



August 1, 2023

The Honorable Harriet Hageman
Chair, Subcommittee on Indian and Insular Affairs
Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515
Sent by email to: ransom.fox@mail.house.gov

Re: Questions from Subcommittee on Indian and Insular Affairs Oversight Hearing on July 12, 2023

Dear Chair Hageman:

Thank you for the opportunity to testify before the Subcommittee on Indian and Insular Affairs Oversight Hearing on July 12, 2023 regarding H.R. 3579 – the Tribal Trust Land Homeownership Act of 2023.

Please accept this letter in response to follow-up questions from Representative Bruce Westerman.

- 1) The Bureau of Indian Affairs published their Mortgage Handbook on their website, detailing a step-by-step timeframe for processing mortgages. However, tribal members have stated often that these guidelines are not met.**
 - a. During which specific steps in the process have you seen the longest wait times and, in your professional opinion, why are these steps stalled?**

We have seen delays occur during every step of the process including residential lease approvals, mortgage encumbrance approvals, and the issuance of initial and certified Title Status Reports (TSRs). The BIA is not following the timelines published in the Mortgage Handbook. BIA has never been transparent or accountable with these review processes, and there are often unexplained gaps in timing. One national lender partner shared that lease

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approvals can take anywhere from three months to five years. One tribe requested a meeting with its BIA Agency Office to see what the tribe could do to expedite the steps in the process. They found 25 mortgage-related documents stalled on the desk of the BIA Agency Superintendent.

Reasons for delays in these steps of the process include:

- Most BIA offices do not accept electronic copies so there are delays as packages are mailed within BIA offices from the Agency Office to the Regional Office and back to the Agency office and eventually back to the requester.
- Most BIA offices have inadequate staffing levels and capacity to support mortgage-related transactions.
- BIA does not provide adequate training for staff involved with mortgage-related transactions. They don't understand the time sensitivity involved with mortgage-related transactions. Borrowers could be impacted by rising interest rates due to delays or may have to resubmit their loan application materials if the loans take too long to process.
- Many leases are rejected by the BIA because the legal descriptions are not accurate. Increased read-only access to the TAAMS for tribes and lenders may help to mitigate this problem.

b. Where should the BIA focus their efforts to improve the mortgage process and ensure mortgages are processed in a timelier manner?

The BIA should focus their efforts on improving the entire process, streamlining reviews between the Agency Offices, Regional Offices, and Land Title Records Offices (LTROs). Generally, this process should be electronic and should eliminate unnecessary stops in the review process. For example, BIA should not require requests for TSRs to be routed through Agency Offices. Similarly, LTROs should be able to send TSRs directly to the requester instead of sending them through the Agency Office. One lender received a certified TSR in July 2023 with a certification stamp dated March 2023. That means it took four months for the requester to get the certified TSR because it had to go through the Agency Office from the LTRO instead of directly to the requester.

More specifically, the BIA should focus its efforts on improving the issuance of certified TSRs. This delay has significant implications for the lenders. To perfect a mortgage loan, the lender must receive a certified TSR from the BIA. If the loan is not perfected within 12 months of closing, the secondary market investor requires the lender to indemnify the loans. If the delay exceeds 36 months, the lender will have to repurchase the loans. One of our lending partners is still waiting for certified TSRs for 33 loan files closed back in 2022. This delayed process definitely has a chilling effect on future lending opportunities on tribal land.

Another area of focus should be on the front end of the lending process when the homebuyer requests information from the BIA including approved lease documents and initial TSRs. The

BIA Mortgage Handbook does not even cover this stage in the process which can be very frustrating for tribal members who may have to wait years before they can apply for a mortgage loan. If they were off reservation, they could close their mortgage loan in days or weeks rather than years.

2) During the 116th Congress, members of the Fort Belknap Indian Community testified in front of the U.S. Senate Committee on Indian Affairs that it took over a year to obtain a certified Title State Report. Yet at the same hearing, the BIA stated that TSRs are processed in a timely manner.

a. In relation to TSRs, what is the average timeframe you have seen recently?

The timeframe to receive both original TSRs at the beginning of the loan process and subsequent certified TSRs after the loan is closed and recorded is anywhere from six to 18 months and in some cases up to two years. Part of the challenge is that there is no consistency across the country. One Regional Offices may be faster than others, but this changes frequently due to staff turnover.

b. What solutions would you like the BIA to implement in order to decrease the timeframe that TSRs are received?

We recommend that the BIA create a flow chart for each type of document required for a specific BIA transaction. This flow chart should be provided to any entity submitting a request. The flow chart would include each desk required to receive the document, required action (review, signatures), allowed time for each desk, and an estimate of total time for approval for each type of document. Existing Title Status Reports should be nearly immediate, while certified TSRs and final recording might have more steps. The exercise of creating the flow chart should require the BIA to determine if any of the approvals can be delegated to local BIA staff.

We recommend that the BIA take the following additional actions:

- Create a senior position within the BIA Central Office to oversee all mortgage related transactions nationwide and designate a mortgage specialist position in every region with knowledge of the mortgage lending process.
- Provide adequate training and capacity building for staff at all levels. Tie staff performance reviews to adhering to review deadlines with penalties for non-compliance.
- Digitize the process so that mortgage related paper documents are not sitting on someone's desk. Expand and improve the use of electronic portals for submission of documents.
- Give tribes, tribally designated housing entities (TDHEs), lenders, and government sponsored enterprises (GSEs) read-alone access to the land records in TAAMs.

- Explore collaborating with the National American Indian Housing Council to provide HUD-funded training and technical assistance on the local level to tribes and TDHES about the leasing and mortgage lending processes and include BIA staff in the training.
- Create an Ombudsman, as proposed by H.R. 3579, to provide accountability and assist tribes, TDHES, tribal members, lenders, and federal agencies to track down and expedite mortgage related documents. Give the Ombudsman the authority to issue “assumed approval” if deadlines aren’t met.

c. How do you see H.R. 3579 helping to alleviate the problems?

H.R. 3579 establishes a level of accountability that the BIA has not had during the 25-year history of mortgage lending on Tribal Trust and Restricted Lands. As the title company for Indian Country, the BIA has a responsibility to all Native Americans who aspire for the American dream of homeownership to meet industry standards for providing accurate title information. H.R.3579 codifies timeframes that the lending industry can rely on which creates an environment of predictability and encourages the flow of mortgage capital. Our best estimate for FY2022 is that there was less than one mortgage loan per Federally Recognized Tribe from all Federal Agencies and GSEs.

We also acknowledge that to accomplish this predictable environment that some additional investments may be required in technology, human resources, and training through adequate levels of congressional appropriation.

3) H.R. 3579 would create a specialized position at the BIA to facilitate communication between the BIA, tribes, tribal members, lenders, and federal agencies who operate tribal housing programs.

a. Can you further elaborate on the necessity of this proposed position?

The proposed Ombudsman position would provide a dedicated staff person within the BIA to assist lenders and borrowers to locate missing and delayed mortgage packages. The Ombudsman would have the authority to escalate the requests to provide a level of accountability. There are supposed to be mortgage contacts in every BIA region, but this structure has not been fully implemented due to understaffing and suffers from high turnover and a lack of understanding about the mortgage process. Having an Ombudsman would provide lenders and borrowers with a central place to go to get help. In addition, this position could also help to identify causes for delays and propose solutions and consistency across every region.

b. Could you provide examples of past situations in which this position would have facilitated the mortgage process in a timelier manner?

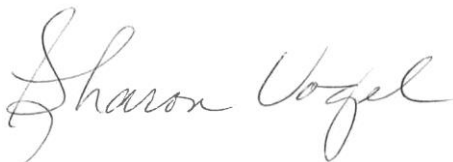
Mortgage packages are lost all the time within the BIA, especially since they are most often paper submissions. In one case, a mortgage package was sitting on the desk of an agency office staff person from March until July, when the person finally opened their mail from the area office.

Another example occurred when a tribal member wanted to take a parcel of land out of trust to be able to transfer it to her grandson who was not enrolled. The process went on for two years with no results. Sadly, the tribal member passed away before the transfer occurred and the land is now up in probate. Another tribal member waited over two years for a BIA area office to approve a land transfer to a family member. If these transactions were off reservation, they could have happened in a few weeks.

An Ombudsman within the BIA certainly would have been able to help in each of these situations.

Thank you once again for the opportunity to respond to follow-up questions from the July 12 hearing. We look forward to continuing to support your efforts to see this legislation through to enactment in order to assist Native homebuyers with achieving their dream of homeownership no matter where they live, including on tribal land.

Sincerely,

A handwritten signature in cursive script that reads "Sharon Vogel". The signature is written in black ink and is positioned above the typed name and title.

Sharon Vogel
Board Chair
SD Native Homeownership Coalition