

WRITTEN TESTIMONY
OF
DAVID BLAND
CHAIRMAN
TRAVOIS, INC
BEFORE THE
UNITED STATES SENATE
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
ON
“HOUSING PARTNERSHIPS IN INDIAN COUNTRY”

JULY 24, 2012

Good morning Chairman Johnson, Ranking Member Shelby and Members of the committee. It is an honor to appear before you. Thank you for drawing attention to the ways private and public partnerships improve housing in Indian Country. My name is David Bland and I am the founder and chairman of Travois, a financial consulting firm that assists American Indians, Alaska Natives, and Native Hawaiians with affordable housing and economic development.

While we still have a long way to go before all Indigenous people in the United States have safe, decent and affordable housing, I believe we have made significant strides in improving housing conditions since 1996. Thanks to your efforts Chairman Johnson and the passage of the Native American Housing Assistance and Self-Determination Act (NAHASDA), and now with the passage of the HEARTH Act, tribes and tribally designated housing entities (TDHEs) have begun to leverage this funding, seeing ever more private capital coming to the reservations, specifically through the use of the Low Income Housing Tax Credit (LIHTC) program.

As you know, there is a critical shortage of privately financed housing in Indian Country throughout the United States. Most housing on Federal Indian Reservations has been built or rehabilitated through either the Department of Housing and Urban Development, Farmers Home Administration (now Rural Housing), or the Bureau of Indian Affairs. The housing that has been built has been financed from outside the Federal Indian Reservations, typically with subsidized debt, little or no equity, and often little or no direct financial involvement by tribal officials or other reservation residents.

Due to the lack of local investment in affordable housing in Indian Country, the long-term preservation of housing assets and the regularly scheduled and effective maintenance and modernization of housing units has generally suffered. The rural nature of most of the reservations further complicates projects undertaken by American Indian Tribes. Increased construction costs and diminished competition for contractors in remote Indian Country areas create an obstacle generally not encountered in other areas.

Until the onset of the Low-Income Housing Tax Credit program in Indian Country and the changes brought by NAHASDA, rent and account delinquencies were chronic challenges faced by many Tribally Designated Housing Entities. According to a report in *Indian Country Today*, it was estimated that prior to NAHASDA, 36% of all tribal area program tenants were delinquent in rent payments. As a result, the long-term viability of affordable housing equity investments had been severely limited in Indian Country. Along with the other changes envisioned by NAHASDA, it was determined that immediate steps should be taken to increase the affordable housing operational expertise in Indian Country and direct involvement in the Low-Income Housing Tax Credit program has been one of the first steps.

Recent history and experience has shown that Native Americans will go to great lengths to live amongst their tribal extended family, despite the resulting overcrowding, grossly inadequate facilities and a severe shortage of available units. The number of affordable housing units needed by Native American

families reflected by TDHE waiting lists can number in the hundreds of households—a staggering uphill battle. HUD estimates that since 2003, the housing shortage for Native Americans has increased more than 40%.

While these statistics are bleak, Indian Country has made significant strides recently. Since 1995, our company has helped secure more than \$450 million in private equity for Indian Country resulting in more than 4,200 units of affordable housing worth more than \$627 million. Unfortunately, this is a tiny portion of how much housing is needed, but we are proud of what the tribes and Travois have been able to accomplish together.

This success would not have been possible without the perseverance of countless tribal housing authority executive directors such as Ms. Causley, Mr. Kirk and Mr. Kittson, their housing board members, tribal councils and dedicated staff, who work very hard to educate federal funding agencies, state allocating agencies and investors on the unique nature of tax credit transactions in Indian Country. This process has been slow and at times, very difficult. When I started Travois in 1995, nine years after the establishment of the tax credit program, only one tribal project had been financed using the program. I knew that the housing tax credit program generated 90% of all affordable housing in our nation and I could not understand why this program had not been put to better use in Indian Country. Through my research, I discovered several barriers to success, many of which we have overcome, but some of which remain challenges today. We have developed several ways to work around these initial challenges. First, we structure all of our housing projects with “soft” debt in which an investor typically provides 80% of the total project cost with an equity investment and the TDHE provides 20% as debt, typically with NAHASDA funds. This allows TDHEs to charge very low rents, in line with what their tribal members can afford—and means the project has essentially no foreclosure risk.

Second, many investors were initially reluctant to work in Indian Country based on a mostly erroneous understanding of tribal law. We have worked to devise an alternative dispute resolution mechanism

acceptable to both tribes and investors, usually including a limited waiver of sovereign immunity solely for the project and dispute resolution enforcement in tribal court rather than state court.

Third, and most vexing, many state allocating agencies, the agencies that control the distribution of tax credits, simply misunderstood Indian Housing programs and were reluctant to award housing tax credits for tribal projects. We worked very hard to develop relationships with the states and demonstrate the overwhelming need for affordable housing in Indian Country, and now many states include preferential points for tribal developments. Notably, Arizona has a tribal set-aside guaranteeing at least two tribal projects will be funded every year. We have come a long way since that first project and thousands of affordable housing units have been built or rehabilitated thanks to the tax credit program.

Unfortunately, several challenges remain. We can divide these challenges broadly into two categories: a growing emphasis on urban areas by a variety of funding programs and a lack of investment interest by the majority of players in the housing tax credit market.

First, we have seen state allocating agencies decrease scoring opportunities for rural housing and increase opportunities for projects in urban areas more likely to be considered “job centers.” Given how the country is still struggling to jumpstart the economy, the goal seems to make sense at first glance, but in our opinion it indicates a lack of understanding of the truly desperate state of housing on most reservations. A case in point, in the last year many states have changed their qualified allocation plans to give preferential scoring for projects that are in-fill developments; located near transit stops, libraries, grocery stores, and the like; or near large employers. This, combined with a reduction in preservation and rural housing set-asides, results in the near elimination of tribal projects from tax credit competition. We are very concerned that this lack of consultation with tribal leaders and a disregard for the neediest populations will set Indian Country back yet again and reverse the positive trends we’ve recently seen.

We believe it is important to encourage urban development near jobs, but in a balanced manner that does not eliminate affordable housing opportunities for tribal communities. For example, perhaps Congress

could encourage state allocating agencies to consult with tribal leaders when developing qualified allocation plans to better understand the great need in Indian Country. In our experience, many state allocating agency staff know very little about life on the reservation and thus do not take the needs of tribal communities into account when developing policies and scoring systems. Another positive step would be for Congress to encourage state allocating agencies to consider adding tribal set asides like has been done in the past for projects with HOPE VI funding, for farmworkers, non-profit sponsors, or for the elderly. Indian Country is as in need of affordable housing, if not arguably more so, than these groups. Unfortunately, that need continues to go unrecognized in many states.

Second, investor interest in Indian Country, while growing substantially, has always lagged behind interest in other areas of the country. We have had great success finding investors for our New Markets Tax Credit-funded projects, but housing tax credit projects depend on a limited number of investors with a relatively small appetite. We believe much of this stems from a reluctance of big banks to invest outside of their Community Reinvestment Act (CRA) footprint. While this CRA-created market distortion is a problem for all of rural America and results in lower pricing for their projects, it is a particular problem for Indian Country given that many reservations are a many-hours drive from the nearest bank. Indian Country is largely unbanked and as a result too few commercial banks see Indian Country as a desirable CRA investment opportunity.

Some modest changes to the way the CRA is administered could result in millions more in investments for Indian Country. For example, we believe regulators could put a greater emphasis on investing in our neediest communities, tribal communities, and thus encourage banks to meet their CRA requirements beyond just their immediate footprint. Perhaps a Gulf Opportunity Zone-type structure could be used to encourage investment in Indian Country just as recognition was given to Alabama, Louisiana and Mississippi after Hurricane Katrina. We believe there are many opportunities to encourage private and public partnerships in Indian Country along these lines.

Finally, despite the challenges that we still face, the housing tax credit program is incredibly valuable to Indian Country. Every year the tax credit industry announces the Charles Edson Award for Excellence in Affordable Housing. For the first time ever a project in Indian Country took the top award for rural projects this year. The Colville Indian Housing Authority's project on Buttercup Lane is a beautifully designed project intended for eventual tenant ownership. So this project, while providing very affordable family housing, will also create homeowners. This is a shining example of what can be done through public private partnerships and we are thrilled to have played a role in its development.

I am happy to answer any questions you may have. Thank you.