



## THE HARVARD PROJECT ON AMERICAN INDIAN ECONOMIC DEVELOPMENT

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John F. Kennedy School of Government • Harvard University

### HONORING NATIONS: 2006 HONOREE

#### **Tribal Land Title and Records Office Saginaw Chippewa Housing Saginaw Chippewa Indian Tribe of Michigan**

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*For years, limited on-reservation housing options forced citizens of the Saginaw Chippewa Indian Tribe to look elsewhere to live. Taking action to solve this problem, the Tribe encouraged private lenders to offer mortgages on trust land and to offer terms and rates similar to those available off the reservation. A critical component of this solution was the creation of the Saginaw Chippewa Tribal Land Title and Records Office, which keeps all records and verifies all titles pertaining to trust lands, replacing the BIA's much slower and more cumbersome process. As a result, private mortgage lending has increased, there is a housing boom on Saginaw lands, and economic development options that were simply impossible before have emerged. Most importantly, citizens are moving back home.*

In the 1990s, the dream of homeownership was nearly impossible for Saginaw Chippewa tribal citizens. Their reservation, located in central Michigan, had limited housing options the only choices were mobile homes in trailer parks, pre-fabricated homes, government housing, or apartments in one-story complexes. Most of these options were classified as low income housing. When tribal citizens did consider buying or building a new home, they were burdened with a lengthy title process and offered few financing opportunities. Not surprisingly, many moved off the reservation. As the Saginaw Chippewa Indian Tribe grew increasingly prosperous, the problem worsened. Demand for better homes intensified, but at the same time, more citizens became ineligible for the federal government programs that provided the main source of on-reservation home financing. Only one local bank offered mortgages to tribal citizens and the only product available was not appropriate for most prospective homeowners' needs.

A lack of adequate housing choices on reservations is a reality for many Indian nations. Private lenders shy away from the complexity of lending on trust land because the land is held by the federal government for the benefit of a tribe or of an individual tribal citizen. The use and transferability of trust lands are restricted; they cannot be sold or used as collateral for a loan without the approval of the Secretary of the Interior. While building a private home on trust land is possible and lenders and tribes are increasingly able to develop workable mortgage lending products, the homebuilding process continues to be constrained by the Bureau of Indian Affairs' (BIA) titling and approval process. Mortgage lenders need a document verifying title within a few days; the BIA turn-around time to produce a title status report is 6 months or more and has sometimes been as long as 7 years! Even when they are obtained, BIA title status reports are not always reliable. In addition, the BIA documents are

confusing to private lenders since they are not specifically aimed at clearing title for individual mortgages: the automated trust land management system recently implemented by the BIA prioritizes the tracking of mineral rights and natural resources development rather than facilitating mortgages. The lack of an accurate and timely title process either discourages lenders from doing business on trust land or delays the lending process so significantly that very few mortgages can be completed.

In the late 1990s, the Saginaw Chippewa Tribe made a deliberate decision to rebuild its community and bring tribal citizens back to their homelands. Housing staff identified factors that would help increase homeownership on the reservation and proposed a comprehensive, centralized, and long-term program for bringing all parties tribal citizens, the tribal council, the Tribe's housing office, lending institutions, title insurers, and federal government agencies together as partners to facilitate a successful homeownership process. Clearly, accurate title records and a reliable and professional record management system would be key components of this process. Taking control over their land records would not only facilitate private lending and bring tribal members back to the reservation, but also strengthen tribal self-governance.

A local title company audited the tribal housing office and determined that the Tribe had the capacity to clear title. In 2000, the tribal council established the Saginaw Chippewa Land Title and Records Office (LTRO). The Office keeps all records pertaining to the status of the Tribe's trust land, including encumbrances (such as leaseholds and mortgages) and other related documents (such as death certificates). It functions similarly to an off-reservation register of deeds office, recording documents and verifying titles. It also serves tribal citizens seeking mortgages on fee-simple land by recording assignment of per capita documents if they are required for financing.

Today, the LTRO's one full-time and one part-time employee can produce reliable trust land title documents within one week, often within 24 hours. Because of this timeliness, tribal citizens are better able to secure good interest rates and close mortgages on the reservation. Underwriters can provide title insurance because documents produced by LTRO are consistently accurate. And, the clear, accurate tribal land records management process has made it both possible and desirable for more lenders to offer competitive mortgage loans on trust land, which in turn makes homeownership a reality for many more tribal members.

The reservation is currently experiencing a housing boom, and tribal citizens are moving into beautiful, custom-built homes on Saginaw Chippewa land. Since the LTRO was established, 205 homes have been built on tribal trust land through private mortgage lending and two subdivisions have been completed activity that represents over \$22 million in mortgage loans. Without the LTRO, lenders estimated that anywhere from 75-100% of these mortgages would have been impossible. Future plans include additional housing subdivisions, commercial developments on trust land, and the purchase of fee-simple land that will one day be turned to trust land with the potential for more development.

One of the keys to the LTRO's success is that it can complete title requests more efficiently than the BIA. This is due to its exemplary processes and information management system. The LTRO's online database can provide real-time, up-to-date information on all reservation land tracts. Moreover, the Office uses the same computer software as the county and state, allowing for quick and efficient information sharing.

The LTRO has also made a conscious effort to build strong relationships with critical players in the lending system the BIA, local banks, title companies, and mortgage lenders. Again, the

Office's accurate and professional processes made these relationships possible. For example, title companies usually expect about 10% claims on title, but on Saginaw Chippewa trust land, there have been no claims on over 170 title policies. Partners described the pre LTRO process 'as a nightmare' in contrast to the remarkable job and seamless title process that the LTRO oversees.

Acknowledging that sovereignty and land are inextricably linked, the Saginaw Chippewa Tribe took action to develop accurate and effective land management processes. The LTRO strengthens the nation's sovereignty by taking control of a function that had previously been performed outside the nation and by doing the job much better than outside managers. Now, the LTRO controls the data and can validate title information. Partners can rely on the LTRO documents. Under federal regulations, BIA approval is still needed, but the effective and efficient processes of LTRO have simplified the procedure, making BIA approvals a virtual rubber stamp. Additionally, lenders and partners follow tribal ordinances, laws, and resolutions on mortgage lending, eviction, and foreclosures and resolve disputes in the tribal court system actions which further strengthen tribal self-governance and sovereignty. Notably, these achievements are possible for many other Native nations: all tribal governments have authority over their records, even those currently housed within the BIA.

For the Saginaw Chippewa Tribe, land is key to the existence of the Tribe and its people. Land tells the story of the people, informs the culture, and is a source of strength for the community. Land teaches the people to be self-reliant and for the Tribe it is important to know that the land will not be taken away from them again. Citizen homeowners on the reservation are critical for the nation's prosperity. The Saginaw Chippewa Tribe is transforming homeownership on trust lands. Clearing title is the linchpin for making it happen. Having the ability to produce reliable trust land documents and provide clear titles quickly, the LTRO increases housing options for citizens and enhances their opportunities to secure loans. In the words of a Tribal Recording Title Search Specialist: "To have a land base that is strong, structured, and controlled reinforces confidence, self reliance, and self-governance. Members have a place to come home to and appreciate and sustain their life."

#### Lessons:

- Land ownership and land management capacity can be critical supports to Native nation sovereignty.
- Especially as their economies grow, Native nations need to craft policies that promote a variety of housing options for low, middle, and higher income citizens.
- Capable tribal administration and knowledgeable staff provide the foundation for successful collaboration between tribal and non-tribal governments; they often serve as resources for their partner governments.