



Federal Court Blocks U.S. Department of Urban Development's New Restrictions on National Down Payment Assistance

Tribally Owned Mortgage Agency Applauds Decision Staying Effective Date of HUD Mortgagee Letter 2019-06 and Preserving Key Revenue Source for Utah's Cedar Band of Paiutes

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Salt Lake City, UT – Leaders of the Cedar Band of Paiutes of the Paiute Indian Tribe of Utah (Cedar Band) today praised the recent ruling of the U.S. District Court of Utah that Cedar Band is likely to succeed in its challenge to a Mortgagee Letter issued by the U.S. Department of Housing and Urban Development that unlawfully restricts down payment assistance provided by nationwide governmental entities.

The decision by U.S. District Judge David Nuffer in St. George, Utah, came in response to a lawsuit brought by Cedar Band and its tribally owned instrumentalities, Cedar Band Corporation and CBC Mortgage Agency (CBCMA). CBCMA provides down payment assistance through its Chenoa Fund program to thousands of borrowers who need help obtaining a home mortgage, particularly historically underserved minority communities. The Chenoa Fund program provides a much-needed option for borrowers and represents a key revenue source for the Cedar Band, whose reservation lies in a rural area of Utah.

“On behalf of the Cedar Band and indeed Native Americans everywhere, we are grateful that the Court barred a HUD policy that threatened to trample our sovereign rights and extinguish a crucial source of economic support for our people,” said Delice Tom, the newly elected chairwoman of the Cedar Band.

Tom added that had HUD’s action been allowed to stand, it would have devastated Cedar Band’s mortgage agency, harmed the historically underserved borrowers who rely on the Chenoa Fund program to achieve the dream of home ownership, and “destroyed a vital revenue generator that has allowed us to improve the lives of Band members.”

Filed in April, the lawsuit sought an order immediately halting enforcement of Mortgagee Letter 19-06 on grounds that it was adopted pursuant to an improper process and otherwise

violated federal law. The Letter was issued without prior notice and an opportunity to comment and without legally-required consultation with affected American Indian tribes and bands. The Letter also violated tribal sovereignty and contradicted established federal policy promoting the economic development and self-sufficiency of American Indian tribes and bands.

At the hearing on July 16, the Court stated that it would grant a preliminary injunction staying the effective date of Mortgagee Letter 2019-06 until after the Court made a final ruling on the merits of the lawsuit. A subsequent order issued by the Court today states that:

Defendants are ENJOINED from any enforcement of Mortgagee Letter 19-06 until further order of this court. Specifically, Defendants shall not deny insurance nor cause insurance to be denied based on non-compliance with the Mortgagee Letter 19-06, and shall provide public notice that the effective date of the Mortgagee Letter 19-06 is suspended until after a final determination on the merits of the case.

This means that HUD must continue to insure mortgages with a down payment provided by CBCMA's Chenoa Fund program.

"We are grateful that the Court has recognized that HUD's Mortgagee Letter cannot be enforced during this lawsuit," said Lucas Townsend, an attorney for CBCMA. "HUD's Mortgagee Letter threatens to deprive borrowers of meaningful choice for down payment assistance and tramples on the rights of Native American tribes to participate in the economic life of this nation, and it was issued without any prior warning or tribal consultation. Today's ruling is an important recognition that agencies cannot engage in this type of regulation-by-ambush."

Michelle Rogers, co-counsel for CBCMA, added: "We are pleased with the outcome. The Mortgagee Letter's immediate and harmful impact on not just our clients, but also borrowers and the industry, highlights the scope of the agency's overreach and the significance of today's decision."

CBCMA is a wholly owned subsidiary of Cedar Band Corporation, a federally chartered tribal corporation wholly owned by the Cedar Band of Paiutes, a federally recognized American Indian band. CBCMA's distributions provide key support to the Cedar Band, which uses them to fund housing assistance, healthcare, and cultural and educational programs, and to maintain the Band's buildings on a reservation that provides little in terms of natural resources and economic opportunity.

For more information about CBCMA and its programs, visit <https://chenoafund.org>

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