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TESTIMONY BEFORE THE UNITED STATES SENATE
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

OVERSIGHT HEARING ON
HOUSING PARTNERSHIPS IN INDIAN COUNTRY

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Good afternoon Chairman Johnson, Vice Chairman Shelby, and distinguished members of the United States Senate Committee on Banking, Housing and Urban Affairs. Thank you for inviting me to attend today's oversight hearing to discuss partnerships to provide affordable housing in Indian Country. My name is Cheryl Causley and I am the Executive Director of the Bay Mills Indian Housing Authority. I am an enrolled member of the Bay Mills Indian Community located in Brimley, Michigan. Today, I appear before you in my capacity as Chairwoman of the National American Indian Housing Council (NAIHC). I wish to thank the Committee for this opportunity to appear before you today to discuss housing programs for Native Americans.

I say without hesitation that tribal communities suffer from some of the worst housing conditions in the United States. New partnerships between the Federal and tribal governments and the private sector may provide local tribal communities the tools they need to meet the longstanding housing challenges and build better housing environments.

As a community of advocates, we are committed to creating good jobs in tribal communities, providing our families with housing opportunities and building a brighter future for our children. We thank you for your leadership and vision in meeting the longstanding challenges throughout Indian Country.

Background on the National American Indian Housing Council (NAIHC)

The NAIHC was founded in 1974 and has, for 38 years, served its members by providing invaluable training and technical assistance (T/TA) to all tribes and tribal housing entities; providing information to Congress regarding the issues and challenges that tribes face in terms of housing, infrastructure, and community and economic development; and working with key Federal agencies to address these important and, at times, vexing issues, and to help meet the challenges. The membership of NAIHC is expansive, comprised of 274 members representing 463¹ tribes and tribal housing organizations. The primary mission of NAIHC is to support tribal housing entities in their efforts to provide safe, decent, affordable, and culturally appropriate housing for Native people.

Brief Summary of the Problems Regarding Housing in Indian Country

While our country has been experiencing an economic downturn that many have described as the worst global recession since World War II, this economic reality is greatly magnified in Indian communities. The national unemployment rate seems to have peaked at an alarming rate of nearly 10 percent and still persists at just over 8 percent; however, that rate does not compare to the unemployment rates in Indian Country, which average 49 percent.² The highest unemployment rates are on the Plains reservations, where the average rate is 77 percent.³

Because of the remote locations of many reservations, there is a lack of basic infrastructure and economic development prospects are difficult to identify and even more difficult to pursue. As a result, the poverty rate in Indian Country is exceedingly high at 25.3 percent, nearly three times the national average.⁴ These employment and economic development challenges exacerbate the housing situation in Indian Country. Our first Americans face some of the worst housing and living conditions in the country and the availability of affordable, adequate, safe housing in Indian Country falls far below that of the general U.S. population.

- According to the 2000 U.S. Census, nearly 12 percent of Native American households lack plumbing compared to 1.2 percent of the general U.S. population.

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

² Bureau of Indian Affairs Labor Force Report (2005).

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

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

- According to 2002 statistics, 90,000 Indian families were homeless or under-housed.
- On tribal lands, 28 percent of Indian households were found to be over-crowded or to lack adequate plumbing and kitchen facilities. The national average is 5.4 percent when structures that lack heating and electrical equipment are included.
- Seventy percent of the existing housing stock in Indian Country is in need of upgrades and repairs, many of them extensive.
- Less than half of all reservation homes are connected to a sewer system.

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

These issues are further complicated by the status of Indian lands, which are held in trust or restricted-fee status. As a result, private financial institutions will generally not recognize tribal homes as collateral to make improvements or for individuals to finance new homes. Private investment in the real estate market in Indian Country is virtually non-existent, with tribes almost entirely dependent on the Federal government for financial support in meeting their growing housing needs. The provision of such assistance is consistent with the Federal government's well-established trust responsibility to American Indian tribes and Alaska Native villages that is underscored in the U.S. Constitution.

The Native American Housing Assistance and Self-Determination Act

While we often discuss numerous challenges in providing low-income Native families housing opportunities, we must also consider a recent shift in the relationship between tribes and the Federal government by reducing the regulatory requirements that historically burdened tribes attempting to develop housing with their federal housing funds. The passage and implementation of federal legislation has enabled tribes to leverage federal funding for tribal housing in innovative ways, resulting in substantially increased housing production.

In 1996, Congress passed the Native American Housing Assistance and Self-Determination Act (NAHASDA) to provide Federal statutory authority to address the above-mentioned housing disparities in Indian Country. NAHASDA is the cornerstone for providing housing assistance to low-income Native American families on Indian reservations, in Alaska Native villages, and on the native Hawaiian Home Lands.

The Indian Housing Block Grant (IHBG) is the funding component of NAHASDA, and since the passage of NAHASDA in 1996 and its first fiscal year of funding in 1998, NAHASDA has been the single largest source of funding for tribal housing. Administered by the Department of Housing and Urban Development (HUD), NAHASDA specifies which activities are eligible

for funding.⁵ Not only do IHBG funds support new housing development, acquisition, rehabilitation, and other housing services that are critical for tribal communities, they cover essential planning and operating expenses for tribal housing entities. Between 2006 and 2010, a significant portion of IHBG funds, approximately 24 percent, were used for critical planning, administration, and housing management and services.

NAHASDA is scheduled for reauthorization in September 2013. The NAIHC developed and implemented an outreach process designed to encourage open discussion about the Act from inception to the present, from the perspective of the tribes and Tribally Designated Housing Entities (TDHEs), as recipients and intended beneficiaries of programs within NAHASDA. The outreach facilitated in-depth, ongoing discussions to assess the effectiveness of the Act, its individual components, and its rules and regulations in meeting its intended purpose(s). The objective of this extensive outreach process was to have a reauthorized Act that more affectively accomplishes its purpose of providing quality, affordable housing to tribal communities.

Federal program spending restraints are a constant topic in the midst of both a struggling economy and concerns about deficit spending and the increasing national debt. It is against this economic reality that tribal housing entities are encouraged to promote tribal self-determination and self-governance and continue development of innovative partnerships that complement NAHASDA programs to meet the tremendous housing backlog throughout Indian Country.

Leveraging Housing Funds

Leveraging funds or investing borrowed money in a way that maximizes potential funding opportunities creates partnerships and solutions to providing low-income families with housing opportunities. Tribes are increasingly exploring innovative ways to utilize NAHASDA grant funds, combined with tribal funds and other resources, to maximize housing project outputs. The passage of NAHASDA in 1996 and its funding in 1998 have spurred several tribes into exploring partnerships with lenders or utilizing existing funds to enhance the effectiveness, efficiency, and success of housing projects.

For example, tribal housing organizations are increasingly encouraged to leverage their IHBG funding to secure other sources, such as Low Income Housing Tax Credits (LIHTC), and to combine multiple funding streams from other sources such as the U.S. Department of Agriculture Rural Development, U.S. Treasury Department's CDFI program, the Federal Home Loan Bank, private foundations, and commercial banks. However, even basic compliance requirements vary from program to program, presenting barriers to efficient administration of multiple funding streams and limit the ability of tribes to access multiple programs in an effort to reach adequate scale.

Tribes are faced with income limitations, rent restrictions, and even requirements for providing notices to tenant that are inconsistent from program to program. Many organizations have developed numerous projects, each with a unique blend of funding. Some sources are significant in certain developments and entirely lacking others. In all cases, the number of units

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

governed by the rules applicable to a certain funding source varies from one development to the next. As a result, some tribal housing entities are spending substantial resources to develop project-based compliance manuals as a tool to help staff comprehend complex and various rules that apply to different units within each development. The process is administratively cumbersome and inefficient. A better solution is for the Federal government to launch a concerted effort to align program criteria for federal housing programs. The Administration's proposed changes to the LIHTC income limitations are an example of a positive and strategic move in the right direction.

It should also be noted that eligibility to receive funding available through various federal housing programs is not consistent. A number of organizations in Alaska and Oklahoma, for example, cannot be accurately characterized as either tribes, units of local government or 501(c)(3) non-profit organizations. A simple solution would be to review eligibility requirements for federal housing programs and, whenever possible, extend eligibility to entities that have been designated as Tribally Designated Housing Entity for one or more Indian Tribes for the purposes of NAHASDA.

Title VI Loan Guarantee Program

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

Passamaquoddy Tribe of Maine

Over the years, some tribes, such as the Passamaquoddy Tribe of Maine, have found creative approaches to maximize the impact of their NAHASDA funds they receive. Using the Title VI loan guarantee program to attract other sources of capital, the Tribe successfully leveraged its IHBG funds to enhance its housing development strategies. The flexibility of the Title VI program criteria, allows financing of any NAHASDA-eligible affordable housing activity for a period of up to 20 years. Title VI has also proven to be a cost-effective source of gap financing during initial stages of a housing project.

The Passamaquoddy Tribe used Title VI to construct 28 low-income housing tax credit units and a community center. The balance on the Title VI loan was paid down with the tax credits and Federal Home Loan Bank of Boston's Affordable Housing Program funds.

Section 184 Home Loan Program

The HUD Section 184 program is a mortgage loan product designed to resemble a conventional, or private housing loan, and there are no income limits for the Section 184 Loan program. Because the Section 184 loan program is guaranteed by the Federal government, the

program has provided much needed access to capital to many individuals and Native families who might otherwise struggle to obtain home financing.

White Mountain Apache (WMAT) Tribe

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

Bay Mills Housing Authority

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

Non-Profit to Enhance Access to Funding

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

Yukon-Koyukuk Elder Assisted Living Facility (YKEALF)

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

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

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

The New Markets Tax Credit financing will allow the facility to purchase medical supplies, install solar panels on the roof and install a wood-based heating system. These energy efficiency measures are critically important due to the very high cost of energy in this very remote region. The financing also provides working capital to help fund operations at the facility. The project created 28 construction jobs and 10 permanent jobs.

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

Native Community Development Financial Institutions

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

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

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

New Mexico Native CDFIs

In New Mexico, 10.7 percent of the population identified as American Indian and/or Alaska Native (AI/AN)—making it the third highest AI/AN populated state proportionate to the rest of the state's population. Out of the 12 certified CDFIs in the state there are 4 Native CDFIs that provide varied services to the tribal communities of Laguna Pueblo, Ohkay Owingeh, Isleta Pueblo, and the Navajo communities near Gallup, New Mexico. They provide mixed lending products, such as home mortgage loans, home rehabilitation loans, and construction lending. In addition, they provide homeownership education, financial education, and credit counseling and repair.

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

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

Ho-Chunk Community Development Corporation (HCCDC)

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

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

In 2010, Ho-Chunk, Inc. and the Winnebago Tribe authorized a \$1 million Housing Stimulus Program to set aside Ho-Chunk, Inc. dividends and other tax revenues to offer \$50,000 in down payment assistance to up to 20 new homeowners who build a home on the Winnebago reservation. Through these combined efforts, housing on their reservation is more affordable and tribal members can start building the traditional wealth that other non-Native homeowners have gained.

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

Conclusion

Given the funding constraints in the tribal housing arena and the need to not only maintain existing units, but keep up with growing tribal populations and meet the tremendous existing housing backlog, tribes have, out of necessity, been very creative in developing partnerships and crafting innovative solutions to meet their unique housing needs and expand community development. Some innovations are in the form of utilizing non-traditional financing mechanism or leveraging limited financial resources to realize their maximum benefit. While

trying to address the need for affordable housing, some tribal communities have instituted efforts to re-vamp their community and this added development is boosting the tribal economy and creating jobs.

In spite of the forward movement detailed herein, the value of the federal funding authorized by NAHASDA, including the Indian Housing Block Grant program, the Indian Community Development Block Grant program, and provision of invaluable training and technical assistance for tribes to develop, enhance, manage, and improve tribal housing programs, is essential and cannot be over-stated. One of the most important functions that NAIHC's T/TA provides is a forum in which to share such innovative partnerships among tribal communities. In this process NAIHC is able to transfer information in the form of best practices, and such strategies will ensure that these innovative housing partnerships and strategies will be more broadly adapted and utilized.

Thank you Chairman Johnson, Ranking Member Shelby, and all for organizing this hearing and opportunity to highlight solutions that help meet the overwhelming housing needs in tribal communities. Your continued support of tribal communities is truly appreciated, and the NAIHC is eager to work with you and your professional staff on any and all issues pertaining to tribal housing programs, the housing and living conditions for America's indigenous people, and to pursue ways that we can mutually address housing and housing-related community development throughout Indian Country.