

**Testimony of**

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**Before the  
SENATE COMMITTEE ON INDIAN AFFAIRS**

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Chairman Campbell, Vice-Chairman Inouye and other distinguished members of the Committee, on behalf of the Members of the National American Indian Housing Council and its Board of Directors, particularly Chairman Chester Carl of the Navajo Nation, thank you for this opportunity to address you today on the President's budget.

This Committee has been, and continues to be, a good friend to Indian Country and the opportunity to speak frankly about our concerns before this distinguished panel is a tremendous honor, especially for a former staff member of this Committee.

**HUD'S BUDGET REQUEST:**

It is a disappointing year for Indian housing because the rhetoric coming from the Department of Housing and Urban Development does not match the reality of the President's budget.

HUD Secretary Andrew Cuomo has visited Indian Country in the last year and was rightfully appalled at what he saw. Indian housing is six times more substandard than any other housing in the United States. 40% of Indian families on reservations live in overcrowded or substandard housing, compared with 6% of non-Indians. In essence, Mr. Chairman, we have third world housing condition within the borders of the United States.

As you know, the President's Budget proposal to Congress included significant increases in a number of programs. In fact, HUD's proposed budget authority goes up by 10% or \$2.5 billion. This is a major increase, but somehow, not a dime of this increase went to the benefit of Indian tribes who receive level funding of \$620 million for the principle Indian housing program, the block grant authorized under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA).

If the Secretary believes, as he has stated, that Indian housing is the worst in the nation, why haven't any more resources gone to Indian housing?

**FUNDING NEEDS FOR INDIAN HOUSING:**

For the last two years, NAIHC has estimated that to meet the needs as presented to us now, not taking into account the rapid growth in the Indian population occurring, we needed at least \$850 million in HUD funding, the bulk of which would be within the NAHASDA block grant.

This year, however, we have an added challenge of providing housing in the midst of dramatic changes in the Nation's welfare system. These changes will have a serious impact on Indian housing programs, with an estimated \$122 million in new budget authority needed to combat the problems.

As this chart shows, NAIHC's request for \$972 million is not an arbitrary figure, but represents the minimum funding level our organization believes is needed to make real headway in our effort to improve housing for Native families.

### **Need for Indian Housing Program Funding, Fiscal Year 2000**

<u>Program or Function</u>	<u>Appropriation Needed</u>
Existing Housing Operation	\$ 90,000,000
Housing Modernization/Improvements	220,000,000 <sup>1</sup>
New Housing Development	325,000,000 <sup>2</sup>
Implementation/Program Operations Costs	\$ 148,000,000 <sup>3</sup>
HOME Program Contribution	21,000,000
Homeless/Youthbuild/Miscellaneous Programs	8,000,000
Title VI Loan Guarantee Credit Subsidy	\$ 32,000,000
Section 184 Mortgage Guarantee Credit Subsidy	6,000,000
Welfare Reform Cost Increase for Tribal Programs	122,000,000 <sup>4</sup>
<b>FY 2000 INDIAN HOUSING FUNDING TOTAL</b>	<b>\$ 972,000,000<sup>5</sup></b>

<sup>1</sup> HUD estimates 40,000 units currently need renovation and an additional 16,000 need replacement. This figure assumes an average of \$25,000 per unit, for 8,800 units.

<sup>2</sup> Assumes current spending level for 3,600 units at an average cost of \$90,000/unit. HUD estimates new construction needs at 1/3 of the existing housing stock or approx. 50,000 units. Also assumes that about 30 federally recognized tribes will now be eligible for housing assistance.

<sup>3</sup> Includes 20% for administration of the Indian housing programs, totaling \$127 million, and an additional \$21 million for environmental reviews, planning and technical assistance as required under the Act.

<sup>4</sup> This figure is based on NAIHC research including Census data and HUD's 1996 Assessment of American Indian Housing Needs and Programs: Final Report. The research assumes 50,012 households are likely to return to the reservations, based on a population of 28% of American Indians and Alaska Natives living in metropolitan and non-metropolitan non-tribal areas at 50% area median income or below and further presupposing the Assessment's report's 71% figure for tribal members' preference to return to the reservation applied to that 28%.

<sup>5</sup> Compared to fiscal year 1999 Appropriations of \$620 million.

### **THE IMPACT OF WELFARE REFORM ON INDIAN HOUSING PROGRAMS:**

Welfare reform has as its basic principle that some people choose not to work. In Indian Country, the choice is often non-existent; job opportunities do not exist.

NAIHC believes welfare reform will have two significant unintended consequences:

1. Tribal members losing benefits will place an increased burden on tribal housing programs. Welfare income may be counted as income. Therefore NAHASDA's limitation that a tribe or TDHE may charge only 1/3 of a tenant's income for rent means that the rent paid to that tribe or TDHE will decrease. This could affect thousands of Indian families, costing tribes millions of dollars.
2. Cessation of benefits to Indian families living in non-tribal areas will cause some families to move back to tribal areas, where housing is already scarce. According to federal government statistics, 28% of the more than 250,000 American Indian and Alaska Native families living in non-tribal areas are very low income. Assuming, as the same statistics do, that 71% of these families would like to move back to tribal areas, one must recognize that as many as 50,000 families could return to tribal areas when their benefits are canceled if not before.

NAIHC estimates the effect of welfare reform on Indian housing programs to be at least \$122 million a year, simply to house these families. Development of new units could drive this cost upward substantially.

### **THE SECRETARY'S INITIATIVE:**

HUD Secretary Andrew Cuomo, while taking an increased interest in Indian Country, is focusing his efforts on "model" programs, particularly one at the Pine Ridge reservation in South Dakota. Now before I say anything more about this program, let me say that there is no community in the United States that is in more dire need of assistance than Pine Ridge. It is quite literally the poorest community in the United States, facing unemployment as high as 85%, with dramatically substandard housing conditions.

The Secretary's solution to this is to create a homeownership program at the reservation. NAIHC has been and continues to be an advocate for homeownership opportunities in Indian Country, but we must ask ourselves if homeownership is always the answer.

The Secretary's focus on this program may be drawing much of the attention away from the basic operation of the NAHASDA program. This is a crucial time for NAHASDA as it gets off the ground. This program, which HUD's Inspector General says should be considered a model for all HUD programs, needs careful attention from permanent staff and political appointees. Unfortunately, it is languishing while attention is focused on the pilot project.

I realize that simply running an Indian housing grant program is not "sexy" in a political sense. Very few politicians can hope to win an election based on running a good Indian housing program, but this Congress must hold political officials accountable for running good programs even when there is no press story.

### **HUD'S FAILURE TO PRODUCE GUIDELINES VERGES ON DISHONESTY:**

The Committee will remember that the biggest controversy associated with the regulations implementing NAHASDA concerned lump sum draw down: should tribes get all of their grant up front, or draw down funds as needed? HUD's compromise was to allow tribes to draw down a portion of the grant for a maximum two-year investment period if the tribe met stringent requirements. Clearly this is a far cry from the tribes'

request, but was accepted by tribes as a show of good will. The agreement on this was reached 10 months ago, but HUD only issued guidelines 10 days ago, when Indian housing professionals and tribal leaders gathered here in Washington for NAIHC's Legislative Conference.

In fact, guidelines implementing the Title VI loan guarantee program have still not been published. Title VI is crucial to the overall success of NAHASDA. Without it, most tribes have no opportunity for large-scale development to meet the massive need for new housing units on reservations. Strangely, HUD has already begun training for this program through a contractor, but the guidelines are not available. Not only is this putting the cart before the horse, we may have forgotten to attach it the horse altogether.

The simple fact is, HUD is not carrying out agreements reached months ago with tribes. This failure of HUD to live up to its word damages the relationship between HUD and tribes and frustrates those within tribal organizations and HUD who want to see Native families get better housing.

### **ENVIRONMENTAL CONCERNS:**

Environmental review requirements under NAHASDA are also proving to be a major problem. Under the NAHASDA regulations, a tribe can either perform an environmental assessment themselves and provide HUD with a certification, or have HUD perform the assessment. The latter was the way assessments were done under the HUD programs previous to NAHASDA, so tribes have very little experience with performing these functions themselves.

Today, however, HUD is telling tribes that there are not enough resources within HUD to perform these assessments and that tribes must perform the assessments themselves. Unfortunately, HUD is also enforcing requirements in an absurdly strict manner. A tribe is considered to have violated the law if they even makes a simple paperwork error, such as not providing certification that a particular project does not need an assessment. Tribes are held to a stricter standard than the Department. If a tribe fulfills the requirements as HUD had in the past, they will be found in non-compliance. If this is discovered after work has begun, not only may no more federal funds go to the development of that project, but the Department will also recapture money already spent. A single one of my members believes this could cost them as much as \$9.5 million.

Especially for smaller tribes, the increased cost of having to provide for your own assessments will seriously damage the ability to tribes to provide housing. In fact, this could be considered an unfunded mandate if tribes are being told they must perform these assessments themselves.

Our question to HUD must be, why will they not provide either sufficient training or perform these assessments? Where has the money gone?

### **NAIHC RESPONDS TO PINE RIDGE'S NEEDS THROUGH SELF-DETERMINATION:**

NAIHC has responded to Pine Ridge's request for assistance through our technical assistance program. We believe strongly that the Oglala people deserve better housing and we are working with the housing authority, in particular the Executive Director, Paul Iron Cloud, to strengthen their low rent program and improve housing conditions for Native families.

In all honesty, the Department should be concerned about providing resources to tribes so that they can make their own judgements about their housing needs and how to solve them. NAHASDA was supposed to be about ending the Washington-knows-best approach. Indian Country is not suffering because of a lack of involvement by government. It is suffering because government policies toward tribes -- from warfare to termination to "Mother may I" programs of misguided social engineers -- all fail to recognize that Indian Country must solve its own problems. Unless a solution is truly Indian and local in nature, it is destined to failure.

### **CONSULTATION AND OVERSIGHT:**

Many of the problems associated with the implementation of NAHASDA stem from one simple fact: formal consultation between tribes and the federal government on these issues is no longer taking place. HUD has stated quite clearly that the Negotiated Rulemaking Committee no longer exists, but what other mechanism can we hope to utilize for consultation?

Both NAIHC and the National Congress of American Indians have expressed their strong concern that HUD has failed to develop a formal consultation policy as required under the President's Executive Order on government-to-government relationships. It was never intended that the phrase "Self-Determination" was to be struck from the title of the Act after regulations were published. It is a crucial element to the success of NAHASDA and must be maintained if cooperation between tribes and HUD is to continue.

As a result over our concern on consultation, environmental review, and other issues, NAIHC respectfully requests this Committee, working in cooperation with the Senate Banking Committee, to initiate oversight hearings into HUD's implementation of NAHASDA. There are too many questions surrounding this program that, left unanswered, could launch us into a situation similar to the one two years ago, when alleged scandals, not progress, became the focus of attention in this program.

### **ECONOMIC DEVELOPMENT:**

Like the chicken and the egg question that has plagued man for centuries, policy makers in Washington must consider the conundrum of which comes first, the capital or the market.

The Chairman is correct in his comments this year that economic development must be the fundamental building block of any success in Indian Country. Education, housing, health care, all of this depends on a strong economic base. In fact, the very concept of self-determination for tribes is meaningful only if it includes some degree of economic independence from the federal government. Gaming, while clearly a success in many communities, will not be the answer for every tribe.

So we must turn to other ideas and tools for wealth building. For most of America, the concept of homeownership is the primary tool for wealth building. Buying a home is the single largest purchase of most American's lives. Also, by paying down their mortgage a homeowner creates equity that can also be increased by upturns in local housing markets. This means that a homeowner with as little as \$5,000 or \$10,000 and an ability to pay a few hundred dollars a month can eventually have a \$200,000 investment. By borrowing against this equity, a family can start a business, expand an existing business, pay for a college education or afford long-term health care costs. Some estimates show that more than 50% of the small businesses started in the United States each year are done so with

the equity in the business owner's house. In most cases, you need a mortgage to start a small business.

We must also consider the impact homebuilding itself has on the economy. Any report on economic conditions in the United States will include figures on home starts. It indicates not only the health of the community, but can also be directly related to employment opportunities; 20 to 30 people are required to build a house, not to mention the various appliances and furniture it takes to fully furnish one.

However, in Indian Country there is very little opportunity for this kind of wealth building. While construction goes on, it is generally through federal grant programs or occasionally through government guarantees. The largest sector of the national single family building market, private mortgage lending, does not exist on reservations. The General Accounting Office reports that from 1992 through 1996, only 91 conventional home purchase loans were made on Indian trust land. More than 80 of these were at two reservations.

### **HOW TO BRING CAPITAL TO INDIAN COUNTRY:**

Unfortunately, there is no quick easy answer to how to bring capital, particularly mortgage capital, to Indian Country. We must pursue a whole range of initiatives, small and large, federal and private.

First, we must improve existing guarantee programs. HUD's Section 184 program has still closed fewer than 500 loans. This program must be expanded and, if possible, removed from annual appropriations limitations. The Federal Housing Administration's Section 248 insurance program, slated for termination a little over a year ago, has been given a stay of execution. The Federal Register notice of the continuation of the program was published just this week. Now we must focus on marketing the program.

NAIHC has embarked on an aggressive education initiative, which we call our Mortgage Partnership Program. We have already announced a partnership with the National Community Reinvestment Coalition to train tribes about the Community Reinvestment Act. A partnership with the National Association of Affordable Housing Lenders is designed to educate lenders about the unique situation in Indian Country with regard to land status, sovereignty and tribal laws and courts. Our education effort with regard to the tribes themselves is also moving rapidly. Our NAIHC Leadership Institute, launched last month, will provide certificate track-based training to professionals from throughout Indian Country. Last year our training programs reached more than 800 students. This year we are aiming for over 1000.

We should also consider whether the secondary market is appropriately incentivized to support lending programs in Indian Country. Too many lenders are holding loans in portfolio because the Fannie Mae and the Freddie Mac are still developing effective programs. Worse yet, lenders not willing to risk having to hold loans in portfolio may be avoiding Indian Country altogether. If we hope to spur a significant growth in mortgage lending, we must consider requiring specific targets for Fannie Mae and Freddie Mac for loans in tribal areas.

But we must look to the "big picture" as well. As I mentioned earlier in my testimony, much of what we see in Indian Country is reminiscent of much of the third world. The lack of housing, nascent governmental structures and extreme poverty on so many reservations cries out for new, bolder steps. I believe we must look to the World Bank as

a model for long-term development. A privately owned institution run by tribes but with authority for loan guarantees would seem to meet all of the criteria for a successful solution to private capital needs: tribally-run, but utilizing the strengths of the federal government. I look forward to working with you, Chairman Campbell, and your staff to pursue some of these ideas.

**CONCLUSION:**

In closing, I would like to thank the Committee for their time and attention to these matters. I would also like to express my sincere gratitude to the Committee staff, in particular Paul Moorehead, the newly appointed Staff Director, and Patricia Zell. I have enjoyed working with these individuals in the past and I am even more excited about what future collaborations may bring.

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The National American Indian Housing Council is a 501(c)(3) organization representing tribes and tribal housing organizations nationwide. It operates a national technical assistance and training program as well as the Native American Housing Resource Center in Washington, DC through an appropriation from the Congress administered by HUD. NAIHC's offices are at 900 Second Street, NE, Suite 305, Washington, DC 20002; phone: (202) 789-1754, fax: (202) 789-1758; <http://naihc.indian.com>.