

Cedar Band Corporation Responds to HUD’s Attack on National Tribally Owned Down Payment Assistance Providers Officially Chartered by the Bureau of Indian Affairs

Discriminatory Housing Policy Change “Puts Indians Back on the Reservation” and Harms Consumers While Failing to Protect the FHA Mutual Mortgage Insurance Fund

For Immediate Release

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(April 19) – The U.S. Department of Housing and Urban Development on Wednesday issued a Mortgagee Letter that restricts down payment assistance provided by nationwide governmental entities, discriminates against Native Americans, and will substantially harm consumers – especially minorities – who rely on such help to become homeowners.

The Letter prohibits national housing finance agencies owned by Native American tribes from providing down payment assistance to anyone except tribal members purchasing properties on their own reservation. That restriction effectively puts such organizations out of business immediately.

“HUD’s appalling new guidelines put Indians back on the reservation and deal a heavy blow to Native Americans’ efforts to establish businesses that provide jobs and revenue for our people,” said Bobby Rowser, a board member of the Cedar Band Corporation, which operates the down payment assistance provider known as CBC Mortgage Agency and is wholly owned by the Cedar Band of Paiutes of Utah.

“Let’s be clear: This painful government action will cause serious erosion of Native American progress toward self-determination.”

Rowser said the CBC Mortgage Agency would seek an order barring implementation of HUD’s new policy in federal court as soon as possible.

In advancing the policy change, HUD officials claimed that federally chartered tribal entities such as CBC Mortgage Agency pose a risk to the FHA’s Mutual Mortgage Insurance Fund (MMIF), simply because these housing finance agencies operate *nationally*.

But HUD has no data to support this conclusion, and targeting Native American down payment assistance programs to put them out of business will do nothing to protect the solvency of the MMIF.

“Aside from its discriminatory effect, this new policy fails to do anything to reduce risk associated with FHA-insured mortgages,” said Paul Terry, chief executive officer of the Cedar Band Corporation. “HUD is using that claim as a smokescreen to obscure its real intent, and it’s consumers who will suffer.”

Terry noted that the Mortgagee Letter, which takes effect immediately, will create chaos for borrowers who have recently been approved to receive down payment assistance to purchase homes, and for lenders who currently have loans in the pipeline.

He added that minority borrowers, in particular, will be disadvantaged by the new HUD policy.

Under federal rules, borrowers must put down 3.5% toward the purchase of a home to obtain an FHA-insured mortgage. Borrowers who lack sufficient funds can seek down payment assistance from friends and family, governmental entities (i.e., national, state and local housing finance agencies), and nonprofit organizations.

Data show that minority borrowers rely more heavily than other homebuyers on down payment assistance programs offered by governmental entities. Statistics show that more than half of the loans made through CBC Mortgage Agency's Chenoa Fund, for example, are provided to minority borrowers.

Since 1934, the federal government has embraced a policy of self-determination and self-governance toward Native American tribes. Under the policy, Native American tribal organizations have been encouraged to establish businesses and operate them, without geographic limitations, in order to provide for themselves. The new policy unveiled by HUD contradicts that policy and sets a damaging precedent.

Moreover, HUD failed to comply with Executive Order 13175 and HUD's own policy, which require that federal agencies engage in tribal consultation *before* they make a policy change that would affect a Native American tribe.

Instead, the new policy was released quietly in the mortgagee letter, a clear attempt to avoid the requirements of an Office of Management and Budget memorandum issued April 11. Under the memorandum, federal agencies will be required to submit all regulatory guidance materials to the Office of Information and Regulatory Affairs for review prior to publication.