac & Fox Housing Authority

Mr. Chester Brooks  
& Mr. B.T. Andy Davis, Assistant Chief  
& Mr. Jim Epperson  
Delaware Tribe Housing Authority

Mr. Gene Lasley  
Muskogee Area Housing Program Officer  
Bureau of Indian Affairs

**SPECIAL PRESENTATION BY MR. RENNARD STRICKLAND,  
PROFESSOR OF LAW  
UNIVERSITY OF OKLAHOMA**

**Sheraton Mesa Hotel  
Mesa, AZ  
November 7-8, 1991**

*Thursday, November 7, 1991*

**Presentors:**

Ms. Marilyn Chico, Executive Director  
Pasqua Yaqui Housing Authority

Mr. John Hamilton, P.E.  
Chief, Sanitation Facilities Construction  
Branch, Office of Environmental Health  
Phoenix Area Indian Health Service

Ms. Donna Duckey, Executive Director  
Owens Valley Indian Housing Authority

Mr. Wendsler Nosie, Chairman of the Board  
San Carlos Apache Housing Authority

Mr. Joe Laban, Executive Director  
Hopi Tribal Housing Authority

Mr. Isadore S. Guadelope  
Board of Commissioner  
Quechan Tribal Housing Authority

Mr. Milton Tybo, Executive Director  
Duck Valley Housing Authority

Mr. Edgar Walema, Vice Chairman  
Hualapai Housing Authority

Councilman Owen Bobelu and  
Ms. Rita Lorenzo  
Zuni Pueblo Housing Authority

Mr. Dan Thayer, Chairman  
Reno-Sparks Indian Housing Authority

Mr. Lorenzo Jojola, Commissioner  
All Indian Pueblo Council

Mr. Ernest Goatsen, Executive Director and  
Mr. Vernon Charleston,  
Navajo Nation Housing Authority

*Friday, November 8, 1991*

**Presentors:**

Mr. Vernon Palmer  
and Mr. Robert Maxwell,  
Phoenix Area Bureau of Indian Affairs

Mr. Frank Quintero, Executive Director  
White Mountain Apache Housing Authority

Ms. Patricia Hicks,  
Ms. Bea McMinn, Chairman of the Board  
Walker River Reservation IHA

Mr. Steve Turner, Executive Director  
Kaibab Paiute Housing Authority  
Fredonia, AZ

Mr. Jim Wagenlander  
Wagenlander & Associates

Ms. Mary Marsh  
Economic Development Program Director  
Phoenix Indian Center

Mr. William J. Anderson, Executive Director  
Te-Moak Western Shoshone Housing Authority

Governor Jimmy Cordova  
Taos Pueblo  
(not present but submitted written testimony)

**Hyatt Regency Airport Hotel  
San Francisco, CA  
December 1-2, 1991**

*Sunday, December 1, 1991*

**Presentors:**

Ms. Gay Kingman, Executive Director  
National Congress of American Indians  
(Mr. Don Allery presented oral plus written testimony during  
September hearing in Washington, DC)

Ms. Darlene Tooley, Executive Director  
Northern Circle Housing Authority  
(presented written testimony during Mesa, AZ hearing on  
November 7, 1991.)

Mr. Fred Kaydahzinne, Executive Director  
Mescalero Apache Tribal Council

Lt. Governor David Brown  
Chickasaw Nation

*Monday, December 2, 1991*

**Presentors:**

Mr. William Estevan, Vice Chairman  
Housing Commissioner for Acoma Pueblo

Dr. Eddie Brown, Assistant Secretary  
Bureau of Indian affairs  
(No written testimony submitted)

Ms. Margaret Garcia  
Human Services Administrator  
Santa Ana Pueblo

The Honorable Grassim Oskolkoff  
Ninilchik Traditional Council

Mr. Terry Supahan, Councilman  
Karuk Tribe  
(presented oral but no testimony on file)

Ms. Loretta Metoxin, Treasurer  
Oneida Tribe Business Committee

Lawrence Kenmille, Vice Chairman  
Salish Kootenai Tribe

Not present but presented written testimony for the record:

Mr. Raymond Hawley  
City of Kivalina  
Kivalina, AK

Mr. Niles Cesar  
BIA Juneau Area Office  
Juneau, AK

Mr. Ron Allen, Chairman  
Jamestown S'Klallum Tribe

Ms. Venola Dowd for Pres. or/Vice Pres.  
Coast Indian Community of the Resighini

**Offices of the Hawaiian Home Lands Commission  
335 Merchant Street, Room 365  
Honolulu, HI**

*December 6, 1991*

**Presenters:**

Ms. Patricia Zell, Staff Director, Senate Select Committee on  
Indian Affairs for Senator Daniel K. Inouye

Ms. Ester Kiaaina, Administrative Assistant  
for Senator Daniel K. Akaka  
(no testimony on file)

Ms. Joan Menke for Representative Patsy Mink

Ms. Minerva Kaawa  
of the Honolulu Office of Representative Neil Abercrombie

Ms. Jennifer Casey, Administrative Assistant  
Washington, DC office of Representative Neil Abercrombie

Mr. George K. Kaeo  
Deputy Attorney General for DHHL affairs, State of Hawaii

Mr. Ben Henderson  
Administrator, Planning Office  
Department of Hawaiian Home Lands, State of Hawaii

Mr. Raynard Soon  
Administrator, Land Development Office  
Department of Hawaiian Home Lands, State of Hawaii

Mr. Kamaki Kanahale  
Chairman of the State Council of Hawaiian Homestead Associations  
(no testimony on file)

Mr. Mike Crozier  
Hawaii State Senator  
Chair, Committee on Housing and Hawaiian Programs

Ms. Rowena Akana  
Trustee, Office of Hawaiian Affairs;  
Chair, Sovereignty Committee  
(no testimony on file)

Mr. Michael S. Flores, Deputy  
Manager/Director, Housing Management Division  
Honolulu Office, U.S. Department of Housing and Urban Development

Mitsuo Shito, Executive Director  
Hawaii Housing Authority

Mr. Joseph K. Conant, Executive Director  
Housing Finance and Development Corporation  
Department of Budget and Finance State of Hawaii

Ms. Mililani Trask, Executive Director  
Gibson Foundation

Kawehi Kanui  
Chairperson, Waimanalo Native Hawaiian Home Lands Association  
(no testimony on file)

The following presented written testimony submitted for the record:

Kawaipuna Paekukui Prejean  
Hawaiian Patriot, Humanist  
(submitted written testimony)

Mr. Emmett E. Lee Loy  
Qualified Native Hawaiian Beneficiary

Mr. Ben Noeau, President  
Kawaihae Hawaiian Home Community Association

**Hotel Denver  
Denver, CO  
January 7 - 8, 1992**

*Tuesday, January 7, 1992*

**Presentors:**

Mr. Tom Blackweasel, Tribal Representative  
Blackfeet Indian Housing Authority  
Browning, MT

Mr. Glenford Sam Sully, Executive Director  
Yankton Sioux Housing Authority  
Wagner, SD

Mr. Doran Morris, Sr., Tribal Chairman  
Omaha Tribe of Nebraska  
& Gaile Bertucci, Omaha Tribal Housing Authority Chairman  
& Clifford Wolfe, Jr., Vice-Chairman, Omaha Tribe of Nebraska

Mr. Lee Backus, Chief Executive Officer  
AMERIND Risk Management  
Washington, DC

Mr. Jerry Matthews, Attorney  
Sioux Housing Authority

*Wednesday, January 8, 1992*

**Presentors:**

Mr. Kenneth Lone Elk  
Tribal Councilman, Oglala Sioux Tribe  
Pine Ridge, SD

Mr. Walter Jones  
Flandreau Santee Housing Authority  
Flandreau, SD

Ms. Janice Johnston, Executive Director  
Trenton Housing Authority  
Trenton, ND

Mr. Paul Ironcloud, UNAHA President  
Oglala Sioux  
(Submitted no written testimony)

Mr. Frank Whipple, Executive Director  
Santee Sioux Housing Authority  
Niobrara, NE

Mr. Peter Belgarde, Chairman  
Fort Totten Housing Authority

The following presenters submitted written testimony for the record:

Mr. Don Morin  
Executive Director  
Turtle Mountain Housing Authority

Mr. Gordon Thayer  
American Indian Task Force on Housing and Homelessness

Ms. Debra Isburg  
Executive Director  
Lower Brule HA

Ms. Norma Stealer  
Executive Director  
Winnebago Housing Authority

Ms. Caroline Van Midde  
Sault Ste Marie

Mr. Newton Cummings  
Oglala Sioux

Ms. Lisa Daychild  
Crow Tribal Housing Authority

Ft. Belknap Housing Authority  
Harlem, Montana

## THE COMMISSIONERS

CHAIRMAN: Mr. George Nolan (Chippewa) from the Sault Sainte Marie Chippewa is also the Past Chairman of the National American Indian Housing Council, President of the Tri-State Indian Housing Association, and Vice-Chairman of the Sault Sainte Marie Tribal Council.

Mr. Wayne Chico (Tohono O'Odham) is Executive Director of the Tohono O'Odham Indian Housing Authority. Mr. Chico is also Chairman of the Board of AMERIND Risk Management, and is also past president of the National American Indian Housing Council.

Mr. Ted Key (Chickasaw) Executive Director of the Chickasaw Housing Authority is also on the Board of Directors of the National American Indian Housing Council and is Past President of the Oklahoma Indian Housing Authority Association.

Ms. Jackie Johnson, (Tlingit), is Executive Director of the Tlingit-Haida Regional Housing Authority in Juneau, Alaska. Ms. Johnson is also president of the Association of Alaska Housing Authorities and is also a past Board member of the National American Indian Housing Council.

Mr. Bob Gauthier (Salish-Kootenai) is Executive Director of the Salish-Kootenai Indian Housing Authority in Pablo, MT. Mr. Gauthier also serves on the Board of Directors of AMERIND Risk Management.

Mr. William Nibbelink is Executive Director of the Flandreau Santee Sioux Indian Housing Authority. Mr. Nibbelink is also an instructor for the National American Indian Housing Council Training program specializing in Indian housing management, and financial management.

Mr. Louis Weller (Caddo-Cherokee) is an architect and member of the American Indian Council of Architects and Engineers in Albuquerque, NM and founder and president of Weller Architects.

Mr. Joseph De La Cruz (Quinault) is President of the Quinault Nation, Taholah, WA. Mr. De La Cruz is also past president of the Affiliated Tribes of Northwest Indians, and the National Congress of American Indians.

Ms. Hoaliku Drake, native Hawaiian, is Chairman and Director of the Department of Hawaiian Homelands Commission in Honolulu, HI. Ms. Drake, as Chairman, is also a member of the Governor John Waihee's Cabinet.

Ms. Eileen K. Lota, native Hawaiian of Honolulu, HI, is General Manager, Corporate Secretary of EPOCH Equity Investment Inc. She also serves as a member of the Board of Directors of Aloha Airlines Inc.

Mr. James Solem of Saint Paul, MN, is a commissioner of the Minnesota Housing Finance Agency. A state agency providing homeloans to rural families and individuals (on Indian reservations) in Minnesota.

Mr. Warren Lindquist of Seal Harbor, ME, served as the Assistant Secretary for Public and Indian Housing during the Reagan Administration.

### Staff

Mr. Francis Harjo is the Executive Director of the National Commission. Prior to his appointment, Mr. Harjo served as Communications Specialist for the National American Indian Housing Council. Mr. Harjo currently serves on the Board of Directors of the Housing Assistance Council a non-profit organization working with rural, low-income families. Prior to working in Washington, Mr. Harjo was Tribal Administrator of the Klamath Tribe of Oregon.

Ms. JoAnn K. Chase serves as the Commission's Deputy Director. Prior to joining the Commission, Ms. Chase participated in the Honors Attorney Program at the United States Department of Justice. Ms. Chase has also worked with the National Congress of American Indians and the American Indian Resources Institute.

Ms. Lois Toliver, Administrative Officer, has served on other commissions such as: The President's Advisory Council on Executive Organization, The President's Commission on Income Maintenance Programs, The National Advisory Commission on Civil Disorders, President's Committee on Scientific and Technical Information and President's Committee on Employment of Youth.

Ms. Annabelle M. Toledo, Executive Secretary, has worked with the National Congress of American Indians, American Indian National Bank, AMERIND Risk Management Corporation.

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