MORTGAGES

Land, Leasehold, and Working with Agencies

Presented by:
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In General

- Mortgage Handbook for two transaction types:
  - Mortgages of allotted land
  - Leasehold mortgages

- Drive to Streamline Mortgage Applications from outside Agencies
  - HUD - USDA - VA
Discussion Today: MORTGAGES

• Status of the Mortgage Handbook
• Locating points of contact
• Key players in a mortgage process and basic obligations/responsibilities to an application process
• Recording the mortgage
Who Are the Points of Contact

CONTACT GUIDE FOR MORTGAGE LENDING IN INDIAN COUNTRY

- The Primary Contact is the Agency Office which has jurisdiction over the lands involved.
- The contact guide can assist in identifying the offices involved.
- Using this guide will expedite the lending process in Indian Country.
- The guide can be found online at indianaffairs.gov
Mortgage Handbook

Status of the Draft
The Mortgage Handbook

● Leasehold Mortgages

  ◦ Regulations provided within 25 CFR 162:
    ● Residential (25 CFR §§ 162.357-360)
    ● Business (25 CFR §§ 162.457-460)
    ● WEEL (25 CFR § 162.535)
    ● Wind and Solar (25 CFR §§ 162.584-585)
    ● Subleasehold (25 CFR § 162.009)
    ● Agricultural (25 CFR §§ 162.244)
    ● Hearth Act tribes
The Mortgage Handbook

● Allotted land mortgages

  ◦ Recently handled by Indian Energy and Economic Development (IEED)
  ◦ Mortgages “pulled back” to BIA
  ◦ Handbook provisions to be completed by Central Office and team members as authorized by each Region
Streamlining Mortgage and TSR Requests

- **Goal:** “Cover Sheet” from HUD, VA, USDA to BIA
  - Effort evolved during efforts to satisfy HUD’s 2014 request to resolve almost 800 “backlogged” TSRs
    - HUD spreadsheets
    - Difficult to track progress
  - Clean-up on the backlog is ongoing
First Step to Streamlining A Request for Leasehold Mortgage

1. If you are a borrower or Lender and want to submit a proposed mortgage to the BIA for approval, it is critical that you contact the BIA Realty to commence the process, which nearly always requires obtaining a BIA approved lease prior to other commitments.
Additional Steps to Streamlining A Request for Leasehold Mortgage

2. Borrower requests a lease for intended purpose.

3. Borrower provides legally defensible legal description for proposed lease site.

4. Borrower provides environmental documentation.
Additional Steps to Streamlining A Request for Leasehold Mortgage Requests

5. Borrower provides appraisal

6. Other pre-lease conditions as required

7. Upon receipt of all clearances, BIA Realty processes a lease for the intended purpose

8. Once the Borrower or Lender has a BIA approved lease, they can enter into the mortgage processes of the leasehold interests.
Lenders/Borrowers can request a checklist.
Provide a complete package to the BIA Agency point of contact.
An independent review and analysis will be performed
Approval Letter/Disapproval Letter
<table>
<thead>
<tr>
<th>CHECKLIST</th>
<th>NOTES</th>
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<tbody>
<tr>
<td>Commitment Letter Stating Loan Terms and Conditions</td>
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<tr>
<td>Copy of Borrower’s Application (signed by borrower(s))</td>
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<tr>
<td>Copy of the Appraisal</td>
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<tr>
<td>Authorization/Consent to Share Information with BIA (if applicable)</td>
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<tr>
<td>NEPA Documentation (if applicable)</td>
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<td>Survey(s)/Site Reports/Site Assessments (if applicable)</td>
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<td>Credit Report</td>
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<td>Preliminary Site Plan Drawings (if applicable)</td>
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<td>ROW Mortgage Language (if applicable)</td>
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<tr>
<td>Lender’s Credit Analysis/Term Sheet/Repayment Analysis</td>
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<tr>
<td>Loan Estimate Document (Terms and Conditions of Mortgage Note)</td>
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<tr>
<td>Title Status Report (TSR)</td>
<td></td>
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<tr>
<td>Loan Purpose (Rehab, New Construction, Refinance, Consolidation)</td>
<td></td>
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<tr>
<td>Loan Conditions (interest rate and term)</td>
<td></td>
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<tr>
<td>Loan Program Utilized (HUD 184, VA, etc.)</td>
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<tr>
<td>Business Plan (if applicable)</td>
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<tr>
<td>Copies of Tax Return (if applicable)</td>
<td></td>
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<tr>
<td>Statement: Borrower is not delinquent on Federal debt (HUD 184 only)</td>
<td></td>
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<tr>
<td>Mortgage Filed to TSR</td>
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</tr>
<tr>
<td>Approval/Disapproval Letter (attach Disclosure Statement)</td>
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<tr>
<td>Completed Credit Memorandum.</td>
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WHO DO I CONTACT?

1. The first step is determine which of BIA’s 12 Region’s has jurisdiction over the land in question.

2. Generally easily determined by which State the land is located, however, in some cases more than one Region may have oversight of the same State.

3. It is also helpful to know the Land Title and Records codes associated with the land (called Land Area Codes)
MORTGAGE RECORDING

The Indian Land Record of Title is the official record of title documents and instruments affecting Indian land. The LTRO is the official Federal office-of-record for all documents affecting title to Indian lands, and for the determination, maintenance, and certified reporting of land title ownership and encumbrance on Indian trust and restricted lands. All title documents affecting Indian land are to be recorded in the Indian Land Record of Title. The LTRO is the office responsible for maintaining the Indian Land Record of Title and for examining and determining the completeness and accuracy of the records, certifying the findings of examination and reporting the status of title to Indian trust and restricted lands.

Following is a checklist setting out the requirements for recording of trust mortgages.

(Routing Slip should have the “Lender” 10 digit business entity-Lender’s Address is: from Deed of Trust and Note should be correct in TAAMS as well)
1. Original documents or “Certified True and Correct”
   If a copy is being certified, certifier is required to have full name not initials.

2. “Certificate of Approval” (Land Mortgage)
   Borrower and Lender information
   Dollar Amount of Loan
   Allotment Number
   Delegation of Authority
   Approval Signature and Date
   Notary Acknowledgment

3. “Certificate of Approval” (Leasehold Interest Mortgage)
   Borrower and Lender information
   Dollar Amount of Loan
   Allotment Number
   Lease Number
   Delegation of Authority
   Approval Signature and Date
   Notary Acknowledgment
   Lender Information
RECORDING REQUIREMENTS

4. **Deed of Trust/Mortgage**
   Borrower and Lender information match certificate of approval.
   Property (legal description) and Acreage from title status report (may have allotment number on deed of trust below where it reads: Parcel ID Number): Signed Security Instrument
   Notary Acknowledgment

5. **Promissory Note**
   Borrower information matches the “Certificate of Approval” and Deed of Trust Property Address matches the Deed of Trust Signed by the Borrower
RECORDING REQUIREMENTS

6. **Rider for Section 184 Mortgage**
   Property described in the Security Instrument and located at:
   (Property Address)
   Borrower signed and dated agreement

7. **Construction Loan Rider**
   Property described in the Security Instrument and located at:
   (Property Address) Borrower signed and dated agreement

8. **Title Status Report (if included with mortgage package for recording)**
   Original Certified Title Status Report or “Certified True and Correct” Title Status Report
Thank You!