



Streamlining the Mortgage Approval Process in Indian Country

With its roots in the Community Reinvestment Act, it is not surprising that one of the primary goals of the Community Development Department is to improve access to credit in underserved areas. And nowhere is this work more evident than in the Department's efforts to expand mortgage lending on tribal reservations. Over the past 10 years, the Department has emerged as a leader in working with lenders and tribes to overcome credit barriers in Native Communities. Craig Nolte, the Department's regional manager for Alaska, Hawaii, Idaho, Oregon and Washington, has been leading this initiative and meeting with tribal officials located in the remote corners of our District in order to help tribal members obtain homeownership.

Remoteness is just one of the barriers to lending on reservations. The high rates of poverty and lack of economic development in many Native Communities certainly affect the ability of tribal members to become homeowners. But as the CDFI Fund's *Native American Lending Study* documented, the sovereign status of Indian Tribes adds on additional constraints that are unique to lending on reservations. First, lenders are often hesitant to lend on tribal lands because they are not subject to state and federal laws. As a result, lenders seeking to act on their leasehold collateral must work with the tribal judiciaries for the administration of foreclosure, eviction, and priority of lien procedures.¹ Second, the trust status of many tribal lands further complicates the home-buying process. Land held in trust cannot be sold or encumbered by a lien unless first approved by the Bureau of Indian Affairs (BIA). In addition, fractionated land—a circumstance in which a given parcel of land is owned by multiple people due to the system by which land is passed intergenerationally—in some tribal areas requires that the multiple owners must all agree on its use before the land can be leased, sold, or developed. As a result of these barriers, Native Americans have the lowest effective home ownership rate of any racial group.²

One of the key aspects of the Department's efforts has been to promote initiatives that are designed to address these unique barriers. Craig has been working with tribes to improve their legal codes so that lenders feel confident that they have a clear legal recourse for the loans that they make. In addition, Craig held a series of workshops to raise awareness of the Department of Housing and Urban Development's (HUD) Section 184 Indian Home Loan Guarantee Program, which reduces the credit and collateral risk associ-

ated with lending on trust land. The Section 184 mortgage product provides lenders with a 100 percent guarantee for approved loans to Native Americans—in the event of non-payment on the loan, the mortgage holder can request that HUD pay the full amount of the mortgage note.³ HUD then works with the tribal council to transfer the leasehold mortgage to another tribal member or to the tribal housing authority or other governing body.

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Despite the presence of the Section 184 program, lending in Native Communities has remained well below national averages. In addition, a recent study conducted by researchers at the San Francisco Fed found that although the Section 184 program improved the approval rate for mortgages on tribal reservations, the program alone wasn't enough to overcome other barriers. Key among these barriers is the institutional complexity associated with the mortgage approval process on Indian lands. “After listening carefully to tribal members and lenders during our initial meetings, it became clear how incredibly complicated the process for obtaining a mortgage really is. Very few people were aware of all the steps and procedures,” Craig explains. “In addition, the lack of communication between the various groups involved in mortgage approval, from the borrower to the lender to the tribal council and BIA, has been adding to the difficulties of obtaining a mortgage on tribal land.”

With an eye toward developing a solution to these problems, Craig launched a system-wide effort in partnership with HUD, USDA Rural Development, and the Bureau of Indian Affairs, and Stewart Title Guaranty Company to hold a series of workshops: Streamlining the Mortgage Approval Process in Indian Country. In total, 15 workshops were held across the country, bringing together a wide range of stakeholders: tribal officials, lenders, nonprofit organizations, title

Figure 1. Streamlining the Mortgage Approval Process in Indian Country: Workshops Nationwide



15 workshops were held across the country, bringing together a wide range of stakeholders: tribal officials, lenders, nonprofit organizations, title companies, and government officials.


companies, and government officials. (See Figure 1) The purpose of each workshop was to have a frank discussion about the long and frequently confusing mortgage process tribal members must endure and to identify both short-term and long-term strategies for improving the process.

While the issues raised in the workshops varied somewhat by region, a few common concerns emerged. In particular, participants expressed the need to improve BIA communications, both internally and externally, and to move towards standardized documentation and processes among the BIA field offices. Perhaps the biggest concern raised was that it takes too long to receive Title Status Report (TSR) certification. Given its responsibility to manage trust land, the BIA must verify the parcel's legal status before granting the rights for a leasehold mortgage. Often, it can take several months to a year to obtain a TSR. Because mortgage applications are only good for 30 days, a delayed TSR means that a new application must be completed, and changes in interest rates or other mortgage and real estate market fluctuations can disadvantage the potential homebuyer.

Tribes can also do more to streamline the mortgage approval process. Tribes often have their own compliance requirements and processes, and do not always communicate those efficiently to tribal members wanting to become homeowners. Many tribes lack a "homeownership coordinator"—a person who could help borrowers navigate the process—and there is a continued need for additional homeownership counseling, financial education, and asset building opportunities to help tribal members get ready to become homeowners. Tribal members are expected to plot their own course through the very complex home buying process, from seeking land and acquiring a lease to

completion of the mortgage. Other challenges discussed included the difficulty of appraising the value of land on reservations, the lack of lenders interested in offering the Section 184 product, and the lack of public infrastructure such as electricity and water.

Craig notes that the value of the workshops was that all the stakeholders gained a better appreciation of the challenges within each of the organizations. "I think the workshops helped people realize that everyone is responsible for contributing to the delays, which made it the group's responsibility to come up with solutions," he said. "We shifted the conversation away from blame towards constructive ideas." The workshops identified a number of ideas for streamlining the mortgage approval process. For tribes, a short-term fix might be to provide a checklist of tribal and BIA requirements to potential homebuyers, which would help to ensure that all the paperwork and processes are followed correctly. Regional BIA offices also came up with short-term strategies to improve communications with nearby tribes, and acknowledged the need to streamline procedures and policies at the national level as well.

Craig and the other regional managers in Community Development will work with the BIA and the tribes to move forward on these and other recommendations. "We're not going to fix this overnight," says Craig. "But the workshops were an important first step towards developing solutions to the problem." Craig is currently looking for individuals to join "Regional Streamlining Teams" that would help implement on the solutions discussed during the workshops. These teams are being formed across the country to benefit all members, not just those located in the 12th District—please contact Craig directly if you are interested in joining. 

From Mattress Money to Checking Accounts

1. Wyatt Buchanan (2007). "Bank accounts put in reach of poor, immigrants; S.F.'s pioneering effort allows residents to avoid high fees at check-cashing outlets." December 4, 2007, *The San Francisco Chronicle*.
2. Center for Financial Services Innovation (200x). "Fact Sheet: The Unbanked and Underbanked." Center for Financial Services Innovation, Chicago, IL.
3. Matt Fellowes and Mia Mabanta (2008). "Banking on Wealth: America's New Retail Banking Infrastructure and Its Wealth-Building Potential." Brookings Institution, Washington DC.
4. Wyatt Buchanan (2007). "Bank accounts put in reach of poor, immigrants; S.F.'s pioneering effort allows residents to avoid high fees at check-cashing outlets." December 4, 2007, *The San Francisco Chronicle*.
5. Abby Hughes Holsclaw (2008). "NLC's bank on cities campaign to help city leaders expand access to mainstream financial services." February 4, 2008, *Nation's Cities Weekly*.
6. *ibid.*

Community Land Trusts

1. David Abromowitz and Roz Greenstein (2008). "A Foreclosure-Free Option," *The Boston Globe*, January 23, 2008. Available online at http://www.boston.com/realstate/news/articles/2008/01/23/a_foreclosure_free_option/
2. John Emmeus Davis (2006). *Shared Equity Homeownership: The Changing Landscape of Resale-Restricted, Owner-Occupied Housing*. National Housing Institute: New Jersey.
3. Gus Newport (2005). "The CLT Model: A Tool for Permanently Affordable Housing and Wealth Generation," *Poverty and Race*, January/February 2005. See also: "Building Urban Villages," E. F. Schumacher Society Newsletter Jan 2006, accessed online on February 22, 2008, <http://www.schumachersociety.org/newsletters/06jan26.html>.
4. In the 1970s, 80s and 90s the Institute for Community Economics (I.C.E.), Burlington Associates in Community Development, and others fostered the creation of community land trusts around the country—providing support and technical assistance. Then, in 2005, I.C.E. passed the torch for training, resource development and peer-to-peer networking to the people who run CLTs—the practitioners. Last year this group formed the new National Community Land Trust Network. See *Community Land Trust Link*, Volume 1, Issue 1, Winter 2007, <http://www.cltnetwork.org/Resources/newsletters/2007/NCLTnetwork-newsletters-winter%202007-vol1.pdf>
5. Rosalind Greenstein and Yesim Sungu-Eryilmaz (2007). "Community Land Trusts: A Solution for Permanently Affordable Housing," *Land Lines* January 2007. Lincoln Institute of Land Policy.
6. Gus Newport (2005). "The CLT Model: A Tool for Permanently Affordable Housing and Wealth Generation," *Poverty and Race*, January/February 2005.
7. John Emmeus Davis (2006). *Shared Equity Homeownership: The Changing Landscape of Resale-Restricted, Owner-Occupied Housing*. National Housing Institute: New Jersey, p. 19.
8. Mickey Lauria and Erin Comstock (2007). "The Effectiveness of Community Land Trusts: an Affordable Homeownership Comparison," Lincoln Institute of Land Policy Working Paper.
9. <http://www.iceclt.org/clt/cltmodel.html#impfeatures>

Employer Assisted Housing

1. "Home From Work Employer-Assisted Housing: Step by-Step Guide," National Association of Realtors, available online at <http://www.realtor.org/prodser.nsf/products/126-140?OpenDocument>
2. For additional information on employer assisted housing, see: Schwartz, David, Richard Ferlauto and Daniel Hoffman. "Employer Assisted Housing: A New Tool for Low and Moderate Income Families." *Journal of Housing*. 46.1 (1989): 31-34. Schwartz, David C. and Daniel Hoffman. "Employers Help with Housing." *The Journal of Real Estate Development*. 5.1 (1989): 18-22. Sullivan, Tim. "Putting the Force in Workforce Housing." *Planning*. 70.10 (2004): 26-31.
3. The Joint Center for Housing Studies of Harvard University (2000). *Employer Assisted Housing: Competitiveness through Partnership*.
4. See Office of the Comptroller of the Currency (2007). *Understanding Employer-Assisted Mortgage Programs: A Primer for National Banks*. *Community Development Insights*, August 2007.
5. REACH Illinois (2007). "Employer-Assisted Housing 2006 Year-End Report," available online at <http://www.metroplanning.org/resources/4050.asp?objectID=4060&categoryID=2>
6. Ludwig, Fred (2007). "Federal Employer-Assisted Housing Bill Gets Second Chance," *Planning* 73(6): 48-49.

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1. As sovereign governments, tribes have the right to form their own government; the power to make and enforce both civil and criminal laws; the power to tax; the power to establish membership; the right to license, zone and regulate activities; the power to engage in commercial activity; and the power to exclude persons (Indian and non-Indian) from tribal territories.
2. See Listoken et.al (2004). The effective homeownership rate is calculated to reflect the factors that are usually associated with homeownership tenure in the United States: many owned units on Reservations are Mutual Help (which is a rent to own program and is not market based, and 'owners' cannot sell their units). The effective homeownership rate also excludes units that don't have electricity, plumbing or a kitchen.
3. The terms of the mortgage product are also beneficial to borrowers. The downpayment requirement is low: 1.25% to 2.25% depending on the appraised value of the home. In addition, borrowers need not take out private mortgage insurance (borrowers pay a 1% guarantee fee at closing), and need only to demonstrate a 41% debt to gross income ratio which can be exceeded with compensating factors. Section 184 loans can also be sold to Fannie Mae and Freddie Mac in the secondary market. While initially the program was targeted primarily to on-reservation lending, the Section 184 program was expanded in 2002 to apply more broadly to all tribal areas.