THE DESIRABILITY OF AN INDIAN HOUSING AUTHORITY
FOR
MASSACHUSETTS

by
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1.0 INTRODUCTION

This thesis assesses the desirability of Indian Housing Authorities (IHA) to meet the housing needs of the Mashpee, Gay Head, and Nipmuc Tribes and other Native American populations of Massachusetts. Because the housing and economic conditions of the Native American population have lagged behind those of the overall population, an amendment proposing an Indian Housing Authority has been brought before the State Legislature.

Petitioning for this amendment began in 1976 and it is again before the House of Representatives, Committee on Housing and Urban Development for consideration in 1987. To make an Indian Housing Authority possible the Commonwealth of Massachusetts would have to amend its General Law 121-B to specifically include Indian Housing Authorities.

Although the housing conditions of the Native American population have not improved over the past ten years, the political circumstances and policy parameters that had prompted the tribes to petition for powers to create Indian Housing Authorities have changed, somewhat. For example, the primary funding sources under HUD’s Indian Housing Programs that had been targeted have been restricted for the past several years by Federal budget cuts.

At this juncture of Native American groups efforts to
assist in meeting the housing needs of their constituency, a question, does the concept of an Indian Housing Authority remain a viable resource in meeting that objective?

My purpose in addressing this question is to present the issues associated with the creation of an IHA, considering the needs and expectations of the Tribal groups petitioning for the authorization to create public agencies, as well as the political implications of the perspective of these Native American groups and from the State and municipalities that may interact with such an agency.

To determine the applicability of the proposed IHA, I interviewed leaders of tribal groups to establish their understanding of this type of public entity. I then analyzed the organizational and political positions under which the Tribes were operating when they began petitioning for an IHA, and compared those situations to the present ones.

Finally, I determine if this approach has the potential to address the needs and objectives of the tribes, and give my interpretation of the directions Indian Housing Programs will take in future years.
2.0 MASSACHUSETTS NATIVE AMERICAN HISTORY

The Wampanoag people, from which the Mashpee and Gay Head Tribes come, controlled the territory presently known as Southeastern Massachusetts long before the Norsemen and other Europeans drifted to these shores. The Wampanoags provided the Pilgrims sustenance and the knowledge of how to exist in this land, contributing to their survival during the first winters in the New World. What is celebrated today as Thanksgiving is a derivative of that early relationship with the Wampanoags.

2.1 CREATION OF INDIAN PLANTATIONS

As immigrant populations outgrew native populations and became dominant militarily, native people converged into common areas such as Mashpee, Gay Head, and Hassanamisco. These communities were referred to as Praying Indian Towns, because the natives had taken to Christianity.

The influence of devoted individuals such as Richard Bourne led to the eventual protection of these communities from white encroachment when the Massachusetts Bay and Plimoth Colonies designated them as Indian Plantations in 1670, with the lands never to be sold or alienated. With this protection the natives were able to continue their ancient lifestyles, existing in harmony with the land.
2.2 DISSOLUTION OF INDIAN PLANTATIONS

In 1870, contrary to the votes of the Mashpee and Gay Head Natives, their Plantations were dissolved and incorporated into towns by the power vested in the Commonwealth of Massachusetts' Great and General Court. Testimony given before the Great and General Court indicates that these communities requested money to provide for the impoverished, and that some residents felt that they were discriminated against as they could not vote or hold land. Apparently it was felt by the state that a solution to these problem was to dissolve the Plantation status, despite the Indians objections, and afford these communities all the rights and responsibilities provided for all American citizens.

To facilitate the governmental transition from Indian Plantation to incorporated Town, the 1869 Allotment Act\(^1\) was imposed, which granted every Native man, woman, and child 60 acres of land. This Act was intended to break up the communal land relationship that was prevalent among these Indians from time immemorial, and to introduce the native population to the concept of individual ownership. This action, in effect, set a course to destroy the social and economic continuity that these people had always known, and

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\(^1\) The 1869 Massachusetts Allotment Act was predecessor to the 1887 General Allotment Act, and was designed to break up the traditional communal style landownership that was prevalent among Native American groups.
catapulted them into an ideologically conflicting economic system of individual ownership and monetary exchange, that would eventually engulf any resemblance of their past way of life.

Despite those governmental changes, the anticipated economic progress was slow to materialize, as the Mashpee and Gay Head communities remained Indian controlled, as did their communal governing mannerisms influenced from days past. With these governmental inconsistencies and the absence of economic progress these communities were subsequently "redlined" or denied investment from financial institutions and from private resources, resulting in deeper economic dilemmas than could have ever been realized as an Indian Plantation.

Consequently, from 1933 to 1968 Mashpee was placed under State receivership due to insufficient tax revenue to operate the town. Under the State’s guidance the tax base was restructured through tax foreclosures and sales of Native family lands.

Despite the assumed powers of the State’s Land Court, it took several years for financial institutions and developers to become convinced that the land titles in these communities would withstand legal contest. As demand for these lands on Martha’s Vineyard and Cape Cod increased, the potential rewards to developers and financial institutions outweighed the risk and resulted in a housing development boom.
3.0 WHY INDIAN HOUSING AUTHORITIES?

During the 1970s the economic conditions of the Native American population of Massachusetts deteriorated in comparison to the population at large. They experienced the highest unemployment rates, and lowest per capita incomes of any population group in the state. Yet, during that same period, particularly on Cape Cod and the Islands, building construction was reaching all time highs. Mashpee, for example was the fastest growing community in the United States between 1970 and 1975, with a population growth of 253%.

These changes were perplexing for the Native populations because, while their people were suffering with high unemployment and low incomes and unable to afford to pay the taxes, non-Indians were profiting from the development of what was thought by Indians to be their family land. Although the mechanics of American Government and its free enterprise system were instituted to stimulate the economies of these communities, the implications of this form of economics had not been fully realized by the Indian residents.

Realizing the dilemma they were in as they witnessed thousands of acres of what was once protected Indian


3 Cape Cod Planning and Economic Development Commission, 1975 Building Construction Report for Barnstable County
reservation land become subject to tax liability and speculative absorption.
Being poor they were unable to protect their ancestral lands and with the onslaught of dramatic changes taking its toll on their communities the native people were forced to reassess their position and develop strategies towards regaining some of the economic stability that had been taken from them. In the early 1970s, the tribes of Massachusetts, particularly the Mashpee, Gay Head and Nipmucs, began seeking methods and resources to combat speculative development, while at the same time providing for the needs of their people.

In the late seventies the U.S. economy experienced high inflation. Growing numbers of Native people were in need of housing as interest rates escalated to new heights, affecting the opportunities to produce low and moderate income housing. Rather than accepting these conditions, these groups sought alternative and more favorable resources such as the opportunities that had been made available to other Tribes through the federal government. With a combined effort of the New England Regional Indian Task Force, research on the various federal housing programs available to Native Americans was undertaken, and after identifying that HUD's Indian Housing Programs (IHP) seemed to have ample resources, New England Tribal groups hoped that the creation of Indian Housing Authorities would provide access to those resources.
providing the ability to fulfill the needs of their constituency. Because none of the New England tribes, at the time, enjoyed government to government relationships with the United States, they relied on legislative provisions made on their behalf by their respective States to create public housing agencies, in order for them to become eligible for federal Indian Housing resources. * In 1976 the Mashpee, Gay Head, and Nipmuc Tribes in conjunction with Boston Indian Council, an urban non-profit Indian Organization, began petitioning the Commonwealth of Massachusetts to amend its General Law 121B* to include specific provisions for Indian Housing Authorities.

Ten years have passed since the initial Bill was proposed in Massachusetts, and while other New England states--Maine, Connecticut, and Rhode Island--have made legislative amendments allowing Indian Housing Authorities, Massachusetts has not taken this action.

3.1 INDIAN LAND CLAIMS

An affordable housing supply presented only one problem for the Native American. The overall situation confronting

* The 1937 United States Housing Act provides resources to political subdivisions of the Federal Government, or a State. A Federally Recognized Tribe is considered a political subdivision of the United States, and a State Recognized Tribe a political subdivision of the State.

= General Law 121-b specifically refers to local housing authorities under the Section for public welfare.
the Native American involved a number of strategic decisions with respect to housing development and the disposition of their ancestral lands, during a period when their political power was in transition. Their alternatives were limited to accepting the current trends of indiscriminate development of their ancestral lands, with a remote possibility of joining the economic ream, or to devise strategies to combat the current events despite the probable consequences of becoming politically and socially unpopular. They chose the latter, and in 1972 the Gay Head Land Claims suit was filed, with the Mashpee Tribe initiating its law suit in 1976. They contended that their lands had been taken from them illegally. Their claims were based on the 1790 Non Intercourse Act, which prohibited land transactions with Indians without Congressional approval. The tribes contended that the State of Massachusetts made an error in acting to incorporate these communities without Congressional approval. The Tribes demanded the return of their land with compensation for damages.

The Mashpee Tribe brought its case before the US Federal Court in 1976, but they were not allowed to present the merits of the case until their tribal existence was established in accordance with law. A method of determining tribal existence, was non-existent, nor could a definition be agreed upon by both sides, leading to a Jury trial of peers to determine the fate of the "Mashpee's" legal tribal
existence. A highly emotional and racially demeaning 40 day trial resulted in a decision against continued Tribal existence that was inconsistent with the criteria established to test the case. The decision was appealed requiring an additional two years to exhaust due process during which the Mashpee Tribe considered alternative approaches to assist in housing production.

The implications of the case clouded the property titles of the community, and effectively stopped real estate investment within the litigated area. The tribe was subject to political pressures, from inside as well as outside the community, and while trying not to appear hypocritical, the tribe attempted to release existing homes and housing subdivisions of a stipulated size from the legal action. They were hoping to release political pressure, while providing financial institutions an understanding that the tribe's intentions were not to deny them assurances of their investment, but to slow the development trends and to preserve some of the natural beauty that has attracted the onslaught of speculation. The Tribe also offered conditions for a negotiated settlement, containing 4,000 acres of land and $4 million to be appropriated by the State, Town and Federal governments. Both of these proposals, particularly the settlement, would have released political pressures and given the Tribe opportunities and resources to pursue the housing needs of their people. However, the Defendants
subject to this class action suit refused to accept the terms of a settlement, and without the ability to assure collateral to financial institutions it became obvious to the tribes that any alternative methods of housing production were limited and that resources from the federal government were the only recourse.

3.2 FEDERAL RECOGNITION

As a result of the land claims court decision against Mashpee, the Gay Head Tribe opted to negotiate with the current land owners of its community to assure their regaining some of their aboriginal lands, as opposed to chancing a litigated outcome with nothing. The settlement, in return for clear land titles for all residents, and conditions preventing future land claims against the Town of Gay Head, the State, the U.S. Government or its citizens, granted the tribe approximately 250 acres of land consisting of cranberry bogs, beaches, some highlands and the renowned Gay Head Cliffs. In addition to the land they will receive a nominal cash settlement, financed by the State and Federal Governments. They would also become eligible to receive Federal Indian Programs and services, which have only been available to federally recognized tribes.

As a condition of eligibility for this settlement, the Reagan Administration required that Gay Head substantiate its
tribal existence before the Acknowledgment branch of the U.S. Department of Interior. This process was developed as a result of the Mashpee case, and involved documenting its historical, genealogical, and governmental progression from the 1700s to the present. On April 11, 1987 the governmental authority of the Gay Head Tribe was recognized by the United States. Unlike other Tribes in Massachusetts, with this recognition Gay Head is eligible to create an Indian Housing Authority at its discretion without provisions from the State of Massachusetts.

It is probable that the Mashpee, and Nipmuc Tribes will pursue Federal Recognition in the near future, seeking resources for housing and other services similar to those being received by Gay Head, however the process requires several years for a determination.

Mashpee attorneys* speculate that they will have more difficulty receiving recognition despite their historic similarity to Gay Head. They anticipate a great deal of opposition from the Town because the political atmosphere in the Town of Mashpee is somewhat more hostile and adversarial.

In summary, the Tribes of Massachusetts contend that they are legitimate governmental entities and have the right of access to resources that would contribute to their ability to meet the needs of their people. These tribal groups feel that

*Arlinda Lockleer Attorney, Native American Rights Fund; Statement at the Mashpee Tribal meeting April 14, 1987
IHAs would be beneficial towards meeting the housing needs to their people. However, under current circumstances they are reliant on the Commonwealth of Massachusetts to pass legislation to allow for Indian Housing Authorities before they can gain access to Federal Indian Housing Programs. They are also interested in an IHA because of its ability to assemble land. Another avenue to gain this access, to become a federally recognized tribe, and being pursued, but this requires several years to accomplish and is not certain.

Some of these tribal groups have become politically unpopular by initiating land suits against the State and some of its municipalities, disrupting the operations of those communities, and stifling economic activity for a period of time. Retaliation by these towns has placed the Tribes in somewhat of a predicament, because they need cooperation and assistance from these communities.
4.0 WHAT IS AN INDIAN HOUSING AUTHORITY?

In 1962 Congress amended the U.S. Housing Act of 1937 to extend financial resources to Indian Tribes through the U.S. Dept. Of Housing and Urban Development for the development and operation of low income housing projects. This amendment to the U. S. Housing Act provided that an Indian Tribal government in exercise of it powers could create public housing agencies, (Indian Housing Authorities) a prerequisite to receive federal housing assistance.

The powers delegated to Indian Housing Authorities include the power to enter into contracts deemed necessary to develop and manage housing projects, assume indebtedness to finance its projects, acquire and assemble land for housing projects and other public purposes, invest excess cash and residuals realized through its land holdings and other assets, carry out management functions as necessary to assure timely disposition of indebtedness of the asset, and to develop and implement regulation as deemed necessary to facilitate the operations of the management function.\(^7\) IHAs are public agencies, agents of the public body that created them, and are delegated ultimate authority over the low income housing projects in their designated area.

Because of stipulations requiring Congressional approval for land transactions with federal Indian lands, federal

\(^7\) See appendix: Powers of An Indian Housing Authority.
programs are the only resources for housing for the majority of reservations, making the IHA an important and influential agency on Indian Reservations.

Today there are approximately 175 Indian Housing Authorities across America. As many as 98% were created by Tribes with a federally protected land base and operate among a population that is predominately Indian. Since their inception in 1962 they have constructed nearly 60,000 units of low income housing. *

*U.S Dept. Housing and Urban Development; 1985 Annual Report on Indian Housing, Housing Assistance Corporation report; Elimination, Analysis of the Federal Budget for Indian Housing 1986/87
5.0 THE PROPOSED INDIAN HOUSING AUTHORITY IN MASSACHUSETTS

The Bill before the Massachusetts House of Representatives would allow for the creation of Indian Housing Authorities on behalf of the Gay Head, Mashpee, and Nipmuc tribes to carry out low income housing projects for Indians. If Massachusetts were to allow IHAs, they would be eligible to compete for the resources provided by Massachusetts for local housing authorities, as well as for resources provided through HUD's Indian Housing Program. As drafted, the bill provides that an IHA could develop housing projects in any community in which an Indian population resides.

Interviews with early drafters of the Massachusetts IHA Bill, along with written documents and legal opinions, suggest that its initial intent was to create umbrella Authorities not only to produce Indian housing projects for the tribes eligible to receive them,* but also to produce projects in other areas of the state such as Boston, New Bedford, and Worcester, where Native American populations reside. They were intended to enter into joint ventures with Indian organizations in these areas, and utilize Consortium Boards to facilitate the development and management functions.

* New England Indian Task Force, meeting February 1977 Memorandum of Understanding; Drafted by Federal Task Force member Gregory Buesing, Community Services Administration; Ratified by the Tribes Mashpee, Gay Head, Nipmuc and the organizations: Boston Indian Council, Algonquin Indian Association, Bristol Indian Council.
of these projects.

The reason for an organizational approach such as this was that the Native American population accounts for less than 1% of the Massachusetts population, and under normal circumstances they found it necessary to combine their influence to be competitive for services. As funds and other services became available for the State’s Indian population those resources were to be funneled through the tribes and organizations with administrative capability. The organizational design of the IHA was developed to allow that network to serve its statewide constituency.

However, in the opinion of Joseph F. Gelletich, Assistant General Counsel for Public Housing, U.S. Dept of Housing and Urban Development (HUD), the consortium provision did not provide an acceptable legal basis for the extension of IHA activities to these additional areas, and, as a result of this legal advice, the legislative proposal was amended to exclude any reference to the consortium boards, but in a way that would not preclude an IHA from pursuing developments in Boston or other areas of the State.

The objectives of the network were to establish Indian

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10 "We believe that the legislation as framed creates an unacceptable uncertainty as to the legal responsibility and right of the IHA, which executes the contributions contact with HUD, to control the development and operations of the project in the additional areas in compliance with statutory and administrative requirements. Opinion written by, Joseph F. Gelletich, Assistant General Counsel for Public Housing, U.S. Dept. of Housing and Urban Development."
housing developments in several communities, to gain visibility as an Indian population, to develop capability in housing production, and to increase the assets of the tribes.

5.1 INDIAN LAND ISSUES

IHAs have been extended more flexible types of housing assistance not usually available to local housing authorities, often at a state’s discretion, because most IHAs operate on reservation or trust property, lands which cannot be sold or encumbered. Because this severely limits the ability of most IHAs to attract private financing for housing or other ventures requiring secured loans, Indians have been reliant on the U.S. Dept. of Housing and Urban Development, the Bureau of Indian Affairs and other federal agencies as their source for housing and economic development finance.

In Massachusetts title covenants that place limitations on land use, such as found on other reservations, would probably apply in the IHAs designated areas of operation on the Wattuppa and Hassanamisco Reservations. From an Indian perspective this arrangement may be desirable, assuring the protection of the land and its improvements from the remote possibility of foreclosures by private concerns. However, this will also severely limit the options for projects on these sites. There are other issues associated with the IHA’s designated areas of operation. The Hassanamisco Reservation has been reduced from 7500 to 4 acres of land over the years,
and in the opinion of the current Nipmuc Tribal administration housing is not a priority in their Reservation land use plan. Also, the actual ownership\textsuperscript{11} of the Wattuppa Reservations is in question. Although an Executive Order places this reservation in Trust in behalf of the Gay Head and Mashpee Tribes, actual title and disposition of the reservation rests in the authority of the Commissioner of Conservation. It should also be noted that the Wattuppa reservation is approximately 50 miles from locations in which tribal communities reside, so the probable conduciveness of these designated areas of operation to the needs of the tribal groups would be limited. I would envision that an IHA would pursue projects in communities where Indian populations reside, particularly within close proximity to the tribes present areas of operation, specifically the towns of Mashpee, Gay Head, and Grafton. With this approach an IHA would not be developing on restricted land and would operate like other local housing authorities or non-profit corporations that have federally sponsored public housing projects.

This raises other important concerns. Would there be a conflict between a local housing authority and an IHA operating in the same community? The proposed bill provides that the IHA would not affect or diminish the rights and powers of a local housing authority. For example, the power

\textsuperscript{11} see Potential Projects (appendix pg. 71)
of eminent domain (the legal authority granted to governmental entities, to take private property, for due consideration, if such property taking is determined in the best interest of the community) would be limited by this bill to the jurisdictional confines of the Nipmuc and Fall River/Freetown Reservations.

The federal government further requires that agreements and understandings among local government and tribe be resolved prior to actual creation of the IHA. If agreements cannot be reached it would be my opinion that the jurisdictional authority of the local government would dictate. I believe that this would be the case if a LHA and IHA were competing for the same funding resource, or project location as well.

One criticism of the proposed IHA might be its preferential treatment for a particular ethnic group. Under federal statute the "Indian Self Determination and Education Act" provides for Indian preference in construction contracting, permitting Indian organizations or Indian-owned economic enterprises to be waived from certain regulatory bid requirements. The intent of this section is to assure that Indians have the opportunity to participate in all of the economic activity that is being transacted on their behalf.

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12 Indian Self Determination and Education Act (preference for Indians) 25 U.S.C. 450e(b)
Also, amendments to the Civil Rights Act have rescinded the applicability of Title VI and Title VIII to IHAs. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in federally assisted programs, and Title VIII of the Civil Rights Act of 1968, as amended, prohibits discrimination based on race, color, religion, sex, or national origin in the sale or rental of housing. An IHA would provide for Massachusetts Indian tribes the opportunity to produce housing, carry-out business, and federal programs for the exclusive purpose of Indian people without discriminating in accordance to the law. It would also assure that the investments made or benefits derived would be retained in the tribes possession, as opposed to the possibility of losing control of those assets, as was the case with their donated, or confiscated assets that were subject to taxation and the power of the vote in their respective towns.

Summary: The proposed IHA would be something of a hybrid. While having an assigned jurisdiction, the reservations of Fall River/Freetown and the Hassanamisco, the IHA would also able to operate as a tax-exempt developer in other communities where Indian populations reside, although under the jurisdictional authority of that local government. The

13 Indian Civil Rights Act. 25 U.S.C. 1301-03
14 The IHA’s projects would be tax exempt, however federal regulations provides opportunity for fees to be negotiated in lieu of tax as payment for public services.
proposed IHA would be eligible for programs and resources available from the Federal Government, while having access to the opportunities provided by Massachusetts General Laws for local housing authorities. Its projects would not be subject to some of the Civil Rights Acts with respect to housing sales and rentals, and would provide preference to Indians in construction contracting, employment and federal program operations. With the opportunities described as available to an IHA it could be considered an unprecedented public housing agency because of its ability to cross jurisdictional boundaries to pursue projects. No other IHA or local housing authority (unless regionally defined) has this type of flexibility. In my view the proposed IHA would be gaining some of the characteristics of a private developer, but with a public purpose.
6.0 COMPARISONS TO OTHER HOUSING AUTHORITIES

It wasn't until 1962 that the United States Housing Act of 1937 was amended to extend federal financial resources to Indian Tribes. The intent of the U.S. Housing Act was, "to promote the general welfare of the nation by employing its funds and credit to alleviate present and reoccurring unemployment, and to remedy the unsafe and unsanitary housing conditions." The purposes of this Act are appropriate for Indian Reservations as most are isolated from major employment areas causing extreme unemployment and severe poverty conditions. With the aforementioned stipulations on reservation lands, the housing stock usually reflects the economic conditions. IHA projects bring vital sums of economic development resources to Indian communities, precisely the types of resources sought by the Massachusetts Tribes.

The latest Bureau of Indian Affairs figures show that there are approximately 182,000 Indian families living on or near reservation areas across the country. Of these, 33,097 families have no home of their own. This figure includes people living in tents, tepees and cars, as well as those who double and triple up with other families. Of the 149,227 existing Indian units, 31,395 need repair, while another 24,905 need replacement. With some 56,300 units in substandard condition, and an additional 33,097 families
needing new housing, a total of nearly 90,000 families are in need of decent homes. These figures do not include the significant number of Indian people in urban areas and off reservation settings nor groups that are not federally recognized, such as in Massachusetts. Thus the full extent of Indian housing needs is unknown. Since IHA’s inception they have constructed nearly 60,000 units of low income housing, yet because IHA projects are usually the only source of housing production on reservations, they are not keeping up with need.

IHAs are different from the public housing agencies that are found in local communities. The Indian Self Determination Act intended that Indian agencies such as an IHA would develop the administrative capabilities of its tribal community, enabling it to eventually direct its destinies as a competent, and accountable governmental enterprises. While this is a desirable approach from the tribe’s perspective, it is often limited by the availability of effective technical assistance and capable human resources to develop efficient administrative foundations. Although a tribe can recruit staff from outside of its population, the rule in general has been to keep tribal business within. Other local housing authorities would replace ineffective staff and would have no geographical boundaries from within which to recruit. The

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15 Statistics from the BIA’s Consolidated Housing Inventory Report of 1984
practice of hiring from within has been recognized as a contributing factor to problems for many Indian programs. A 1986 audit on the Development and Management of Indian Housing, by the U.S. Office of the Inspector General, cited thirty two percent of the existing IHA’s for significant deficiencies in operations and management of the units under their authority, with an additional twenty percent of the IHA’s experiencing rectifiable problems.

Apparently IHAs are not the only ones to blame for these deficiencies as explained in HUD’s 1983 Annual Report, which stated that due to the lack of communication and cooperation among federal agencies and the tribes they failed to recognize inherent problems in the operation and capabilities of IHA. These problems led to cost overruns, delays in projects, and serious design and construction deficiencies. HUD contended that misunderstandings with regard to IHA capabilities to produce housing, and its agency’s responsibility to provide technical assistance, along with the lack of interagency coordination led to most of these deficiencies.

6.1 PENOBSBOT INDIAN HOUSING AUTHORITY

The Penobscot IHA is the largest IHA in New England and has had the most experience in implementing HUD’s IHP. Its experiences suggest possibilities and difficulties for the proposed IHA in Massachusetts. The Penobscot IHA is a State
legislated IHA, and it provides helpful insights as to some of the relationships of IHAs with State and Federal agencies. In addition, the Penobscot Tribal population is roughly the same size as the Tribes in Massachusetts, providing a basis to compare the scale of potential activities of the proposed IHA. While there are some differences between this Maine Tribe and Massachusetts Tribes, such as their established land base, there are enough similarities to draw parallels.

The Penobscot Indian Housing Authority was empowered under legislative enactment of the State of Maine in 1972. It had been determined by the Tribe and substantiated by the State that a shortage of affordable housing units existed on the reservations occupied by the Penobscot and Passamaquoddy Tribes, resulting in overcrowding and unsanitary conditions. Because of the stipulations associated with the use of reservation lands the shortage couldn’t be addressed by private enterprise or by any other housing authority created by the State of Maine. As a result, the area of operation of the IHA was specified as within the territorial boundaries of the reservations.

In 1972 the Penobscot Reservation consisted of Indian Island, Old Town, Maine, some 4800 acres of land. But in 1980 when the Maine Tribes settled their Land Claims against the State of Maine, the Penobscots secured an additional 143,685 acres of islands and woodlands.

A 1986 tribal census counted 1817 tribal members for whom
120 units of low income housing were constructed between 1972 and 1980. The housing units were accomplished through HUD’s Turnkey III Program through which the IHA contracted the construction process out to private firms that performed all phases through final completion. The financial terms of this type of construction have presented some problems for the Penobscot Tribal community, as well as for the IHA. Rental payments were calculated based on thirty percent of a tenant’s income. As tenants increased their quality of life through gains in income they were assessed comparable increases in rent. Some were required to pay more in rent than would possibly have been required had they carried a mortgage. Apparently there was some pressure from the tribal community on the IHA to restructure or break its contract with HUD. However the tribe’s credibility would have been at stake, leading to potential problems securing resources for future housing needs of the Tribe.

The Director of the Penobscot IHA described his organization as a State empowered entity, separate and autonomous from the authority of tribal government in its decision making process. And, although its relationship with the Tribal Government at times had been tested, with occasional instances of unpopularity within the community, it was felt that its structure has provided the IHA with the necessary stability and continuity in the implementation and management of its housing contracts and policies.
The relationship between the IHA and the State of Maine prior to the Tribe accepting Federal Recognition proved a meaningful opportunity for the tribes to acquire financial resources for the development and operation of their IHA projects and invaluable exposure to the States legislative process. As a State Indian agency the IHA found it necessary to develop contacts and linkages with the various state agencies and legislators to promote their projects and appropriations bills. Over a period of a couple of years the Indian Representatives at the State Capital had transformed their reputation from indigent wards of the State to formidable political lobbyists. Results of their linkages and tenacious attitude eventually led to what were considered productive and financially cooperative State relations for housing production, maintenance, and operations. Since accepting federal recognition, however, though the entity remains State chartered, the financial resources available to the IHA have been limited to those available from the Tribe and federal government, and although these resources are apparently sufficient, they are significantly less than what had been available previously through the State.

According to the Director the lack of viable employment on or near these rural Indian reservations had been a major concern for the tribal community for many years. The area's economy, along with the covenants on trust property, were recognized as the major contributors to the deteriorating
housing stock on their reservation. The primary employer on the reservation had been tribal government through limited federal programs. Other employment opportunities included paper mills and migrant farm work, which were both unreliable and seasonal. It was felt by the tribe that housing construction and IHA operations would stimulate their economy, but direct job creation was limited. Since completion of construction the IHA has employed only three staff persons with responsibility for collections, maintenance of subsidy accounts, contributions contracts, bookkeeping, and maintenance. Other necessary services such as legal, major renovations, snow removal, plumbing, etc. have been contracted out.

The functions of the Penobscot IHA were efficient and effective for housing development purposes, although since initial construction the contribution of the IHA to the tribal economy has been limited to the equity that the tribe accrues, with very little of the investment recycling back into jobs or into other improvements in the Tribal economic base. What had appeared initially as a cost effective financial resource, resulted in costing the tribe more over the long run, when it found itself subsidizing the increases in rent incurred as a result of the contract with HUD. The IHA found its previous relationship with the State more beneficial in regard to housing production and project operations than its current combination of self reliance and
federal programs. This relationship also produced invaluable exposure to established governmental operations, a process which they had to develop and refine within their own tribal government, as well as to the development of linkages and contacts within the state administration, which could prove useful in future government to government interactions.

Insights for the proposed Massachusetts IHA would be to recognize and weigh the tangible benefits such as housing units and resulting jobs, as well as the intangibles, such as experience and linkages, against the criteria used to determine need and the economic capacity of the tribal constituency. It will be essential to analyze thoroughly the short and long range financial implications of the terms of mortgage options, with emphasis on the current and projected economic conditions of their constituents. Consideration could also be given to homeownership and cooperative ownership opportunities, thus providing the potential tribal homeowner with equity incentives that produces some return on their investment.

6.2 LOCAL HOUSING AUTHORITIES

If Massachusetts were to allow IHAs they would be competing among the state’s network of existing Local Housing Authorities (LHA) for limited public housing resources. In the Commonwealth of Massachusetts there are 240 local housing authorities managing some 49,000 state aided public housing
units, in 868 developments, and more than 33,000 units of federally aided public housing or 284 developments.

6.3 TOWN OF MASHPEE HOUSING AUTHORITY

Because the largest Tribal affiliation in the State of Massachusetts resides within or in close proximity to the Town of Mashpee, it is likely that IHA activities would be initiated in this area. I felt that it would be useful to examine the efforts of the Mashpee housing agency to meet the needs of its residents, the obstacles with which it was confronted, and how it resolved them, and to compare its activity to that of the proposed IHA.

The Mashpee Housing Authority was empowered in 1982 through a vote of Town meeting. A Board of Directors is elected with the Chairperson appointed by the Governor.

Results of a needs assessment conducted by the Housing Authority indicated a need for low income and elderly housing units. The Mashpee Housing Authority decided to pursue Elderly housing, but it was also persuaded to include low income units in its plan to increase its attractiveness for grants from the State.

Acquiring suitable land was its first obstacle. While the town possessed several tracts of land that could accommodate the planned 18 elderly and 6 low income units, none were conducive to criteria set for elderly housing. Contrary to their option of purchasing land for this project, land values
in Mashpee have escalated up to $40,000\textsuperscript{1}\textsuperscript{a} per code size lot, even though in many cases it is less than an acre. The cost factors for land in communities such as Mashpee, place severe limitations on a housing project’s margin of affordability.

In 1983 a local developer, New Seabury Corporation, donated land for the elderly housing project in its proposed New Town Center adjacent to its existing shopping complex. The corporation also donated land for a church and town library, probably with the hope of gaining concessions such as easing the process of acquiring variances for zoning codes and building regulations and to promote favorable public opinion for a major expansion of their shopping complex which would include zone conflicting mixed use residential and retail shopping. (Despite these offered amenities, the planning and approval process for the developer and the housing authority has taken nearly four years.)

To finance this project the Mashpee Housing Authority was successful in being awarded a block grant from the Massachusetts Small Cities Fund and a low interest loan from the Massachusetts Housing Finance Agency, in addition to its appropriations from the Town for initial operations.

To whom is this type of public agency responsible? A housing authority is created by a public body to address the needs of the low income residents, elderly and otherwise.

\textsuperscript{1}\textsuperscript{a} source: Mashpee Assessors Dept.
latitude to choose among alternatives that favor certain segments of its population that are presumed more desirable to the composition of that community, though that segment may not necessarily be the most in need. The Board of Directors, which controls these decisions, are seated by election and appointment. The agenda of a LHA are a reflection of the composition of philosophies of the people elected and appointed to the Board. So, to whom is the agency responsible, the needs of the community, or the desires of the controlling interest of community? Are their controls to influence such agendas? In the Mashpee case the State interceded with conditions placed on the use of its resources.

How these concerns would be addressed within an IHA are very relevant, and this concern is the basis of the arguments regarding the autonomy of IHAs from tribal government. For most local housing authorities the final decisions on which projects are undertaken would be at the discretion of the public body. So, it appears that the political atmosphere and participation in the political process of the community is usually the determining factor on how much latitude an authority would be delegated. From the Penobscot IHA example, the autonomy wielded by the IHA poses similar concerns as observed in Mashpee. Although the Penobscot Board of Directors is elected, it appears that once elected into those positions they have the latitude to set their own
agenda. And, although there is rationale behind these powers in protecting the interest of HUD and other lending institutions, there are legitimate concerns with regard to usurping the powers of the tribal government and its sovereignty over the needs of its people.

Another concern of the IHA would be the accessibility of affordable land and alternative mechanisms available to housing authorities. An advantage of being a public housing authority, is that it is backed by political leverage that promotes the objectives and interests of the public body. As an agency of the governing regulatory authority for zoning, tax assessment, and other regulatory codes, the housing authority, though a separate entity, inherently has access to tools that provide it advantages in negotiating for land or other amenities from private owners for its public purposes.

The Mashpee Housing Authority was able to use these advantages as it needed a parcel of land in a location that would be convenient for the elderly residents to shopping and public facilities. Although the private developer planned his project as a new town center, concentrated around his shopping complex, it was essential to gain the cooperation of the town, its agencies, and residents to proceed with his zone conflicting development plans, thus providing the housing authority with sufficient leverage to accommodate its own objectives. Other methods of acquiring land available to a housing authority demonstrate the extent of a local
government's powers. These include the powers of eminent
domain, the acquisition of lands through tax foreclosure, or
the designation of lands for specific purposes in master
plans.

Another concern, is whether there will be sufficient
financial stability to carry such a project. The Mashpee
Housing Authority was able to convinced the voters to
appropriate funds from its tax base, while the Penobscot IHA
found the State Legislation receptive to their needs. While a
Massachusetts IHA would have access to federal and state
assistance for its resources, it would not have a tax base,
or other resources to resort to if it was confronted with
unforeseen costs to bring a project into fruition.

A determining factor for the State of Maine in allowing an
IHA was the absence of alternative methods to address the
housing needs of the reservation populations, which would not
be a factor in areas where significant Indian populations
reside in Massachusetts. If Massachusetts were to allow IHAs,
and if IHA projects were pursued outside of its primary area
of operation, in my opinion it would be difficult for it to
secure IHP resources. From the national data on reservation
housing it appears that the need for decent housing is
extreme, and with the federal budget's proposed cuts in IHP,
the need will become greater. Logically the needs of those
areas with limited resources should have priority for
available funds, therefore limiting the probability that
Massachusetts IHA projects outside of their operational boundaries, will be competitive for IHP resources. How these observations relate to the proposed Indian Housing Authority, I would have to say within the context of a housing authority, they have few similarities with respect to the powers and options available to a LHA or Tribe with a defined land base. In my opinion for the proposed IHA to be able to operate with any similarity to LHA or other IHAs a useful and defined land base (as a resource, or leveragable asset) is a key element that is lacking with the IHA proposal. There are designated areas of operation included with this proposal, but neither location appear useful to the needs of the tribes unless they consider relocating their populations. So, without a land base an IHA wouldn’t possess the bargaining power available to local housing authorities to negotiate with public or private landowners for land and other concession. While it would be a tax exempt entity, offering tax deductions for private contributions, it would lack the other important devices, such as regulatory authority, eminent domain, local tax abatements, and other concessions and tax revenue to assist in carrying out its objectives. In essence, an IHA would be just another non-profit developer in a community. Another factor that may or may not become an issue with an IHA would be local public acceptance. Mashpee chose to pursue publicly acceptable elderly housing as opposed to intervening in the
housing problems of the low income groups in town which were more in need of affordable units. Mashpee has realized tremendous growth in the past decade with most of its housing market catering toward the middle to upper income groups. A significant number of the home buyers in those income groups are elderly, resulting in increased attention to that population sector. This community has been realizing tremendous economic growth, in an atmosphere of the highest and best use in its resources in which low income housing cannot compete. As a gesture of goodwill, and the pressures of the Governor's Executive Order 215, which places conditions on a communities eligibility for State funds if it doesn't make provisions for affordable housing, prompted the town's efforts to make accommodations for the less fortunate.

Mashpee, like many other suburban communities, shudders at the mention of low income housing. Low income housing is associated in their minds with decreases in property values and increased demand on public services such as schools, police, and fire without contributions in return to the tax base by these tax exempt projects. Increases in minority populations are also a concern of some communities, especially those sheltered from interracial interaction and reliant on second hand misconceptions of social compatibility. These misconceptions have led to community conflicts and hostile environments throughout America, and presents the possibility for an IHA to be controversial.
because of its exclusive purpose, housing Native Americans.

From a State perspective, creating the proposed IHAs doesn’t provide other obligations by State, with exception to those provided for other LHA. As for an IHA becoming added competition with existing LHA for limited funds, an IHA would be on an equally competitive basis for such resources. However, IHAs would be somewhat limited in experience and developed linkages, that have been well established by existing LHA, therefore reducing the competitiveness of such an entity. Also there is the remote possibility of a IHA being awarded federal funds through HUD thus bringing new funds into the State. Consideration of potential controversial elements associated with the proposed IHA should be left to the discretion of the Tribal groups as it would be they who would have to resolve such issues.
7.0 INDIAN EXPECTATIONS OF INDIAN HOUSING AUTHORITIES

To gain an understanding of how Massachusetts's Native American groups currently perceive an Indian Housing Authority, and to ascertain how it might fit their needs and objectives, I conducted interviews with tribal and organization leaders and other informed individuals.17

The tribes of Massachusetts are typically small in membership and budget. They have organized Tribal Councils as State Chartered Non-Profit Corporations as their legal entity to conduct Tribal business. But, because the constraints set by regulation of the non-profit mechanism, or the complexities involved in getting around the constraints, the usefulness of this type corporate structure to these tribal quasi governments has at times been constraining to the role it needs to effectuate. Essentially these non-profits a subordinate to the powers and regulation of the state and local government for purposes of allowable activities. At times it has been difficult to pursue the types of resources and conduct the types of activities that the native populations perceive as appropriate and beneficial in meeting their needs. As a result they have all been on a budget roller coaster, shifting their objectives according to the requirements of available funds. Once funds are secured

17 see appendices: Interviews pg. 57
everything is done to carry out identifiable remnants of the original tribal purpose. The tribes appear to be pursuing a course of rebuilding their governmental capacity, including the development of stable economic bases, so that the residuals of those economies would generate livelihoods and amenities for tribal communities, and to help them to become competitive economically and socially with the general population.

For the past three centuries these tribal governments have been subject to various forms of social and economic oppression to the point of near extinction. As result their sovereign authority has become subordinate to the State's, and at this point in their history there are only a few options for them to operate with any semblance of a functioning government, a non-profit organization being the most prevalent. For these Tribal organizations to become more effective, adjustments to their non-profit corporate charters would be necessary to give them the needed flexibility to pursue other goals, which may include devising subsidiary or holding corporations that would diversify their functional capacity in the areas that they feel would be beneficial.

In my interviews with tribal leaders there was a broad agreement that affordable housing is an issue not only with respect to meeting the housing need of their constituency, but also for increasing the long term net worth of the tribe.
But, there was considerable disagreement about the most effective approach to pursue these needs.

In several interviews it was suggested that Tribes and Indian organizations should place more emphasis on increasing levels of income of Native American people so that they could make their own choice in the housing market. It was felt senseless to develop housing if their people couldn't afford to own it. Economic development was a key term, particularly tribal business development designed so that workers would have some stake in their production, as a cooperative or as shareholders. From another perspective it was suggested that an IHA could expand its function to include development planning services, technical assistance and funding sources to families trying to develop their lands for homeownership purposes. It was felt that a primary contributor to families losing their lands, or not maximizing its economic return, was their lack of experience in the development field, and their inability to afford preliminary development costs.

Some had a negative impression of federal, state, and foundation programs and grants feeling that they were inconsistent with providing for the needs of their people in a flexible manner, particularly for economic development, but others felt that the combination of available social programs incorporated with low income housing projects could be designed to intervene in family situations such as alcoholism, drug abuse, and welfare dependency, resulting in
positive contributions to the needs of tribal community.

An IHA was thought to be one of the few resources available to a Tribal group with limited means to use for the tribe’s benefit while realizing increases in its long term tribal economic net worth. Unlike other State Chartered Non-profit organizations where the assets of the organization belong to the resident population, the assets of an IHA would eventually revert to the tribe. This is problematic in Massachusetts where the Indian populations reside neither on reservations nor in communities or neighborhoods where they constitute a majority or a significant and contiguous segment of the area’s population. The identification of geographic target areas, with equal membership access for its residents is a requirement for non-profit organizations, to be eligible for certain tax exemptions, and many primary funding sources, therefore limiting the options of developing an economic base exclusively for tribal purposes.

For some it is inconceivable that any Bill for Indians will pass into law. They regard the IHA as too political an issue to be considered, due to the land suits against the State Massachusetts. In their opinion the timing for the State isn’t right as of yet, feeling that if Massachusetts were to allow IHAs such an action could later be interpreted as recognizing Tribal existence and used against the state should one of the unresolved Land Claims Cases reach a position to present its merits. While there may be validity
to this political point, others regard the creation of an IHA as a tribal right and feel it shouldn’t be obstructed by political differences.

In review, the needs of the Indian population described by these tribal leaders—business development, and increases in income levels—are diverse demands requiring an approach by an entity that would be flexible in its functional capacity. It is doubtful whether an IHA by itself could accomplish these ends without breaching legislative intent. My impression is that at the current level of development of these quasi governmental groups it is essential that they build upon their economic net worth before they can effectively assist their people, and housing development is one method of acquiring Tribal assets. But, while an IHA may be an effective vehicle to accomplish affordable housing, my concern is the autonomy afforded these entities. For a tribe to increase its net worth it must have access to the equity realized in its assets for further investment leverage. A state empowered IHA would be autonomous of the tribal government’s influence, and able to deny the tribe the use of those assets. A better situation would provide the tribal government with some control or connection with the IHA however not to an extent of disrupting the continuity of the IHAs ability to function efficiently and retire its liabilities. I would suggest a tribal subsidiary corporation with a separate Board of Directors with delegated authority.
to manage the Tribes assets, though any residuals realized from the assets would revert to the tribal treasury.

So, while it is possible to interpret the regulations for a IHA as providing the flexibility necessary to pursue some of the objectives either directly or through linkages, it would be difficult to envision an IHA fulfilling all of the tribes’ expectations. The State provided a precedent when it responded to the social and economic needs of tenants of large public housing projects by appropriating funds under Chapter 44 of the Acts of 1982 to integrate support services into public housing with an emphasis on education and jobs training. Producing low income housing and providing technical assistance and funding sources for native housing projects are the reason for creating IHA. The expectation of increasing income levels and initiating tribal enterprise are beyond the intent of housing authorities.

On a national scale the U.S. Housing Act was designed to stimulate depressed economies through the use of public funds to produce housing and alleviate unemployment. In all likelihood jobs will be created during construction of IHA projects, but the potential of those projects to become employment incubators on a long term basis is low. There is the possibility that through the skills gained by developing IHA projects a nucleus of experienced housing development teams could be realized, which could compete in the building industry as minority contractors. Also, depending on the size
of the IHA projects, and their impact on a neighborhood, markets for various services and retail outlets could be realized. However these are incidentals and not direct functions of an IHA.

As for the political realities, according to Patricia McDermitt, Research Director of the Committee on Housing and Urban Development, the bill, after its initial submission, which was met with significant opposition, has either been filed late, or hasn’t received sufficient support to justify promoting the bill beyond committee action. Though the continued resistance and absence of cooperation among the tribes and town’s of Mashpee and Gay Head, along with subsequent law suits against the state by these Indian groups, would lead me to believe that political damage has been caused by the Indians legal proceedings and that the backlash is responsible for the continuing defeat of this Bill over the past ten years. And where there is no indications that the political atmosphere has changed, leading me to doubt the feasibility of an IHA created by the state as a realistic option.
8.0 CONCLUSION

The concept of an Indian Housing Authority in Massachusetts is more complex than can be summarized by its title. While there is a need for a housing production mechanism, this particular type of entity has also provided opportunity for hidden agendas. An IHA is seen as more than a resource to meet the housing needs of low income Indian populations. It is a political statement that may be interpreted as divisive. For the Tribes who were petitioning for its creation, aside from its potential benefits in producing housing, it means additional substantiation of their continued tribal governance. This substantiation was viewed as a critical issue in their plight to recover thousands of acres of prime real estate, which they considered Indian land and which they contended was taken from them illegally by the State. However, the State, recognizing the legal implications of approving the creation of Indian Housing Authorities, has not yet passed the Bill even though it has been submitted each year. The Bill, has not gotten out of the House of Representatives, Committee on Housing and Urban Development.

The IHA Bill was resubmitted in 1987 for legislative consideration, and though the need for decent affordable housing by the Indian population has undoubtedly increased, it is questionable whether the political atmosphere has changed significantly to warrant the state to pass enabling
legislation for its creation. There are three sets of issues that remain impediments: political, financial, and relevance to Indian objectives.

8.1 POLITICALLY the IHA concept has been on the defensive since its initial submission in 1976, the same year that the Mashpee Tribe filed its land suit. At that time the land titles in the Town of Mashpee were clouded, and real estate transactions were virtually stopped.

It has been over a decade: during that period the Gay Head Tribe negotiated its land claim to an amenable solution, the Nipmuc Tribe chose not to pursue legal recourse, and the Mashpee Tribe exhausted its appeals to the judicial system, up to the Supreme Court, and was defeated on what the Indians consider a technicality. Although there is a glimmer of hope for these Indians to eventually present the merits of their case, with the current mood in America and the results of other judicial proceedings\(^{10}\), it is inconceivable that the United States Federal Court will threaten the economic stability of its citizens despite the Indian’s legal justification. In many of the land claims cases throughout the United States the Federal Government has taken the posture that although lands were taken illegally, if they are currently occupied by American citizens, they cannot be

recovered, and has offered compensation to tribes instead.

For these Massachusetts Indian groups, particularly the Mashpees, it has been difficult to initiate projects that require local cooperation. Some of the wounds that were inflicted by these Indian groups haven't healed, and the insistence of these Indian groups, claiming that they have the right to exercise tribal governmental authority despite the U.S. Federal Court decisions that their tribal government no longer exists, further complicates relationships.

If Massachusetts were to allow IHAs these strained relationships would present a variety of problems. On the other hand, it might be possible to overcome these problems with time. If Tribal groups were to become more active part in the local political process, they might find themselves able to influence the will of the people. As for political relationships with the State, I think the Commonwealth would be ill advised to hold grudges against any group that pursues its rights within the context of the law, however I do not think the State would support legislative action that could potentially be used to its detriment, legally or politically, nor to the detriment of its political subdivisions. Also, I sense that the State would be inclined to avoid administrative differentiation among ethnic, or special interest groups, preferring to streamline administrative accountability, limit accusations of favoritism, and avoid political justification of controversial topics during budget
8.2 FINANCIAL  The proposed IHA would be eligible to compete for resources available from the U.S. Department of Housing and Urban Development's Indian Housing Programs, as well as for State resources available to local housing authorities. The resources that have been available from these public sources in the past have been extensive. However, in recent years due to the budget deficit, the Federal government has been reducing budget levels and eliminating program categories for Indian Housing Programs.

The Federal Government is trying to get out of the Public and Indian housing business, and would like to entice private industry to assume many of those responsibilities. The Reagan Administration has even tried to persuade Indian Tribes to relinquish their Trust Status so that reservation lands could be privatized. But at the same time, the Administration has proposed to meet Indian housing needs in the future through annual capital cost appropriations. My understanding of this approach is that a monetary amount will be calculated based on past production capabilities of IHAs nationally. The figure will be appropriated and disbursed as block grants. HUD Annual reports indicate that IHA units have been produced at an average of 2,500 units per year, although over the past two years productivity has increased. HUD estimates that each unit has cost approximately $60,000, indicating that between
150 and 200 million dollars would have to be appropriated annually to meet production schedules, as compared to an average annual appropriation of $105 million for IHP since 1982. It would appear that an increase in appropriations is in order, though considering the seriousness of the Federal Budget deficit and the differences between appropriating grants as opposed to loan guarantees, I would expect that budget debates would scrutinize appropriations for grant amounts and cause IHP resources to become scarce and even more competitive.

According to BIA Reservation Housing Reports, housing needs on reservations are currently about 90,000 units, and with the limitations on the use of reservation lands for collateral their housing resources are reliant on federal programs. And when compared to the conditions and limitations of a Massachusetts IHA which should have access to private resources, if awards are on a need basis, the HUD Indian Programs should place more emphasis on the needs of Indian groups that have limitations on their access to other forms of housing finance. I would expect that new State sponsored IHAs would be in a low priority position for IHP funds unless a federal obligation existed.

The resources available to a local housing authority through the State have also have been affected by the federal budget deficit, and in some respects the 1986 Tax Reform. The resources available from HUD for public housing projects have
been scheduled for severe budget cuts for future construction, although additional funds are to be transferred to CDBG’s to counteract these losses. A 27%\(^\text{1}\) overall reduction in CDBG funding to the State has occurred between 1985 and 1986. HUD has also been disposing of many of its projects that have exhausted their federal subsidy commitment, in many cases to private concerns that have been converting those units to market rate units, increasing the shortage of affordable units. In addition to losses in HUD funds, the 1986 Tax Reform has tightened the requirements for tax exempt financing for low income rental housing by directing the use of tax exempt financing to require lower income occupants. Tax Exempt Bonds have been the principal method of raising funds for low income housing production.

In today’s housing industry new construction is so expensive that low income people cannot afford the rent, so various schemes have been necessary, such as mixed income projects, that can utilize favorable financing such as tax exempt bonds to decrease the overall cost of construction. In doing so the rents on market units are determined by the losses in opportunity cost afforded to the low income units required in the project to be eligible for the favorable tax exempt financing. What this change in tax reform will mean to a project as it lowers the eligible low income occupant from 80% of median income to 50%, is that it will force an

\(^{1}\) Massachusetts Small Cities Program Guide 54
increase in the market rent, further inflating the housing market. By tightening the applicability of these funds it makes them less attractive in the bond market, causing the interest rates offered by these bonds to increase.

However, Massachusetts has been economically prosperous and has made concerted efforts to leverage its prosperity with the private sector, resulting in innovative housing production techniques such as the Massachusetts Housing Partnership (MHP). What the MHP does is leverage its resources by placing responsibility on local communities to develop and coordinate local resources such as gifts of land, local resources, labor, material, private investment, and whatever combination of resources and cooperation can be persuaded into a partnership agreement to meet the housing needs of the community. While there are a variety of other State resources available to a local housing authority, the State's objectives link those resources to the MHP concept. What this might mean to a Massachusetts IHA using State resources would be that cooperative linkages and working relationships would have to be developed on a local level. While these relationships are desirable and feasible, the political conflicts would have to be resolved before an IHA project would become feasible.

See appendix: Housing programs available to an IHA
8.3 THE RELEVANCE OF INDIAN HOUSING AUTHORITIES TO THE INDIANS OBJECTIVES: The objectives of the Massachusetts Tribes are to strengthen their governmental capacity and economic net worth such that they can provide livelihoods and service for their constituency, increasing their standard of living to that of the general population.

Affordable housing is an important component of their needs. The concept of an Indian Housing Authority, with its Indian preference and exclusive purpose, would be one of the most direct vehicles to provide for those housing needs, and increase tribal net worth, without intrusion, or interference from outside populations. And, although there are limitations on what an Indian Housing Authority can do, it could pose as an effective mechanism to produce housing for the Indian populations, and over the long term increase Tribal net worth. As an autonomous entity, independent of tribal political control, the equity in the assets of the IHA will not be at the tribe's disposal for other investment. It has been the normal procedure of HUD, when it assists Indian Housing projects, to require Tribes to delegate powers to an independent, non-political entity to transact its business. Though the possibility would be remote, with the continuing threat of federal funds becoming even more scarce, for many tribes, it is possible that an IHA could become one of the few solvent Indian assets with economic stability causing a
shift in economic power from tribal government to the IHA.

Other factors that may determine whether an IHA could meet the needs of the Massachusetts Indian population, would be its social and political receptiveness. For instance, without a land base the IHA would have to initiate its projects in various communities and would be subject to addressing the fears and concerns of each community as to what an Indian housing project would mean to it. While this would be the situation for any method of developing housing, as a non-profit, or private developer, exclusive Indian housing has never been built in Massachusetts, and I can only hypothesize how it would be received. The question would be whether the potential benefits of initiating IHAs would be worthwhile for the tribes' efforts. They should anticipate additional public relations, costs, bureaucratic delays, and the added aggravation that would be associated with this different concept, for a exclusively minority group. If an IHA were created, the Tribes would be legally able to carry-out their housing projects, but with any action that presents itself above the authority of home rule, unequivocally promotes community conflicts over power, and battles for limited resources. At this stage it may be more productive to go with the will of the woods, the path of least resistance, the familiar and accepted housing production techniques. A non-profit, or for profit venture may provide that path of least resistance for producing housing, though not fulfilling all
of the goals of the tribal groups. It might be better to be on familiar ground and be in a position to negotiate for something, rather than presenting conflict and spending time fighting for nothing.

8.4 Insights and Recommendations

A Housing Authority, whether local or Indian, carries power to carry out its purpose, power that has been conveyed by a governing authority with jurisdictional sovereignty over the land mass for which the housing authority was created. So, if Massachusetts were to allow Indian Housing Authorities it should do so with a land base useful for the needs of the Indian population. If these conditions were not included it would be like creating a non-profit development corporation disguised as an IHA, with the additional amenities of preference and exclusive purpose.

Because the Indian population, is distributed about the state, I would be concerned whether preference and exclusive purpose, would conflict with the objectives of the tribes to increase their economic net worth. Because of limited concentrations of Indian populations in specific areas, there are limits on the number of units that would be feasible to produce if occupancy was restricted to Indians. full occupancy.

I would recommend that Massachusetts tribes who are landless pursue a course that would maximize its
opportunities to accumulate assets and revenue by producing housing for the general population, though targeted at the Indian population. The tribes need to become more economically self-sufficient before they can reach the goals they have set. They could pursue most of their objectives as a non-profit developer without the added complexities of an exclusive purpose Indian Housing Authority. Again, the will of the woods, or a course that is politically and socially acceptable, is a relevant concept especially during these times of limited resources. It is very competitive to acquire funding for low and moderate income housing in Massachusetts, and the attractiveness of an Indian project would offset by the problems associated with an exclusive purpose Indian housing project. Unless, or until, a federal government to tribal government relationship is established with a defined land base, as has been the case with the Gay Head Tribe, the remaining Indian groups should expand the organizational purposes of their non-profit organizations or incorporate other organizations with the specific goals of housing and economic development. There are a variety of opportunities to acquire development financing, through State and private resources, though they are very competitive, there are possibilities. Although non-profit ventures can become a pawn in a game among government and big business, there are limited alternatives for organizational structures for these tribes to operate. Besides, over the short run the benefits
of the product are realized by the community, and over the long run the nonprofit realizes an equity share of the project. Also this is process of developing capability and acquiring assets though slow in building, it would be for most Tribes a learning period well spent. Learning is an essential element of this process, producing a capability that can be replicated for other non-profit ventures or expanded into for-profit ventures further strengthening the asset portfolio of the Tribe, and eventually developing the capability to effectively assist their people.
APPENDICES

1 NATIVE AMERICAN POPULATION CHARACTERISTICS

According to the 1980 U.S. Census 7743 Native American people reside in the Commonwealth of Massachusetts.

The Native American populations are concentrated in Middlesex (1255), Worcester (897), Suffolk (Boston) (1383), Barnstable (Cape Cod) (812), Bristol (598), and Dukes (Martha’s Vineyard) (154) Counties.

2 BARNSTABLE COUNTY (CAPE COD)

In 1980, 812 Native Americans were counted in Barnstable county. There were 257 housing units of which 57% were owner occupied with a median value of $40,900. Twenty five percent of those housing units were female headed with children. Forty eight percent of the household occupants were other relatives, indicating that nearly one half of the population did not have homes of their own and doubled up with their relatives. There were 3.15 persons per unit as compared to 2.59 for the general population. Eighteen percent of the population was below poverty. This County has been undergoing tremendous speculative housing growth over the past decade with housing prices moving beyond the means of low and moderate income residents. There is a significant shortage of affordable housing causing low income people to become homeless relying on temporary shelters made available by the Dept. of Public Welfare in such settings as hotels and motels.

3 SUFFOLK COUNTY (BOSTON)

There were approximately 1250 Native Americans in the Greater Boston area. There were 449 households, 28.5% of which were female headed with children. Of the persons in households, 44% were other relatives, nearly half of the households consist of extended families. There were 2.97 persons per unit. Ninety two percent of the housing units were rented and where the occupants paid a median contract rent of $169, while only eight percent of the housing units were owner occupied with a median value of $25,800, significantly below the median value of $41,700 for other populations of that county. The census data show that the Native population pays the lowest median rent and owns the lowest valued housing of all the populations of that county. Though the objective would be to assist the Indian population to pay the least of their income for housing, the census data further describe the housing conditions of this population to be incidental of the highest substandard housing of the overall population.

According to the Boston Indian Council the Boston Native
American population consists largely of transients or seasonal workers from Canada, Maine, and other locations seeking better livelihoods than found on Indian reserves or in other rural settings. Many of this area’s Indian population have minimal job skills and some have other social problems, such as drug and alcohol abuse, which further complicates their probability of succeeding in the Boston metropolitan area. BIC’s efforts to contribute to their housing needs has been especially difficult with Boston’s highly inflated housing market.

4 WORCESTER COUNTY

Approximately 578 Native Americans lived in Worcester County in 1980, comprising 176 households. Forty two percent of the households were female headed with children. Fifty two percent of the household occupants were other relatives. There was an average of 3.28 persons per unit. Seventy eight percent of the housing units were rented and had a median contractual rent of $152. Twenty two percent of the housing units were owner occupied with a median value of $37,800, thirty eight percent lower than the median unit value of other population groups of that county. Worcester County is historically an industrial area of yesteryear. Many of its older industries have disappeared leaving the areas economy depressed and in a state of transition. The housing stock of this area has been subject to the same transition and will require many years and significant investment to be upgraded.

5 POPULATION SYNOPSIS

Overall, the census data for the Massachusetts Native American population show economic traits and housing conditions significantly below those of the general population. Of the 7743 Native Americans, 24.3% were below the poverty line, compared with 9.6% for the general population. Median income for Native American families in 1979 was $13,823, significantly below the $21,166 for the general population. Unemployment rates averaged 9.2% compared to 5.0% for the general population. Thirty one percent of the households were maintained by women with children, compared to sixteen percent for the total population. There were approximately 2400 housing units occupied by Native Americans in the State, of which, thirty percent were owner occupied units, and had a median value significantly below other groups of the counties. Ten and one half percent of the Native American population lived in substandard housing units, as compared with 4.1% for the

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21 substandard housing units were defined by the census according to the availability of plumbing facilities in the unit, overlooking a range of conditions that would constitute substandard.
State as a whole.

To determine the current housing conditions of the Native American population an Indian Housing Authority would have to conduct a needs assessment for specific applications, however the impression I received through interviews conducted with Native American and other people, are that housing conditions have worsened considerably as a consequence of either the highly inflated and speculative Real Estate markets in their areas, or the lack of investment in economically depressed areas such as Worcester.

6 GENERAL POPULATION CHARACTERISTICS

Data from the Cape Cod Planning and Economic Development Commission indicate that Cape Cod and the Islands – Barnstable, Dukes and Nantucket counties are leading the state, and New England, in population and housing growth.

Among the 14 counties of the Commonwealth between the years 1980 through 1985 Barnstable County was second only to Middlesex County in annual home building approvals (inclusive of both single and multifamily units) with a 53% increase. In 1985 eight Cape towns ranked in the top 10% (35) of Massachusetts cities and towns in new housing units authorized for construction. Nineteen Eighty through 1985, assuming all housing units authorized for construction were built, Barnstable County increased in housing units by 21.8% second to Nantucket County at 29.5%, with Dukes County third at 20.7%. To put this in perspective with the rest of the state, Barnstable county is ranked second to Middlesex in units authorized in 1985 (4948 units) The Town of Mashpee was ranked eighth in the state for total units authorized (701), and third in the state for multifamily units authorized (578).

According to housing permits issued in 1984 home building costs averaged $55,844.00 per unit, without consideration for the cost of land,(estimated at $40,000 per buildable lot by the Mashpee Assessors Department), or profit margin (determined by what the market will bare).

From the above information a safe estimate for an average priced home would be at a minimum of $100,000, amortized over 31 years at 8 % interest would mean that a family would have to earn a minimum of $36,000 per year to spend only 25% of their income on housing.

Interviews with Marilyn Fifield of the Cape Cod Planning Commission, and a Representative of the Department of Social Services portray a severe case of market inequities being imposed on the lower and moderate income people of these areas.

According to D.S.S. the agency have resorted to placing its homeless clients into older hotels and motels where some have spent over twelve months in transition awaiting the
availability of affordable housing.

The 1980 census indicate vacancy rates of up to 16.9% for year round dwelling units.

Ms. Fifield explained that the Cape and Islands have become such a hot market for people with means that the low and moderate income population cannot compete. The insensitivity of the market has become such a problem that the County, under heavy opposition, is trying to persuade the State Legislation to allow them to impose a 2% real estate transfer tax, with the proceeds being earmarked as gap financing for low and moderate housing units.

Although available data is not as current and specific (1980 census) as I would prefer to fully substantiate the present (1987) housing and economic conditions of Native American people in Massachusetts, interviews I have conducted tend to concur with the trends found in the census data thus I feel comfortable with the position that situations haven’t gotten better since 1980 and it is highly probable that need exists for low and moderate income housing units for Native American people within the geographical areas I have discussed.

7 INTERVIEWS

An interview with: Joan Avant Tavares, President, Mashpee Tribal Council and Director of Mashpee Indian Education Programs, informed me of her perception of the effects of being homeless, living in one room hotels, has on children in school. She has noticed a distinctive attitudinal change in children subject to these conditions. She theorized that the lack of privacy for both the children and their parents imposes a problem of irregular sleep habits, which directly effects performance in school. She also interjected that this lack of privacy exposes some of the children to adult habits such as drug and alcohol abuse of which she expressed was not conducive to their personal development. President Tavares stated that a Tribal controlled housing project would be useful in combating some of the severe social problems she sees in her community. Her primary concern is with single young women, with children. She felt that by the use of stipulations in lease agreements for living in Indian housing she would be enabled to impose some influence on drug and alcohol abuse, provide supportive services; child development, jobs training, health care, counselling services and a variety of other relevant interactions.

Vernon Pocknett, past President of the Mashpee Tribal Council elaborated, that while affordable housing was a major concern, the availability of long term well paying jobs were the answer to solving many of the problems of his people. He couldn’t see the local "service economy" providing that type of security and expressed his opinion that the Tribe should
assume some of the responsibility through Tribal economic development. He further described that workers of such enterprises should have some stake in their production through shares or other cooperative relationships.

Ameila Bingham, past planner for the Wampanoag Community Development Corporation also felt that economic development was a key to the social and economic stability of the Native American population, however described the concept of a housing authority as a useful entity.

She related her own circumstance of undergoing the process of subdividing her property holdings to transfer to her children. Her interpretation of the function of an IHA included assisting tribal members forge through the complicated process of bureaucratic red tape. Her perception of the Indian land ownership problem and their economic net worth has been a direct result of their inability to deal with the complexities of the system. When the Mashpee and Gay Head Indian Plantations where dissolved and incorporated into towns, the lands where allotted among its native inhabitants. Through the course of time, especially in the present, economics determines a families ability to hold their lands for future generations. With the pressures of escalating taxation and limited cash flow the options of holding lands becomes limited.

She described her subdivision venture as expensive, time consuming, and aggravating. Not having extensive exposure to the land development process she found each Planning Board hearing as an exercise in procedure and technicalities. With each six week rescheduling the realities of the undertaking became vivid. Detailed architectural drawings with revisions, road layouts, drainage, utilities, water, sewer designs, environmental safeguards, perk tests, all approaching $100,000 as a gesture of generosity to her children. If not for the success of her husband this gesture would have been impossible as is the case for most native families. As an only option most families are forced to turn their land over to developers at a fraction of its potential value, who intern who reap the profits of the land. She envisioned that an IHA could provide the necessary umbrella for land assembly, technical assistance, planning, and attract the financing mechanisms for tribal housing development thus producing a community benefit while sharing a more favorable return for the tribal family.

Jim Sams, Executive Director, Boston Indian Council regarded an Indian Housing Authority as a potentially useful entity and would be in favor of its enactment, however foresaw some problems in its applicability to his particular organization. As the Bill is written the Boston Indian Council wouldn't have a primary position in such an entity, thus would be subject to entering into a joint venture or
other arrangement with one of the tribes to accomplish Indian Housing Authority projects in the Boston area. He felt that his organization would have little bargaining power. In his opinion the process would be cumbersome and would potentially cause confrontation with Boston's well defined CDC turfdom. In his opinion it was eminent that his organization would pursue housing acquisition through a CDC mechanism, despite his BIC's concentration in social service. From his recent experience with the uncertainty of federal and state budget priorities, the future stability of his organization is dependent on its investment diversification, whether in terms of dollars or human capital. Although he defined his client constituency as having different housing needs than that of tribal he maintained it to be a distinct community with very similar problems.

Those needs included jobs, affordable housing, and the development of a viable gross community product.

John Peters Sr., Executive Director, Massachusetts Commission on Indian Affairs described the concept of an Indian Housing Authority as a potentially important step for tribes to assume some control over housing affordability as well as availability for their people. There is a significant Indian, building construction force in the State. Given access to new sources of funding not presently available as non-profit organizations from federal and state appropriation, and combining those financial resources with a work force would serve twofold. Production of low and moderate income housing units and temporarily increase Indian workers wage rates up to the federal level.

He described a need for the tribes to build upon their economic bases, and that retention of land and other assets are the bases of the wealth in the United States. Its ironic that american wealth is based on Indian real estate, yet Indians find themselves without land or an economic base.

He further emphasized that the term authority in itself implies recognition by some governmental source of a tribes right to exercise a quasi-government to government relationship.

Anna Mays, spokes person, Nipmuc Tribe; Ms. Mays informed me of the events that took place over time resulting in the reduction of the Hassanamisco Nipmuc Indian Reservation and the expansion of the Town of Grafton. What was once a 7500 acre Indian Reservation presently consists of four acres. Although housing for her people is a concern, her immediate interest is in renovating and promoting the existing museum/gift shop that is situated on the Hassanamisco Reservation. She explained that the reservation is not large enough to accommodate housing, if they are to continue their cultural and social activities.
Donald Widdiss, Board Member Wampanoag Tribal Council of Gay Head in Mr. Widdiss' opinion any legislation for Indians in Massachusetts would be politically unpopular. To pursue an Indian Housing Authority would probably be a waste of time.

Since 1972 the Tribes Mashpee, Gay Head, other Native groups and individuals have been seeking legal recourse contending that lands had been taken from them illegally. The Commonwealth of Massachusetts and some of its municipalities have been defendants in most of these cases, some are yet to be resolved.

Mr. Widdiss suggested that syndication of limited partners would be the most effective means of financing affordable housing especially for people with little money.

It should be noted that on February 11, 1987 the Gay Head Tribe had received an affirmative decision on their Petition for Federal Recognition, substantiating continuous tribal existence by the U.S. Department of Interior, Tribal Acknowledgement Branch. This decision anticipated to be confirmed by Congress around April 11, 1987, will provide Gay Head with a negotiated settlement consisting of approximately 260 acres of land and eligibility to federal Indian resources. This would include provisions for a federal Indian Housing Authority not requiring State Legislative action.

Mr. Widdiss estimated the need for 15 to 20 units of new housing however opted to wait for the Bureau of Indian Affairs to conduct a needs assessment of the approximately 500 member tribe to determine which priorities to pursue first.

8 HOUSING PROGRAMS AVAILABLE TO AN INDIAN HOUSING AUTHORITY

FEDERAL PROGRAMS

Under the Federal Indian Housing Programs the proposed IHA would be eligible for assistance from the U.S. Department of Housing and Urban Development. Assistance from HUD is provided in several forms. It financed IHA projects through issuance of Project Loan Notes sold on the private market, usually tax exempt and guaranteed by the federal government. HUD was questioned on the legality of the issuance of indebtedness for projects on reservation and trust property that cannot be encumbered by traditional banking procedures. To rectify this oversight HUD has recalled all outstanding bonds and notes on IHA projects and have scheduled for their short term liquidation. Currently a moratorium on IHA projects has been proposed by the

22 Federal Reservations and Trust property cannot be sold or encumbered without Congressional approval.
Administration in efforts to reduce the Federal Budget deficit. But, beginning in 1988 it proposes to meet the housing needs of the Indian population through One Time Capital Cost Appropriations. Other resources provided by HUD was the Annual Contributions Contracts which provides a written agreement between HUD and the IHA to provide annual contributions to the IHA for participation in the Housing Assistance Payments Program. The Housing Assistance Payments Program is an agreement between the owner and the IHA for the purpose of providing housing assistance payments on behalf of eligible families. Through its financing policies and procedures HUD programs included:

(A) RENTAL PROJECTS: In a rental project the occupants are month to month tenants of the IHA. Projects maybe developed with single family detached, duplex, row house, walk-up, garden, or elevator structures. Projects for the elderly or the handicapped may include congregate housing.

(B) MUTUAL HELP HOMEOWNERSHIP OPPORTUNITIES: Under this program a homebuyer enters into a Mutual Homeownership Opportunity (MHO) Agreement under which the homebuyer agrees to 1) contribute cash, work, land, materials, or equipment or combination thereof, for the development of the project, 2) make monthly payments based on income, and 3) provide all maintenance of the home. In return, the initial purchase price of the home is reduced each month in accordance with a predetermined purchase price schedule, and the homebuyer is given the right to buy the home by payment of the remaining balance of the purchase price at the time of the purchase. The credit for the homebuyer's contribution is available for maintenance of the home, and any balance is applied against the purchase price of the home.

(C). SECTION 8 HOUSING RENTAL ASSISTANCE PAYMENTS: Under this program, a low income family leases a dwelling unit in newly constructed, substantially rehabilitate or existing housing. Housing assistance payments are made on behalf of the family to cover the difference between the contract rent of the unit and the amount payable by the family, as determined in accordance to schedules and criteria established by HUD. This program may include rentals and cooperative projects, including housing for the elderly or the handicapped, and congregate

\[25\] Select Committee on Indian Affairs Budget Hearings 1986, "Elimination", an analysis of 1987 proposed budget for Indian Housing Prog. Housing Assistance Corporation

\[24\] H.U.D. U.S. 24CFR905

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While these programs are listed as being available for IHA, the reality of budget cuts is an issue to be contended with.

The 1987 Federal budget proposes zero funding for most of the categories of Indian Housing Programs with the exception of the section 8 rental assistance program. Given the uncertainty of future federal assistance the IHA as proposed would also be eligible to compete for opportunities through the State as is available for other local housing authorities. These resources would include but not limited to:

STATE PROGRAMS: The following programs are Federally funded through State administered.

Community Development Block Grants: The federal government provides CDBG funds to certain "entitlement" cities in the Commonwealth. (31 cities) These local communities then develop programs that use these funds; these could include housing rehabilitation, housing construction, job development and commercial revitalization, business development programs, and construction of public facilities. Within federal guidelines a great deal of flexibility exists, however the activities must be related to a community development strategy and must benefit principally low and moderate income residents.

Massachusetts Small Cities Programs: Through EOCD's Small Cities Program, Federal Community Development Block Grant funds are also available to cities and towns of less than 50,000 that have not received "entitlement" status from HUD. Again, CDBG funds can be used to fund housing rehabilitation, commercial renovation, infrastructure improvements and social service programs.

Community Development Action Grants: This Program encourages private investment and development in distressed urban areas, through the leveraging of private funds with federal dollars. The federal funds can be used to provide direct loan assistance to developers or they can be used to finance public construction to facilitate private efforts. This program is limited to communities that meet "distress" criteria. Activities eligible for this program can be virtually any component of a development program that is tied to a private commitment. Typically HUD looks for projects that which leverage private commitments equal to at least

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25 under some circumstances a one can purchase a home under the Mutual Homeownership Opportunity Prog. using Section 8 certificates.
five or six times the private investment. In the recent past these funds have been used predominately to leverage mixed income housing projects.

The programs discussed above are available only to cities or towns. EOCD reports indicate that up to seventy percent of these program funds have been used for purposes related to housing, and in most cases where a housing authority exists, that entity develops and administers the programs.

Chapter 667: This program provides funds to local housing authorities to develop housing for low income elderly and handicapped persons.

Chapter 689: This program provides funds to the local housing authority to develop small scale housing for physically or mentally handicapped or otherwise vulnerable persons. In recent years this program has been used to produce housing for the frail elderly abused and alcoholic dependent individuals, and women and children in transition. The program can also be to develop shelters for the homeless.

Chapter 705: Through this program local housing authorities construct scattered site housing for families in duplexes, or attached townhouses, or acquire or rehabilitate single family homes, or convert buildings to housing use.

Chapter 707: This program was designed to allow tenants to live in private rental housing of their choice, rather in public housing developments. The rental assistance certificate is issued to income eligible tenants and guarantees private landlords that rent above an affordable percentage of the tenants income will be paid by the State.

The Chapter 707 is administered through the local housing authority or non-profits under contract with EOCD. Eligible persons locate housing and contract with landlords for a rental subsidy. Tenants pay no more than 25% of their income for rent.

State Housing Assistance for Rental Production: (SHARP) SHARP is a state-funded subsidy loan program designed to stimulate the production of privately owned rental housing in Massachusetts in which at least 25% of the units are to be occupied by low income households. SHARP is a shallow subsidy program, that combines construction and permanent financing from the sale of tax-exempt bonds through the Massachusetts Housing Finance Agency, with a state funded subsidy loan that writes down the interest rate on the MHFA loan to as low as five percent for a term of up to 15 years.
Tax Exempt Local Loans to Encourage Rental Housing (TELLER)
The TELLER program was created legislatively to give local housing authorities the option of issuing tax-exempt bonds to finance privately owned mixed income rental housing. Developments financed by housing authority TELLER bonds must have 20% of their units reserved for low and moderate income households with the remaining 80% of the units available at market rates.

Massachusetts Housing Partnership (MHP): The MHP encourages the formation of local housing partnerships which develop solutions to address local housing needs. These partnerships include public, private, and civic representation such as mayors, selectmen, planners, homebuilders, realtors, business people, clergy, housing professionals, and civic and non-profit group members. This effort has mobilized, with support of the legislature, more than half-a-billion dollars in financial and technical assistance to aide local housing initiatives throughout Massachusetts. The MHP can provide communities with resources from a variety of State agencies such as:
- Development assistance; low interest mortgages, financing for mixed-income rental housing, incentives for landlords to rehabilitate apartments and keep them affordable, grants for the development and operation of housing for persons with special needs. Infrastructure grants.
- Technical Assistance; in using these resources to: develop housing strategy, identify resources such as land or buildings, explain ways to combine growth management techniques with zoning incentives to create affordable housing, work with private developers to create more affordable housing.

9 MASSACHUSETTS SENATE AND HOUSE OF REPRESENTATIVES: AN ACT TO ESTABLISH INDIAN HOUSING AUTHORITIES

The following is the language of the House of Representatives Bill. No. 5741 sponsored by Representatives Byron Rushing and Gloria L. Fox in 1986, submitted to the committee on Housing and Urban Development. The same Bill was resubmitted to committee for consideration in the 1987 session.

Section 1. Chapter 121B of the General Laws is hereby amended by adding thereto the following new section 3B:-

Section 3B. There is hereby created, in and for the Nipmuc, Mashpee and Gay Head Wampanoag tribes, a public body, corporate and politic, to be known as the "Housing Authority" of each said Indian
tribe, which shall have and exercise all the necessary legal powers
to carry out low income housing projects for Indians; provided,
that no such Indian Housing Authority shall transact any business
nor exercise its powers hereunder until or unless the Tribal
Council of the respective tribe by proper resolution, declares that
there is a need for an authority to function therein. For the
purposes of this section, "Indians" means members of the above
mentioned tribes and includes members of the Mic Mac. Maliseet,
Passamaquaddy, Penobscot, Wampanoag tribes, and other tribe, band
group or community of Indians who are wards of any state government
and members of tribes who are federally recognized. In the event
that existing Indian organizations, recognized by the Massachusetts
Commission on Indian Affairs, are unable to certify whether or not
an individual is "Indian" for purposes of receiving Indian housing
assistance, the Massachusetts Commission on Indian Affairs shall,
upon the request of such individual, carry out any necessary
investigation and certify whether or not such individual is an
"Indian".
Each said housing authority shall be subject to and operate as
provided in the statutes and regulations of the United States
applicable to Indian Housing Authorities. Except as otherwise
provided in this section, but only to the extent consistent with
the statutes and regulations of the United States applicable to
Indian Housing Authorities, each said Indian Housing Authority
shall possess all rights, powers, functions, and duties, provided
for by this chapter for local housing authorities, and each said
Indian tribe shall possess all rights, powers, functions, and
duties, with respect to said Indian Housing Authorities, as are
provide for in this chapter for municipalities, with respect to
local housing authorities, and may require periodic reports from
respective housing authorities.
All powers of appointment and removal of members of such Indian
Housing Authority shall be exclusively exercised by the respective
tribal councils.
Neither the Commonwealth nor any Indian tribe or tribal council
shall be liable for any debts, obligations or liabilities of any
Indian Housing Authority; provided, that the Commonwealth or any
tribe may assume such liabilities under the same circumstances and
for the same purposes provided are provided by the Chapter for such
assumption of liabilities by the Commonwealth and by municipalities
with respect to local housing authorities. The area of operations
of the housing authority of the Nipmuc tribe shall include, but not
limited to, the Hassanamisco Nipmuc Reservation; the area of
operations of the housing authority of the Mashpee tribe shall
include but not limited to, the Fall River-Freetown Wampanoag
Reservation; the area of operation of the Gay Head Wampanoag tribe
shall include, but not limited to, the Fall River - Freetown
Wampanoag Reservation; but in no event shall such Indian Housing
 Authorities exercise eminent domain powers outside of the
Hassanamisco Nipmuc Reservation of the Fall River Freetown
Wampanoag Reservation.
The operation of any Indian Housing Authority in any locality
shall not affect or diminish the right or power of any other duly 
constituted housing authority to operate in such locality as 
authorized by this chapter.

The Governor is designated as the agent of the State to apply 
for funds or other aid, cooperate and enter into contracts and 
agreements with the federal Government, any Indian Housing 
Authority, or any other appropriate State or local agency relating 
to the provision of necessary services to Indian housing projects 
to be located within the Indian Reservations.

Within 180 days from the enactment of this act, the 
department, in consultation with the Massachusetts Commission of 
Indian Affairs, shall promulgate rules and regulations governing 
the relationship between local housing authorities, Indian Housing 
Authorities and other state and local agencies with potentially 
conflicting or overlapping functions and responsibilities, and such 
other rules and regulations as the department determines necessary 
for the operation and management of an Indian Housing Authority.

SECTION 2. If any provision or clause of this Act or application 
thereof to any person or circumstance is held invalid, such 
invalidity shall not affect other provisions or application of the 
Act which can be given effect without the invalid provision or 
application, and to this end the provision of the Act are 
declared to be severable.

10 POTENTIAL PROJECTS

There are many potential projects that the tribes of 
Massachusetts can and will engage themselves, however the principle 
elements that appear to have hindered the progress of the tribes has 
been land and capital. As a component of my analysis as to the 
feasibility of an Indian Housing Authority in Massachusetts I offer 
the following assessment of the available and potential land 
holdings of these tribes.

At this writing there are two tracts of land in Massachusetts 
recognized as Indian Reservations.

11 HASSANAMISCO

The Hassanamisco Reservation is located in the Town of Grafton 
of Worcester County. It presently consists of approximately 4 
acres, a slight reduction from its original 7500 acres of land. 
Improvements consist of a building at least 50 years of age, 
providing a combination of uses, a tribal office, museum, gift shop 
and residence of the sole occupant of the reservation.

Members of the Nipmuc Tribe approximately 100, for whom the 
reservation was established, reside in the surrounding communities 
within Worcester County.

Current uses of the reservation include cultural ceremonies, 
events, related educational gatherings, and the functions of the 
museum/gift shop. Plans for the reservation encompass renovating or
rebuilding the present facility. It was expressed that sufficient land is not available to build homes on the reservation. There are discussions of seeking legal recourse for lands they feel were extracted from the reservation fraudulently, however that will require time, relegating the current need of an IHA for this reservations purpose as nonexistent.

12 WATTUPPA

The other reservation named Pocasset referred to as Wattuppa is situated within the bounds of the Freetown/Fall River State Forest in Southeastern Massachusetts.

The land title to this Reservation is presently unclear as it has been subject to various transfers, as well as being designated a potential site for several State sponsored economic development ventures.

In 1909 the City of Fall River took by eminent domain 5500 acres of land establishing the Wattuppa Water District within which the Pocasset Indian Reservation was situated.

In 1939 the Commonwealth of Massachusetts legislated provisions(chapter 384 acts of 1939) to reestablish the Pocasset Indian Reservation.

As it provided:” The Commissioner of Conservation on behalf of the Commonwealth of Massachusetts, may establish within the Freetown/ Fall River State Forest an Indian Reservation to comprise such portion or portions of said Forest as in his judgement will best serve the desired purpose. He shall have the boundaries of such Reservation surveyed, defined upon the ground and shown on a plan which will be filed with his office. Within the area so determined he may cause to be constructed a combination museum building and caretaker’s quarters, together with such smaller structures as may seem to him desirable in connection with the manufacture and dispensation of Indian products, and may prosecute work of any nature relating to such structures and their surroundings. With or without the cooperation of the United States or any agency thereof, he may arrange for the buildings of homes within said Reservation for approximately twelve Indian families of the Pocasset Tribe of Indians, and shall have complete jurisdiction at all times over the Reservation so established and general supervision of the activities carried on within its boundaries.”

About 1957 the office of the Massachusetts Commission of Conservation devised plans to establish the boundaries of a 227.5 acre reservation, and develop a housing community. 1969 Chief Mittark of the Wampanoag Nation contacted the Massachusetts Division of Forests and Parks, in regard to implementing the 1939 Act, with an intent to construct and operate an Indian cultural center. He was informed of the prerequisite of submitting a comprehensive plan to the Commissioner for his approval. In 1974 the Mashpee Wampanoag Tribal Council Inc. submitted a proposal to the commissioner concerned with the development and management of the Pocasset Reservation.

The objective of the proposal was to develop a camp ground enterprise accommodating short term tenting and recreational
vehicles. The site design emphasized maintaining to the greatest extent possible the natural habitat. It anticipated creating jobs through the management of the camp, wildlife, and forest, the cultivation of marketable trees and shrubbery, with the provision for outdoor education, cultural exhibits with amenities for passive and active recreation.

Ten years have since passed with little progress on this proposal or alternative land uses for this reservation by the Massachusetts Tribes, with exception to inquiries seeking to clarify the title. In those efforts to clarify the title inquiries where made seeking the heirs of the Pocasset Tribe, whom have apparently passed on or melded into society, never the less no longer constituting an identifiable group. In 1974 through executive order of Governor Dukakis the language of the 1939 Act was amended to place the Tribes of Mashpee and Gay Head as the recipients of the State Trusteeship. Although this action was taken it remains that little else has happened. One could interject that the distance 40 to 50 miles that this Reservation is situated in relationship to Mashpee or Gay Head, other pressing tribal responsibilities within the Mashpee and Gay Head communities places the feasibility of utilizing this Reservation for housing or economic development purposes, low on their list of priorities.

There are however others who have been interested in The Freetown/Fall River State Forest as a potential site for economic development projects. A couple of specific projects where sponsored by the State under the King Administration. These projects were promoted during the oil crisis years of the 70’s & 80’s and came very close to fruition. One involved a oil tank farm for the firm Cumberland Farms. The other project proposed a coal gasification plant by the firm E E & G. Both projects were met with community opposition and the State Forest was subsequently dropped as a potential site for the time being.
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