

**TESTIMONY OF MARK MARYBOY, CHAIRPERSON
NAVAJO NATION COUNCIL
TRANSPORTATION AND COMMUNITY DEVELOPMENT COMMITTEE**

Introduction

Chairman Ney, Ranking Member Waters, Congress Renzi and other distinguished Members of the Committee, on behalf of the Navajo Nation, thank you for this opportunity to address you today. On behalf of the Navajo Council Transportation and Community Development Committee (TCDC), I would like to begin by extending our sincere appreciation for your leadership in holding these historic hearings. This is a rare opportunity for you to experience first hand the frontier conditions that Indian people confront everyday.

As Chairman of TCDC, I come before you today to initiate what we hope will become an ongoing discussion between your Committee and Native American communities about how to craft solutions to remedy the housing problems in Indian Country, where families live in some of the most deplorable living conditions in the United States. As the 2000 Census revealed, you can see yourselves, families on the Navajo Nation commonly live in homes with 15 to 20 people under one roof, in a house without drinking water, without a toilet, without showers and sometimes even without a kitchen. The sole access routes leading to these homes are generally dirt roads that are frequently made impassable by mud and sand dunes. These are the same roads that over half of all Navajo families must travel to haul drinking water twice a week just to meet their most basic health and sanitation needs.

Initiatives and Partnerships To Develop More Housing for Indians in Tribal Areas

We know the federal government is trying its best, but as the 1997 GAO report on Indian housing revealed, federal housing programs in Indian Country were essentially building ghettos in tribal communities. The passage of the Native American Housing Assistance and Self Determination Act of 1996 has given tribes new opportunities that have allowed the Navajo Nation to provide low income housing for college students, elderly group homes, traditional hogan style homes for elders and veterans housing. NAHASDA has given us more flexibility through its block grant to leverage other federal funding for both housing and infrastructure development. However, the Federal appropriations for Native American housing are not sufficient, and will never be enough as long as the federal laws do not encourage much greater private sector investment. The lack of significant private investment and the dire conditions many Native American communities face, mean that federal dollars make up a larger portion of the total housing resources than any American communities outside of reservations.

One-Stop Mortgage Initiative and Other Ideas for Private Sector Investment

The One-Stop Mortgage Initiative was successful in implementing the HUD section 184 program. Unfortunately, not enough mortgage transactions are happening to meet the demand for home ownership on the Navajo Nation. There are a number of reasons for this. First, we simply do not have enough banks. The Navajo Nation has only one banking partner on the entire reservation, so there is virtually no competition for private investment. In an area that covers over 18 million acres, the Navajo Nation has only five banking facilities. Second, lenders are unfamiliar with enforcing mortgages or other debt instruments on tribal trust land. It is not that it cannot be done. It is simply that they don't know how to do it. Third, title searches are very difficult on the Navajo Nation because title records are maintained in one BIA office in Albuquerque, which is responsible for the records on every reservation and pueblo within the entire Southwest.

We urge Congress to amend the Community Reinvestment Act to ensure that banks use transactions from surrounding communities to maintain acceptable community investment scores. Some Federal Home Loan Banks have standards that result in significantly more services to Indian country. The Navajo Nation is currently served by three Federal Home Loan Banks, two of which do not maximize the opportunities to serve the Navajo Nation. The Navajo Nation requests that it receive all services from the Federal Home Loan Bank of Seattle, which has proven most helpful to the provision of home loan banking services to the Navajo people.

And finally, there is the question of legal jurisdiction. The mortgage companies who are willing to lend in reservation communities typically want to use state law to resolve any disputes. The tribes of course want to use tribal law. Congress can help tribes and states avoid thorny federalism issues by making private lenders' receipt of federal guarantees contingent upon such lenders availing themselves of tribal courts when they make mortgage loans on an Indian reservation.

Land Status

The trust status of Indian land does affect the private sector's ability to finance housing for Indians. However, a few tools to overcome this challenge do exist. For example, the Navajo Nation Trust Land Leasing Act authorized the Navajo Nation to issue non-mineral leases within the reservation without Secretarial approval. These leasehold interests have value and provide an equity interest that individual can mortgage against. However, it is unclear whether under the 184 loan program such a mortgage is permissible. Consequently, the Navajo Nation is currently restricting its own leasing authority to business site leases, rather than extending its broad powers to include housing site leases.

The federal land status of the Navajo Nation is a hindrance to housing development and homeownership. However, it is an underlying problem that the Navajo people, like all Indians, are afraid to talk about because recent federal case law threatens tribal jurisdiction and sovereignty wherever the land's trust status is altered in any way, including the grant of rights of way. Congress could be instrumental in forging a dialogue on this important subject by commissioning a blue ribbon panel composed of tribal law experts to review federal case law to

identify how trust land status impacts economic development, including housing markets and home ownership, in Indian Country. Congress must then be willing to listen to tribal recommendations.

Conclusion

There is a social awakening among young, educated Navajos who want to return to the Navajo Nation. These young Navajos ask, "Why can't we have the same opportunities on the Navajo Nation that exist on the outside?" We need our young Navajo people, which is one reason the Navajo Nation invests so much in them through scholarships. But we can't keep them here once they are educated because they find it next to impossible to do here what they can easily do anywhere else in America -- buy a house and build a nest egg.

There are social problems that have plagued our people for generations. In 1966 the Department of Interior imposed a construction ban on development in the Navajo/Hopi disputed land area that came to be known as the Bennett Freeze. Since that time, no construction or repairs have been allowed without the permission of both tribes and the Department of Interior. You can't pave a road there, or mend a fence, let alone build a house.

New Lands is where Navajo relocatees were sent. Navajos who were too young to be considered heads of households then to get a home are now parents who are landless and homeless. What can HUD or USDA or BIA be expected to do unless Congress addresses the jurisdictional confusion over land status in a manner which retains Navajo jurisdiction over trust and other lands within the Navajo Nation and encourages private sector lenders to enter into mortgages on Navajo lands?

Tinkering with federal initiatives today will not provide home ownership opportunities for Indians unless Congress makes a real commitment to curing the underlying condition that prevents homeownership within reservations, rather than treating its symptoms. As an elected tribal leader, as a tribal member -- but most importantly -- as a father, I ask you to make it possible for my daughter, and all Indian children, to realize their dreams to own homes on the reservations they love. Thank you.