



SOLVING THE PUZZLE

Housing in Indian Country

A

TRIBAL BUSINESS NEWS

Special Report

Funded with support from:



With this special reporting project, *Tribal Business News* is examining the challenges tribes and their citizens face when it comes to housing — as well as what’s needed to address those challenges in a meaningful and sustainable way. Spoiler alert: It’s not just money.

In fact, “the most decisive piece of the puzzle may not even be money, as important as that is,” notes senior contributing writer Mark Fogarty, who has been covering housing issues in Indian Country for some 30 years. In this special report, Fogarty delves into what is important — tribal leadership, sovereignty, innovation — and how much all of this might cost. He spoke with tribal leaders, housing experts, government officials, financiers and others who play roles in the state of Native American housing today.

It’s worth a moment here to mention that Fogarty reported this project for *Tribal Business News* as he wrapped up a half-century career as a journalist. He retired from journalism at the end of last month to pursue a new endeavor that we hope to report on in the coming months. We wish him well and thank Mark for his excellent work for us over the past few years.

One final note: In support of this special reporting package, *Tribal Business News* received a sponsorship from Rosette, LLP, a leading national law firm specializing in Indian law. This sponsorship includes advertising, but did not include or influence any editorial consideration in this report. Thanks to Rosette for supporting Indigenous-led journalism about the tribal economy.



Levi Rickert, publisher



Brian Edwards, managing editor

July 10, 2023

How to Solve Indian Country's Housing Crisis

The federal Department of Housing and Urban Development reported in 2017 that there was an immediate need for 68,000 new and rehabilitated housing units to be built in Indian Country. But in 2021, Anthony Walters, executive director of the National American Indian Housing Council, testified to Congress that less than 2,000 units a year were being built with federal housing assistance. With progress like that, the housing crisis in Indian Country may seem intractable. But there are a lot of ideas about what would help solve it.

It would take a lot of money to build enough housing for all the American Indians who need it—perhaps more than \$50 billion.

But the most decisive piece of the puzzle may not even be money, as important as that is.

Ask Native housing leaders and nonprofits in the field about how to solve the housing crisis and there's a theme that comes up repeatedly: strong tribal leadership.

Tribal housing success “begins with a sovereign tribal council declaring a need and supporting homeownership,” says Robert Gauthier (Salish), the longtime director of the Salish & Kootenai Housing Authority on the Flathead Reservation in Montana and longtime chairman of the regional United Native American Housing Association.

Strong support from the tribal council, Gauthier told *Tribal Business News*, is probably the single largest factor in the Salish & Kootenai Tribe's remarkably high homeownership rate, which is around 70 percent.

His council set up a tribal-credit operation that has been in operation since 1936, and has consistently supported it through council changes.

“When I was hired as Housing Authority director in 1983, it was expected that if you had a job, you were supposed to go to Tribal Credit and get a loan and build or buy your home, and they reserved the HUD program (federal Department of Housing and Urban Development rental assistance) for single mothers and elders. It worked like it was supposed to,” he said.



“On any Indian reservation that didn't have a tribal-credit program, the only housing that got built was HUD housing,” Gauthier continued. “If the tribal council isn't trained and stable, you're not going to have progress in housing. That's been my experience over 40 years, and I've worked with hundreds of tribes.”

Dave Castillo (Nahua) chief executive of Native Community Capital, a Native community development financial institution (CDFI) based in the Pueblo of Laguna, N.M., has similar thoughts, but directed toward tribal members providing the leadership.

“The solution has much more to do with the work of tribal members themselves to design, build, scale, and advocate with the established leadership to challenge the disparities,” he says.

No Easy Answers

Castillo acknowledges the Indian housing crisis is “far from an easy and simple solution.” Instead, it requires everyone to look inward and towards each other for the solution, he said.

And in Hawaii, Robin Pounani Danner (Native Hawaiian), a senior policy analyst for Gov. Josh Green and the former chair of the Sovereign Council of Hawaiian Homesteads, also points to self-determination.

“For Native Hawaiians on our trust lands, the core answer is simply to energetically implement the federal policy of self-determination by both federal agencies and state government, with our self-governing organizations called homestead associations,” says Danner. “If embraced instead of the decades of pater-

nalistic government policies we experience today and over the last 100 years, this will lead to direct partnerships and resourcing to homestead associations and their designated nonprofit CDFIs and housing development nonprofits.”

Sovereignty is a key concept also for Tonya Plummer (Sisseton/Wahpeton), director of mountain, tribal nations, and rural Native American housing projects at the New York-based nonprofit Enterprise Community Partners.

In this regard, she lauds the 2012 HEARTH (Helping Expedite and Advance Responsible Tribal Home Ownership) Act, which allows tribes to take over their own land-leasing processes without a review from the Bureau of Indian Affairs.

Enterprise has recently teamed with Wells Fargo to announce a \$20 million “Invest Native” initiative that follows a previous \$50 million investment in Indian Country program from the San Francisco-based bank.

“I think it’s a good start for Wells Fargo to step up to the plate” to make direct investments in Indian Country, Plummer says.

How much of a need is there for housing in Indian Country? In a 2017 report on American Indian/Alaska Native housing needs, HUD estimated an immediate need for 68,000 units, projecting that 33,000 would be newly built and 35,000 rehabbed.

In Hawaii, the state Department of Hawaiian Homelands said in 2022 that more than 23,000 Native Hawaiians are on a waiting list to get a residential lease on land on the Hawaiian Home Lands, which are roughly equivalent to reservations. Other estimates put the number as high as 28,000.

Need for 125,000

So, at a minimum, more than 90,000 units are needed. The amount is probably much higher, as HUD’s estimate of 68,000 is more than six years old. The total need could be as many as 125,000 units.

Money will be needed, and lots of it. And what the federal government gives to tribes is just a drop in the bucket. For many years, tribes got \$650 million a year in housing block grants. (This included Alaska Natives, but not Native Hawaiians.) And that money was split between building new housing and maintaining the aging public-housing



Robin Pounani Danner, former chair of Sovereign Council of Hawaiian Homesteads

stock tribes had on their lands that was built under the Housing Act of 1937.

The most current budget item is for \$1.12 billion in net outlays, a nice bump up by historical standards, but still wholly inadequate for the need to build or rehab 125,000 units.

That figure includes \$70 million for the Indian part of the Community Development Block Grant (CDBG) program — a small gesture to economic development that points at another lack on reservations.

Benjamin H. Nuvamsa, chairman of Native Community Capital in Arizona and New Mexico, cautions that housing cannot be considered in a vacuum. Rather, it needs to be viewed as an integral part of building tribal economies.

“The key, I believe, is first to build a sustainable economy on our tribal lands,” says Nuvamsa, who also has been an elected chairman of the Hopi tribe. “This means bringing dollars to create sustainable programs and jobs.”

Without jobs, he added, homes could be built, but tenants won’t be able to afford upkeep, and the homes will fall into disrepair. Lands and infrastructure have to be available, as well.

Clearly, sources outside of Indian Country need to be tapped to solve the housing crisis. When Congress passed the Native American Housing Assistance and Self Determination Act (NAHASDA) in 1996, it directed tribes and their housing entities to leverage that federal-aid money to get dominant-culture firms to invest in Indian Country.

Some tribes were faster than others at tapping outside money sources such as the Federal Home Loan Bank Affordable Housing Program, HOME funds, the Low Income Housing Tax Credit program, HUD Title VI guaranteed loans, and others. Some tribes brought in millions of dollars more than they would have gotten from NAHASDA grants alone.

Two Potential Helpers

On the homeownership side, HUD’s Section 184 program, which guarantees mortgage loans for American Indian and Native Alaskan buyers, was designed to bring mortgage lending onto reservations. On the rental side, the Low Income Housing Tax Credit (LIHTC) is a nearly perfect fit for Native housing, although its rollout in Indian Country has been slow.

Robert Gauthier’s Salish & Kootenai tribe, for one, was an early user of Section 184 to leverage mortgage credit from outside lenders.

The Section 184 program has been controversial because only a small percentage of its lending has taken place on trust land. The vast majority of its loans have been for off-reservation property, though HUD maintains that a considerable amount of this lending is in border areas near reservations.

Steve Barbier, the NeighborWorks America nonprofit’s Western-region relationship manager, said that out of 3,680 Section 184 loans HUD granted in fiscal 2022, just 441 — about 12% — were for mortgages on trust land.

“We’ve got a lot of room for growth,” he says.

Barbier says new changes being contemplated to the Section 184 program would require all lenders—there are 160 or so that make Section 184 loans—to do market outreach and originate the loans on tribal trust or restricted lands.

Another type of institution “not getting much traction” in Indian Country is the government sponsored entities (GSEs) such as the two giant mortgage agencies, the Federal National Mortgage Association (commonly known as Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). This is despite Congress assigning them a “Duty to Serve” Native nations by buying mortgages made on trust land.

At least one of them has moved recently to address the housing needs in Indian Country. Last month, Freddie Mac announced plans to launch a new product called the HeritageOne mortgage that's designed to support homeownership among Native Americans.

The Tysons, Va.-based financial giant said the new loan product will provide affordable financing options for single-family properties on tribal lands in rural areas. The new mortgage program will also provide financial counseling and other resources to members of Native American tribes, especially first-time homebuyers.

That market is small, but it is growing — and there are no guarantees that a big lender will come into it, a Freddie Mac executive recently told *Tribal Business News*.

Still, if Freddie Mac or Fannie Mae were to fully embrace Indian Country home loans, it would increase the number of mortgages financed on tribal lands. The math is simple: Someone gets a \$100,000 loan for a house on tribal lands from, say, a Native CDFI. After the loan is made, Fannie Mae or Freddie Mac can buy the debt from the original lender, who will now have another \$100,000 that can be lent to another prospective home buyer.

"Will HUD leadership pull in the GSEs?" Barbier asks. "Will Fannie and Freddie utilize their huge advantage in the market to pull in conventional lending, by developing common language that all the entities can agree to and offering them as a streamlined approach for tribes to opt in?"

NeighborWorks has reached out to the Federal Housing Finance Agency, which regulates Fannie Mae and Freddie Mac, to promote that concept as well.

Financial education is another hugely important ingredient in solving the housing crisis, Barbier adds.

An Underused Loan Program

A second HUD loan program, Title VI, intended to finance tribes' housing and infrastructure projects, also has been underused. Between 2000 and 2016, it made 87 loans for a total of \$221 million, according to HUD. As with Section 184, HUD guarantees Title VI loans, but they are made by private lenders, so tribes leverage outside finance.

A promising sign in housing lending is the 64 federally certified Native CDFIs, which are loan funds based in and near Indi-



Steve Barbier, NeighborWorks America

an Country. They generally have passionate people running them, and many have shown independent vision when it comes to lending for housing and community development.

Native CDFIs also have an "intermediary" CDFI, the Oweesta Corp., that makes loans to those individual institutions to extend their reach. Fern Orié (Oneida), its chief program officer, says that coordination and partnership among tribes, CDFIs, and other Native financial institutions will be especially important for solving the Native housing crisis.

Other important factors Orié sees are capital; infrastructure; buildable residential sites across Indian Country, both on and off the rez; breaking down barriers within Bureau of Indian Affairs leasing processes and building up uniform codes for residential leasing/real estate on tribal lands; and effective use of the Community Reinvestment Act — such as major sanctions for banks still redlining, major opportunities and "points" for banks that are lending in underserved communities or investing in CDFIs, and breaking down the stigma of and any perceived challenges to lending on tribal lands.

The South Dakota Native Homeownership Coalition, which has many Native CDFIs in its membership, has won agreements to be "re-lenders" for moribund government programs like the Veterans Administration's Native American Direct Loans for veterans and the Department of Agriculture's Section 502 guaranteed mortgage loans for low-income people. This kind of energy ensures that mortgages actually get made and are not just on the government's books for show.

The South Dakota Coalition, in fact, re-

cently has been tugging on Superman's cape by threatening to start a "secondary" mortgage market in Indian Country if Fannie Mae and Freddie Mac don't quicken living up to their Congressionally mandated "Duty to Serve" Indians on their homelands.

Since that 2017 Congressional directive, neither of the two giant agencies has bought a mortgage on federal trust land, though they are in motion to do so. They have bought literally millions of mortgages in the dominant culture (thus increasing the amount of money available to be loaned), and their robust presence in Indian Country would be a great factor in solving the Indian housing crisis.

Finally, another piece of the puzzle is that there is no real-estate infrastructure to speak of in Indian Country. No Realtors, home builders, developers, appraisers, closing attorneys, or title insurers. Getting this kind of infrastructure off the ground would certainly help solve the housing crisis.

Lanalle Smith (Dine), former executive director of the New Mexico Partnership for Housing (now the Native Partnership for Housing), detailed how the group made a start in getting that infrastructure off the ground at the Navajo Nation.

Buying and Selling

She describes a handful of buy-and-sell real-estate deals on the big reservation, a successful beginning but not an at-scale opportunity. The Partnership also shifted its focus to become a developer on 51 lots on the Karigan Estates, a development begun in 2004 in St. Michaels, Arizona. Karigan, a market-rate project, is located on fee-simple land, which means people who buy houses also own the land, within reservation borders. The project's intent was to give Navajo tribal members and employees the chance to live near where they work.

And a recent item may hold out more hope for mainstreaming the Indian real-estate industry.

In February, the American Home Inspectors Training group announced that Veryl Chavez has become the first home inspector that it certified on the Jicarilla Apache reservation in northern New Mexico.

In his own small way, Chavez is a face of the future of the housing industry in Indian Country, and a cog in the wheel of solving its housing crisis. ■

THINKING BIG

Leveraging other people's money for Native housing

How do you get projects with hundreds of housing units built in Indian Country when you get only a skimpy amount of federal housing assistance each year?

You use leverage. Tribes have used other people's money to build projects like 152 units of housing in the New Mexican desert, 317 houses in a remote area outside Phoenix, and 500 homes on lots outside the Cherokee capital of Tahlequah, Oklahoma.

The Native American Housing Assistance and Self Determination Act of 1996 — often referred to as NAHASDA — turned over administration of federal Department of Housing and Urban Development programs to tribes themselves. That legislation also directed tribes to tap outside funding sources to augment their federal financial assistance.

If \$1 billion is coming in each year to tribes under NAHASDA and the total amount necessary to fix the Indian housing crisis is \$50 billion, that is an enormous amount of leverage needed — or, smaller amounts of leverage over a longer period of time.

For this special report, *Tribal Business News* looked at three tribes that were early adopters of the leverage philosophy. Between them, they leveraged federal housing assistance to build nearly 1,000 new units of housing at a total cost of \$100 million to benefit Native economies and, in some cases, to hire tribal workers.



White Mountain Apache Housing Authority (Photo: Travois)

BLACK MESA VIEW, Pueblo of San Felipe, New Mexico.

There hadn't been any housing construction in this Indian village north of Albuquerque for decades. Black Mesa View, begun in the 2010s, started slowly, with just 28 modular housing units in the first subdivision, and then 12 stick-built homes to finish the first phase of the project. Half of the workers employed to build the homes were tribal members. But as families started to move into new homes, the pace picked up and the subdivision grew to 152 housing units.

The development is now finished except for a sports complex, according to Isaac Perez, executive director of the San Felipe Pueblo Housing Authority.

The Housing Authority leveraged its modest \$500,000 in annual federal financial assistance by first getting a \$2.8 million construction loan from Bank of America through HUD's Title VI program.

Other sources of funds included the New Mexico Mortgage Finance Authority, federal stimulus money, Enterprise Community Partners, and others. The San Felipe Pueblo Housing Authority also tapped the HUD's Section 184 loan program for mortgages for the individual families occupying the units.

The tribe has planned another 92 units in a new subdivision called Sunset View. It landed \$5 million in NAHASDA competitive grant money to do the infrastructure for the new project.

Leverage has put a nice dent in the tribe's housing needs, Perez says, as its

waiting list for homes has shrunk to about 150 to 170 people. And tribal members are returning to the pueblo to get on the list.

The experience has generated additional economic opportunity for the tribe, which leveraged the construction expertise it gained on the project to build houses on seven adjacent pueblos.

APACHE DAWN, Fort Apache Reservation, Arizona

An extremely complex financing deal funded 250 homes in the decade of the 2000s in remote Whiteriver, Arizona, but that was just the start.

By the time the White Mountain Apache tribe had finished developing six Apache Dawn subdivisions, the total had risen to 317. Phase 1 had 52 units; Phase 2, 31; Phase 3, 45; Phase 4, 100; Phase 5, 71; and Phase 6, 18.

The main financing mechanism was something new to Indian Country: a \$25 million tax-exempt bond issued by the White Mountain Apache Housing Au-

thority (WMAHA). I listed the main financial partners at the time in a report for *Indian Country Today*: “Partners in the deal are WMAHA, bond counsel Kutak Rock, underwriter US Bancorp Piper Jaffray, lenders Bank One Mortgage and Countrywide Home Loans, and secondary mortgage agencies Freddie Mac and Fannie Mae.

“Fannie and Freddie each bought more than \$10 million in bonds, with a third investor, Sit Investment Group of Minneapolis, buying a small amount.

“WMAHA is the borrower for the HUD 184 loans, extended by Bank One Mortgage. Bank One no longer issues Ginnie Mae securities, so that part of the deal is being handled by Countrywide Home Loans.”

The good news at Apache Dawn was that a lot of people got excited about constructing Native housing, and they played an elaborate game of financial Twister with multiple partners to get it done. The less positive news was that the deal was so complex that it could not be easily replicated elsewhere.

CHEROKEE TITLE VI Program, Cherokee Nation of Oklahoma.

HUD’s Title VI loan program was intended to provide money for infrastructure and big housing projects, as opposed to its Section 184 mortgage-loan program, which usually goes to individual Indians. Title VI was designed to be of comfort to lenders by guaranteeing 95 percent of any outlays they made under the program.

The Cherokee Nation of Oklahoma supersized the use of the loan in the early 2000s, obtaining a \$50 million Title VI loan from Bank of Oklahoma to build up to 500 homes in the town of Jay and 14 counties under Cherokee jurisdiction in northeast Oklahoma.

That \$50 million is the largest loan in the history of the Title VI program. The last time HUD listed Title VI volume on its website, in 2016, the total amount loaned by the underused program was \$221 million. The Cherokee loan accounted for more than 20 percent of that total. ■



*Focusing on Innovative Tribal Economic Development
and Corporate Governance*

www.rosettelaw.com

ARIZONA
120 S. Ash Ave.
Suite 201
Tempe, AZ 85281
(480) 889-8990
wrossette@rosettelaw.com

CALIFORNIA
1415 L Street
Suite 450
Sacramento, CA 95814
(916) 353-1084
nstgermain@rosettelaw.com

MICHIGAN
44 Cesar E. Chavez SW
Suite 250
Grand Rapids, MI 49503
(616) 655-1601
tgibbs@rosettelaw.com

OKLAHOMA
400 N. Walker Ave.
Suite 250
Oklahoma City, OK 73102
(405) 256-1910
bstavin@rosettelaw.com

WASHINGTON D.C.
1100 H Street NW
Suite 820
Washington, D.C. 20005
(202) 652-0579
sbazzazieh@rosettelaw.com

- Creation of Long Lasting Corporate Structures and Entities
- Sound Business Acumen and Finance Expertise
- Proven Negotiation Skills that Emphasize and Respect Tribal Sovereignty
- Financial Services and Tribal Lending
- Creative Solutions to Complex Problems
- Successful Litigation Strategy Development

‘My heart was open to Indian Country’ How David Bland brought federal housing tax credits to Native nations.

David Bland is a visionary when it comes to using the federal Low Income Housing Tax Credit (LIHTC) program to build affordable housing in Indian Country.

The firm he started, Kansas City-based **Travois Inc.**, is responsible for more than 6,000 units of housing in more than 200 LIHTC housing projects on Native homelands.

Starting as an affordable housing developer in Winchester, Virginia, Bland moved on to the Federal Reserve Bank of Minneapolis, where he had a late-night epiphany about creating his own company to bring the LIHTC to tribes in that Federal Reserve district. He eventually brought it to tribes in more than 15 states.

It was not easy. He had to sue the state of South Dakota to get the first deals done, but he got the program off and running. Travois, now run by his daughter, Elizabeth Bland Glynn, continues to dominate the Indian LIHTC market in a program that brings debt-free investor equity into Native housing projects. Travois’ typical modus operandi is to act as a consultant to the tribe or tribal housing entity, which is the official developer of the housing, an important acknowledgement of sovereignty.



David Bland, Travois Inc. (Courtesy photo)

Tribal Business News: How did you get the idea that the Low Income Housing Tax Credit would work in Indian Country?

BLAND: I was recruited in 1993 to become the manager of community affairs of the Minneapolis Fed. One of the things they told me right off the bat was part of your mandate will be to increase access to capital for all uses, including affordable housing, for minority communities in the Ninth Federal Reserve District. And the primary minority was Native Americans.

That must have been a big challenge.

I came fairly unprepared, but my heart was open to Indian Country. So, I spent my time with the Fed learning about the laws and the cultures that were “impediments” to conventional banking services being offered in Indian Country. These were not legal impediments, because what I found out is that they were misunderstandings.

So we embarked on a program to learn and to teach banking institutions, particularly

state-oriented banks, that were members of the Federal Reserve Bank, on how to do business with Indian tribes and Indian people. I was lucky enough to be led in that effort by a great individual named Jim West. He led these seminars, and I would sit back and listen to Jim as he tried to teach bankers how to understand Indian Country and how these impediments were cultural and not legal, and that they had an obligation to do better.

My frustrations became apparent, because every time I would go out and visit

these Indian reservations, I would sit down at a table to try to start talking with tribal leaders about access to capital and banking services. And one of the first things they would say to me was, “we’re having a housing crisis. What can you do about helping us with housing?” And I really couldn’t do anything with the Federal Reserve Bank.

Is that when you started Travois?

I had a meeting with the Blackfeet in Montana, and then I drove back to the Rocky Boy’s reservation, and I was heading home on a cold January evening, around midnight on the interstate. I pulled off the highway because I was just so frustrated. And I just said, “I know how to do this. I can help the tribes with the LIHTC. But I’ll have to leave the Fed.” And so, it was an epiphany of sorts. I decided that night to start a company that was going to try to use the Low Income Housing Tax Credit in Indian Country.

Had LIHTC ever been used on Native homelands?

It had never been used in Indian Country, and now it was seven years into the program. It was shocking to me. By this time, it had become the single largest source of capital for affordable housing in the country, and not a dime had been spent on an Indian reservation.

What were the first deals like?

The first deal we closed was with a non-profit on the Cheyenne River Sioux Tribe reservation, Oti Kaga. We did actually get three in succession, so it was—in close order—Oti Kaga, the Lakota Fund on the Pine Ridge Indian Reservation, and one on the Yankton Sioux reservation. And then, shortly thereafter, one with Lower Brule, so all four in South Dakota.

And you had to sue the state? That’s shocking, since the LIHTC program allots money on a pro rata basis per state, and Indians are part of that total population. Denying them access to the program was inherently discriminatory.

We filed a lawsuit when we were denied credit. We ended up filing a Fair Housing

Act complaint. And the state turned around and gave us credits, and we did those four deals. Those four were quickly followed by a bigger project with the Red Lake Band of Chippewa in Minnesota.

Did you run into any resistance from the tribes?

It took two years to get our first deals done in South Dakota and Minnesota. Part of that was because tribal housing authorities had a very well-deserved reluctance to do business with white guys coming on the reservations. They’ve been victimized so many times that they were very skeptical. So, I made a conscious decision that I was going to go really slowly, and I wasn’t going to push. I wasn’t going to make any kind of promises I knew that I couldn’t keep.

For a long time, my impression was that you were the only one doing these deals in Indian Country. Is that true? And how long did that go on for?

Yeah, that’s true. We would have a competitor here and there who would try to do a deal with an Indian reservation, and then they would screw it up and set us back because then that just enlivened the skepticism. But basically, we had 90% market share for over 10 years, and I think we basically still have a 90% share. There are a couple of other groups, but not anybody able to do the full range of services that I can do.

I imagine you had to go out to all the reservations. None of them came to you.

Oh, yeah. Put on a lot of frequent-flyer miles. Over 400,000 miles with one airline and when you combine them all, over a million miles. But there was more to it than that. You fly from Minneapolis to Billings and then you have to drive for four hours. It’s not easy.

Which of the LIHTC projects really sticks out in your mind?

I think it probably has to be Red Lake. It was shortly after they had a shoot-

ing at the high school [in 2005]. I remember we did a project that closed a month or so after that school shooting. The Housing Authority was really pretty close to the school and they had a lockdown, and many of the people working at the Housing Authority had relatives who were either killed or had been impacted [by the shooting]. I remember that project being something that helped bring people together. Gave them a small sliver of hope.

How did you convince investors it was a good idea to funnel money into these remote places?

The one thing that I’ve always said is that you will never have a more secure deal. It’s so baffling to me that deals on Indian reservations are far less risky than a deal outside of [them], with the tribal backing. Investors ought to be clamoring to do these deals on Indian reservations, because the risk is so much less.

Tribes get a yearly check from Washington, which enables them to do it, from NAHASDA. And then you combine that with the capital from the investors. That drives economic activity, and that gives people hope. That’s an important component of building, creating another sense that things can happen. Every job you create building a house results in two or three other jobs.

How do the tribes benefit from being the developers?

The tribal Housing Authority itself is almost always the general partner.

They take a fee, a really nice fee. And they have demonstrated leverage of their NAHASDA money. And they’re meeting the needs of their community.

What is the future of the LIHTC in Indian Country?

There needs to be a set-aside for Indian Country, because we still don’t get access to [LIHTC] to the extent that we need.

This interview was edited and condensed for clarity and length. ■

\$60 Billion Might Cover It

How much money would it take to solve the American Indian housing crisis?

That is one tough question. *Tribal Business News* took a crack at estimating it, and we also asked several Native housing leaders to give a ballpark figure.

The short answer: Anywhere between \$30 billion and \$60 billion.

Start with the number of housing units needed. In 2017, the federal Department of Housing and Urban Development said there was an immediate need for 68,000 new or rehabbed housing units in Indian Country, to replace deteriorated housing and to eliminate chronic overcrowding. But that data was from surveys taken between 2013 and 2015. It also did not include Native Hawaiian housing needs, though it did include Alaska Natives.

The Native American population grew handily over the past decade, so that 68,000 number is almost certainly too low. An estimate of 75,000 needed housing units would probably also be on the conservative side. 100,000 units would be a reasonable estimate.

Some factors have to be taken into consideration. First, rehabs are less expensive than new construction. HUD estimates the need for these two categories at a 50-50 split. So while reservations are notoriously expensive to build on, the high proportion of rehabs would actually bring the average cost per unit down.

Robert Gauthier, former executive director of the Salish & Kootenai Housing Authority in Montana, estimates the average cost per unit at \$200,000. At that rate, the 100,000 units needed in Indian Country would cost about \$20 billion. But that number doesn't include the cost of infrastructure such as roads, utilities, and water and sewer lines, which often need to be built along with new construction.

Another important factor is the split between multifamily housing and single-family homes. Multifamily units cost



(Photo: Shutterstock)

a lot less apiece than single-family homes. However, many Indian families want their own home and property — and one thing most reservations do have a lot of is land. So the split here would favor single-family homes, probably by a wide margin. Thus, the lower per-unit cost of apartment projects would not bring down the total by as much as rehabs do.

These numbers probably also exclude trailers, a popular mode of Indian housing, since they are built off-reservation and then driven in, not built on site. But they remain an ever-present source of Indian housing.

Travois, the Kansas City-based developer of Low Income Housing Tax Credit housing in Indian Country, says it has been responsible for 6,000 units of new housing, both single-family rentals and multifamily developments, at a cost of \$1.2 billion, an average of \$200,000 per unit.

But the company says building costs have increased markedly in the past five years. After factoring in the differing costs of new construction, rehabs, and multifamily units, it estimates an average unit

would cost \$433,000 — so filling a need for 100,000 units would come to \$43 billion.

Then Travois points out that for the newly built units, substantial infrastructure costs would be incurred. It estimates those at \$3 to \$9 billion.

For Native Hawaiians, HUD reported in 2017 there were 22,000 applications for leases on Native Hawaiian homelands, which are trust lands quite similar to reservations. That number has since increased to between 23,000 and 28,000.

Robin Danner, senior policy advisor to Hawaiian Gov. Josh Green, said an average three-bedroom house on Hawaiian trust land goes for \$450,000. For 28,000 units, that would be about \$12.6 billion.

So the cost to house all Natives and to build them roads and water and sewer lines probably ranges from \$30 billion at the low end to more than \$60 billion at the high end. Somewhere not far from what Elon Musk paid for Twitter.

—Estimates provided by *Tribal Business News*, Robert Gauthier, Robin Danner, and David Bland. ■

Q&A: Attorney Margaret Hirschak on Tribal Housing as Economic Development

TRIBAL BUSINESS NEWS CONTENT TEAM

Tribal housing is economic development. It's a simple concept, but one that many tribes haven't fully considered. For many council members and tribal officials, housing is public assistance.

But with funding through the Indian Housing Block Grant (IHBG) stagnated for years, some tribes are turning to other federal programs to develop housing for their members and tribal workforce, including casino, healthcare, and hospitality workers.

One increasingly popular program among tribes: Low-Income Housing Tax Credits (LIHTC), which subsidize the acquisition, construction, and rehabilitation of affordable rental housing for low- and moderate-income tenants. Since 1986, LIHTC has helped finance more than 3.5 million affordable homes around the country.

"I think a key thing with LIHTC is looking at housing from a different angle," says Margaret Hirschak (Eastern Shoshone), an attorney at the majority-Indian owned national law firm Rosette LLP. "LIHTC is for affordable housing and it's still providing that much-needed resource to the community, but there is also flexibility in terms of providing housing for tribal workforce, for example, or supportive housing for tribal elders and citizens with special needs."

Tribal Business News spoke with Hirschak about how tribes are using

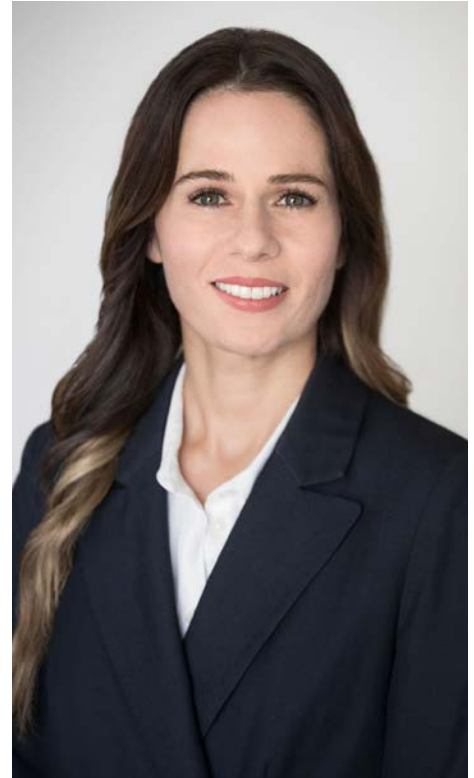
LIHTC to advance their housing and economic development efforts, as well as some of the best practices and potential pitfalls tribes should know about. This interview has been edited and condensed for clarity and brevity.

As you talk with tribes about housing, where does LIHTC fall into the conversation?

It's still fairly new in Indian Country, and some tribal council members are hesitant about the whole idea of tax credits. They just don't understand how they work, and some have suspicions because they're not used to structuring housing development that way. They're used to housing being a public assistance thing, not an economic development tool.

But housing truly is about both assistance and economic development, right? If you want quality of life for your people, you have to give them a decent place to live, right?

Absolutely. With LIHTC, there is a dual purpose because it is affordable housing — it's got pretty stringent income and rent requirements — and at the same time, the tribes can benefit in a number of ways. They can benefit financially from developer fees, for example, or use the housing in ways that aren't allowed under federal



Margaret Hirschak

grant programs like Indian Housing Block Grant.

Can you expand on that?

Sure. A lot of times tribal housing programs are specific to members of the tribe and specific types of building projects.

With LIHTC, there's more flexibility. These projects can be for tribal workforce. That includes people who aren't tribal members, but work at the tribe's casino or resort or its healthcare facility, for example. Having high-quality, affordable housing can be helpful

when it comes to recruiting and retaining qualified employees.

We're also seeing some tribes that are interested in using LIHTC to fund mixed-use developments that include commercial space or supportive services on-site. Again, there's flexibility in the LIHTC program for tribes that want to look at things from a different angle.

How are you seeing tribes leverage the economic development aspect?

I think LIHTC is encouraging tribes to look at housing from that different perspective. Instead of building through their housing department or TDHE, they're looking at their economic development arm or other third-party developers to build and administer LIHTC projects.

We have worked with tribal clients on implementing that type of scenario, where their economic development arm administers the program and hires a third-party property management firm to oversee the asset, make sure occupancy standards are being met, and provide the necessary information to make sure the tribe stays in compliance and maximize the tax credits.

What type of expectations do tribal leaders need to have with LIHTC?

We always invest time in helping them understand the process, because it is a long process. It's not just an application and a check. Oftentimes, the application is denied the first time you submit. But there's a process for working through that to help you get ap-

proved when you submit a second application.

What's the biggest challenge for tribes in the LIHTC application process?

States issue a Qualified Allocation Plan each year that sets the criteria and grading for how a LIHTC application is evaluated. Sometimes, those criteria don't fit with how tribal communities work when it comes to things like grocery stores or public transportation, for example. The criteria may say, there has to be a grocery store within X number of the feet of the development or a bus stop within X number of feet of the proposed development. That's not how things are in many Native communities.

How do tribes overcome that?

Tribes can lobby for changes. They're not just lobbying for their project, they're lobbying for rules that are fair and reasonable for any tribe that wants to apply for tax credits. In my experience, states are responsive to that.

What else do tribes need to know?

It's a very complicated process just to get the tax credits awarded. That in and of itself is a huge win. There's another side of it in terms of administering the program, and making sure you're in compliance with these extremely complicated IRS regulations.

That's where getting your economic development arm or a property development or management firm involved may make sense. Ultimately, you're dealing with the federal government, so it makes a

“With LIHTC, there is a dual purpose because it is affordable housing ... and at the same time, the tribes can benefit in a number of ways.”

—MARGARET HIRCHAK

lot of sense to work with experts that can ensure you're in compliance and making the most of the opportunity that LIHTC presents.

For more information about how tribes can use Low-Income Housing Tax Credits, contact Margaret Hirschak at mhirschak@rosettelaw.com or (480) 889-8990.

MARGARET HIRCHAK BIO:

Margaret has practiced Indian law throughout the majority of her eight-year legal career, including advising tribally designated housing entities (TDHEs), tribal housing programs and economic development entities. She has significant experience working with tribes on issues related to Native American Housing Assistance and Self-Determination Act (NAHASDA), as well as LIHTC and other emerging housing programs that offer self-determination, autonomy and control to tribal nations.

Margaret is a descendant of the Eastern Shoshone and graduated with honors in 2012 from the Arizona State University Sandra Day O'Connor College of Law. She is admitted to practice law in the State of Arizona, the San Carlos Apache Tribal Court, Crow Tribal Court and in the State of Montana.