Making HUD 184 Mortgages Work on Trust Lands: Case Studies of Building Assets for Homeownership

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The views, opinions, findings, conclusions, or recommendations expressed here are the presenter’s and not necessarily those of the Federal Reserve Bank of Minneapolis or the Federal Reserve System.
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Overview

- Background: The Center for Indian Country Development and the National Native Homeownership Coalition
- HUD 184 lending patterns suggests bureaucratic bottlenecks are limiting housing finance on trust land
- Some tribes have shown it can be done
- But it needs to be made simple and easy for all
  - Land record and loan processing systems must be seamless
  - Federal agencies, tribes, and others can make this happen
Center for Indian Country Development (CICD)

- Based at the Federal Reserve Bank of Minneapolis, the CICD works on Indian Country issues nationally

- Coordinator of the NNHC

- Four focus Areas
  - Land
  - Homeownership
  - Business and Entrepreneurship
  - Education

- Coordinator of the NNHC

www.minneapolisfed.org/indiancountry
National Native Homeownership Coalition (NNHC)

- To enhance homeownership opportunities in tribal communities, especially on trust lands
- By bringing together key players and systems leaders to resolve barriers to homeownership on trust lands
- Forthcoming July 2018
  - Tribal Leaders’ Handbook on Homeownership
  - Conference: Land Data for Promoting Indian Business and Homeownership on Reservations (July 9, co-organized with DOI)
  - Conference: Homeownership in Indian Country: Creating the Opportunity for Choice (July 10)
### Trust Land Is a Major Indian Country Resource

<table>
<thead>
<tr>
<th>Federally Recognized Reservations</th>
<th>Acres (million)*</th>
<th>Percentage*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Reservation Land</td>
<td>73</td>
<td>100</td>
</tr>
<tr>
<td>Total Trust Land</td>
<td>56</td>
<td>77</td>
</tr>
<tr>
<td>Tribal Trust Land</td>
<td>47</td>
<td>65</td>
</tr>
<tr>
<td>Individual Trust Land</td>
<td>9</td>
<td>12</td>
</tr>
</tbody>
</table>

*Accurate data are not readily available. These estimates based on the following sources: U.S Census for total acres; BIA for total trust land area; Dominic Parker for estimated tribal and individual trust land shares and total trust land by selected reservations.

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#### Percentage of Land in Trust
- **High**
- **Moderate**
- **Low**
- **NA**

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*Accurate data are not readily available. These estimates based on the following sources: U.S Census for total acres; BIA for total trust land area; Dominic Parker for estimated tribal and individual trust land shares and total trust land by selected reservations.*
Real Estate Financing Seems To Be Less Accessible on Trust Land

1. Census shows low usage of mortgages by AIAN on reservations

<table>
<thead>
<tr>
<th>AREA (approximated by Census tracts)</th>
<th>TOTAL</th>
<th>IN OWNER-OCCUPIED HOMES</th>
<th>PERCENTAGE IN OWNER-OCCUPIED HOMES</th>
<th>PERCENTAGE WITH A MORTGAGE (of those in owner-occupied homes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reservation</td>
<td>434,813</td>
<td>293,472</td>
<td>67.5%</td>
<td>26.2%</td>
</tr>
<tr>
<td>Nearby</td>
<td>219,094</td>
<td>123,114</td>
<td>56.2%</td>
<td>53.0%</td>
</tr>
</tbody>
</table>

Source: Authors calculations based on data from the 2010 Census. Includes only federally recognized reservations.

2. Manufactured-home loans are disproportionate among AIAN on reservations

Manufacture Share of Applications by Housing Unit Share

<table>
<thead>
<tr>
<th>Manufacture Share of Applications by Housing Unit Share 2012-2016 (All Other Races)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manufacture Share of Applications by Housing Unit Share 2012-2016 (AIAN)</td>
</tr>
</tbody>
</table>

- Other Races
- AIAN
Direct Evidence of Trust Land Barriers to Real Estate Lending: HUD 184 Lending Booms on Fee Land But Lags on Trust Land

Number of HUD 184 Loans by Type of Land (1995-2015)

Fee Land Loans Dominate Since 2005

Source: CICD staff calculations based on data provided by the U.S. Department of Housing and Urban Development
What Are These Barriers?

- Credit risk? No
  - HUD guarantees repayment 100%
- Red tape and bureaucracy? Yes!
  - Processing burdens (lots of staff time to push paper)
  - Delays (over 6 months, sometimes years to process)
  - Getting tribe to issue leasehold interest to borrower
  - Getting certified title status report (TSR) from BIA
  - Completing environmental reviews and appraisals

See also *Housing Needs of American Indians and Alaska Natives in Tribal Areas: A Report From the Assessment of American Indian, Alaska Native, and Native Hawaiian Housing Needs*
Large trust land acreage ➔ efficient use is critical

Fee land options very limited in many reservations

Flexible choice of where to build or buy a home matters
  “Consumer is king” principle—personal location choice is fundamental
  Limited home purchase options hurt the economy
    Drives people away, and reduced population cuts local demand
    Reduced labor supply (especially highly skilled) hurts business and gov’t.
    More homes can mean more jobs in construction and maintenance

Limited housing finance adds to crowding and quality issues

Achieving trust-fee parity in home finance will also open up financing for business, infrastructure, etc.
Trust Land Real Estate Lending Can Be Fixed: State Data

States Where Tribes Are Making HUD 184 Loans Work on Trust Land

* Omits OK (15,491 loans, 1.3% trust land) and AK (3,791 loans, 0.1% trust land)
Source: CICD staff calculations based on data provided by the U.S. Department of Housing and Urban Development
Making HUD 184 Loans Work on Trust Land

Note: Represents clusters of zipcodes to cover reservations. In some cases multiple reservations are grouped into a single cluster due to zipcode overlapping multiple reservations.

*Augustine, Cabazon, Torres-Marinez, and Twenty-Nine Palms; *Fort Yuma and Cocopah; *Port Gamble and Port Madison; *Ewiiapaayp and Viejas, Navajo, Acoma, Hopi, Isleta Pueblo, Jicarilla Apache, Laguna Pueblo, Southern Ute, Ute Mountain, and Zuni; *Standing Rock and Cheyenne River.

Omits Osage (610 loans, 34% trust land).

Source: CICD staff calculations based on data provided by the U.S. Department of Housing and Urban Development
How Do Tribes Succeed with Trust Land 184s? The Salish and Kootenai Case (Flathead Res.)

- Tribal Council supports the Salish Kootenai Housing Authority (SKHA)
- Tribe compacts to run a Land Title Records Office (LTRO) (since 1990s)
  - Tribe uses its own TAAMS access to do LTRO work
  - Results: Local control; fast processing of transactions; no significant backlog
- Robust homebuyer assistance
  - Pre- and post-home-buying assistance, education, and counseling
  - Encourage renters and Mutual Help families to transition to ownership
- Invested in human capital to staff SKHA with homegrown experts
- Work with multiple HUD 184 lenders, including tribally owned bank
- Lender risk-mitigation via SKHA resale and sub-lease transfer
- Results: 1,100 mortgage-financed homes, hundreds on trust land
How Do Tribes Succeed with Trust Land 184s? The Oneida (WI) Case

• Tribally owned Bay Bank plays a key role
  – Bank is committed to serving borrowers in Green Bay and on multiple reservations, including on trust land
  – Native American executives and staff understand Native American borrowers and how to work with them

• Bank has invested time and money to build expertise in processing HUD 184 loans
  – Skilled in working with area BIA offices
  – Experience in working with tribes on leasehold processing and, when necessary, loan default resolutions

• Results: Leading HUD 184 lender in Great Lakes area
How Do Tribes Succeed with Trust Land 184s? The Saginaw Chippewa Case (Isabella Res.)

• Lessons from building a successful tribal LTRO
  – Solid foundation in tribal constitution/laws/policies
  – Tribal leaders support spending for good staff, IT, and legal advice
    • Staff must know real estate laws, lending processes, and how to audit and tracing all TSR/Tract History reports
  – Work with BIA to acquire all required documentation in house
  – Manage all BIA documents in an office dedicated to the tribe
  – Match/exceed work of County Register of Deeds Recording Office
  – Work with a good title insurer

• Result: Fast and efficient processing of home loans
What Does It Take?

- Tribal government support and funding
- High quality staff, legal support, and IT systems
- Accurate, accessible land and title records
- Prompt processing of transactions (sales, liens, etc.) within the records system
- Timely and fair enforcement of financial contracts, including foreclosures
NNHC’s HUD 184 Recommendations (Apr. 2018)

- Improve communication between tribes, lenders, and HUD
- Define and expand training on the HUD 184 Program
- Streamline the lending process
- Improve interagency coordination, especially around obtaining certified Title Status Reports
- Mitigate risk by addressing the foreclosure process and recognize tribal courts as an option for adjudication
- Include TDHEs and Native CDFIs as HUD counseling intermediaries
- Read the NNHC’s full comments to HUD ONAP at

https://www.minneapolislisfed.org/~/media/files/community/indiancountry/homeownership/cicdcommentshud184program.pdf?la=en
Who Needs To Act?

- **DOI/BIA**
  - Accurate land records (in-house or outsourced)
  - Prompt turnaround on TSRs and other paperwork
- **Tribes**
  - Prompt processing of purchase, lease, and loan paperwork
  - Effective processing of leases
  - Possibly take on land records work
  - Codes and courts that facilitate enforcement of contracts
  - Evaluate HEARTH Act potential for administering leases efficiently
- **Others**
  - Learn to work with tribal government and courts (lenders, agencies)
  - Learn how to lend on trust land (lenders)
  - Enforce consumer protections (state and federal agencies)
Reference Information
Center for Indian Country Development

www.minneapolisfed.org/indiancountry

CICD Reservation Profiles (with new HMDA data section)

www.minneapolisfed.org/indiancountry/resources/reservation-profiles

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