

DEVISING A SUSTAINABLE HOUSING PROGRAM FOR QUEBEC'S CREE FIRST NATIONS:

The Potential of Homeownership



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Supervised Research Project

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ABSTRACT

Aboriginal communities across Canada suffer from limited availability of adequate housing, severe overcrowding, and poor housing conditions, and these problems also exist in relatively wealthy nations such as the James Bay Cree. Promoting market-based housing and homeownership has been put forward as a solution to this crisis. This paper therefore identifies the main challenges hindering the development of a sustainable housing program, and assesses potential program designs, with a particular focus on homeownership. Information was primarily collected from government documents and peer-reviewed articles, as well as interviews with professionals working with the Cree communities and the Cree Nation Government. The Cree Nation of Chisasibi and Oujé-Bougoumou Cree Nation were used as case studies. The analysis shows that affordability is the main issue, due to low income levels and high construction costs. The main course of action available to the communities is therefore to reduce housing costs, which can most easily be achieved through community control of housing production and regional organisation which enable economies of scale, as well as capacity-building and technical training to increase the availability and expertise of local labour. However, a market-based program appears to be inevitable due to government funding structures. Appropriate ancillary measures will therefore be required ensure continued housing supply and sustainable community planning practices.

Les communautés autochtones à travers le Canada souffrent d'une offre limitée d'habitations adéquates, d'un surpeuplement sévère, et de maisons en mauvais état, une situation qui existe aussi chez les nations relativement riches, tels les Cris de la Baie James. Promouvoir l'adoption d'un marché du logement et d'un système d'accès à la propriété a été mis de l'avant comme solution à la crise. Ce rapport identifie donc les défis majeurs qui entravent le développement d'un programme durable d'habitation, et évalue les types de programmes potentiels, avec une attention particulière portée sur l'accès à la propriété. L'information présentée a été tirée principalement de documents gouvernementaux et d'articles approuvés par des pairs, ainsi qu'à travers des entretiens avec des professionnels travaillant avec les communautés Cris et le Gouvernement de la Nation Crie. La Nation Crie de Chisasibi et la Nation Crie de Oujé-Bougoumou ont été utilisées comme études de cas. L'analyse démontre que l'abordabilité est l'enjeu principal à cause du faible revenu des ménages et des coûts de construction élevés. Les communautés doivent donc agir pour réduire le coût des logements. Un contrôle communautaire de la production de logements et un regroupement régional sont les moyens les plus faciles d'atteindre cet objectif car ces mesures présentent l'occasion de profiter d'économies d'échelle et d'offrir des formations techniques pour augmenter la possibilité d'embauche locale. Cependant, un programme basé sur le marché paraît être une éventualité à cause des structures de financement gouvernementales. Il serait donc recommandé de mettre en place des mesures connexes pour assurer l'offre en logements et un aménagement communautaire durable.

EXECUTIVE SUMMARY

As the Cree First Nations are now largely self-governing, and the Canadian Government is reducing its contributions towards aboriginal programs, notably in the area of housing, the Cree First Nations are responsible for ensuring adequate housing for their populations with little assistance. However, the current housing programs in many of these Nations are still based upon the CMHC s.95 program, and therefore rely on government funding for their functioning. Given that these programs have proven to be ineffective, as exemplified by the housing crisis currently observed in the Cree communities, a new sustainable housing program must be devised.

To be sustainable, a Cree housing program must be able to increase the supply of housing, address ever-increasing construction costs which threaten housing affordability, and be self-financing. The Cree Regional Authority has in fact adopted a Strategic Plan upon which housing program reforms should be based. The strategic plan proposes to increase housing department revenue by setting rent proportional to income, and decrease the demand for community housing through the promotion of private homeownership. This plan however does not directly address the main challenges of a growing housing demand and limited affordability. Furthermore, while homeownership provides a number of benefits to the individual and the community, and is politically desirable, it can be very costly and difficult to implement where no housing market currently exists. Therefore, appropriate community consultation is required to determine how best to allocate limited resources, as well as to ensure success through community “buy-in”.

The ideal housing program for the Cree would however be one based on community control of housing production as this is the easiest way to achieve the goals of promoting affordability and increasing housing supply. High construction costs are a major threat to affordability, and these could be reduced through centralisation of procurement processes and regional collaboration to increase the availability of expertise and local labour at minimal expense to the individual Nation. In addition, community control of development ensures planning objectives, which can reduce the cost of the units and underlying infrastructure, are met. Finally, the local government can facilitate the access to financing by establishing its own mortgage program. Alternatively, the necessity of individual financing can be eliminated by establishing a universal community rental program. If high-income individuals are retained in the system, and rent is proportional to income (as per the CRA Strategic Plan), a rental program has the added benefit of ensuring housing affordability for low- and middle-income groups while reducing the subsidy amounts required from the government to “prop up” the system. In all cases however, the viability of the proposed housing program will likely require the elimination of housing subsidies for the wealthier segments of the population.

Despite the relative advantages of a community-controlled housing program for the Cree context, it is likely that the communities will have to move towards a market-based system because of budget constraints and the norms established by external funding agencies (government bodies and financial institutions). In this case, there are a number of technical solutions which can be employed to ensure that the housing challenges the communities are facing are appropriately dealt with, and that homeownership is successfully adopted.

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INTRODUCTION

Aboriginal nations across Canada are facing a severe housing crisis, notably due to the shortage of homes, and the poor quality of the existing housing stock. This crisis is one that must be addressed immediately given that shelter is a basic human right and the shortage is only likely to increase due to the high rate of population growth in these communities. In addition, the aboriginal population is much younger than the Canadian average, which points to an even more severe housing crisis in years to come. There is however no immediately apparent solution to this housing crisis, as funding for former housing provision mechanisms, provided by the Canadian Government, has been drastically reduced in the past 20 years, and these programs appear to be in the process of being dismantled. This shift is part of a larger movement towards aboriginal self-government, but is also a result of Federal budget contractions and the government's assertion that it bears no legal responsibility for aboriginal housing provision. First Nations are therefore increasingly becoming the parties responsible for developing sustainable housing programs, which could ensure that these are better suited to the aboriginal context. However, tight budgetary constraints and dependence on external funding limit the flexibility with which they can act.

The ability of many First Nations to take on the daunting task of providing homes for their community is uncertain, primarily due to the issue of affordability, which arises from high construction costs and limited local economic development. However, relatively well-endowed communities and nations, such as the James Bay Cree, who are also suffering from severe shortages, overcrowded conditions and deteriorated housing stocks, may have the capacity to develop interesting and innovative housing programs. The James Bay Cree have in fact identified housing as one of the major challenges their communities face in the coming years, for which their regional authority has created a Strategic Plan aimed at tackling the crisis and reforming local housing programs. Further, a number of the Cree First Nations have established innovative housing programs, or are in the process of changing their housing system. The most commonly proposed solution to the crisis is establishing a market-based housing system, predicated on the adoption of private homeownership. This paper therefore assesses the situation of the James Bay Cree, and their proposed housing solution, concluding with an assessment of the desirability of developing a housing market and adopting homeownership within these communities. Should the implementation of these new housing programs be successful, the Cree First Nations could eventually serve as examples of best practice in housing provision for other First Nations in Canada, and around the world.

The James Bay Cree, referred to as the Eeyou (Cree) of Eeyou Istchee in their native tongue, are in fact nine distinct Cree First Nations, grouped under a regional governing authority. These nations are dispersed across the James Bay territory of Northern Quebec, as can be seen in *Figure 1*. Their Northern neighbours are the Inuit, who primarily occupy the portion of Northern Quebec situated to the North of the 55th parallel. The regional grouping of the Cree First Nations, now under the Cree Nation Government, took place in the early 1970s following the announcement of

the LG-2 hydro-electric project, located within their territory. The Nations came together with the Inuit to successfully stall the project, and as a result obtained a number of benefits and rights through the signing of a landmark agreement: The James Bay and Northern Quebec Agreement. The Cree successfully negotiated a number of further agreements, thereby obtaining increasing autonomy and legislative authority for the Nations and their regional governing body, as well as settlement funds, grants and other financial benefits. It is largely through these agreements and subsequent development that the communities have gained the tools, funding and expertise to define their future through the creation of a housing program suited to their needs. Despite this fortunate position, the communities still face a large number of challenges in devising such a program, notably in relation to the inherited housing stock and housing programs, their remote location and the high costs and limited economic development associated with it, as well as their dependence on limited funding from external sources.



Figure 1. Map of the Cree Communities of Quebec. The location of the communities used as case studies are highlighted using a black circle ; Source: <http://www.mcc.gouv.qc.ca/>

This paper will therefore identify the main challenges that hinder the development of a sustainable housing program, and assess potential program designs, with a particular focus on whether homeownership is the optimal solution. In order to assess whether market-based housing and homeownership is the best strategy, and to provide some general recommendations for the establishment of the chosen housing program, the following four topics will be addressed:

1. The Canadian historical and legal context of aboriginal rights, in terms of band financing, autonomy, and self-government, as well as the ways in which these factors influence housing provision.
2. The history of Canadian aboriginal housing provision, and its influence on the Cree housing system and present housing crisis.
3. The current challenges faced by the Cree First Nations and the ways in which these are being addressed.
4. An assessment of the feasibility of establishing a system based on homeownership, its potential to resolve the present challenges, as well as alternative program designs.

In order to provide an adequate amount of detail in the answer to such a question, the four topics above will look at both the Cree of Eeyou Istchee generally, as well as focus in on the particular situation of the Cree Nation of Chisasibi, and Oujé-Bougoumou Cree Nation. These two individual communities were initially chosen based on their similarities (with both having been relocated in a short time-frame according to plans designed by non-native professionals in consultation with the community), as well as the availability of information on their housing programs and development. However, through further research, it has become apparent that the choice of these two communities as case studies in fact represents the diversity of the individual Cree First Nations, in terms of historical development, geographic influences, economic situation, and most importantly, housing programs. In spite of this diversity, it was possible to highlight some solutions of general applicability, and draw some general conclusions about ways in which housing program development should proceed. It would however be advisable for further research to be conducted, examining each community in detail, before the solutions and methods highlighted in this paper are proposed for or adopted in any of the Cree First Nations, or at the level of the Cree Nation Government.

While a short-term solution to the housing crisis would clearly be desirable, the focus of this paper is on establishing a long-term sustainable housing program. Furthermore, while the author recognises that enabling economic development and questions about the future economic viability of some of these communities are relevant to planning long-term community development, these issues and approaches to resolving them will not be addressed, as this is beyond the scope of this study.

The information presented in this paper was largely obtained through an overview of academic literature, statutes and agreements, government publications, and selected First Nations websites relating to aboriginal housing, aboriginal rights and self-government, the James Bay Cree, and homeownership. In addition, five in-depth interviews were carried out with professionals working with one or more of the Cree First Nations to gain an understanding of the historical and present housing system, as well as the main challenges facing the nations, and the viability of proposed solution paths.

Glossary of Abbreviations

AANDC	<i>Aboriginal Affairs and Northern Development Canada</i>
BNA Act	<i>British North America Act 1867</i>
CBSG	<i>Community-Based Self-government Policy</i>
CMHC	<i>Canada Mortgage and Housing Corporation</i>
CNG	<i>Cree Nation Government</i>
CRA	<i>Cree Regional Authority</i>
DIAND	<i>Department of Indian Affairs and Northern Development</i>
GCC	<i>Grand Council of the Crees</i>
HOIL	<i>Home Ownership on Indigenous Land</i>
INAC	<i>Indian and Northern Affairs Canada</i>
JBNQA	<i>James Bay and Northern Quebec Agreement 1975</i>
MBQ	<i>Mohawks of the Bay of Quinte</i>
NRA	<i>New Relationship Agreement (between the Cree and Quebec)</i>

CHAPTER 1 – *Legal and Political Context*

A. History of Canadian Aboriginal Rights

Following the British Conquest of the lands that were later to become Canada, the relationship between the original occupiers and owners of the land and newly arrived European settlers was regulated through a series of acts and laws. The three main goals of the colonial governments were to secure land and resources for the European settlers, to protect aboriginal rights, and to encourage the assimilation of aboriginal populations into mainstream European culture. As a result, aboriginal rights, access to land, economic development potential were reduced, and their relations with non-aboriginal settlers and the colonial governments were often difficult. It is only in the last 50 years that the Canadian government and justice system have officially recognised the existence of aboriginal rights, and more specifically rights pertaining to land management, access to resources and self-government. A summary of this legislation, and its implications for aboriginal rights, relations with the government and economic development is provided in *Table 1*, while an overview of the evolution of aboriginal rights in Canada is provided in *Appendix A – Overview of the treaties, acts and policies governing aboriginal rights in Canada*.

Land Rights and Economic Power

The cumulative effects of past and present legislation has created a unique and rather complex system of land tenure and self-government on aboriginal lands. The present legal structure affects not only the rights of First Nations and their members, but also their economic activity and relations with both the Federal and Provincial governments. Taken together, these elements strongly influence a community's ability to access adequate and affordable housing, as well as mainstream housing markets. Because of the particular historical and legal context in which Canadian aboriginal communities developed and exist today, their housing provision system does not presently resemble that of mainstream Canada, and it remains unclear whether such a resemblance is possible, much less desirable.

An important difference between aboriginal lands and the lands upon which mainstream Canadians live, is the "reserve" system, under which aboriginal land is held by the federal government for common use by an aboriginal group. This system was set up through the signing of treaties (later known as "numbered treaties"), as per the provisions of the Royal Proclamation of 1763. These treaties secured European access to and use of traditional aboriginal lands, as well as the renunciation of any further claims and aboriginal rights. In return, aboriginals were generally provided with sections of "reserved" land for their exclusive use, as well as other benefits, such as lump-sum payments or housing.¹ In 1851, in order to better protect aboriginal title to un-ceded or "reserved" land, the Act for the Better Protection of the Lands and Property of the Indians of Lower Canada established that "Amerindians" could not deal with private individuals concerning their lands, that these lands could not be taxed or seized for non-payment of debt, and further that damages were to be awarded for public works activities. Although the act protects aboriginal lands,

it limits their value as a capital asset because the non-seizure clause prevents their use as collateral to obtain loans, mortgages or other forms of financing. These acts therefore established a system in which First Nations and their individual members could not leverage their primary asset, could only deal with the government, and in order to obtain benefits, they were required to either relinquish title to their land, or accept that it be used for public works projects. Despite these negative consequences, many First Nations groups are in favour of maintaining this special status for their lands, as they feel it protects the integrity of their territory. As will be discussed in Chapters 2 and 4, it is now possible to use aboriginal land assets as leverage to secure capital thanks to Ministerial Loan Guarantees and through special agreements a number of First Nations have secured with financial institutions, thereby facilitating access to financing.

Aboriginal Self-Government and welfare

From the late 1830s until the 1970s, British, and eventually Canadian, efforts were largely focused on assimilating aboriginal populations and appropriating their lands, with little interest in improving their living conditions or addressing their concerns, grievances and claims. The legal status of Canada's aboriginal population was defined in the Indian Act of 1876, which solidified previous laws and protocols, entrenched the reserve system, and established a system of local governance, to be administered by elected band councils. The local government provided for in the Indian Act however only exercised an administrative function, as agents of the Indians Affairs department retained control through disbursement of band funds.² Band funds could be accumulated in a number of ways, primarily through the sale or management of reserved lands by the Minister of Indian Affairs.³ To this day, these funds and the reserve lands can be spent or used in a variety of ways to promote the welfare of the community or their individuals, including housing construction, issuing of loans, or direct disbursement to band members, subject to the consent of the minister.⁴ Despite the fact that aboriginal affairs and related service provision became a federal responsibility through the British North America Act of 1867,⁵ the Indian Act does not confer a legal responsibility onto the federal government to provide for aboriginal welfare beyond distributing and managing the land and resources belonging to a First Nation. In addition to solidifying the measures provided for in the Acts above, the Indian Act further hindered aboriginal economic development, as bands were not a legal entity, and therefore could not enter into contracts and other legal obligations.⁶

Acts and Policies	Date	General Provisions	Implications for		
			aboriginal rights	government - aboriginal relations	economic development
<i>Royal Proclamation</i>	1763	<ul style="list-style-type: none"> British territory in N.A. belongs to the King Natives have land reserved as hunting grounds for their exclusive use, until ceded to or purchased by the Crown Colonial governments may not award land rights to reserved lands Settlers may not claim or purchase land from natives 	<ul style="list-style-type: none"> Right to use and control traditional lands (usufruct) 	<ul style="list-style-type: none"> Land title can only be extinguished by treaty 	
<i>Crown Lands Protection Act</i>	1839	<ul style="list-style-type: none"> Indian lands are Crown Lands to be held for their use and benefit 	<ul style="list-style-type: none"> Usufruct Exclusion from political rights (private property condition not met) 		<ul style="list-style-type: none"> land held in common possible revenue from land management by the Crown
<i>An Act for the Better Protection of the Lands and Property of the Indians of Lower Canada</i>	1851	<ul style="list-style-type: none"> Amerindians cannot deal with private individuals concerning their lands Amerindian lands cannot be taxed or seized for non-payment of debt Damages to be awarded for public works on Amerindian land 	<ul style="list-style-type: none"> Exclusive use of traditional lands Land rights cannot be alienated nor seized by private interests 	<ul style="list-style-type: none"> Land and capital transactions restricted to the government 	<ul style="list-style-type: none"> Land cannot be mortgaged or used as collateral Limited sources of capital; accepting public works projects a major source
<i>British North America Act</i>	1867	<ul style="list-style-type: none"> Indians are a federal responsibility Provinces control Crown (Indian) lands within their territories 		<ul style="list-style-type: none"> Services administered outside the mainstream by a federal body No government advocate for aboriginal rights 	
<i>Indian Act</i>	1876	<ul style="list-style-type: none"> Definition of “bands”, “amerindians”, “reserves”, “indians”, and “indian status” Local government (largely administrative function) Process of enfranchisement (loss of Indian Status) 	<ul style="list-style-type: none"> First Nations deal with government as “bands” Limited local government 	<ul style="list-style-type: none"> Bands cannot enter into legal contracts Indian Affairs controls band finances 	<ul style="list-style-type: none"> Band property and economic development subject to oversight by Indian Affairs
<i>Indian Advancement Act</i>	1884	<ul style="list-style-type: none"> Tribal councils granted additional powers, namely: <ul style="list-style-type: none"> taxation by-law enforcement 		<ul style="list-style-type: none"> Imposed electoral system Oversight and control of tribal council functions exercised by Indian Affairs 	<ul style="list-style-type: none"> Tribal councils have potential internal revenue stream
<i>Amendment to the Indian Act</i>	1911	<ul style="list-style-type: none"> Reserves can be expropriated 	<ul style="list-style-type: none"> Reduced protection of right to traditional land 		<ul style="list-style-type: none"> Land less effective as a source of income and leverage
<i>Numbered Treaties</i>	1763-1975	<ul style="list-style-type: none"> Land rights and aboriginal claims exchanged for economic benefit, services and infrastructure 	<ul style="list-style-type: none"> Extinguishment of aboriginal rights and claims 	<ul style="list-style-type: none"> Negotiations depended on use of band funds to launch land claim actions 	<ul style="list-style-type: none"> Treaties source of revenue and secure land base Generous economic development assistance
<i>Amendments to the Indian Act</i>	1951 and 1958	<ul style="list-style-type: none"> Bands can be incorporated as municipalities Bands have full control of funds and internal affairs 	<ul style="list-style-type: none"> Limited self-government: control of affairs delegated by Indian Act 	<ul style="list-style-type: none"> Increased local autonomy and discretion Funds can be used to advocate for aboriginal rights 	<ul style="list-style-type: none"> Land use under local control
<i>Canadian Constitution</i>	1982	<ul style="list-style-type: none"> Concept of aboriginal rights recognised Aboriginal self-government addressed 	<ul style="list-style-type: none"> Rights to be defined through further negotiation 	<ul style="list-style-type: none"> Self-government at a local level only; no province-like structure for First Nations 	
<i>Community-based self-government policy</i>	1985	<ul style="list-style-type: none"> Framework for negotiating self-government First Nation governments to receive delegated jurisdiction 	<ul style="list-style-type: none"> Possibility of more complete self-government 	<ul style="list-style-type: none"> Local authority limited to delegated areas 	<ul style="list-style-type: none"> Ability to control local economic development Agreement usually includes economic development funds
<i>Inherent Right Policy</i>	1995	<ul style="list-style-type: none"> Self-government to be negotiated with land claims agreements, or independently Existing agreements and treaties upheld 	<ul style="list-style-type: none"> Self-government is an aboriginal right 	<ul style="list-style-type: none"> Process in place for transition period and transfer of responsibilities Potential for increased local autonomy 	

Table 1. Summary of acts and policies dealing with aboriginal land and rights

It was not until the end of World War II, when inequalities between non-aboriginal and aboriginal populations became glaring, that aboriginals in Canada were given greater control over their local affairs. Self-sufficiency and local autonomy, generally exercised through self-government, is seen as being essential to successful economic development and community welfare among aboriginal groups. The Indian Act was amended in 1951, allowing bands to incorporate as municipalities, thereby granting them legal status and the associated rights and powers. Full control of reserve land management, band funds and by-law administration was obtained by 1958.⁷ However, funds still were, and continue to be, allocated by a federal government body, which raises questions of accountability of the aboriginal governments as they may be more responsive to external agencies than to community members.⁸ By 1982, when the British North America Act was repatriated, and the Canadian Charter of Rights and Freedoms enacted, aboriginal rights had become a major issue. After a long series of negotiations, these rights were recognised in the 1982 Constitution, however they were left to be defined at a later date.⁹ The Constitution also provided that any aboriginal self-government which was to exist would remain only at the local level, not receiving a status similar to that of the provinces.¹⁰

In 1983, at the First Ministers' Conference on Aboriginal Rights, which followed on from the call for negotiation of "existing aboriginal rights" in the Constitution (1982), the aboriginals stated their rights as including the right to self-government. This position was based on the idea of an "original sovereignty" existing prior to European occupation, and the fact that the rights associated with this sovereignty were not altered by settlers' occupation of Canada.¹¹ This position is supported by the United Nations' "Declaration on the Granting of Independence to Colonial Countries and People" of 1961 which asserts that "all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development".¹² This right to self-determination can be asserted in a number of ways, including establishing a nation-state, but as can be seen in the following section, the Cree of Eeyou Istchee have chosen the path of self-government within the confederation of Canada.¹³ While the theory of original sovereignty should in fact allow a people complete control over their internal affairs, and external relations to other governments, the Community-based self-government (CBSG) policy of 1985 maintains that First Nation jurisdiction is limited to delegated federal authority.¹⁴

Based on *Table 1*, the effects of presently applicable legislation can be summarised as follows:

1. **Aboriginal rights** include the right to self-government and use of traditional lands, but not to ownership of these lands or their resources. Claims regarding these rights are to be settled via treaties or agreements.
2. **First Nations' governments** are legal entities, with authority over federally-delegated jurisdictions, who control their resources. These resources however continue to be provided by the Federal government, according to a continually-evolving fiscal relationship.
3. First Nations' **economic development** is limited by the fact that aboriginal lands are owned by the Crown, communal land title, limited internal revenue in the form of either property

taxes or expropriation and exploitation of traditional lands for public works, and finally limited access to capital and financing.

B. The Cree of Eeyou Istchee

Historical Context

While the policies outlined in Section A and in *Table 1*, applied to all aboriginal groups and First Nations across Canada, northern populations such as the Cree were generally less affected by these for two main reasons. First, there was no impetus to sign numbered treaties with First Nations residing on land for which there was no development or settlement interest, and as such the Northern areas of Canada remained un-ceded until the late 1900s.¹⁵ Second, by the mid-1930's, government policy had shifted towards promoting self-sufficiency among northern aboriginal populations through encouragement to retain traditional lifestyles. This shift can largely be attributed to the stock market crash of 1929 which strained government finances.¹⁶ The First Nations of northern areas were therefore able to maintain traditional governance structures and lifestyles to a greater extent than their southern counterparts, however they did not have the same advantages in terms of welfare and service provision, or treaty benefits.

Prior to the 1970s, the Cree of Eeyou Istchee were numbered at around 6000 individuals, living in 6 isolated villages. Many of these villages, although traditional sites for rituals and festivals, had become a location for sedentary settlement as a result of the Hudson's Bay Company trading posts, where the Cree and Inuit were able to not only trade their goods obtained through hunting and trapping, but also obtain welfare payments and rations.¹⁷ However some members of the population and in fact some whole nations (Waswanipi and Oujé-Bougoumou) continued to live a semi-nomadic lifestyle in traditional dwellings, as late as the mid-1970s. Living conditions were generally poor, with housing in the communities consisting primarily of shelters that were not serviced and were inadequate for family needs and size.¹⁸ International bodies who observed the Oujé-Bougoumou First Nation considered their situation to be equivalent to the worst in the Third World.¹⁹

The traditional lands of the Cree of Eeyou Istchee, held as Crown Lands as per the Royal Proclamation of 1763, came under the control of Quebec as a result of two extensions of the province's boundaries, once in 1898 and again in 1912, see *Figure 2*. These lands were granted to the province under the condition that it would obtain surrender of aboriginal land rights through the signing of treaties (to follow the formula of the numbered treaties). As the government had no immediate interest in developing the land, treaties were not signed, and Quebec's land rights remained un-secured until the mid-1970s.²⁰

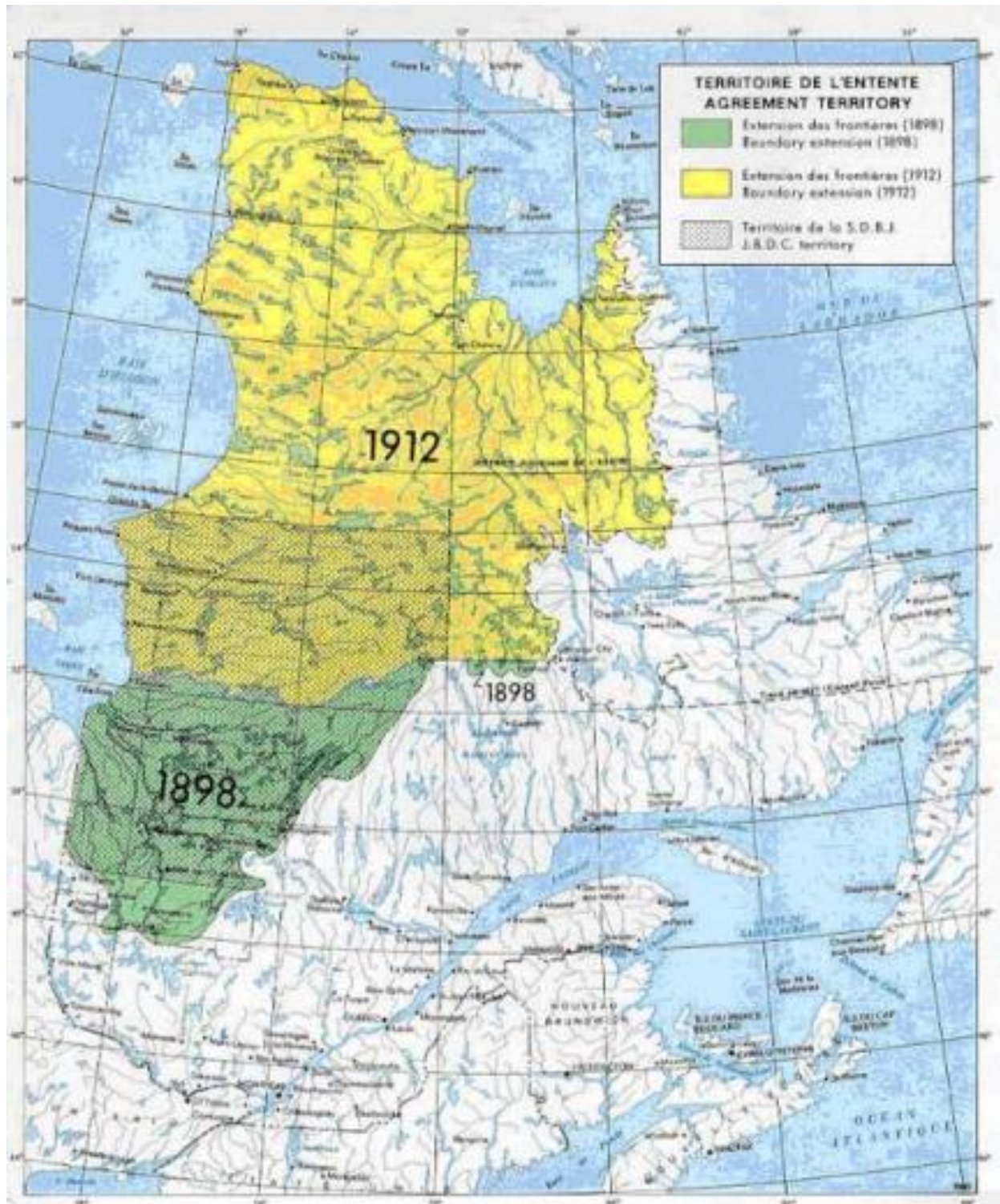


Figure 2. Map of the Extension of Quebec's Boundaries (1898 and 1912) The shaded area, marked as belonging to the James Bay Development Corporation (J.B.D.C) largely corresponds to the territory of the Cree of Eeyou Istchee. Source: JBNQA (1975). <http://www.gcc.ca/pdf/LEG000000006.pdf>

Therefore, when the James Bay hydro-electric project was announced in 1971, without prior consultation of the Cree First Nations residing in the area, there were no treaties governing relations between the Cree First Nations and the provincial government or granting rights for non-aboriginal use of the land.²¹ The Crees reacted rapidly to protect their lands, and by 1974, several independent Cree First Nations had come together to establish the Grand Council of the Crees (GCC) which would present a unified opposition to the project. The GCC took the Quebec Government to court, and obtained an injunction which halted the construction of the proposed dams.²² This legal action forced the Quebec and Canadian governments into negotiations around the question of aboriginal rights, culminating in the James Bay and Northern Quebec Agreement in 1975. The Cree of Eeyou Istchee were therefore able to make large strides towards increased self-sufficiency and self-government, years ahead of the self-government policies outlined in *Table 1*.

Landmark agreements and acts

Despite their relatively disadvantaged situation coming into the negotiations in the early 1970s, the Grand Council of the Cree and the Cree First Nations, defended their rights and obtained recognition and benefits from the Canadian and Quebec governments. Subsequent agreements have solidified these rights, and given the Cree of Eeyou Istchee a significant amount of control over their development. This control was further enhanced by the Cree of Eeyou Istchee's insistence on local management of programs and funds stemming from the agreements, allowing them not only to be largely self-determining and autonomous nations, but also to build local capacity and expertise right from the outset.

The James Bay and Northern Quebec Agreement

The James Bay and Northern Quebec Agreement (JBNQA) was a multi-party agreement signed in 1975. Negotiations brought together two aboriginal groups, the GCC and the Northern Quebec Inuit Association, the provincial and federal governments, and three Crown corporations involved in energy and resource extraction in Quebec. This agreement was a landmark agreement: while it strongly resembled the numbered treaties coming before it, and in many ways incorporated elements of control and assimilation, it also represents the "first modern aboriginal claims settlement in Canada".²³ The agreement deals with a wide variety of issues, ranging from technical specifications and environmental protection measures, to aboriginal rights and land title.²⁴ Most of the sections dealing with aboriginal rights, self-administration, and land claims include provisions for further negotiations, statutes and acts required to bring about the agreed-to principles. As such the JBNQA is a living document which has undergone numerous amendments and to which a number of other acts and agreements refer as the primary legal base.

Quebec's goals in relation to the agreement were to fulfill its obligation to the First Nations in its territory by obtaining cession of land title, as well as to affirm Quebec's presence throughout the territory, and enable its exploitation for all Quebecers. A major concession that was required of the James Bay Cree was therefore that they renounce all aboriginal claims, rights or title except for those specifically agreed upon in the document, and those outlined in the Indian Act.²⁵ The three main parts of the act relevant to this discussion are its organisation of the territory and land

allocation, the compensation and services promised to the Cree, and provisions for self-administration.

The JBNQA sets out a system of territorial organisation for Northern Quebec which assigns land to three main categories based on ownership, control of resources, and usufruct. Category III lands, the majority of the area of Northern Quebec, are held by the Quebec Government and are accessible to the entire population. Category II lands, also held by Quebec, are attributed to each Cree First Nation for their exclusive use for traditional activities (hunting, fishing, and trapping). Each Cree First Nation* also receives Category I lands for their exclusive use. These lands are split into two sub-categories A and B. Category IA lands include the area upon which the Cree communities were already located. Administration, management and control of these lands is transferred to the Canadian Government as per the division of responsibilities in the BNA Act of 1867. Ownership of Category IB lands is given over to corporations composed exclusively of James Bay Crees (effectively municipalities) on the condition that the lands may only be sold or ceded to Quebec. Within Category I lands, Quebec retains ownership of subsurface rights, but the Cree can exploit ground materials and forests as per provincial rules and permitting standards.

As can be seen from the categorization above, although the Cree of Eeyou Istchee are no longer governed by the Indian Act, they chose to maintain a reserve-like system under Federal jurisdiction, unlike the Inuit who, through the JBNQA, incorporated as municipalities under Provincial jurisdiction.²⁶ By remaining under Federal jurisdiction, local Cree governance of Category IA lands remained largely unchanged, with continued oversight by DIAND.²⁷

The JBNQA also sets out a number of federal and provincial responsibilities and obligations towards the Inuit and Cree, which are in addition to the regular government services offered by the Department of Indian Affairs and Northern Development** (DIAND), and supplement the rights associated with Indian Status, provided for in the Indian Act. These provisions differ for the Inuit and the Cree. Canada and Quebec both promised monetary compensation of \$150M to the Cree to be used only for community purposes or undertakings of general benefit to the Cree people, which may not be used to benefit any individual.²⁸ It is therefore unclear whether these funds could be applied as subsidies to individual private housing. Canada and Quebec also undertake to create programs, provide technical assistance and fund initiatives or projects relating to economic and social development, as well as to provide funding to cover the administrative costs of delegated

* The term Cree First Nation is used here as it is currently the preferred term, however the Cree First Nations were historically referred to as bands. As such, where the agreements cited refer to bands, this term has been replaced.

** Aboriginal services have been administered through a federal department of "Indian Affairs" since 1966, known as the Department of Indian Affairs and Northern Development at the time of its creation. The department is presently called Aboriginal Affairs and Northern Development Canada (AANDC), but was also referred to as Indian and Northern Affairs Canada (INAC) from about the mid-1990s to the early 2000s. Wherever possible, the historically accurate name and abbreviation will be used.

government programs.²⁹ The preservation of Cree customs, language and traditional lifestyles were favoured through the establishment of separate boards or jurisdictions for Cree education, health, social services, justice and policing.³⁰ Quebec also undertook to assist in the preservation of traditional lifestyles by creating an Income Security Program for hunters and trappers, which ensures the economic independence and well-being of many members of the population.³¹ In spite of this income supplement however, a large segment of the population in the Cree First Nations is still economically disadvantaged, as will be highlighted in Chapter 3.

Housing is however conspicuously excluded from the sections of the agreement dealing with Cree benefits. This exclusion is particularly noteworthy as the JBNQA explicitly secures housing for the Inuit, to be provided and managed by the Société d'Habitation du Québec. For the Cree, housing provision is never addressed, and it is not clear whether it can be understood to fall under the provisions relating to community, social and economic development. Housing for the Cree is only indirectly alluded to within the document in reference to existing programs and benefits, for which the Cree continue to be eligible. The exclusion of a stable housing provision mechanism would have been a major concession on the part of the Cree.

Aside from specific benefits and programs, the Cree secured significant gains in terms of increased self-administration at the regional level through the agreement. The JBNQA created the Cree Regional Authority (CRA), to be incorporated under Quebec law. This corporation was to include all Crees and Cree corporations covered by the JBNQA. The CRA effectively had the role of managing the execution of the agreement, as well as representing the Cree in any further negotiations. The CRA was also to become a form of regional government or administration for the Cree First Nations as it was given the authority to coordinate and administer any programs on Category I lands that might be delegated to it by one or more of the Cree First Nations.³²

The Cree-Naskapi (of Quebec) Act

Ratified in 1984, the Cree-Naskapi (of Quebec) Act is federal legislation which transfers power over Category IA lands to a Cree Government, as provided for in the JBNQA. In effect, the Act removes the Cree First Nations and Category IA lands from the controls of the Indian Act, which is now only applicable to determine Indian Status and related benefits, as pertains to individual members of the Cree First Nations.³³ This act is the first in Canada to provide for self-government outside of the Indian Act.³⁴

The Act defines the roles of a Cree First Nation, which are largely equivalent to those of a municipality. The First Nation has the power to make by-laws regarding various aspects of the management of the Category IA lands, local taxation (which cannot be income-based), and the provision of local services and related user charges. The First Nation government also controls who can use the land through a leasehold system, given that Canada retains possession of the land title itself. As part of this system, a First Nation can grant its members a "right of superficie" which allows for construction of buildings on the plot, and private ownership of said buildings.³⁵ As in the Indian Act, the Cree-Naskapi Act protects the property of both the beneficiaries and bands from seizure by individuals or corporations who are not beneficiaries of the agreement.

The Cree-Naskapi Act therefore sets the initial basis for self-government by the Cree First Nations on Category IA lands. It provides the Cree First Nations' councils with limited sources of revenue, and legislative authority over local matters, including housing, construction standards, and right to occupy or build on the land. However the Act also retains the historical restrictions on individuals' and First Nations' rights to own and alienate the land, and associated difficulties obtaining mortgages and loans. Ministerial Loan Guarantees do present a solution, however access to these forms of funding remains difficult.

Agreement Concerning a New Relationship between le Gouvernement du Québec and the Crees of Québec

The "Agreement Concerning a New Relationship between le Gouvernement du Québec and the Crees of Québec", also known as the New Relationship Agreement (NRA) or the "Paix des Braves", was signed in 2002 as a settlement regarding disagreements and outstanding claims relating to the implementation, provisions and implications of the JBNQA.³⁶ Two of the goals of this agreement were to establish a nation-to-nation relationship between Quebec and the Cree, and for the Cree Nation to assume greater responsibility for its economic and community development. Therefore the agreement sets out that the Cree Nation governments are to take on Quebec's economic and community development obligations, as outlined in the JBNQA, for a period of 50 years, subject to receiving annual payments from Quebec. This shift in responsibility represents an increase in the autonomy and self-governance of the Cree First Nations, but also simply a recognition of the status quo, as the Cree had already begun exercising such powers and jurisdiction.³⁷

Agreement Concerning a New Relationship between the Government of Canada and the Cree of Eeyou Istchee

The "Agreement Concerning a New Relationship between the Government of Canada and the Cree of Eeyou Istchee" was signed a few years later in 2008, and also relates to disputes regarding the implementation and provisions of the JBNQA. As such, this agreement contains similar provisions to that of the NRA, notably that the CRA is to assume the federal responsibilities outlined in the JBNQA for a period of 20 years subject to receipt of appropriate funding (\$1.35 Bn).³⁸ In addition, this agreement specifically tackles the housing issue: while it does not comment on whether housing was or was not a federal obligation assumed under the JBNQA, the agreement does specify that the Cree maintain their eligibility to access "all existing, new or enhanced programs related to housing, subject to the applicable criteria".³⁹ Sub-paragraph c of paragraph 5.3 further states that all claims and grievances relating to past housing and related infrastructure funding in any of the Cree Communities is fully resolved and compensated by the payments provided for in the agreement.⁴⁰ These provisions therefore imply that the Government of Canada no longer has any financial responsibilities for housing in the Cree First Nations, apart from the regular funding for aboriginal housing programs and initiatives, outlined in Chapter 2.

The payments received over the 20 year period are to be used by the CRA to fund the assumed Federal responsibilities, and to supplement CRA core funding.⁴¹ One could therefore

interpret the agreement as allowing disbursement of the payments for a regional housing program, given that the agreement is meant to resolve all past housing claims. However there appears to have been some reluctance to use these funds for the purpose of housing, as the CRA's expenditures are audited by the federal government, and if these are not spent on responsibilities explicitly stated in the agreement, there is a possibility that funding will not be renewed.

In addition to provisions dealing directly with benefits or obligations stemming from the JBNQA, the agreement sets a timeline for negotiations surrounding the creation of a Cree Nation Government (CNG) which is to replace the CRA. Legislation creating the CNG is expected to provide it with powers beyond the scope of those outlined for regional self-government in the Cree-Naskapi Act, including the authority to make by-laws.⁴² Part of the creation of this legislation depends upon the current elaboration of a Cree First Nation constitution.⁴³

At present, the period for negotiations between the Cree and Canada towards an Agreement-in-Principle regarding the powers and constitutions of a Cree Nation Government has been extended, and as such this body's functions and responsibilities remain as defined in the amended Cree-Naskapi Act (2009), and are still carried out by the CRA/GCC.⁴⁴ However, the 2012 Agreement on Governance in the Eeyou Istchee James Bay Territory between the Crees of Eeyou Istchee and the Gouvernement du Québec changes the name of the CRA to "Cree Nation Government" and grants it the powers of a municipality for the management of Category II lands.⁴⁵ Due to the many names held by similar bodies exercising the same functions, CRA and CNG will be used interchangeably in the rest of the document, where possible in a historically accurate manner.

Self-government

While there remains some progress to be made, the Cree of Eeyou Istchee are now a largely self-determined people whose government is structured on four levels. First are the Indoh-hoh Istchees (roughly equivalent to the traplines established in Quebec law) which are governed by the traditional system. Second are the local Cree First Nation governments or councils (formerly known as bands) which exercise authority over the Category IA and IB lands. Third is the Cree (Eeyou) Nation Government (CNG) which exercises authority over both Category IA and Category II lands. This government is an amalgamation of the GCC and the CRA, which have been led by the same individuals and a joint board since the early 1980s. Finally, the Agreement on Governance created a regional government, bringing together the Cree and residents of the Municipality of James Bay, to manage Category III lands.⁴⁶

Through self-government, the Cree have achieved greater authority over their territory and its inhabitants, and greater control over matters affecting their communities.⁴⁷ However, as funding is still received from external bodies (primarily the Governments of Quebec and Canada) and the CNG is accountable to these through annual audits, there are risks that decisions made by the CNG may be more heavily influenced by external mandates and budgetary constraints than by immediate Cree needs or wishes. This lack of accountability to the Cree population and skewed decision-making can be exemplified in the reluctance to spend NRA funds on housing, even though this is one of the most pressing needs among the Cree First Nations. As the CRA/CNG does not

currently have the power to levy income taxes (the Cree First Nations can however impose property taxes on Category IA lands), and the resources and sub-surface rights associated with the Cree lands are owned by Quebec, the Cree Regional Government is largely unable to generate revenue internally.⁴⁸ A permanent funding structure, beyond the control of bureaucratic intervention, will be necessary to maintain the integrity and effectiveness of the governing structures.⁴⁹ Furthermore, this lack of control over local resources and revenues limits the CRA/CNG's ability to promote sustainable local economic development, which generally continues to depend on resource exploitation by external bodies.

We can therefore see that historical circumstances, which limited non-aboriginal interference in northern areas, combined with a strong desire for autonomy and local control on the part of the Cree of Eeyou Istchee has allowed them to build a relatively stable system of self-government. However, the capacity for local economic development, and concomitantly a stable housing provision system, which has historically been limited by deprivation and minimal contact with the mainstream economy, continues to be compromised due to legislation and policies governing aboriginal rights, economic development, and land use, as well as by the federal funding structure for the Cree Nation Government.

Nation-specific Agreements

Throughout the report, the Cree Nation of Chisasibi and the Oujé-Bougoumou Cree Nation will be used as examples of the diversity of situations, programs and policies found throughout the James Bay region. It is important to remember that while each nation falls under the regional authority of the CNG, and all have largely been affected in a similar manner by the above historical context and agreements, generalisations cannot always be made. The following section will present a brief overview of the history of these Cree First Nations to provide a background for their specific housing policies and challenges, which will be broached in Chapters 2 and 3.

The Cree Nation of Chisasibi

The Cree Nation of Chisasibi was re-located in 1981 to an area upstream from its initial settlement at Fort George, which was on an island of the same name located in the mouth of the La Grande River. While the initial provisions of the JBNQA included measures to protect the Fort-George community from possible downstream effects of the construction of LG-2, as well as to compensate the community for loss of land and hunting and fishing territory, these were removed through the Complementary Agreements nos. 3 and 4.⁵⁰ These amendments to the JBNQA were negotiated following a community-led decision to relocate the village due to fear that erosion effects related to the construction of the LG-2 dam would compromise the future development and water sanitation of the Fort-George community.⁵¹ The Chisasibi Agreement, signed in 1978, provided a budget of \$50M for the relocation of the community.⁵²

To this day, the Cree Nation of Chisasibi still has two major outstanding claims related to the implementation of the various agreements listed above. First, the NRA specifies that "Block D", a section of land immediately adjacent to the existing community, would be transferred from Quebec

to the Government of Canada as Category IA lands for the exclusive use by the Nation of Chisasibi no later than 2002. As of 2012, the transfer had still not been made due to issues of soil contamination.⁵³ Second, as the largest of the Cree First Nations, Chisasibi suffers from a severe shortage and overcrowding of its housing. It claims that it is Canada's responsibility to address this backlog, and further that expenditures the community has made to remedy the situation since 1994, at a cost of over \$24M as of 2005, should be fully reimbursed by the government.⁵⁴

The Oujé-Bougoumou Cree Nation

The Oujé-Bougoumou Cree Nation, like the Cree Nation of Chisasibi, also has a history of displacement and relocation, however in this case it was generally externally mandated. The community, which prior to the mid-1970s still lived in scattered makeshift semi-permanent settlements, was forced to relocate seven times over a 50 year period (1926-1970) due to various mining and forestry projects. By 1970, the community appealed for help, calling on the government to provide adequate housing. However, since they were not recognized as a band under the Indian Act, they were not eligible to receive benefits and were excluded from JBNQA negotiations in 1974. As some of the community members were registered in Mistissini, the community was asked to permanently relocate to Chibougamau or Mistissini. Community members refused for three main reasons: they had established themselves in the area, they were not willing to relinquish their traditional territories, and they felt that they had a role to protect the land.⁵⁵

Following 5 years of discussion, the community signed an agreement with the province in 1989 which covered the community's relocation to a site on Lake Opémiska chosen by the band, established a \$20M fund for social and economic development, stated that Quebec would contribute financially to the construction of a new village, and granted the band a degree of local jurisdiction over a portion of its traditional territory.⁵⁶ In 1992, an agreement was signed with the Federal government for financing the construction of the new village, leaving land claims and past damages for future negotiations.⁵⁷ While the government was initially unwilling to provide housing as part of the village construction, it was eventually agreed that Canada would finance the construction of 125 houses, which was the assessed need of the community's initial population. As such, Canada provided \$31M for infrastructure and housing, and Quebec contributed \$12M for the infrastructure of the new community.⁵⁸

It was only in 2011 that the Oujé-Bougoumou Cree Nation was added into the JBNQA through Complementary Agreement no.22.⁵⁹ All agreements stemming from the JBNQA are now therefore applicable to Oujé-Bougoumou Cree Nation. The Nation believes they have the decision-making power to implement innovative community development and planning measures, however natural resources are still lacking to ensure sustainable economic development.⁶⁰

C. Theory and implications of self-government

Necessary conditions for self-government

Native self-government requires not only a recognition of native authority by the government, but, perhaps most importantly, economic resources.⁶¹ As stated by Cornell (2007), “self-determination and dependence on another government for operating funds is incongruous”.⁶² However, in the Canadian context, there are only two real possible sources for these financial resources: the federal government, or greater access to land and resources. While the first can be an inconsistent source of funding (future funding levels are uncertain) thereby hindering the autonomy and accountability of the local government, the latter seems highly unlikely given Canadian precedents.⁶³ Access to land and resources as an economic base for self-government is further limited in the case of the Cree by the provisions relating to land-ownership, and sub-surface and mineral rights.⁶⁴ These funding difficulties are reflected in many of the regional and local policies and programs, most notably in terms of housing, where resources are chronically insufficient to provide for the assessed need. Failure to meet the basic condition of economic independence not only hinders the legitimacy and accountability of aboriginal self-government, but must also be accounted for in program and policy design. For example, when devising a sustainable housing provision system, the CNG and Cree First Nations must account for tight budget constraints, as it appears unlikely that they will be granted the power to develop new sources of funding in the near future.

Success in self-determination also leads to the need to address issues of governance, mainly that a legitimate governing structure must be put in place to take decisions and ensure their implementation.⁶⁵ The Cree are well-aware of this fact, having established a structure that incorporates traditional power structures and beliefs, but also accounts for requirements placed on modern governments and their specific context. However, there appears to be an ongoing issue with implementation, as the enforcement of Cree First Nation by-laws has been limited by the inability of the travelling tribunal to cope with non-criminal offences.⁶⁶ Furthermore, the legitimacy of a government also rests upon its accountability to its people, an issue which relates back to the funding question, which has been raised by the Cree themselves.⁶⁷

While nations have the right to be self-governing, self-government must also be looked at from a practical standpoint, whereby it is necessary to ensure that the people or nation to be self-governed is large enough and diverse enough to support an economy, build human capital, be efficient, and wield political power.⁶⁸ In this respect, the regrouping of the eight (now nine) Cree First Nations under the Grand Council of the Crees in the 1970s was a key step to achieving self-government, and this strength in numbers should be maintained through the effective use of regional policies where possible.

The link between self-government and housing

From a federal point of view, aboriginal self-government presents a number of advantages. First and foremost, self-government represents a shift in responsibility and accountability for

government programs.⁶⁹ Therefore, the government has been able to “harness the rhetoric associated with self-government and local control (...) to further its agenda of ‘getting out of the native business.’”⁷⁰ This devolution, not only of power, but also of responsibility for programs and services necessarily extends to housing provision, as will be expanded upon in Chapter 2. Second, self-government can present certain financial advantages to the federal government, as it can create multi-year block funding arrangements which increase the predictability of government expenditures,⁷¹ and reduce administrative costs through streamlining of central government processes.⁷²

For First Nations populations on the other hand, self-government is a double-edged sword. While a shift in power does allow for increased local control, it also results in increased accountability and responsibility for program success.⁷³ Furthermore, without the proper financial backing, self-government may result in similar or even worse community development outcomes than under a system of central control by an external government.⁷⁴ However, if properly managed, self-government can be the key to improved outcomes, as “form and quality of Indigenous governance, assuming there is substantial and meaningful Indigenous jurisdiction, is a powerful predictor of success in economic and community development”.⁷⁵ In terms of housing specifically, the Fourth Report of the Standing Committee on Aboriginal Affairs, released in 1992, recommended self-government as the only way to provide needed flexibility for housing delivery to meet aboriginal needs. Furthermore, the two-pronged solution to the housing problem proposed by the First Nations Housing Task Force in their proposal submitted to DIAND in 1992, is first to make available more resources for housing provision, and second that First Nations should control the entire program.⁷⁶

While housing has been provided by the Federal government as part of social policy or treaty benefits in the past, this provision has never been considered a part of its legal responsibility towards aboriginal people. DIAND's official position, as of 1992, is that “the government to this time, has not recognized any universal Indian entitlement to government financed housing, but it has committed itself that all Indians should have access to adequate, suitable, and affordable housing as a matter of social policy.”⁷⁷ The Canadian Government has therefore never elaborated a comprehensive and sustainable aboriginal housing strategy, and does not believe it has a legal responsibility to do so. Furthermore, as aboriginal housing programs are administered by the Canada Mortgage and Housing Corporation, which is responsible to all Canadians, aboriginal programs are likely to remain under-funded given that racial, geographic, demographic and cultural remoteness or segregation prevent effective or fair competition against mainstream interests.⁷⁸ Self-government could therefore allow the First Nations to elaborate a housing strategy that will sustainably provide homes around which a strong community can be built. However, it remains unclear what type of housing provision system can be developed and maintained in the Cree First Nations given available resources, construction costs, cultural barriers, and foreseeable local economic development.

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- ¹ Dickason, Canada's First Nations.
- ² *Ibid.*
- ³ Indian Act; Dickason, Canada's First Nations.
- ⁴ Indian Act, sec. 64.
- ⁵ Dickason, Canada's First Nations.
- ⁶ *Cree-Naskapi Commission*, Report of the Cree-Naskapi Commission.
- ⁷ Dickason, Canada's First Nations.
- ⁸ *Cree-Naskapi Commission*, Report of the Cree-Naskapi Commission.
- ⁹ Dickason, Canada's First Nations; Asch, Home and Native Land: Aboriginal Rights and the Canadian Constitution.
- ¹⁰ Dickason, Canada's First Nations.
- ¹¹ Asch, Home and Native Land: Aboriginal Rights and the Canadian Constitution.
- ¹² *Ibid.*, 33.
- ¹³ Asch, Home and Native Land: Aboriginal Rights and the Canadian Constitution.
- ¹⁴ "General Briefing Note on Canada's Self-Government and Comprehensive Land Claims Policies and the Status of Negotiations."
- ¹⁵ Asch, Home and Native Land: Aboriginal Rights and the Canadian Constitution.
- ¹⁶ Dickason, Canada's First Nations.
- ¹⁷ *Ibid.*
- ¹⁸ *Cree-Naskapi Commission*, Report of the Cree-Naskapi Commission.
- ¹⁹ "History 'In the Past.'"
- ²⁰ Dickason, Canada's First Nations.
- ²¹ *Ibid.*
- ²² *Cree-Naskapi Commission*, Report of the Cree-Naskapi Commission.
- ²³ Dickason, Canada's First Nations, 397.
- ²⁴ JBNQA.
- ²⁵ *Ibid.*
- ²⁶ *Ibid.*
- ²⁷ *Ibid.*, sec. 9.
- ²⁸ JBNQA.
- ²⁹ *Ibid.*, sec. 28.
- ³⁰ Asch, Home and Native Land: Aboriginal Rights and the Canadian Constitution.
- ³¹ Dickason, Canada's First Nations.
- ³² JBNQA, sec. 11.
- ³³ *Cree-Naskapi Commission*, Report of the Cree-Naskapi Commission.
- ³⁴ Dickason, Canada's First Nations.
- ³⁵ *Cree-Naskapi Commission*, "Cree-Naskapi (of Quebec) Act Summary."
- ³⁶ *Cree-Naskapi Commission*, Report of the Cree-Naskapi Commission.
- ³⁷ *Cree-Naskapi Commission*, "Cree-Naskapi (of Quebec) Act Summary."
- ³⁸ Agreement Concerning a New Relationship between The Government of Canada and The Cree of Eeyou Istchee, para. 4.3 and 6.2.
- ³⁹ *Ibid.*, para. 2.7.
- ⁴⁰ *Ibid.*, para. 5.3.
- ⁴¹ *Ibid.*, para. 6.4.
- ⁴² *Cree-Naskapi Commission*, Report of the Cree-Naskapi Commission.
- ⁴³ *Cree-Naskapi Commission*, "Cree-Naskapi (of Quebec) Act Summary."
- ⁴⁴ "General Briefing Note on Canada's Self-Government and Comprehensive Land Claims Policies and the Status of Negotiations."
- ⁴⁵ *Cree-Naskapi Commission*, "Summary of the Agreement on Governance in the Eeyou Istchee James Bay Territory Between the Crees of Eeyou Istchee and the Government of Quebec."
- ⁴⁶ *Cree-Naskapi Commission*, Report of the Cree-Naskapi Commission.
- ⁴⁷ *Ibid.*

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- ⁴⁸ *Cree-Naskapi Commission, "Cree-Naskapi (of Quebec) Act Summary"; Cree-Naskapi Commission, Report of the Cree-Naskapi Commission.*
- ⁴⁹ *Cree-Naskapi Commission, Report of the Cree-Naskapi Commission.*
- ⁵⁰ JBNQA.
- ⁵¹ *Shaw, "Town Planning in Consultation with and Participation from a Native Community."*
- ⁵² JBNQA.
- ⁵³ *Cree-Naskapi Commission, Report of the Cree-Naskapi Commission.*
- ⁵⁴ *Ibid.; Saunders and Awashish, 2006 Report of the Cree-Naskapi Commission.*
- ⁵⁵ *Bosum, "Community Dispersal and Organization: The Case of Oujé-Bougoumou."*
- ⁵⁶ *Ibid.; "History 'In the Past.'"*
- ⁵⁷ *Bosum, "Community Dispersal and Organization: The Case of Oujé-Bougoumou"; "History 'In the Past.'"*
- ⁵⁸ *Wertman, interview.*
- ⁵⁹ *"Oujé-Bougoumou Status Formalized in Complementary Agreement to the James Bay and Northern Quebec Agreement"; Agreement Concerning a New Relationship between The Government of Canada and The Cree of Eeyou Istchee.*
- ⁶⁰ *Bosum, "Community Dispersal and Organization: The Case of Oujé-Bougoumou."*
- ⁶¹ *Angus, "And the Last Shall Be First" - Native Policy in an Era of Cutbacks.*
- ⁶² *"Organizing Indigenous Governance in Canada, Australia and the United States," 160.*
- ⁶³ *Angus, "And the Last Shall Be First" - Native Policy in an Era of Cutbacks.*
- ⁶⁴ JBNQA.
- ⁶⁵ *Cornell, "Organizing Indigenous Governance in Canada, Australia and the United States."*
- ⁶⁶ *Cree-Naskapi Commission, Report of the Cree-Naskapi Commission.*
- ⁶⁷ *Cornell, "Organizing Indigenous Governance in Canada, Australia and the United States"; Cree-Naskapi Commission, Report of the Cree-Naskapi Commission.*
- ⁶⁸ *Cornell, "Organizing Indigenous Governance in Canada, Australia and the United States."*
- ⁶⁹ *Ibid.*
- ⁷⁰ *Angus, "And the Last Shall Be First" - Native Policy in an Era of Cutbacks, 32.*
- ⁷¹ *Angus, "And the Last Shall Be First" - Native Policy in an Era of Cutbacks.*
- ⁷² *Dickason, Canada's First Nations.*
- ⁷³ *Cornell, "Organizing Indigenous Governance in Canada, Australia and the United States."*
- ⁷⁴ *Angus, "And the Last Shall Be First" - Native Policy in an Era of Cutbacks, 27.*
- ⁷⁵ *Cornell, "Organizing Indigenous Governance in Canada, Australia and the United States," 161.*
- ⁷⁶ *Schneider, A Time for Action: Aboriginal and Northern Housing.*
- ⁷⁷ *Ibid., 23.*
- ⁷⁸ *Angus, "And the Last Shall Be First" - Native Policy in an Era of Cutbacks.*

CHAPTER 2 – *Evolution of the Current Housing Provision Model*

This chapter will provide the background to the present housing crisis, by outlining the government housing programs offered from the 1960s to the present, as well as the Cree housing programs. This background will set the stage for understanding the challenges these communities face in ensuring sustainable provision of adequate housing, and the starting point from which a new housing program can be developed.

A. Evolution of Cree Housing

Traditional Housing, Community Organisation and the European Influence

Housing in the James Bay Territory, as part of the sub-arctic region, was highly varied, but modest due to the harsh climate and limited resources and materials for construction. In addition, due to seasonal community relocation to engage in trapping or hunting, or for various rituals and gatherings, housing was generally perceived to be temporary. Summer and winter dwellings were different from each other, and could be either lodges, cabins or tents.¹ Housing and community form would have been determined, not only by the climate and available building materials, but also by the structure of social organization, religious and community life, and the people's history.²

Even prior to European arrival, housing styles and construction methods were evolving. However, European influence accelerated these changes: through trade, aboriginals, especially those in Northern or more remote areas, gained access to new materials, tools and increased wealth. Even so, prior to the housing programs of the 1960s and 70s, changes to Cree housing structures were relatively minor.³ However, a larger and possibly more pervasive influence was that of changing settlement patterns forced by trips to trading posts, and eventual settlement near these areas to receive much-needed services when trade slowed and environmental changes reduced food and fur availability, resulting in an increasingly sedentary lifestyle.⁴

Even after the start of the federal housing programs in the 1960s, many continued to live in traditional dwelling types due to personal and cultural preferences. In fact, initial housing programs even attempted to provide "traditional" homes by giving the Cree tents, which were soon discarded for self-made structures.⁵ Over the last 40 years, "modern" southern-style structures have come to replace these traditional housing structures in the Cree communities, with individuals presently imposing few or no traditional cultural expectations on the housing design, as culture is largely practiced in other ways.⁶ However, many individuals still retain the skills and knowledge to build survival dwellings, basic housing structures and encampments using traditional techniques and modern materials; these are now primarily used at hunting camps.⁷

Historical Housing Programs (1970s to mid-1990s)

DIAND and CMHC programs

Nation-wide housing programs for aboriginals living on reserve were deployed as of the mid-1960s. By the 1970s, three types of housing program were available on reserve: DIAND subsidy housing, CMHC's Indian on-reserve housing program, and the band-administered housing program, as detailed in *Appendix B – Historical Government Housing Provision* and summarised in *Table 2* below. These programs persisted for many years, with some still existing today, however details of program management and funding allocation were adapted over time.

These programs were often the only source of housing (built to Euro-Canadian standards) in the Cree Nations. While run in parallel, the above programs had to be stacked by the First Nations in order to produce a single unit of housing, as the funding provided from each was insufficient to cover construction costs. Later housing programs, such as the band-administered housing program, were in fact designed with the expectation that the band would secure additional sources of financing.⁸ Ministerial Loan Guarantees were offered by DIAND as of 1966 in order to allow bands to secure loans to finance the construction of housing units.⁹

DIAND's resources were allocated on a per-capita basis to regions (provinces and territories); within the regions, the money was allocated to the individual bands on a roughly per-capita basis.¹⁰ However, the regions did have the discretion to deviate from this formula based on bands' requests, expressed need or proposed projects.¹¹ Housing need was determined by DIAND and the CRA as being one unit per two individuals over the age of 19.¹² However this formula was only used to assign proportional amounts of resources to the regions and then the bands, as funding levels depended more on DIAND's budget than the observed shortage.¹³

The housing built through the governmental programs above was to be held and managed as rental units by the individual bands, with rent being derived from DIAND's social aid or shelter allowance. There was also the possibility of selling the units to band members, either directly or through a rent-to-own system, should they become employed.¹⁴

Housing design was very basic, and generally followed CMHC models of single family homes imported from the south. Over time, these models were adapted to the climate through minor alterations to the design of the buildings.¹⁵ In the case of Chisasibi, further cultural adaptations to the design were made following a process of community consultation at the time of the community's relocation, resulting in "model A" homes.¹⁶ "Model A" homes became the norm for construction across most of the Cree communities, and as these were often the only housing that people had known, the level of satisfaction with the design was generally fairly high, with concerns largely focused on issues of overcrowding and housing size.¹⁷

While little information is available, it would appear that the housing programs for aboriginals living on reserve changed little from the late 70s through the 1980s, even though new policies and improvements were suggested and endorsed.¹⁸ By the 1980s, sources of additional

financing for housing unit construction had become more diversified: the CMHC offered low-interest or interest-free loans (backed by a Ministerial Guarantee), settlement and treaty monies could be allocated to social and economic development, as well as housing specifically, and CMHC's loan interest subsidy was created in this decade.¹⁹ The latter came to be known as the non-profit on-reserve housing program, or Section 95 (s.95) housing, in reference to Section 95 of the National Housing Act under which the program was operating.²⁰ This subsidy theoretically covered outstanding costs to the band (mortgage servicing and operations and maintenance), after receipt of DIAND subsidies and rent collection.²¹ However, when interest rates were high, the subsidy amounts per unit were greater, allowing bands to set aside funds if the units were being well-managed.²² On the contrary, when interest rates dropped in the mid-1990s, so did the subsidy amount, resulting in a shortfall on a per-unit basis.²³

The loan interest subsidy was designed based on existing city programs in the south to create an affordable housing program on-reserve in which rent would be geared to income.²⁴ However, due to the low income of a large portion of the population in the Cree communities, the program effectively became social housing – a situation for which it was not designed.²⁵ After the mortgage period was over, the CMHC subsidy would end, and full ownership, control and management of the housing would revert to the band council.²⁶ CMHC's involvement extended beyond simply funding the program; it also acted as an advisor for the planning, building, management and maintenance of the housing, a role which would become its primary one after 1996.²⁷

Other Initiatives

In addition to the main programs above, and DIAND's renovation program, there were also a number of other government initiatives, made available from time to time, which could be used to finance housing construction or maintenance. These initiatives often took the form of funding for specific projects or financing for the creation of employment opportunities, and therefore also served to address the related issue of economic development and local capacity. While these initiatives could finance the construction of a large number of homes in any given year (for example 60 houses were built in 1971-2 in Fort George through a "Work Opportunity Project"),²⁸ they did not represent a stable source of housing, and should therefore be seen as one-off or bonus supplements to the DIAND/CMHC housing provision described above.

Increasing Local Control

As early as the mid-1970s housing construction and program administration was devolved to the band councils, without providing a budget to cover such additional costs (funding remained constant at a per-unit rate).²⁹ However, by the early 1990s, band councils were developing and submitting their own project proposals to DIAND for approval, and funds were provided on a project basis, rather than unit-by-unit.³⁰ In this process bands were also responsible for finding the majority of the financing (for which ministerial guarantees had to be obtained), as DIAND funds remained insufficient.³¹ By the late 1980s and early 1990s, both DIAND and the CMHC had stopped

providing “units” per say, and instead funds were allocated to the communities to spend as they deemed appropriate.³²

Cree First Nation Housing Programs

As the Cree of Eeyou Istchee had not signed a treaty or surrendered lands prior to 1975, they could not finance their own housing construction, and were entirely dependent on the governmental sources listed above.³³ While it is clear that some communities, such as that of Fort-George, were benefitting from the available programs as early as the 1960s, in most of the Cree communities housing programs only really began in the late 1970s, post-JBNQA.³⁴

By 1980, a Cree Housing Department had been created under the CRA, with the mandate to develop the communities through master planning, provision of infrastructure, and construction of community buildings and housing.³⁵ This department tapped into CMHC funds in order to finance housing construction, the large volume of which (approx. 20 units/year per community) was made possible by the fact that other First Nations lacked the organisational capacity to effectively apply for DIAND’s subsidy program, and so the Cree were able to obtain more than their proportional share of the budget for Quebec.³⁶ The housing department’s central organisation allowed it to hire a number of professionals, namely architects, engineers, and technologists who worked with each of the communities to create architectural plans and designs, and ensure standards were met. Generally however the housing followed the general CMHC “model A” construction due to budget constraints.³⁷ Rent was also collected centrally, and the housing department was responsible for housing maintenance and renovation.³⁸

In the early 1990s, the individual Cree First Nations each wanted to take control of their housing programs, thereby dissolving the central housing department; responsibility for housing construction and rental was transferred to individual Cree First Nation housing departments in a very short time frame.³⁹ This shift in responsibility meant that individual housing departments no longer benefited from the expertise of professionals hired by the CRA. While some communities hired their own professionals, many did not, and so the housing departments operated with limited technical knowledge or expertise.⁴⁰ However, even where experts were hired, housing design and construction changed little from the initial CMHC models, as the community members had become used to this style and type of housing.⁴¹ The CRA’s role became one of guidance and allocation of the capital funds received from DIAND.⁴²

Housing construction was generally carried out by southern contractors who hired local labour; a situation made possible by the federal jurisdiction over the Cree territories, as provincial union and professional qualification regulations could have prevented many of the local Cree from working in construction trades, as has proven to be the case in the Inuit communities to the north.⁴³ The use of local labour would have not only reduced construction costs, but also allowed for construction capacity and experience to be built up within the community.

While a number of the Cree communities chose not to take part in the CMHC’s loan interest subsidy or loan programs, the Cree First Nations taken together still received the majority of their

housing through the CMHC s.95 program. By 1995, the communities taken together had been allocated approximately 1 400 s.95 units through DIAND and CMHC funding.⁴⁴ By 2007, the Cree had received 1 361 additional units through the CMHC non-profit on-reserve housing program.⁴⁵ With a housing stock of 3 879 units as of 2013, just under two-thirds of the Cree First Nations' present stock came from CMHC/DIAND on-reserve housing subsidies.⁴⁶

Problems with the system

As early as 1975, it was recognized that DIAND's housing policy was ineffective at providing adequate housing to meet aboriginal needs. A joint committee including DIAND and the Assembly of First Nations was established to formulate a new housing policy, however despite the endorsement of this policy in 1977, no improvements were made.⁴⁷

The 1992 report of the Standing Committee on Aboriginal Affairs produced an long list of failures of Canadian aboriginal on-reserve housing programs, stating that not only was there severe overcrowding, inadequate housing and infrastructure and a large backlog, but also that what housing did exist was culturally inappropriate, and provided limited economic benefits to the communities. Furthermore the system, which was the only source of housing in Northern areas (due to the complete absence of a private market and difficulties accessing funding), was inflexible, did not appropriately involve the aboriginal people in policy and program decisions, and was difficult to access or manage.⁴⁸ These problems were blamed, at least in part, on inaction on the part of the federal government, with DIAND failing to adapt its housing program after 1975 and with already limited funding being further reduced over the years.⁴⁹

By 1990, national housing shortages on aboriginal lands were shocking, estimated at 11 710 units, with a demand for an additional 10 000 units potentially generated by the 1985 amendments to the Indian Act, on top of the 6 700 units in need of replacement, and many others requiring renovations and new infrastructure. Overcrowding was more prevalent on-reserve than in the rest of Canada, and the discrepancy between the situations of the two segments of the population was growing.⁵⁰ The backlog, and associated overcrowding, were the shocking symptoms of the system's failures, for which there were little or no alternatives. As the 1992 report highlights, this situation was only set to get worse throughout the 1990s because federal budgets were reduced, the aboriginal population was experiencing continued growth, and existing housing stock was in a state of extreme disrepair (only half the units were judged to be liveable by DIAND).⁵¹

One of the primary problems associated with governmental housing provision, which further exacerbated the observed shortage, was that the units often rapidly deteriorated.⁵² While the main cause of the poor upkeep of these houses has not been isolated, many contributing factors have been identified. First, lack of a sense of "ownership" has been hypothesised as the reason for which residents often "allow the units to fall into a state of disrepair".⁵³ The lack of a sense of ownership has been attributed to the control and management of the housing resting in the hands of the CMHC and the band, with the bands often unable to fund necessary repairs.⁵⁴ There are however indications that unwillingness to maintain the housing may be rooted even deeper in a cultural lack

of understanding of ownership and housing as property worthy of investment and maintenance.⁵⁵ As mentioned above, homes and shelters in traditional Cree culture were purely temporary structures, for which repairs were not deemed to be necessary, as these structures were abandoned and replaced on a regular basis as the families moved.⁵⁶ It would appear that this attitude towards housing has been carried forward to the present day. In fact, personal experiences of professionals currently working with the Cree Communities of the James Bay Territory highlight that the terminology mainstream Canada associates with housing, property ownership and pride of ownership is poorly understood and infrequently used, and is in fact under-developed in the Cree language.⁵⁷ The issue of ownership aside, severe overcrowding also causes premature deterioration and decay of houses, their furnishings, and related infrastructure.⁵⁸ In addition, given that the housing designs were imported from the south, elements of the houses were also often not adapted to the use to which they were put, for example in terms of cooking traditions, resulting in more rapid wear and ageing of the furnishings, plumbing and ventilation systems.⁵⁹ Finally, as most of the members of the communities had little or no experience living in houses prior to the 1970s, it is normal that individuals were not aware of, or willing to take on, daily activities and routines necessary for the proper upkeep of the homes, such as turning on ventilators during a shower.⁶⁰ All of these factors together meant that not only were regular maintenance and minor repairs perhaps not carried out in a timely fashion, but the housing provided was being overtaxed and therefore falling into a state of disrepair faster than would be expected in a southern community. Furthermore, programs specifically targetting housing renovations, maintenance, and repair were limited.

While numerous programs and funding sources were available for housing construction, these were not sufficient to provide suitable housing for the aboriginal populations. In addition to the administrative complexity of combining sources of funding, the programs were chronically under-funded, with the government spending less per square foot on aboriginal housing than for mainstream Canadian public housing, and failing to keep pace with rising construction costs.⁶¹ Subsidy houses were built much smaller than public housing in the rest of Canada, and this for a population that generally had larger families, and often more than one family per home, leading to the overcrowding mentioned above.⁶² It was not only First Nations who experienced difficulties managing the various sources of funding; lenders (often large banks) from which they sought financing also had a difficult task balancing the conflicting requirements imposed by DIAND and CMHC, which could result in delays in the loan approval process.⁶³

The housing programs available were not only inadequate in terms of funding housing construction, but failed to address the major issue of economic development which affected both housing affordability and the establishment of a housing market. Although some important steps have been taken to alleviate poverty and foster economic development in the James Bay region, most notably through the JBNQA's Income Security Program, housing affordability remains a major issue, as will be highlighted in Chapter 3.

Finally, a more fundamental flaw of the program was its basic design as a temporary solution, to be renewed on a yearly basis. The program offered little in terms of capacity-building or tools to

allow a transition to more permanent housing solutions. Instead, First Nation communities, especially those in remote areas, were largely powerless to prepare long-term plans as they lacked experience of alternative mechanisms, and did not necessarily have the tools, the human capital, or the financial means to set them up; instead they depended on yearly unit allocations. Furthermore, on an individual level, the program also allowed for and encouraged stagnation and complacency. Since few alternatives existed, individual financing was difficult to obtain, and incentives to leave the band-operated housing were minimal, almost the entire population, whether employed or not, lived in “social” or affordable housing.⁶⁴ In addition, the low cost of this social housing (capped at \$700/month for the highest income bracket) meant that it was not financially advantageous in the short term to enter into a rent-to-own scheme or become a homeowner, as continues to be the case today.⁶⁵ As a result, there was no turnover in the CMHC housing units; once a unit was allocated to a young family, its members continued to live in it, even after the children had grown up and moved into their own homes.⁶⁶ As such, when funding decreased, communities were left unable to provide for their growing populations since no alternative mechanisms of housing provision were in place, and it could not be expected that existing units would become available. Many of these problems persist to this day.

Cutbacks and shift in focus (1996 onwards)

As early as the 1970s, the Canadian government began to enter a fiscal crisis where the welfare state created during the post-war period could not be sustained due to increasing costs and decreasing revenue. As a result, the government undertook to reduce long-term direct spending obligations. Aboriginal housing, as well as other DIAND programs, was specifically targeted due to dramatically increasing costs and housing need, with no readily available alternative to government on-reserve housing provision. Reduction in government spending could take one of three forms: transferring of responsibilities, direct cuts, and failure to keep pace with inflation and needs. All three methods were employed in the case of aboriginal housing provision.⁶⁷

With First Nations increasingly taking charge of housing program administration, starting in the 1970s, DIAND was able to reduce its administrative burden and costs.⁶⁸ Throughout the 1980s, DIAND managed to dramatically reduce its “real” expenditures on aboriginal housing through failing to keep pace with inflation and population growth. In the period 1984-88, although DIAND spending on housing and community infrastructure increased by 38.9%, real capital expenditures were lowered by 14.8%. In the last two years of the decade, funding for housing did keep pace with inflation, but not with the dramatically rising construction costs.⁶⁹ Compounding this situation were Federal cuts to CMHC's budget, resulting in subsidies for approximately 230 fewer units nationwide between 1991 and 1992, down from 1070.⁷⁰

In 1996, the CMHC received a new mandate from the government to take on an advisory or training role, rather than that of housing provider.⁷¹ Furthermore CMHC and DIAND programs were to be restructured in order to improve their effectiveness and deliver tailored services. The objectives of the new programs were to increase First Nation control through the creation of

community housing programs, to develop First Nation expertise, to promote shared responsibility for housing through home ownership, and to improve access to private capital.⁷² As such, First Nations were to be provided with tools such as training and financial support to both increase their autonomy and reduce costs.⁷³ While bringing some much needed changes to the housing program and supporting First Nations' increasing autonomy and self-government, this shift in policy could also be seen as representative of the intent of the Canadian government to "get out of the housing business".⁷⁴

By 1997, CMHC's on-reserve non-profit housing program (loan interest subsidy program or s.95 housing) was adapted to deal specifically with the need for social housing.⁷⁵ At the same time, DIAND's band-administered subsidy housing program was replaced by the 1996 on-reserve housing policy.⁷⁶ Instead of project-based subsidies, the bands were each to receive an annual capital allocation of "core funds" based on population size and assessed housing need.⁷⁷ These funds could then be used to cover any aspect of housing needs for community, section 95 or private housing, including capacity development and loan financing; fund application was no longer limited to financing construction, rehabilitation or renovation. Participation in this new program required that the First Nation establish housing policies and programs, as well as develop a multi-year housing plan.⁷⁸

The restructuring of the government programs addressed a number of the problems associated with the previous programs. However, as can be expected, it would take some time for this restructuring, and the associated training and capacity-building, to have the effect of making First Nations communities autonomous in terms of housing provision. DIAND therefore provided \$160M over a period of 5 years to assist in the implementation of the communities' long-term housing plans.⁷⁹ However, following on from this transition period, the amount of funding, and consequently the number of units, provided through the s.95 CMHC program continued to drop. In 1996, a total of 90 units were scheduled to be built in both the Cree and Naskapi communities, with 40 of these coming from a new, but temporary, Remote Housing program.⁸⁰ In 1999, this number had dropped to 40 subsidized units for the Cree; in the period 2005-2007, the Cree received 63 new subsidized units over two years; and at present, the Cree communities generally receive a total of 20 new units per year, but were only awarded ten s. 95 units in the 2013-14 budget.⁸¹

In 1999, Canada also launched its "Aboriginal Action Plan", which included the Innovative Housing Initiative which could be used to fund housing projects and development of housing provision mechanisms. For example in 1999, the Naskapis of Quebec received \$500 000 from INAC (Indian and Northern Affairs Canada, formerly DIAND) for a 5-year implementation plan of its community housing stock management system.⁸² In 2006-2007, the Housing Initiative was used to fund immediate repairs required due to mould in the Cree community of Eastmain, as well as to fund the CRA to carry out immediate housing improvements, lot servicing, and operations and maintenance work.⁸³ Funds therefore continued to be made available on a punctual basis to assist in projects or deal with housing crises, but on the whole government funding levels were reduced from the late 1980s onwards, and this for a steadily growing population.

While the government did make an attempt to smooth the transition from its role as housing provider to that of advisor, as can be seen from the examples of the use of the above funds in the Cree communities, they were not applied towards the development of a permanent housing solution. As will be detailed in the following section, it would appear that the model of housing provision in many of the Cree First Nations remained unchanged, while only four Nations developed independent housing programs. This may be due to the fact that a 5-year transition period is too short to devise and implement a new housing program, or to the fact that the communities and the CRA were unable to do so, as their focus remained on coping with an existing housing crisis. It must be remembered that by the mid-1990s, the CRA and the Cree First Nations were not simply being tasked with developing a long-term housing plan from a neutral standpoint; they were starting from a position of serious disadvantage given the previously-identified massive housing shortage, and the severe deterioration of the existing housing stock.

B. Current Housing Provision Model in the Cree First Nations

Responsibility for housing

While it was argued in the previous chapter that aboriginal communities are those best-placed to build a sustainable housing model suited to their needs, it is clear that First Nation communities have an interest in receiving funding or further assistance from the federal government if it has a legal responsibility to provide housing. Therefore, the Assembly of First Nations maintains that “housing is a federal responsibility which flows from the special relationship with the federal Crown created by section 91 (24) of the BNA Act of 1867 and the treaty agreements themselves”. However, as stated on the AANDC website, the Government is of the opinion that “the provision and management of housing on reserve lands is the responsibility of First Nations, with support from the Government of Canada”.⁸⁴

In the particular case of the Cree, their treaty agreements do not explicitly mention Federal duty to provide or fund housing.⁸⁵ The Cree First Nations however have suggested that JBNQA does in fact cover housing through the provisions relating to community development, and continue to call on the Government of Canada to address the housing issue, namely in terms of backlog, overcrowding and poor condition.⁸⁶ The Government of Canada's however maintains that its housing obligation towards the Cree is through housing programs of general application to all First Nations and Canadians.⁸⁷

By 2012, the Cree-Naskapi Commission appears to have recognized the fact that the federal government does not presently have a legal obligation to provide aboriginal housing, and therefore recommends that Cree local and regional authorities should produce an action plan to address current and future housing needs, but also suggests that negotiations and discussions surrounding housing needs should take place in the context of the New Relationship Agreements between the Cree and both Quebec and Canadian governments.⁸⁸ However, it would appear that the Government

of Canada is not willing to take on any additional responsibilities relating to housing provision or program development. For example, one of the recommendations made by the Cree-Naskapi Commission in its 2010 report was that “The federal, Eeyou (Cree) and Naskapi authorities should determine and agree on the present and future needs of the Cree and Naskapi communities for housing and implement a strategic master plan, in the short and long term, to address these needs.” The federal government did not respond favourably to this suggestion, citing on one hand difficulties due to a lack of up-to-date information, but also absolving itself of responsibility for the issue, suggesting instead that the Cree attend the annual conference on housing for First Nations and put the issue to the CRA for further discussion. A second recommendation relating to housing, this time with respect to the issue of rent collection, which attempted to involve the Canadian government in helping to “determine innovative measures”, was met with a similar response, suggesting that the Cree should consult the CMHC for advice, and that Canada’s contribution could be to share best practices and solutions derived in other First Nations.⁸⁹

The Cree First Nations and the CRA/CNG therefore cannot expect to receive any further governmental assistance in developing new, innovative, and sustainable solutions to their housing problems in both the short- and the long-term beyond the currently available CMHC and AANDC programs outlined below. However, even these may be subject to further cuts and reductions.

At a local level, responsibility for housing provision is split between the Cree Nation Government and the Cree First Nations. In the 2012 report of the Cree-Naskapi Commission, the mission of the future Cree Nation Government is stated to be that of exercising powers and functions of a regional or national nature. Its responsibilities include health and social services, as well as economic and social development, but housing is not explicitly mentioned; it is unclear if housing should be understood to come under “economic and social development” or “social services”.⁹⁰ However, it is most likely that the CNG will take on the current responsibilities of the CRA, which acts in an advisory capacity in terms of housing program design and management, allocates funding and resources, and imposes some rules and restrictions on the use thereof.⁹¹ As the Cree First Nations have been individually responsible for the design and management of their housing programs since the 1990s, they are likely to remain the level at which responsibility for housing provision lies.⁹² The Cree First Nations however continue to be largely dependent on the CRA/CNG for program funding.

Body	Program Title	Type	Recipient	Conditions or Requirements	Allocation Criteria			Financed Activities	Operating Years
DIAND/ INAC/ AANDC	<i>Subsidy Housing Program</i>	Subsidy	Individual	<ul style="list-style-type: none">low income householdssubsidy amount determined by need“small personal contribution”	unclear			<ul style="list-style-type: none">construction	1960s-197?
	<i>Band-administered Housing Program</i>	Subsidy	Band	<ul style="list-style-type: none">project proposalcompletion of previously-subsidized units	<ul style="list-style-type: none">✓ proposal-based✓ per-capita✓ housing need			<ul style="list-style-type: none">constructionrehabilitationrenovation	1970s-1996
	<i>On-reserve Housing Policy/ Capital Facilities and Maintenance Program</i>	Grant	Band or Regional body	<ul style="list-style-type: none">local housing policy or programmulti-year housing plan	<ul style="list-style-type: none">✓ 3-step process:<ul style="list-style-type: none">1. national2. regional3. bands✓ assessed need (primarily housing construction)			<ul style="list-style-type: none">construction renovationcapital worksloan financingcapacity developmentmanagement	1996-present
	<i>Renovation Program</i>	Subsidy	Band		unknown			<ul style="list-style-type: none">major renovations	1980s- ?
	<i>Ministerial Loan Guarantee (MLG)</i>	Loan backing	Band or Individual	<ul style="list-style-type: none">good credit historyband council approval vote(for individual) support of the band	unknown			<ul style="list-style-type: none">mortgage	1966-present
CMHC	<i>On-reserve Housing Program</i>	Loan	Individual	<ul style="list-style-type: none">stable monthly income	unknown			<ul style="list-style-type: none">construction	1960s-?
	<i>Non-profit On-reserve Housing Program (loan interest subsidy or s.95 housing)</i>	Subsidy	Band	<ul style="list-style-type: none">charge rent geared to incomesubmission of detailed project plansAANDC approval (obtain MLG)loan (from CMHC or bank)	<i>pre-1996</i>	<i>1996-2005</i>	<i>2005-present</i>	<ul style="list-style-type: none">mortgage servicingoperations and maintenance	1970s-present
					<ul style="list-style-type: none">✓ FN requests	<ul style="list-style-type: none">✓ 3-step process✓ population size✓ occupancy rates	<ul style="list-style-type: none">✓ 3-step process✓ core housing need✓ financial requirement		
	<i>Low-interest loans</i>	Loan	Band	<ul style="list-style-type: none">obtain MLGfollow tenancy and rent collection guidelines	unknown			<ul style="list-style-type: none">constructionpurchaserehabilitation	? – present
	<i>Residential Rehabilitation Assistance Programs (RRAPs)</i>	Loan	Band or Individual	<ul style="list-style-type: none">limited-income household or affordable housinghealth or safety hazards requiring major repairovercrowdingspecial needs	<ul style="list-style-type: none">✓ 3-step process✓ assessed housing need✓ size of non-s.95 housing stock✓ proposal-based ?			<ul style="list-style-type: none">major renovationsrehabilitation for disabled or elderly access	2000s-present
	<i>Proposal Development Funding</i>	Loan	Band	<ul style="list-style-type: none">Identify funded activities and cost	unknown			<ul style="list-style-type: none">planning	?-present
	<i>Loan Insurance Program</i>	Loan backing	Band or Individual	<ul style="list-style-type: none">approved for MLGmeet lender requirementsability to repay loan(for individual) support of the band(for individual) available capital	unknown			<ul style="list-style-type: none">constructionpurchaserenovation	?-present
First Nation Market Housing Fund	<i>Credit Enhancement Facility</i>	Loan backing	Band or Individual	<ul style="list-style-type: none">financial managementstable governancecommitment to market-based housingability to finance homeownership(for individual) support of the band	unknown			<ul style="list-style-type: none">construction(rental and owned)renovation	2008-present
	<i>Capacity Development Program</i>	Grant	Band	<ul style="list-style-type: none">financial managementstable governancecommitment to market-based housing	<ul style="list-style-type: none">✓ ability to meet Credit Enhancement Facility Criteria			<ul style="list-style-type: none">administrationprogram developmenteducationhuman resource development	?- present

Table 1. Main Housing Construction and Renovation Programs from the 1960s to the present

Sources of Funding and Unit Allocation

Funding for the construction, maintenance and renovation of housing units continues to come from a diversity of sources which are combined to produce a single unit of housing. While some of the national funding mechanisms and programs have been developed more recently, many of these were simply reformed or adapted following the 1996 policy shift. *Table 2* above outlines both past and current federal programs. A more detailed description of all available programs is provided in *Appendix C – Current sources of funding for Cree First Nations Housing*.

CMHC and AANDC housing programs

As shown in *Table 2* above, government funding to assist First Nations in constructing, maintaining and renovating housing continues to be provided through two main channels, the CMHC and AANDC. The CMHC offers a large number of subsidies, assistance programs and loans, however not all First Nations have chosen to take part in these programs. For example, four Cree First Nations (Oujé-Bougoumou, Waswanipi, Wemindji and Eastmain) have withdrawn from CMHC's on-reserve non-profit housing program, with Oujé-Bougoumou having developed an independent housing program.

At present, funding for housing from AANDC (developed as the on-reserve housing program in 1996) has been consolidated with other infrastructure and capital funding under the Capital Facilities and Maintenance Program. The Capital Facilities and Maintenance Program allows each First Nation the discretion to divide its budget over its various capital works projects (core funding, housing construction, housing renovation, and non-residential infrastructure and maintenance). However, housing construction is usually the main component of the grant.

Since 1996, funding for most of the above government programs is allocated according to a 3-step process, as follows:

1. a national allocation is made to the regions (provinces)
2. the CMHC and AANDC regional offices divide Quebec's portion of the funding between communities under agreements (i.e. the Cree and Naskapi) and other first nations
3. the CRA distributes its portion of the budget to the individual Cree First Nations.⁹³

For CMHC's s. 95 housing, the national allocation is based on "core housing need" which is defined as the number of households with an income below a set on-reserve threshold who are living in inadequate housing (too few bedrooms or of substandard quality). Quebec therefore receives 7.1% of the national budget, which allows for the construction of approximately 50 units per year. Although based on similar criteria, Quebec receives a significantly larger portion of funding from AANDC's Capital Facilities and Maintenance Program: 10% of the budget, or subsidies for 200-300 units per year.⁹⁴ The AANDC subsidises a much larger number of units than the CMHC, as this subsidy can also be paired with other sources of funding, as shown in *Figure 3* below.

At the regional level, distribution of CMHC's s.95 program funds consider current, projected and off-reserve population figures, and the existing housing stock to determine the "housing need" and associated financial requirement for each community. The First Nations under agreement are then granted a proportion of Quebec's subsidy amount based on their financial requirement. Finally the CRA distributes its portion of the budget (32% or approximately 16 units in 2011) to the individual Cree First Nations according to the same formula as for the regional allocation.⁹⁵ As four Cree First Nations do not participate in the CMHC program, the five participating communities receive a larger budget than they could otherwise expect. The regional division of the Capital Facilities and Maintenance Program funds is based on assessed need for all components of the capital budget.⁹⁶

It is unclear whether funds associated with the CMHC's RRAPs are distributed in the same manner as for the other two programs above. The Regional Tripartite Committee on Housing says that funds are distributed in much the same way as for s.95 units.⁹⁷ However, CMHC's website would appear to suggest that funds are awarded on a first-come first-served basis based on receipt of applications, given that they encourage applicants to submit proposals early in the year to benefit from the limited funding.⁹⁸ If funds are in fact distributed on a first-come first-served basis, the communities with greater organisational capacity would likely benefit from greater levels of funding, regardless of comparative need. Moreover, if the funds are allocated in the same way as for the s.95 housing subsidies, the effectiveness of both programs would be increased, as those communities with the greatest levels of overcrowding would receive large amounts from both, thereby reducing overcrowding while renovating units. This coordination between programs is essential, as a study in Australia has shown that renovating indigenous housing without addressing overcrowding is futile because the houses return to their original deteriorated condition within a very short timeframe.⁹⁹

Special Programs

In addition to the main housing programs listed in *Table 2* above, the Canadian government periodically initiates housing programs designed to target a specific aspect of aboriginal housing, or especially vulnerable groups, funding from which can be used to boost unit construction or renovation. However, these programs usually only last for a period of one to three years, and therefore are unpredictable bonuses. For example, the 3-year Homelessness Initiative, running from 2008 and renewed in 2011, almost doubled Quebec's budget under the RRAPs, allowing the renovation of up to 55 units per year across the province.¹⁰⁰ Similarly, over the course of the financial years 2009-10 and 2010-11, Canada's Economic Action Plan provided \$48M in additional investment for construction, renovation, improvement and infrastructure for social housing across the province, allowing the construction of over 100 additional housing units and renovation of over 2000 units (a 6-fold increase).¹⁰¹ While these budgetary boosts certainly help to relieve the strained housing budgets of the province's First Nations they do not make a strong contribution to a long term solution to the housing shortage and the substandard quality of the housing stock. Furthermore, as can be seen from Section C detailing the scale of the crisis in the Cree First Nations, these types of interventions hardly make a dent in the large backlog of housing units still required.

General CRA/CNG funds

In addition to the specific housing programs described above, some of the general funding allocated to First Nation bands and regional governments, including Operations and Maintenance and Capital Grants agreements, can be used to supplement funding for local housing programs. However, as per a proposal submitted in 2010, these federal sources of money are to be reduced, and therefore may no longer represent a supplementary source for housing provision.¹⁰² The Cree are however in a privileged position due to the funds they receive from the agreements detailed in the previous chapter. From these funds, amounts are distributed to each community to be spent on local programs, services or projects. Depending on the source of the funds, a portion of the amounts received by the communities can be put towards financing housing needs.

An example of the funds made available to the communities from agreements are the funds received by the Eenou-Eeyou Limited Partnership under the New Relationship Agreement with Quebec, which are managed by the Cree Heritage Fund Foundation Inc.. Although the NRA did not explicitly deal with housing, of the more than \$50M disbursed to the communities in 2008-9, just over \$9.5M was spent on housing. The proportion of the capital revenue spent on housing differed greatly by community, depending on their current needs and development focus. Chisasibi for example spent \$4.7M on housing (almost a third of the funds received), adding 16 new units to their housing stock, and using the rest to repay a housing infrastructure development loan. Oujé-Bougoumou on the other had spent less than 10% of the capital received on housing, focusing instead on economic and human resources development.¹⁰³ However, as highlighted in the previous chapter, the CNG and the Cree First Nations can be reluctant to spend funds received from the government on housing if this does not fall directly within the purview of the agreement, as is also the case for the New Relationship Agreement with the Government of Canada. However, in the 2012-13 fiscal year, a portion of the funds from both New Relationship Agreements (amounting to \$1.3M from each) was spent on housing, which shows that these agreements continue to be a non-negligible source of funds.¹⁰⁴

Loans and other funding mechanisms

First Nations are encouraged to, and in fact must, take out loans and charge rent or other user fees in order to finance the construction of the government-subsidised housing units, as well as the additional units needed to reduce the housing backlog and meet future demand.¹⁰⁵ These loans can be secured either from the CMHC or through private financial institutions. In both cases, the loan backing services offered by the CMHC, AANDC and the First Nations Market Housing Fund (outlined in *Table 2* above) are essential for securing loans and mortgages due to the fact that First Nations' land cannot act as security on the loan, as described in Chapter 1.

A number of institutions, for example the Bank of Montreal, Desjardins and the Royal Bank of Canada, have entered into partnerships with specific First Nations to either establish separately-controlled branches on-reserve, or to offer specialised loan and mortgage services to members of the First Nation.¹⁰⁶ In addition to the traditional financial institutions, the First Nations Bank of

Canada, chartered in 1997, specialises in serving aboriginal clients.¹⁰⁷ This bank provides funding to First Nations to assist in housing construction, and financing of other ventures which the band can use to make loans to individual members.¹⁰⁸ The bank has branches in Chisasibi and Nemaska.¹⁰⁹ Furthermore, some First Nations have used their own funds to establish a loan or mortgage program, for example the Mohawks of the Bay of Quinte, and Oujé-Bougoumou Cree Nation.¹¹⁰

Capacity-building and technical support

In order to develop and sustain appropriate housing programs, First Nations need to build up technical and professional expertise, educate their communities and promote awareness of changing systems and responsibilities. While many First Nations are taking on this task internally, there are also a number of programs and sources of funding provided by the three government organisations to assist them in this process.

The CMHC currently operates three programs aimed at human resource and housing program development and expansion, offering work experience, on-the-job training and assistance, and loans. In addition to these programs, detailed in *Appendix C – Current sources of funding for Cree First Nations Housing*, the CMHC makes itself available in an advisory and training capacity to First Nations through its regional office.¹¹¹ AANDC funding can also be used for capacity development and planning and management of the community's housing portfolio.¹¹² Finally, as shown in *Table 2* above, the First Nations Market Housing Fund also operates a Capacity Development Program to assist communities in the transition to market-based housing; a program which can be used to ensure a community meets the Credit Enhancement Program's criteria.¹¹³

External to the government, a number of aboriginal groups and organisations exist which provide advice and training in matters related to housing, construction and management, notably by holding annual conferences. Further there are various agencies involved in studying housing construction and management, particularly in a Northern or remote context, which can provide valuable information to First Nations regarding best practices and innovative solutions.

C. The Cree Housing Program

At present, there is no single Cree Housing Program which covers all of the communities. Rather, as explained above, the CRA/CNG allocates funding to the individual Cree First Nations, which are then responsible for devising their individual housing program. The CRA/CNG also acts in an advisory capacity, through its "Capital Works and Services Department", which has the role of "facilitating and coordinating the development and implementation of housing programs in Cree communities".¹¹⁴ As such, the CNG department provides information, tools and advice to the communities to assist in the development of their individual programs. However, it also has the power to impose by-laws of a regional application.¹¹⁵

In order to develop and administer their individual housing programs, most Cree First Nations have a housing department and a housing advisory committee (comprised of elected

community members).¹¹⁶ The housing departments are responsible for administering and managing the housing program, filing applications for funds and other support and reporting back to the CRA/CNG or federal governments. The departments act in consultation with their housing advisory committee to make decisions relating to specific housing projects, design, and general management.¹¹⁷ The band council allocates the funds received from the CRA/CNG to the housing department, or specific housing projects, as it sees fit. It also has the power to pass by-laws, in much the same way as a municipality, to control aspects of housing construction, design and renovation, as well as to permit use of the land and occupation of buildings or structures.¹¹⁸

Most of the Cree communities' housing programs are in fact based on the government programs outlined in *Table 2*. The CRA/CNG presently imposes few restrictions on their program design, other than to specify that units may not be subsidized by more than 60% of their total cost.¹¹⁹ In general therefore Cree housing programs produce three main categories of housing units which differ in terms of the financing of their construction, type of tenure, and the body or individual responsible for their construction, maintenance and repair. There are also other categories of housing found in the Cree communities (belonging to the Cree School Board and the Cree Health Board), however these are not generally available to community members and therefore will not be addressed in this paper.

Housing Unit Categories: financing, allocation and responsible body

For most communities, financing the construction of all three categories of housing depends on a capital subsidy, either to reduce the unit cost or in order to secure financing from a bank or other lending institution.¹²⁰ The result of the CRA/CNG's limit on the subsidy amount is that an A-base grant of \$100 000, which is presumably drawn from the capital funds received from AANDC under the Capital Facilities and Maintenance Program, is allocated to the construction of new units. Given an average unit cost ranging from \$250 000 to \$300 000 (cost of the lot and servicing not included), this subsidy is generally supplemented in one of three ways, as represented in *Figure 3* below.¹²¹ The cost of lot acquisition, preparation, and servicing is generally dealt with separately by the housing department, and will only be briefly touched upon in the last chapter of this paper.

It is of course also possible to finance the construction of new units without the use of the A-base grants, using for example capital allocations from the settlements and a loan. Further, the four communities which refuse CMHC funding (Wemindji, Eastmain, Waswanipi and Oujé-Bougoumou) do not receive subsidies for s.95 units and have found other methods to back loans from private investors.¹²² Moving away from a social housing model towards a system of market-based housing has allowed these communities (Oujé-Bougoumou excepted) to use the First Nations Market Housing Fund in order to secure their loans.¹²³

Below are the three main categories of housing units built through the generic housing program.

1. S.95 or CMHC housing:

- 59% of the housing stock across the Cree First Nations ¹²⁴

- Financed by A-base grant, plus the CMHC s.95 subsidy and a mortgage¹²⁵
- Allocation determined by the band, but generally based on:
 - a household's assessed need (priority to families, the sick, the elderly and those in overcrowded situations)
 - position on the waiting list.¹²⁶
- Controlled and managed by the nation's housing department, which is responsible for rent collection and unit maintenance.¹²⁷
- Rent "geared to income":
 - income level scale (not percentage of income)
 - 74% of households pay less than \$450/month
 - capped at \$700/month.¹²⁸
- After 25 years, or upon amortization of the loan, ownership is transferred to the housing department. At this point the unit can be rented as community housing or entered into a rent-to-own program. It is also possible for the housing department to sell the unit directly to the tenant at the end of the loan subsidy period.¹²⁹

2. **Community housing :**

- 23% of the housing stock across the Cree First Nations ¹³⁰
- Financed by A-base grant, plus First Nation assets and, if necessary, a loan¹³¹
- Controlled and managed by the housing department¹³²
- either rental housing or part of a rent-to-own scheme, rent geared to income¹³³
- Cree First Nations such as Chisasibi, Wemindji and Oujé-Bougoumou offer a rent-to-own program through their community housing¹³⁴
- rent-to-own units represent only 2% of the Cree First Nations housing stock.¹³⁵

The loans taken out by the Cree First Nation to finance the construction of s.95 and community housing units are theoretically repaid, at least in part, by rent collection. In most communities a policy is in place to evict tenants who do not pay their rent for s.95 or community housing.¹³⁶

3. **Privately-owned housing:**

- Just under 10% of the housing stock across the Cree First Nations
- Financed by A-base grant, plus private mortgage backed by the First Nation Council (the mortgage can also be obtained from the Cree First Nation Council)¹³⁷
- As in any other context, full ownership and control by the individual (as long as loan or mortgage payments are made in a timely manner, otherwise repossessed by the Cree First Nation council)
- No responsibility for management or upkeep by the housing department
- Cree First Nation's Council is involved through:
 - regulation of construction (by-laws)
 - awarding of the "right of superficie"
 - allocation of the A-base grants (described below)
 - mortgage backing . ¹³⁸

For the privately-owned housing, as per a regular mortgage, the individual homeowner makes monthly payments, estimated at around \$1 200/month for a \$300 000 home. While this amount is almost double the maximum rent for the other housing types, it is significantly lower than the monthly payments that would be incurred by an individual building a similar home off-reserve in Northern Quebec, estimated to be around \$2,300/month. The lower costs of building within the Cree Category IA lands are due to the fact that individuals do not bear the cost of the lot and its servicing, in addition to receiving the \$100,000 A-base grant.¹³⁹ While no data is available regarding the cost of participating in a rent-to-own program, it can be assumed that monthly household rent would be closer to that of private homeownership.

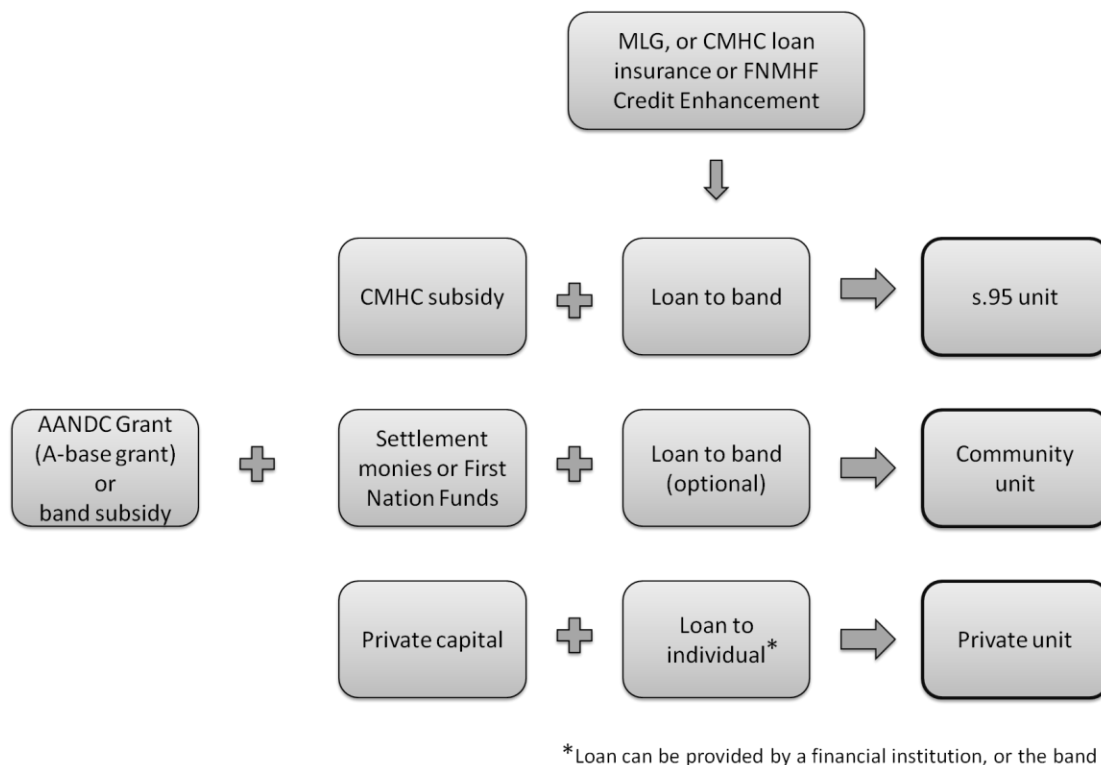


Figure 3. Financing Structure for Constructing Housing Units by Category

While the s.95 housing presently makes up the majority of the housing stock in the Cree First Nations, this is an artefact from their historical dependence on the CMHC. The Cree were particularly hard-hit by the new CMHC unit allocation process implemented in 1996.¹⁴⁰ At present, given that the CRA receives financing for only between 10 and 20 units per year through the CMHC, and that private homeownership is still relatively infrequent, the majority of new housing is financed through the AANDC capital grants and/or through the use of a portion of the community's share of settlement money to build community housing.

Design, construction and maintenance

Housing designs for s.95 units and community housing in many of the Cree communities have not much changed from the “model A” CMHC home.¹⁴¹ These are generally two to five bedroom units, built on one or two stories with a basement and warm roof construction.¹⁴² Individuals can then modify their homes to meet their needs, or be better-suited to the climate, by adding, for example, a cold porch to the front of the house. Privately constructed housing can follow the CMHC “model A” blueprints described above, however individuals are also likely to choose plans from a catalogue or even purchase prefabricated units or mobile homes, both of which are less expensive options in the short term.¹⁴³ Some communities have also tried using prefabricated units or trailer housing imported from the south for their community housing or s.95 units in order to save on cost.¹⁴⁴ As can be seen from this discussion, cost is the major consideration for housing design.¹⁴⁵

In terms of the construction process, an effort has been made to ensure the economic benefits derived from the housing industry accrue to communities themselves. Many of the Cree First Nations have passed local hire by-laws which apply to both community and CMHC-subsidized housing, as well as to external contractors in some cases.¹⁴⁶ These by-laws can specify either a percentage of the labour force that must be local, or provide that locals must be hired preferentially over external labour.¹⁴⁷ However in the case of private home construction, the use of a Cree labour force is suggested, but cannot be enforced.¹⁴⁸

The CRA operates a centralised preventative maintenance program for which the individual Cree First Nations provide data obtained by regular inspections to assist individual nations’ housing departments in their duties to maintain and repair s.95 and community housing.¹⁴⁹ The inspections are carried out by local inspectors who can be trained to inspect the housing and flag minor repairs. This training is offered through the CMHC capacity building programs and by the CRA.¹⁵⁰ The results of the inspections are collected in a central CRA database which is used to generate seasonal inspection lists, priorities for repairs and renovations, reports and information of use to the Nations’ housing departments.¹⁵¹

Chisasibi’s Housing Program

As explained in the previous chapter, Chisasibi, formerly Fort George, was relocated to its present location in 1980. At this time, housing was still entirely provided by DIAND and the CMHC, and Fort George had in fact recently received a number of new units. It was therefore deemed most appropriate to transport about 200 of the new units to Chisasibi, and to then build the rest of the required units based the “model A” design for which community input was collected.¹⁵² The transportation of the units caused a number of problems, as it first constrained the design of the new houses (in an attempt to have everyone start on an equal footing), while also causing social stratification between those receiving new and those receiving old units, as the old units did not withstand the transport well.¹⁵³ Funds were provided for the relocation and construction of the new housing units through an agreement between the Fort George band and the James Bay Energy Corporation, at a final cost of \$60M.¹⁵⁴ At the time of relocation, it was decided that, as the cost of the housing was covered by the relocation budget, individuals would not be required to pay rent.

Daniel Arbour & Ass. were responsible for the relocation study and initial community design. Space requirements were estimated at 93.4ha, which took into account expected expansion needs until the year 2000: a total of 300 homes were provided (100 new homes in addition to the 200 relocated structures), leaving space for a 50-home expansion of the village.¹⁵⁵ While the community was allocated 80 900 ha. of Category IA lands through complementary agreement no. 3 to the JBNQA, this area includes the Island of Fort George (on which they cannot build, as per the agreement), land that is unsuitable to residential development, and lands that are segregated by the access highway (which is by definition within a 500ft corridor of Category II lands).¹⁵⁶ By 1992, as two more clusters of homes were being constructed to accommodate the growing population, the community was reaching the outer limit of suitable residential land.¹⁵⁷ In 1994 and 2000, two more expansion areas were constructed using settlement funds allocated to the Nation by the CRA, as well as a loan from the CRA.¹⁵⁸ These areas were constructed in a much more dense fashion using a narrow grid network, rather than the initial cluster layout, in order to facilitate service provision and vehicle access.¹⁵⁹ By 2006, all the originally relocated houses had been replaced, however housing quality remained a problem as families showed no interest in regular maintenance of their homes, the original materials used were of low quality, and funds were lacking due to low levels of rent collection.¹⁶⁰ Despite the increased density layout of the later expansions, Chisasibi's housing remains largely suburban in style and layout; the large majority of units are single-family homes, with only 17 multi-unit dwellings (5 of which are duplexes), managed as community housing.¹⁶¹

At present, Chisasibi has invested heavily to make a large portion of their lands ready for residential construction, and have prepared plans for community expansion for the next 10 to 15 years, however these expansions would fully occupy the category IA land suitable to residential construction that is easily accessible from the existing community centre.¹⁶² The Cree Nation of Chisasibi may however gain more buildable area if the governments of Canada and Quebec allow expansion past the highway (Cat. II land), and when Canada receives the transfer of "Block D" land from Quebec, as per the New Relationship Agreement.¹⁶³

In spite of this clear forethought and awareness of the difficulty of adequately housing its community, there is no published plan for long-term financing of construction or renovation of homes for the community; as of the 2012 report of the Cree-Naskapi Commission, the Cree Nation of Chisasibi was still calling on Canada to address the housing backlog and overcrowding.¹⁶⁴ Funding and loan financing appears to primarily come from settlement money.¹⁶⁵ Rent collection provides only a minimal source of revenue, not only because of the low rental level, but also as a result of difficulties in rent collection, which may be due to the precedent of free housing that was set at the time of relocation. The Cree Nation of Chisasibi also has outstanding claims with AANDC which, if settled, would reimburse it for the \$24M spent on replacing deteriorated units between 1994 and 2005.¹⁶⁶ However, even if these claims are settled, the Cree-Naskapi Commission does not consider this to be sufficient to address the housing issue in Chisasibi, having recommended in 2006 that the Chrétien-Namagoose process be used to settle their present and future housing and expansion needs.¹⁶⁷ Chisasibi is also of the opinion that the NRA does not adequately address its

housing crisis, and further that the CRA and Canada have not adequately assumed their responsibilities in this respect.¹⁶⁸ The nation therefore appears to be relying on external sources to meet its housing needs, despite the fact that neither the Federal government nor the CNG have a legal responsibility to fund or manage the community's housing program.

The Cree Nation of Chisasibi has two departments that have overlapping responsibilities for housing: its Capital Projects department is responsible for the hiring of contractors and oversight of all construction, and its Housing Department, in coordination with the Housing Committee, is in charge of managing, inspecting and maintaining its rental housing, and dealing with homeownership requests.¹⁶⁹ The housing department is responsible for over 85% of the current housing stock given that 36% of the housing stock are CMHC s.95 units, 49% are community housing and another 1% are rent-to-own units.¹⁷⁰ In 2006, the community had estimated that they had another 122 houses to replace over the next 5 years, at a cost of \$35M. The stated result of these large expenditures on replacement would be a lack of funds for new construction.¹⁷¹ The nation is however taking steps to reduce the responsibilities of its housing department through its rent-to-own program.¹⁷² However it would appear that uptake of this program has been slow, at only 1% of the housing stock, presumably due to the large increase in rental rates that would result from such a switch.

Oujé-Bougoumou's Housing Program

Following the final relocation of the Oujé-Bougoumou Cree Nation, the 1992 Oujé-Bougoumou Agreement provided \$31M from the Canadian government for the construction of housing and its related infrastructure in the new village. Right from the time of the negotiations, the community established its innovative housing model, having determined it did not want to fall back into the regular CMHC and AANDC housing system after its initial construction phase.¹⁷³

The Canadian government's \$31M contribution was used not only to construct the initial 125 houses for the community, but also to establish a housing fund which was to finance housing construction for the long term. Canada's housing contribution was determined based upon the needs of the initial population, as well as the cost of a single house. Efforts were then made to reduce the construction costs of each unit, for example by building with preserved wood foundations instead of cement. The surplus amounts resulting from the cost-saving measures were put into a fund, which it was predicted could be used to finance the construction of five to seven houses per year. This model meant that the housing program could operate independently of financial institutions and the government, with the fund providing both the loan and the subsidy needed for the construction of private homes.¹⁷⁴ This system was chosen in order to make the housing more affordable to individuals with low income, as they would only have to pay for the cost of their home without any additional interest. Affordability was further ensured by providing a direct subsidy equal to 50% of the construction costs.

The primary tenure type chosen was one of individual homeownership, because the community had observed that community housing and s.95 housing was treated as being disposable due to the confused ownership of the homes. However the nation's housing department

remains responsible for the unit's construction, after which an ownership agreement is signed with the individual, detailing the responsibilities of each party as well as the monthly payment amounts. One of the main responsibilities of the individual homeowner is maintenance and repair.¹⁷⁵ The housing program also provides social housing to qualifying households, in which rent is geared to income and the housing department retains responsibility for maintenance and repairs. The social housing program is however designed to be flexible, providing a gateway into homeownership through an optional contributions program which resembles a rent-to-own system. This flexibility means that individuals in the social housing units can make contributions above their regular rental amount which go into their account with the housing department. Any surplus in the account can then be applied towards loan repayments when the individual chooses to move out of his/her social housing unit to become a homeowner, thereby effectively allowing an individual to build up equity even while renting, while also ensuring a turnover in social housing units. The majority of the housing in the community is built through the homeownership program.¹⁷⁶

At present, the Cree First Nation owns 90% of the housing stock, or 148 units, (with the rest belonging to the health board, the school board and the CRA), presumably because individuals are still in the process of repaying their loan from the housing fund.¹⁷⁷ This means that over the past 22 years, the fund has been able to finance the construction of 23 units, supplemented by funds from the annual CRA settlement capital allocations. While the general model of the housing program appears to be sound, the program has been struggling to meet the current housing demand, primarily due to the increased construction costs that were not foreseen in the model. It is therefore unclear how the housing program will progress in the future if the annual settlement allocations are not sufficient to supplement the housing fund. Given that the community has a very strong focus on ensuring housing affordability, it is unwilling to either reduce the subsidy amount or turn to financial institutions to secure additional sources of capital.¹⁷⁸

The Nation's housing department allocates units to individuals or households based on assessed need and position on the waiting list. This allocation is then used to determine the unit types that should be built with the available funds in a given year. For example, plex-style housing is considered suitable for single individuals and the elderly, while single family homes will be constructed for families with sufficient income. Construction of the units is primarily carried out by local labour which is hired by external contractors. In addition, local construction companies are now in existence and able to bid for the contracts. However due to a shortage of tradespersons, non-local electricians and plumbers continue to be brought in. Contractors from as far away as Lac St-Jean have expressed interest in bidding for contracts in Oujé-Bougoumou. It has not been possible to source the construction materials locally, and fluctuations in the market for these materials are one of the main reasons for which construction costs are so high and continue to increase. Shipping the materials to the north also likely imposes a slight premium on their cost, but is not seen as the primary reason for the inflated costs of construction.¹⁷⁹

D. The Housing Crisis in the Cree First Nations

As has been alluded to in the previous sections, the Cree First Nations, as is the case in most First Nations across Canada, are facing a housing crisis of alarming proportions. That there is a “crisis” in housing is defined not only by the housing shortage, but also by the state of disrepair of these houses, and by the lack of capacity for future housing construction and renovation. Existing housing programs are failing both to immediately reduce the inherited backlog and provide for the future. At present, it is difficult for individuals and families to find lodging within their communities which meets the Euro-Canadian standards they have come to expect. The magnitude and most pressing aspects of the crisis however differ between the Cree communities, depending on their population size, history, and current housing program.

Scale of the Crisis

As of 2014, the CRA estimates a demand for approximately 3000 new units across the 9 communities, with the backlog in housing provision growing at a rate of 200 units per year.¹⁸⁰ The way in which this “housing need” is determined is however unclear, and has in the past been contested by some of the Cree First Nations (in 2006, Chisasibi claimed that the CRA massively underestimated the housing backlog).¹⁸¹ As the assessed need is crucial to determining funding levels and engaging in housing negotiations,¹⁸² there is potential for this number to be inflated. However, regardless of the specific figure, it is clear that there is a housing shortage, and that this backlog is exacerbated by continued demand for new units due to overcrowding, and the rapid rate of growth of the population.

Across the communities, there are on average 4.7 people per house, compared to the Canadian average of 4.¹⁸³ While this is not a measure of overcrowding in and of itself (given that one would expect more people per dwelling when families are larger), overcrowding, as measured by the standard of more than one person per room, has been observed. For example, in 2006, 21% of the dwellings in Chisasibi had more than 1 person per room, while 16% of the dwellings in Oujé-Bougoumou were overcrowded according to this measurement.¹⁸⁴ Another way of assessing overcrowding, is to look at the number of families sharing a home, which again shows more severe overcrowding in Chisasibi than in Oujé-Bougoumou. Chisasibi was recorded as having just over 900 census families, but only 760 households, indicating that approximately 280 families were sharing a home (assuming homes were being shared by two families). In Oujé, the 2006 census data would indicate that all families had their own home.¹⁸⁵ It is unclear whether the housing need is concentrated particularly in one segment of the population, and this may vary between the communities. Given the prioritisation of families and the elderly in the unit allocation system, one could imagine that housing need would be greatest among singles and young couples looking to leave the family home. A particular need among employed youth who have not yet established a family was expressed by a professional working with these communities.¹⁸⁶ However, in the case of Oujé-Bougoumou, it was estimated that housing need is uniformly spread across household types, potentially as a result of their allocation and construction policies.¹⁸⁷ Uneven housing need across household types may in fact result from the lack of diversity in unit types and sizes.

Although Canadian census data is incomplete in relation to aboriginal populations, it remains one of the best sources for understanding the demography of this segment of the Canadian population.¹⁸⁸ Extrapolation of trends, starting with the 2001 census as a baseline, show that the housing shortage and overcrowding in aboriginal communities is only likely to worsen in the coming years. Between 2001 and 2026, Canada's aboriginal population is expected to grow by 47%, at almost twice the rate of the general Canadian population. This growth is expected to be concentrated on reserves (including the Cree First Nation communities) and in urban areas. In fact, on reserves, the number of households is expected to more than double in this 25 year period, with the registered Indian population growing by 64% in these areas.¹⁸⁹ While these calculations were performed on a national level, the Cree populations of Northern Quebec appear to be following the trend. Between 2001 and 2011, the population of Chisasibi's Category I lands increased by almost 30%, to reach 4 484 individuals.¹⁹⁰ Similarly, the population of Oujé-Bougoumou (Indian Settlement) also grew by just over 30% in a ten-year period, to reach 725 individuals in 2011.¹⁹¹ In fact, the CRA has estimated that housing need will grow to 9000 units across the 9 Cree First Nations by 2023, if levels of housing provision remain constant.¹⁹² The fast rate of growth of the population is explained in part by the fact that it is much younger than the general Canadian population, with a median age of 24 years in both Chisasibi and Oujé in 2006, as compared to 28 for the Nord-du-Québec, and 37 for Canada as a whole.¹⁹³

Housing quality and state of repair is equally in need of attention, with 20-30% of the community or s.95 homes across the Cree First Nations being in need of major repair, plus 30-40% of the homes also requiring renovation to remedy problems with mold as of 2014.¹⁹⁴ In fact, up to 50% of the homes across the nations are listed as being in need of some form of renovation by the CRA preventative maintenance program, but the last time renovations were carried out at a large scale was following the 2008-2009 injection of funds by the Federal Government as part of its Economic Action Plan.¹⁹⁵ While the communities therefore have very complete information on the state of the housing and repairs to be carried out, funding is insufficient to maintain the housing in a liveable condition. Furthermore, labour and band funds are in short supply: at present, one worker is responsible for approximately 100 houses, which is double the standard workload per individual.¹⁹⁶

Looking more specifically at the communities under study, as of the 2006 census, Chisasibi had 28% of its dwellings recorded as being in need of major repair, and for Oujé this figure was extremely elevated at 45%, representing almost half of its housing stock.¹⁹⁷ Chisasibi's lower level of homes in need of major repair may be due first to their emergency repair program initiated in 1994, through which large numbers of units were replaced, and also due to their standard policy of replacing deteriorated homes with new constructions, even when these could potentially be salvaged through renovation.¹⁹⁸ Of the current housing stock (3600 houses across all 9 nations), 56% of them are over 20 years old, indicating that problems with housing quality are also likely to persist or worsen in the years to come.¹⁹⁹

Dealing with the above crisis is not only important in terms of providing adequate shelter as a human right, it is necessary to ensuring the health of the community. Housing and its mode of occupation has been linked to sense of community and culture, as well as to health, education and social outcomes.

Culture can be defined in a number of ways, but can be generally understood as a typical way of life which was evolved by a community to cope with its ecological setting and history. This culture then gets translated into the built form in order to organise space, time, and communication so as to perpetuate this way of life. Perpetuation of culture is important as it provides a blueprint for understanding one's environment and social setting, it gives meaning to everyday actions, and it helps to define the group or community.²⁰⁰ While culture does not depend on a particular type of housing, it can be influenced and shaped by the built environment.²⁰¹ There is therefore a danger that the behaviours associated with inadequate, run-down housing and overcrowding could become cultural norms.

The relation between housing and health, education, and social outcomes is well-recognized in academic circles, by the Canadian government, and among aboriginal groups themselves. In fact the manifestation of a large number of health problems in Canada's aboriginal population, ranging from the psychological to specific communicable diseases, has been attributed to poor housing conditions.²⁰² The Canadian government also states on its AANDC website that "inadequate housing poses health and safety risks, creates an unhealthy growing environment for children and is linked to several health and social problems."²⁰³ Crowded conditions, and lack of options for individuals needing to leave their home or family situation, have been associated with not only reduced health, but a reduced chance of social or educational success later in life.²⁰⁴

Providing adequate and sufficient housing can serve to reduce social stresses, which in turn reduces the chance of accidents and inter-personal violence, which are among some of the most serious health problems facing Canadian aboriginal populations.²⁰⁵ As Ms. Nookiguak of the Inuit Tapirisat of Canada stated, "the cost in financial terms of providing adequate housing in the north is high. The cost in human terms of not doing so is much higher."²⁰⁶ Investing in and ensuring adequate housing therefore represents an essential step towards improved health, education and social outcomes for aboriginal communities. The correlation between housing conditions and community development therefore provides a strong impetus for action to alleviate the crisis. While the Cree communities have already demonstrated an impressive ability to cope with a rapid transition from traditional community and housing structures to western-style village life and its associated administrative and managerial burden, much work remains to be done to reform the housing provision system in order to secure a sustainable future for these communities. As CMHC/DIAND continue to pull out of housing provision, the shortcomings of the existing programs in communities like Chisasibi will become even more apparent. The continued dependence on external sources of funding must be reduced as it not only threatens the sustainability of the system, but also the independence of the Cree First Nations.

The Cree First Nations and the CRA are therefore pushing to develop a long-term housing plan which can cope with future demand, improve the quality and state of repair of the homes, and is independent of external sources of funding. There are however numerous challenges which must be overcome, through program design and application of innovative technical solutions. These challenges, and the CRA's proposed solution will be presented in the following chapter. Chapter 4 will then discuss theoretical alternatives to housing program structure, assess the merits of homeownership and highlight some technical solutions which can be adopted by the CRA and Cree First Nations, as well as provide recommendations for the design of a sustainable housing program.

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² *Ibid.*

³ McDowell, "Housing and Culture for Native Groups in Canada."

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⁶ Larue, interview.

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⁸ Ornstein, *The First Peoples in Quebec*; *Indian and Northern Affairs Canada*, "Indian and Northern Affairs Canada (INAC) On-Reserve Housing."

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¹⁴ Ornstein, *The First Peoples in Quebec*.

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¹⁶ Shaw, "Town Planning in Consultation with and Participation from a Native Community."

¹⁷ Larue, interview; Shaw, "Town Planning in Consultation with and Participation from a Native Community."

¹⁸ Schneider, *A Time for Action: Aboriginal and Northern Housing*.

¹⁹ Canada Mortgage and Housing Corporation; Schneider, *A Time for Action: Aboriginal and Northern Housing*.

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³⁰ Schneider, *A Time for Action: Aboriginal and Northern Housing*; Fiocco, interview.

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- ³⁹ Ibid.
- ⁴⁰ Ibid.
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- ⁴⁹ Ibid.
- ⁵⁰ Ibid.
- ⁵¹ Ibid.
- ⁵² Ibid., 28.
- ⁵³ Ibid.
- ⁵⁴ Schneider, A Time for Action: Aboriginal and Northern Housing.
- ⁵⁵ Ibid.; Fiocco, interview; Katapatuk, interview.
- ⁵⁶ Nabokov and Easton, Native American Architecture.
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- ⁵⁸ Crabtree, "Community Land Trusts and Indigenous Housing in Australia-Exploring Difference-Based Policy and Appropriate Housing"; Larue, interview.
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- ⁷⁶ Government of Canada, "First Nation On-Reserve Housing Program."
- ⁷⁷ Regional Tripartite Committee on Housing, "Allocation of Federal Housing Funds to Quebec's First Nations Communities"; Indian and Northern Affairs Canada, "Indian and Northern Affairs Canada (INAC) On-Reserve Housing."

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CHAPTER 3 – *Major Challenges and the Development of a Housing Plan*

A. Challenges to developing a sustainable housing program

As expressed in the previous chapter, developing a sustainable housing program for the Cree of Eeyou Istchee will be no simple task. Difficulties arise from the large and growing housing need, housing affordability, sources of funding, management capacity and the prevailing culture surrounding housing. Arguably the most important among these factors is the issue of affordability, as it is largely this constraint that has prevented the development of a housing market and enforced continued reliance on a social housing program.

Housing Need

One of the major challenges in developing a sustainable housing program is the large number of units it must be able to provide. First, the large housing backlog must be tackled to meet the immediate housing demands and to relieve overcrowded situations. In order to do so, a better determination must be made of where the demand exists, and the type of housing required. Second, new housing needs to be provided on a yearly basis for the rapidly growing population and high rate of household formation (many start a family by the age of 18).¹ The already large annual demand for new housing will only increase as the population grows.²

Not only must a sustainable housing program provide a growing number of new units on an annual basis, it must also allocate resources to the increasingly expensive cost of maintaining the existing stock. If unattended to, the high number of units requiring major repair and the high rate of premature deterioration could negate the effect of new construction. The housing program could also directly tackle the issue of shortened building lifespan, although it may prove to be less tractable. Premature deterioration is partly a result of the northern climate, but is primarily due to overcrowding and misuse, or uses that are not adapted to the housing structure. While there are education initiatives through which individuals are informed of best practices for maintaining their homes, these are not necessarily adhered to.³ The housing construction should in theory allow individuals to carry out minor repairs to their units, but the knowledge and ability to do so is lacking. Furthermore, given that the responsibility formally lies with the housing department, individuals are either unwilling to carry out their own repairs, or expect to be refunded for doing so, as one would expect in a non-aboriginal context.⁴

While private homeowners are responsible for regular maintenance and repairs to their units, there remains an expectation that the housing department can be called for advice and even to carry out the repairs, a service which is difficult to refuse given the tight-knit nature of the communities.⁵ Furthermore little to no support is currently provided to new homeowners by the CRA or the CMHC to assist them in taking on these tasks.⁶ As the housing stock in these communities ages, it can be expected that needs in terms of maintenance, repair and major renovation will only increase, especially if the overcrowding is not reduced.

Housing need therefore presents a twofold challenge: first to address the financial burden of providing for a growing population compounded by maintenance of an ageing housing stock, and second to deal with a cultural or behavioural pattern of neglect and lack of individual responsibility which has been established.

Affordability and Elevated Construction Costs

While the majority of the Cree population is currently housed in social units, there are some positive socio-economic signs that individuals and households can afford to spend more on housing than they do at present. For example, 65% of the units across all the communities are occupied by families with employment income. Furthermore, over 50% of the individuals on the housing waiting list are employed, and it is considered that about 20% of households have sufficient annual incomes (over \$100 000) to easily become homeowners.⁷ However, a large segment of the population will likely require continued assistance to access adequate housing due to low income levels and a high cost of living, especially given the elevated construction costs, as detailed below.

In the 2006 census, the median family income was similar in both Chisasibi and Oujé-Bougoumou, around \$55 000. While a median family income of \$55 000 would be sufficient to access housing in more southern areas, this amount is often claimed to be insufficient in the North because of the high cost of living.⁸ Furthermore, family and individual incomes are used to support much larger extended families than is common in the rest of Canada.⁹ However when comparing one-person households, the median income was similar, although much higher in Chisasibi than in Oujé-Bougoumou (\$56 000 vs. \$39 000). Affordability problems may therefore be concentrated among families. Another important consideration for the communities is the seasonality and instability of employment, with median individual earnings at only \$21 000 and \$16 000 in Chisasibi than in Oujé-Bougoumou respectively, but rising to around \$40 000 in both communities for individuals working full-time, year-round.¹⁰ The constraint of seasonal or part-time employment appears to be more important in Oujé-Bougoumou than in Chisasibi despite its higher employment and participation rates (employment rate of 57% vs. 55%, and a participation rate of 72% vs. 66%). Furthermore, income is heavily supplemented by government transfers which represent a quarter and a fifth of individual income in Chisasibi and Oujé-Bougoumou respectively.¹¹ It is therefore clear that while those who are employed can likely afford to spend more on housing than at present, there is a significant segment of the population that will remain unable to access market housing, either due to unemployment, seasonal employment or low earning power. These limitations will present a continued challenge in developing a housing program because the low levels of educational attainment reported for the youth of these communities will likely limit future employment opportunities and earning potential. While it could be expected that degree attainment among the general population over 15 years of age be relatively low, in Chisasibi, 56% of the 25-34 age-group has no certificate, degree or diploma. In Oujé-Bougoumou, the situation appears to be better, with only 31% of its 25-34 year olds having no formal certification.¹²

In addition to low incomes (relative to the cost of living), the average cost of constructing a unit of housing in Northern Quebec is extremely elevated compared to the provincial average,

thereby further reducing a household's ability to access adequate housing. Three-bedroom housing units are estimated to cost between \$250 000 and \$300 000, not including the cost of the land or lot servicing.¹³ Unfortunately, due to the standard of housing expected for a modern community, this cost appears to be rather immutable, and therefore a major challenge for the creation of a sustainable housing program. Elevated construction costs result in part from the transport of materials (although this is less important for the southern-most communities), and the use of climate-adapted technologies, and can be further inflated by approximately 10-15% when external labour is used.¹⁴

While the cost of housing can be reduced at the time of construction by use of prefabricated or catalogue constructions, this is not advisable due to their lack of adaptation to the northern climate. Climate adaptations are necessary to extend the unit's lifespan and facilitate its maintenance, especially for the more Northern communities, such as Chisasibi. For communities in intermediate climates, such as Oujé-Bougoumou, the adaptations can be dispensed of. However, current modifications to the building code for Quebec are going to impose a uniform set of energy-conservation standards, which are stricter than at present, for all areas with less than a given number of hours of daylight per year, which will likely impact the cost of construction in the more southern Cree communities.¹⁵

While aimed at reducing costs and increasing a housing project's economic return to the communities, local hire by-laws have also been somewhat criticized as the use of local labour is limited and may not be as cost-effective as initially presumed due to the issues detailed below. Further, there is a potential conflict with union regulations when external contractors are required to hire locally for certain projects.¹⁶

First, because of the closed market created by the local hire by-laws, the small populations of the communities and the fact that some communities may see up to 40 units built in a given year (when the Cree Health and School Board units are also taken into account), a labour shortage often exists, which can result in hiring under-qualified contractors and labourers, lower quality of work, increased prices and increased project completion time, especially when workers are paid by the hour.¹⁷

Second, qualified and certified tradespersons, notably electricians and plumbers, continue to be hired externally, as these do not exist among the local population.¹⁸ This situation has largely been blamed on the low levels of education within the communities (highlighted above) and simple lack of interest in learning those trades.¹⁹ However, the situation may be changing; as of the 2006 census, the two most studied disciplines in both Chisasibi and Oujé-Bougoumou are "business, management and public administration", and "architecture, engineering and related technologies", which shows the potential for the use of local labour in housing provision and management. In fact, in Chisasibi, the construction industry was already the second largest employer in 2006, only after health and social services.²⁰

Third, the local contractors' present lack of experience and training in project management creates issues of liability for the communities by which they are hired, for example forgetting or neglecting to pay union dues for their employees. This problem is compounded by the fact the housing departments of the Cree First Nations do not necessarily have experienced professionals in their employ due to budget constraints, a result of the process of decentralisation.²¹ Furthermore, the head and staff of the housing departments themselves often experience a high rate of turnover due to the complexity and difficulty of the job, meaning that experience is rarely built up within the department.²² These individuals are therefore not necessarily qualified to act as project managers or to oversee the operation and work of the contractors, as would be needed.

Capacity development will therefore be important to developing a sustainable housing program in order to overcome these challenges. However, even if this is successful, construction costs will likely continue to be higher than in Southern Quebec.²³ High construction cost combined with low to average income levels, a high cost of living, large extended families, and low levels of private capital asset accumulation or liquidity means housing is not affordable for a large segment of the Cree population.²⁴ The mismatch between the cost of producing a housing unit and what a family can afford is one of the major issues a new sustainable housing program will have to address if reliance on external funds is to be reduced.

Funding

As has been shown in the previous chapter, apart from one-off funding opportunities, governmental funding for housing construction and renovation has fallen off in the last few years. Furthermore, these sources of funding remain unpredictable as budgets are determined annually or semi-annually, and the Canadian Government has full discretion to make unilateral changes to funding levels and structures. For example, as per a 2010 proposal, the Canadian government aimed to move forward with a consolidated funding agreement which would dramatically reduce the amount of money received by First Nations.²⁵ The effect of this change would have been to eliminate the Capital Grants allocation as of 2013. However through strong opposition and negotiation, the CRA were able to obtain an agreement for the maintenance of base funding (including the Capital Grants funds) for a 5 year period.²⁶ Funding for housing construction, outside of the Cree's New Relationship Agreements, therefore remains uncertain as of 2018. It can be foreseen that the government will likely aim to further reduce its commitments to aboriginals in terms of direct housing provision, focusing instead on promoting greater local autonomy through capacity development and technical support.

The Cree of Eeyou Istchee have therefore put themselves in an advantageous position by securing more stable funding through their agreements with both the Canadian and Quebec governments, notably the JBNQA, the NRA, and the Agreement concerning a new relationship with Canada. While the CRA/CNG has only limited discretion in terms of the uses to which these monies are put, these sources of funding have allowed the Cree First Nations to invest in housing. However, in the case of the new relationship agreements with Quebec and Canada, the funding is only for a period of 50 and 20 years respectively, meaning that these sources of capital are dependent upon

re-negotiations at a later date, unless the CRA/CNG succeeds in setting aside substantial funds for future years. Even so, this source of capital is insufficient to fully address the present backlog, and cannot be expected to produce sufficient housing to indefinitely meet the annual demand.

Mortgages and other forms of external loans therefore represent a major source of capital upon which the communities will become increasingly reliant. Access to loans from financial institutions has improved over the past few years, especially with the creation of the First Nations Bank and the First Nation Market Housing Fund. However, for an individual to access loans, some important barriers remain. First, they require their First Nation council to back their loan, which means that it must pass a resolution to waive their right of superficie and agree to financially support the loan, which depends on the individual having good credit with the band.²⁷ There have been complaints about the onerous process of attaining quorum for such votes.²⁸ Second, while individuals may have the income to pay off a loan or mortgage, they rarely have the accumulated capital, assets or credit history to secure one or make the initial down-payment.²⁹ Therefore only individuals with good credit can access loans, and even these people often remain dependent on the A-base grants to make the initial down-payment (external funding that may not persist).³⁰ The First Nations Bank loan program may however facilitate access to capital for those individuals who have a stable income, but no credit history, as they can obtain a loan through the intermediary of the band which has the ability to carry out a personal background check and base its decision on the individuals' credit history with the band.

Finally, in terms of the internal finances of the housing department, which could be used to fund housing construction or maintenance, the situation is not much rosier. The two main sources of internal revenue should be rent collection and service or user charges for various utilities and services such as water.³¹ However, rent collection is difficult in most of the communities: eviction policies are not enforced at least in part due to the impossibility of evicting an individual or family when no other housing solutions exist, especially in such small tight-knit communities.³² The communities are well-aware of the need to implement incentives to ensure proper rent collection, as expressed in the 2010 Report of the Cree-Naskapi Commission, however no solutions are forthcoming.³³ However, even if this source of revenue were adequately collected, it remains minimal in terms of the funding it can provide due to the low incomes of the individuals, which result in low average rents (\$316/month on average in Chisasibi). While efforts have been made to boost this source of revenue, by increasing the fairness of the rental policies, for example by assessing household rather than individual income, three-quarters of the population continues to pay less than \$450/month per housing unit, which can be up to 4 bedrooms.³⁴ These internal sources therefore remain inadequate in terms of financing even the upkeep and renovation of existing units, much less the construction of new ones. Furthermore, the nations rarely have the accumulated capital required to secure a loan to invest in large-scale housing construction.³⁵

Housing Management

Another challenge which has already begun to surface in the last 25 years is the management capacity of the housing departments. The problem is twofold.

First, since devolution of housing responsibility from the CRA to the individual nations took place very rapidly in the early 1990s, the expertise required to manage housing construction and renovation was not yet fully developed, and therefore quality control was at times insufficient.³⁶ While big strides have been made since this time, there is still progress to be made in terms of oversight and project management.³⁷ This management capacity limitation raises the question of whether, even if the funding should be available, these communities would be able to cope with the large projects needed to fill the backlog.³⁸ Furthermore, many of the housing officials, and the housing committees advising them, still lack the technical knowledge needed to make informed decisions about choices in construction (in terms of choice of material or design for example).³⁹ This lack of knowledge could be due in part to the fact that the posts are often occupied by individuals with no professional training, and the high rate of turnover of these positions. It is in this respect that professional advice is much needed in order to ensure an efficient and sustainable development of the communities. However, keeping a professional on staff would be very expensive for many of the communities. This is one of the ways in which the decentralisation of responsibility for housing from the CRA to the Cree First Nations may have had a negative impact on the cost and quality of the housing programs.⁴⁰

Second, management of the existing housing stock has been a growing problem in the last 5 to 10 years, and is only set to increase as the 25-year mortgages on the s.95 houses come to term, and these are turned over to council ownership.⁴¹ Housing departments can therefore foresee that they will be managing an ever-growing stock of ageing houses, without the CMHC subsidies to assist with maintenance or renovations. This poses problems both in terms of financial and material resources, but also in terms of human resources, as the budget does not necessarily allow for increased staff. This problem is further exacerbated by the high rate of turnover of the housing department staff and directors; for example, in Chisasibi, there has not been a housing director who has held the post for more than 3 consecutive years.⁴² This high rate of turnover compromises the ability of the department to engage in long-term planning, adopt stable management practices, and build up its expertise and knowledge in the areas of construction, design and renovation.

Community, Social, and Economic Development, and Cultural Change

The Cree communities in Northern Quebec do not only have major problems in terms of housing shortages, deterioration and overcrowding, but are also in need of community, social and economic development in order to sustain a growing population into the future. Furthermore, as explained in the previous chapter, a community's development capacity is linked to provision of adequate housing. However, for a sustainable housing program to be internally-driven and funded, a certain level of community expertise, wealth and motivation to act must be present. This feedback loop therefore implies three challenges, or considerations, which must be dealt with in parallel with the development of a new housing program.

First, housing form and manner of provision have a mutually reinforcing relationship to culture. Culture must therefore be considered in the design of a housing program. While it has been recognised that modern aboriginal cultures in Canada are distinct from their historical counterparts, there is a desire to maintain and enhance some essential aspects of the traditional culture, and any housing system that is chosen should facilitate this preservation and adaptation. However, housing program development must also recognize that culture is first and foremost a politically-contested element of society, and that there therefore will not be unanimity within a community on optimal program design.⁴³ Despite the fact that there are few cultural expectations in terms of housing design, there is a culture of low-density living, with preference for single family homes, which has been reinforced through subsequent community design.⁴⁴ The communities must decide whether this layout is essential to maintain, or whether a shift is desirable to mitigate other negative effects of such a spatial organisation (namely land consumption, expensive infrastructure provision and dependence on the automobile).

Second, a shift is required in the prevalent perception of housing and responsibilities associated with it in order to ensure that the proposed housing program be self-financing. As highlighted in the previous chapter, households occupying s.95 and community units rarely take responsibility for, or participate in, the maintenance and upkeep of the housing. A change must take place in order to reduce the ever-increasing costs associated with maintenance and renovation. While some point to homeownership as the solution, negative perceptions of homeownership will have to be overcome: at present, many individuals do not see their homes as an investment, or as being worthy of their time, effort and money (why should they spend large amounts to purchase a home?). Another related challenge will be to overturn long-standing norms and practices, such as government responsibility for the communities' housing needs, homeowners' continued dependence on the Cree First Nation Housing Department for maintenance and repair, and perhaps most importantly low rents and limited enforcement of rent-collection. For a new housing provision system to be successful there needs to be individual buy-in to the system such that all are willing to change currently prevalent behaviours, and contribute to its proper functioning.

Third, local economic development is also a challenge that the Cree communities will have to confront in establishing a sustainable local housing provision system. This is necessary for two reasons. First, economic development is needed in order to educate and be able to hire local professionals, entrepreneurs, contractors, and tradespersons, as well as attract investors (developers). Second, economic development should increase the employment levels and earning power within the communities, thereby making the housing more affordable for the average household and ensuring the community's autonomy from external funding. However, as early as 1973, it was recognized that the local economy in the Cree communities of Northern Quebec was highly dependent on residential construction.⁴⁵ By 1992, the CMHC estimated that 1 in 10 jobs on reserve depended on residential construction.⁴⁶ And as can be seen from the 2006 census, the construction industry still remains one of the main employers in the Cree communities, notably in Chisasibi.⁴⁷ This therefore creates a chicken-and-egg situation, whereby housing construction is the

cornerstone of the local economy. However, a sustainable housing provision system will likely depend on economic diversification.

The question of how to promote economic development is however not an easy one, as it is unclear that any of the Cree First Nations have much control over this important issue. Control is limited by Quebec's ownership of the majority of the local resources, but also by the fact that economic growth is often primarily determined by national macroeconomic policies (legal and institutional context), by the presence of appropriate resources and by geography rather than by local policies or actions.⁴⁸

As has been outlined in the previous chapter, social and educational outcomes, as well as community well-being is affected by housing quality and overcrowded situations. Therefore, in order for community and social development to occur as intended in this generation, an immediate improvement to the housing situation is required. However, such a short term solution must be carefully designed so as to avoid complacency or maintenance of the norms and perceptions highlighted above, which would reduce the impetus for change towards a sustainable system.

B. Community-specific challenges

Chisasibi

The present housing program in the Cree Nation of Chisasibi exemplifies the challenges listed in the previous section, with the following three issues being particularly relevant to its case. First, it is almost completely dependent on external sources of funding. In the annual reports of the Cree-Naskapi Commission, Chisasibi is one of the communities which, since 2006, has reported a marked housing shortage and overcrowded situations, calling on the government and/or the CRA to help reduce the growing backlog. Furthermore, the Eenou-Eeyou Limited Partnership's 2009 report on the use of NRA funds shows that Chisasibi spends a significant portion of its capital allocation on housing provision and renovation. These facts, in addition to the lack of a published housing plan, point to the community's almost complete dependence on external sources of funding. As these are generally unstable, and unlikely to grow with increasing housing demand, Chisasibi is in a particularly difficult situation as regards funding much-needed housing expansions. Second, as the community has generally expanded through large-scale construction projects, the housing stock is all of approximately the same age, and is in generally poor condition. Since 1994, the community has invested large sums to renovate and replace unsuitable or unsafe housing, however it is clear that much work still remains to be done on this front.⁴⁹

Oujé-Bougoumou

Oujé-Bougoumou, unlike its neighbouring Cree communities, does not face all of the problems listed above, especially as pertains to funding difficulties. From the outset, the community did not use or rely on annual Federal funding allocations to finance its housing construction and renovation projects. Instead, its own housing fund has been able to provide for the majority of its housing

needs, with small inputs from its share of the NRA capital funds. However, as construction costs continue to rise, Oujé-Bougoumou faces the major challenge of having to look at either restructuring the way in which the fund functions, appealing to the CNG for additional funding, or finding new sources of funding altogether.⁵⁰ Another challenge that Oujé-Bougoumou faces is the issue that the majority of its housing was built in the three year period following its creation in 1992, meaning that the housing stock is now reaching the point of requiring major renovations, and is doing so all at the same time, as can be observed from the figures in the 2006 census (45% needing major repair). While the units are for the most part privately-owned, this burden may fall on the community if individuals are unable to finance the major renovations themselves.

C. Proposed solutions

CRA/CNG Strategic Plan and Proposed Housing Plan

As early as 2006, the CRA created a housing plan proposal to deal with the housing crisis among its Cree First Nations. The proposal included the following main elements:

- A Regional Housing Authority will be established under the CRA (to be eventually governed by the CNG)
- Canada should guarantee capital funding under the existing AANDC programs, including the “A-base” funds, over a period of 20 years
- The role of the CMHC should be taken over by the CRA, for which CMHC funding should be transferred to the CRA and increased to \$10M per year, indexed to construction price and population size
- The Cree will provide \$310M of their own funds over a 20 year period
- The Government of Canada should retire direct and indirect housing debt relating to CMHC projects
- The Government should pay the Cree Regional Housing Authority \$450M to fund the capital costs of housing, renovations and infrastructure development for new lots
- Free housing provision will be eliminated; instead, affordable housing will be provided, alongside incentives for private ownership.⁵¹

This proposal was submitted to the Government of Canada for its consideration in 2006. However, no housing agreement resulted because Canada maintained that the Cree capital grant “has been adjusted to reflect the current regional housing formula” and that the Cree continued to have access to regular departmental and government programming which should be coupled with private partnerships and “new ways of leveraging private resources”.⁵² The CRA has however followed through with the aspects of the above proposal which are under its control.

In its advisory capacity, the CRA/CNG has already started taking steps to provide the communities with solutions to the housing crisis, most notably by creating a Housing Planner position within the “Capital Works and Services Department”, and a long-term strategic plan for

housing. However, responsibility for the adoption and implementation of the chosen solution ultimately lies with the Cree First Nations themselves.

The CRA Strategic Housing Plan has four basic objectives, and rests on the principle of increasing individual autonomy and responsibility through promotion of homeownership. The objectives are as follows:

A. Adjust rents to 25% of income

It is expected that this modification to the rental system will encourage more individuals to leave social housing, and enter homeownership as this would be less costly in the long-term.

B. Adapt Social Housing Policies

Under the new policies, social housing would be reserved exclusively for individuals earning under \$40, 000, in order to ensure that those most in need have access to the subsidised housing system. Further, a strict rental arrears policy would be devised to ensure rent collection, and adequate revenue for the housing department.

C. Promote awareness of the benefits of homeownership

A public information program would be implemented to build the concept of homeownership among individuals and their communities, in particular by breaking down the costs of homeownership and providing a comparison to other alternatives.

D. Use the housing demand to strengthen the Cree economy

Through collaboration with the economic development branch of the CNG, housing stock rehabilitation and new projects could be included in the Cree Nation Plan and used to promote new business opportunities in the housing sector.

The above proposal and the resulting strategic plan addresses many of the challenges highlighted in the previous sections. Taking the proposal and the plan together, it is possible to see that the CNG's focus is on immediately reducing the housing backlog, establishing a self-financing solution to long-term housing provision, and coupling housing construction and renovation with economic development. However, as the funding requested from the Canadian government for the full implementation of the initial proposal is unlikely to be attributed, it is unclear how the backlog will be dealt with, or how the capacity-building required for the implementation of the strategic plan will be funded. The strategic plan rests heavily on the widespread adoption of homeownership by "high income" individuals, so as to reduce the fiscal burden of housing provision currently borne by the local housing departments.⁵³ It would appear that this shift to homeownership is largely to be encouraged through increased awareness of this option, as well as through rent-pricing. By adjusting rent levels to 25% of income, homeownership becomes less

expensive than community housing for households with annual incomes above approximately \$60 000, assuming monthly mortgage payments of \$1 200. However, in Chisasibi and Oujé-Bougoumou, less than half of the census families would meet this threshold, and it is not clear that low-income families can afford to pay 25% of their income in rent. Furthermore, the adoption of homeownership also depends on other factors, notably possessing capital and a good credit rating to secure a loan, as well as previous community experience of homeownership, as will be outlined in Chapter 4.

Homeownership: the way out?

The housing crisis among the aboriginal nations of Canada is an extremely complex problem with which communities, professionals, academics and politicians have been grappling for many years. At present, homeownership is the solution to this problem that is proposed most often, by the government, by the communities themselves, by professionals and by individuals alike.

Among the several recommendations of the Standing Committee on Aboriginal Affairs, one was that the government should provide greater opportunities for homeownership through programs and encouragement of innovative solutions. Witnesses who testified during the hearings for the report were largely in favour of greater homeownership initiatives.⁵⁴ This position is directly in line with CMHC's present role of encouraging homeownership wherever possible in aboriginal communities.⁵⁵ In fact, the Cree Nation Government, some of the individual Nations (such as Oujé-Bougoumou), and consultants working with these communities, all see homeownership as "the only way out".⁵⁶

However, a careful assessment of the advantages and drawbacks of a system based on homeownership must be made before adopting it as a wholesale solution for the Cree context. The CRA and Grand Council of the Crees appear to be aware of some of the drawbacks associated with homeownership, and the difficulty of implementing such a solution.⁵⁷ However their official position continues to be that of promoting homeownership as a key element to resolving the housing crisis. Some of the Cree First Nations also appear to have embraced this approach, but others, such as Chisasibi, are reluctant to do so.

A new housing program must be able to tackle the issue of affordability (by acting on construction costs), increase housing supply while ensuring continued maintenance, and be self-financing. It is not clear that market-based homeownership can appropriately tackle these challenges. Chapter 4 will therefore present a critique of the homeownership solution as well as the conditions needed for its success, following on from a broad overview of the theoretical frameworks upon which aboriginal housing programs can be designed. This overview will provide the background required to define the overall structure of the new housing program such that it represents the values and priorities of the Cree First Nations, while also accounting for the existing political structure and practical constraints. A number of technical solutions which can be used to promote homeownership, ensure its success, and resolve the above challenges will be also outlined, as a reference tool for the CNG and the Cree First Nations when designing the details of a new

housing program. The report will conclude with some general recommendations for future action, based on analysis of the Cree situation and the cited case studies.

¹ Larue, interview.

² Katapatuk, interview.

³ Larue, interview.

⁴ Benoit, interview; Katapatuk, interview; Larue, interview; Fiocco, interview.

⁵ Fiocco, interview.

⁶ Katapatuk, interview.

⁷ Ibid.; Benoit, interview.

⁸ Jacobs, "Building a Community in the Town of Chisasibi"; Katapatuk, interview.

⁹ Benoit, interview.

¹⁰ Statistics Canada, "Chisasibi, Quebec (Code2499814) (table). 2006 Community Profiles. 2006 Census."

¹¹ Ibid.

¹² Ibid.

¹³ Katapatuk, interview; Larue, interview.

¹⁴ Benoit, interview; Larue, interview; Wertman, interview.

¹⁵ Larue, interview.

¹⁶ Benoit, interview.

¹⁷ Larue, interview.

¹⁸ Benoit, interview; Wertman, interview; Katapatuk, interview.

¹⁹ Benoit, interview; Katapatuk, interview.

²⁰ Statistics Canada, "Chisasibi, Quebec (Code2499814) (table). 2006 Community Profiles. 2006 Census."

²¹ Benoit, interview; Larue, interview.

²² Fiocco, interview.

²³ Schneider, A Time for Action: Aboriginal and Northern Housing.

²⁴ Jacobs, "Building a Community in the Town of Chisasibi"; Benoit, interview; Statistics Canada, "Chisasibi, Quebec (Code2499814) (table). 2006 Community Profiles. 2006 Census."

²⁵ Cree-Naskapi Commission, Report of the Cree-Naskapi Commission.

²⁶ Bolduc, Grand Council of the Crees (Eeyou Istchee), Cree Regional Authority, Annual Report 2012-2013.

²⁷ Katapatuk, interview.

²⁸ Cree-Naskapi Commission, Report of the Cree-Naskapi Commission; Cree-Naskapi Commission, 2010 Cree-Naskapi Commission Report.

²⁹ Benoit, interview.

³⁰ Katapatuk, interview.

³¹ Fiocco, interview.

³² Katapatuk, interview.

³³ Cree-Naskapi Commission, 2010 Cree-Naskapi Commission Report.

³⁴ Katapatuk, interview; Fiocco, interview.

³⁵ Larue, interview.

³⁶ Benoit, interview.

³⁷ Ibid.

³⁸ Fiocco, interview; Larue, interview.

³⁹ Larue, interview.

⁴⁰ Benoit, interview; Larue, interview.

⁴¹ Fiocco, interview.

⁴² Larue, interview.

⁴³ James, "Cultural Change in Mistissini: Implications for Self-Determination and Cultural Survival."

⁴⁴ Shaw, "Town Planning in Consultation with and Participation from a Native Community"; Kastelberger, "Planning with Native Communities: An Evaluation of Participatory Planning Practices in Quebec's Cree Communities"; Larue, interview.

⁴⁵ *Ornstein, The First Peoples in Quebec.*

⁴⁶ *Schneider, A Time for Action: Aboriginal and Northern Housing.*

⁴⁷ *Statistics Canada, "Chisasibi, Quebec (Code2499814) (table). 2006 Community Profiles. 2006 Census."*

⁴⁸ *Polèse, "Cities and National Economic Growth: A Reappraisal," 1438.*

⁴⁹ *Saunders and Awashish, 2006 Report of the Cree-Naskapi Commission.*

⁵⁰ *Wertman, interview.*

⁵¹ *Saunders and Awashish, 2006 Report of the Cree-Naskapi Commission.*

⁵² *Cree-Naskapi Commission, 2008 Report of the Cree-Naskapi Commission, 33.*

⁵³ *Bolduc, Grand Council of the Crees (Eeyou Istchee), Cree Regional Authority, Annual Report 2012-2013, 15.*

⁵⁴ *Schneider, A Time for Action: Aboriginal and Northern Housing, 32.*

⁵⁵ *Canada Mortgage and Housing Corporation.*

⁵⁶ *Wertman, interview; Fiocco, interview; Katapatuk, interview.*

⁵⁷ *Bolduc, Grand Council of the Crees (Eeyou Istchee), Cree Regional Authority, Annual Report 2012-2013.*

A. Structuring a Housing Program

Aboriginal housing programs in an international context

The problem of devising a suitable housing program for aboriginal populations is neither new, nor is it unique to the Canadian context. Not only have the Canadian Government and its aboriginal populations been struggling with this question for years, but post-colonial governments around the world have also been trying to achieve long-lasting solutions and improved housing outcomes for their aboriginal populations. Two countries in particular stand out for their similarity to the Canadian institutional and legal context: Australia and the U.S.A. These countries share a British legal heritage, a history of displacement and attempts at assimilation of their aboriginal peoples, and a modern drive towards aboriginal self-determination.¹ These similarities extend right down to the major challenges associated with housing provision on aboriginal lands, as highlighted above; namely the issues of remoteness and harshness of climate (and associated challenges), of high unemployment, overcrowding and reduced social outcomes, of communal land title and associated absence of a housing market, and of high construction costs.² Despite some minor differences in policy approaches and recognition of aboriginal right to self-determination, these two countries therefore represent a rich source of information not only to understand the possible structures of aboriginal housing programs, but also to identify technical solutions to the challenges cited above (as will be highlighted in Section D).³

While all three countries, as well as the regions and aboriginal peoples within them, have adopted a wide variety of structures over the years, these can all be understood to fall somewhere within the three broad categories of “top-down” decision making, participatory planning, and “bottom-up” or “grassroots” initiatives, based on the level at which decision-making power and control over program orientation and execution resides. These programs can further be categorized by the level or scale at which program administration and delivery takes places, falling somewhere on the spectrum between centralised and decentralised administrative structures. These different types of program structure have different advantages and disadvantages, and are generally associated with different tenure types and respect for culture and aboriginal identity and values, as will be discussed below. Choosing the optimal program structure therefore depends on the existing structure of governance, local capacity and policy objectives or constraints, as well as values and priorities.

Level of decision-making control

“Top-down” decision-making

A housing program structured around “top-down” decision-making is one in which an external (usually non-aboriginal) government designs and imposes a pre-determined housing program on a community which aims to secure housing, or other related outcomes, based on

regional or national policy orientations. In the case of the Cree, this external government was the Federal government, however the CRA could now take over this top-down role as a result of the New Relationship Agreements.

This structure of housing provision is often based on a supply-driven model, whereby housing is supplied based on available funding and “assessed” need, and is associated with mainstreaming and standardisation practices. A top-down housing program structure often places the government in a “provider” role, where it creates a public housing or subsidised rental system and provides the housing and all related infrastructure. However, a top-down structure could equally place the government in a “supporter” role if the government decides to pursue a market-based housing strategy, in which its role is to provide the institutional framework and incentives. The latter case is exemplified by the Canadian Government’s current approach.

Australia provides a prime example of such a top-down housing program structure. Following a 2008 review of its Community Housing and Infrastructure Program, the Commonwealth government instituted a new policy based on public housing and promotion of homeownership alternatives, through the signing of a Memorandum of Understanding with the Territorial governments. This new program and its objectives were designed without consulting the aboriginal people.⁴ This program is typical of top-down decision-making, as it involves centralisation of the responsibility for program governance and administration within Territory Housing departments, standardisation of the housing provided, and has the stated objective of transforming the aboriginal communities and their economies into the “standard Australian model”, otherwise known as a process of mainstreaming.⁵ This attempt at solving the aboriginal housing crisis in Australia has highlighted the drawbacks of such an approach.

One of the main drawbacks is that due to a disconnect between the decision-makers and those being affected by the new policies, the program can fail, or prove to be ineffective. This failure may be due to lack of recognition of the local conditions or interests of the community, as was the case with the “Home Ownership on Indigenous Land” initiative in Australia where few mortgages were signed, partly as a result of lack of interest in homeownership (which had not been assessed prior to allocation of funds).⁶ Further, a combination of this disconnect and the supply-driven nature of the system often overloads local management capacity, in terms of personnel and financial resources for continued operations and maintenance of the new housing stock, which can in fact lead to a deterioration of the situation.⁷ In extreme cases, lack of consultation and failure to understand a community’s needs and values can lead to non-compliance and disengagement on the part of the community, thereby undermining the housing program regardless of the efficiency with which it can provide housing.⁸ A more general concern associated with this disconnect, and the attempts at rationalization and mainstreaming which usually take place in a “top-down” approach are a complete disregard for aboriginal culture, norms and values through the imposition of an external housing structure (and associated value system). This homogenisation is often considered a problem in and of itself, as aboriginals seek to assert their unique cultural identity and right to self-determination.

Not only does a “top-down” decision-making structure have negative impacts on the community, which can lead to the housing program’s failure, it is also expensive for the government to run, requiring constant management and injection of funds. What, therefore is the advantage of such a system? The main advantage is its high level of efficiency in the short term; as stated by O’Brien (2012), a top-down structure or “provider” model, is often found to be necessary when a large quantity of housing needs to be upgraded or built in a short time frame.⁹ This efficiency results from the possibility of rapid decision-making when no negotiation is required, program design according to budgetary and time constraints, and the fact that housing can usually be provided without accounting for community capacity-building or economic development.

The CRA’s current approach to designing a Strategic Plan to cope with the housing crisis, with limited community involvement, somewhat resembles the top-down approach, in that it prescribes the bases upon which the Cree First Nation’s housing programs should be designed. This approach however does not have all the characteristics of a “top-down” structure, as this strategic plan is not imposed on the communities, and the CRA is in fact an aboriginal government which has a good understanding of its people and their culture and is generally accountable to the communities. However questions could be raised as to its responsiveness to community needs and interests, due to the present funding structure, an issue which was raised in Chapter 1. Moving forward however, it is most likely that this Strategic Plan will be further refined and put into effect according to a participatory model, as detailed below.

Participatory Planning

Also known as community development planning, or community-based planning, this structure seeks to foster community development in addition to achieving housing or economic goals, through a process of direct community participation in the planning, decision-making and management. The community’s level of involvement depends on the exact structure of the decision-making process, and can in fact be quite limited (in which case the process is considered to be one of “tokenism”, that is engaging in a ritualised version of community consultation). Moran (2004) provides a framework through which participation can be understood, based on who is asked to participate, and the degree to which they can control decision-making. Participation can be centralised in an elite segment of the community (its governing body for example) or be expanded through a range of methods, all the way up to inclusion of the whole community. Further, the decisions on which the community is called to weigh-in can be peripheral to the housing program, or directional, that is directing central elements of its structure and operation. According to Moran (2004), real developmental planning takes place when the whole community is involved in decision-making that is central to the program’s operation. However, this means that truly participatory planning can be a very onerous process; Moran therefore provides 3 main principles upon which participation should be based: optimised participation, technical competency, and commitment to effective negotiation.¹⁰

Another way of understanding participatory planning, is to look at it as a process of negotiation between two levels of government, or between the government and the community,

whereby a common understanding of the different values and expectations, competing objectives, and each party's rights and responsibilities can be developed.¹¹ When such a negotiation process is used to develop housing policy or programs, it can be termed participatory, even if the community does not have direct control over the details of all the decisions.

While Australia's aboriginal housing programs generally include an element of community consultation, decision-making and management, these do not usually fall under the participatory structure as they are examples of tokenism. For example, the Housing Reference Groups developed as part of the 2009 reform, while including community members in an advisory capacity, only dealt with minor elements of the program and were found to be largely ineffective and not accurately representing community interests.¹² The existing legal relationship between the CRA and the Cree First Nations (if maintained in the Cree Nation Constitution), would however place them in a position to engage in real and effective participatory planning when devising and operating a new housing program. In fact, it has been suggested that a separate participatory structure devised for planning and decision-making relating to a housing program is unnecessary if a representative, accountable and transparent governing structure already exists. Making use of such existing and permanent structures achieves the same outcomes, but in a more sustainable way.¹³ What would therefore be required is a process through which the Cree First Nations and the CNG negotiate the elements of the Strategic Plan which should be retained to create a sustainable housing plan (or many housing plans) and funding structure which responds to the needs, values and aspirations of the communities while accounting for the CNG's budgetary constraints and governing responsibilities.

The advantages of such a decision-making structure primarily result from accounting for local conditions and needs, as well as the community's management capacity. This makes the program more cost-effective in the long run, and more sustainable, as the communities are invested in the success of the program. Authors generally cite improved housing outcomes as a result.¹⁴ This investment or sense of "ownership" of the program is another advantage which results from the control and power the communities gain through the process itself.¹⁵ If the program is executed as agreed-upon, this "ownership" generally leads to a high level of satisfaction with the results.¹⁶ While Chisasibi has had a negative experience with this process which resulted in dissatisfaction with the community's design, this has been attributed, at least in part to issues with the consultation process, and poor execution of the plan.¹⁷ Further, if contingent valuation analysis, or other non-monetary methods of assessing the value of the services provided, is used as part of the process, it is possible to account for real demand (rather than perceived "needs" or wish-lists) and therefore to approach a more optimal service level (in line with real costs) without having to resort to market-based solutions if these are found to be inappropriate or not feasible.¹⁸

A major downside of the participatory process is however the length of time required to reach a decision, and the resources (both time and money) required to establish an effective consultation and negotiation framework. These costs are however somewhat mitigated if an existing governance structure is used, as would be the case for the Cree of Eeyou Istchee. However,

maintenance of the resulting housing program would require sustained effort over a number of years, as it would likely involve innovative approaches and require adaptations from both parties (government and community).¹⁹ Further, it is possible that the negotiations will not bear fruit, or that the expected long-term effects of community involvement in the decision-making or their long-term involvement do not materialise.²⁰ Finally, this structure requires community capacity in terms of housing and planning expertise, ability to negotiate, and most importantly willingness to negotiate. Achieving this capacity may require prior capacity development, but this does not appear to be the case for the Cree First Nations.

“Bottom-up” Initiatives

“Bottom-up” initiatives, as the name suggests, are generally not fully-developed or long-term housing programs, but rather housing provision systems which are initiated and managed by the community or its members in order to meet internally-determined objectives or needs, and therefore follow a demand-driven model. The housing system therefore fully represents communitarian values through a process of internal negotiation and weighing of alternatives, and direct “payment” for the housing goods received.²¹ These initiatives are often associated with self-build projects and generally result in the construction of privately-owned homes. The government, NGOs or other professionals can also play a “supporter” role in this context, where they provide the infrastructure, resources and expertise required by the community to meet its objectives. Sometimes however these external organisations can initiate self-build projects which have many similarities to “bottom-up” initiatives, but if these are not internally-driven and responding to real local demand, they are instead termed demonstration projects which can have a negative impact on the community due to their experimental nature.²²

There are numerous examples of such self-build projects and local housing initiatives and programs across the world. As this structure is the most basic way for communities to meet their needs, it is employed in almost every community, even if to a very small extent. The Cree First Nations in fact demonstrate some examples of “bottom-up” initiatives, ranging from individuals constructing their own homes outside the community centers to Oujé-Bougoumou independently establishing its housing fund and housing program. These types of housing programs are likely to be favoured by the Federal government and the CNG as they require little investment on their part.

The advantages of such a structure are similar to those for a participatory planning structure, in that improved housing outcomes and increased community involvement are observed.²³ Further benefits can include reduced costs, usually due to the alternative sourcing of materials in self-build projects, but also potentially resulting from lower administrative costs. In addition to reduced costs, “bottom-up” initiatives usually rely upon, and therefore strengthen the local and informal economies of the communities.²⁴ Finally, bottom-up initiatives, more so than participatory practices, provide a forum for social change, as according to social practice theory, social change requires “self-organising (...) forms of self-governance”.²⁵

There are however a number of drawbacks to “bottom-up” decision-making with respect to housing. First, not only is the process very time-consuming and challenging for the community, it

may not occur at all if the appropriate leadership is absent or community drive is not sufficient to overcome roadblocks.²⁶ The process further depends on the community's capacity in terms of expertise, as lay-person decision-making can be highly influenced by perceptions and thereby result in sub-optimal technological choices, such as the choice to build concrete houses in Australia because it is associated with higher status.²⁷ Further, the resulting plan, project or program will require sufficient funding, which may be difficult to obtain if the program design does not fit within existing external norms, programs or funding structures. Oujé-Bougoumou's initiative for example was only made possible by the putting aside of a non-negligible portion of its Federal community establishment grant. Finally, bottom-up initiatives necessarily result in smaller projects and housing output volumes than the other two decision-making structures, both because of limited ability to access and leverage resources, but also because it becomes impossible to take advantage of economies of scale (which could further increase housing costs if local materials are not available). Further, if using a self-build model, bottom-up initiatives generally result in a reduced standard of housing, both due to the need to cut costs, but also because the intensity of the labour involved in construction requires smaller units to be built.²⁸ Therefore, while having the potential to produce long-lasting, positive outcomes at reduced cost, relying on bottom-up decision-making to produce a housing program that will adequately respond to a large-scale crisis, such as that facing the Cree, also involves an increased level of risk.

Scale of program organisation and delivery

As mentioned above, housing programs can also be classified by the scale at which they operate, which ranges from a centralised model (single provider for the entire region) to a decentralised model (individual providers in each community). Centralised models are most often associated with top-down decision-making structures, but can also result from participatory planning, whereas bottom-up initiatives are by nature decentralised.

The primary advantages of a centralised system comes from the pooling of resources (both financial and human) and the increased economic leverage which is generated by being the single buyer of goods (in this case construction materials) for a market of a significant size. These advantages should result in reduced per-unit cost, improved product quality and consistency of supply, and a larger scale of housing production.²⁹ However, establishing such a centralised model can be administratively expensive, as either a top-down decision-making structure must be in place, or regional negotiation and agreements are needed. Further, operating such a system requires access to extensive capital, and often results in a degree of standardisation or mainstreaming. As highlighted earlier for top-down planning, increasing the number of housing units by any means can be undesirable and unsustainable; in the case of radical or imposed centralisation, the economic benefits often fall outside the community, the community is less involved in the decision-making and operation of the system, and the local skill base in the construction industry may be undermined through standardisation.³⁰ However, the Atapula region of Central Australia provides a positive example of centralisation: the communities came together to coordinate their housing construction through the adoption of a portfolio of standard housing

designs, and to implement continuous training programs, which would allow for increased efficiency of construction and cost savings through bulk purchasing of the materials. While theoretically sound, the project was unsuccessful due to a problem with the material purchase process.³¹

A completely decentralised housing program does not allow the communities to take advantage of potentially lower costs and increased efficiency, but does ensure local control over program execution, and is usually more trusted by community members. This system however relies on the existence of appropriate local capacity to administer and manage the program. At present the Cree First Nations operate their housing programs in a decentralised manner, and could stand to benefit from the reduced costs and higher level of available expertise that would come from centralisation of some or all aspects of the programs.

The tension between centralising and decentralising tendencies is particularly striking in the Australian context where the Commonwealth government, initially operating a centralised public housing model, moved towards a decentralised model to afford local aboriginal housing groups more control, and as of 2009 returned to a centralised model administered by the Territory governments.³² None of the housing programs have been particularly effective in resolving the Australian aboriginal housing crisis, and each has been plagued with its own set of problems. Failure of the decentralised model was blamed partly on the lack of capacity of the aboriginal housing groups, while the more centralised model appears not to be generating the expected cost savings.³³ Part of the problem may be due to the fact that, at least in theory, for each function of a housing program there exists an optimal scale of organisation which appropriately balances efficiency with easy and direct access to the service itself. Housing programs should therefore be administered according to the principle of subsidiarity, whereby functions are under the control of the lowest, most decentralised authority that retains sufficient capacity and expertise to act effectively.³⁴ In the case of the Cree, there is therefore room for some functions or aspects of a generalised housing program to be transferred towards a regional level in order to rationalise and improve the process of housing provision, without loss of local control or autonomy over other elements of each Cree First Nation's Housing program.

Identifying "Best-Practices"

While decentralised housing programs, initiated and controlled by the community are generally favoured in academic circles due to the community development benefits associated with these structures, as can be seen from the discussion above, there are advantages and disadvantages, as well as necessary conditions, to the implementation of each approach. Furthermore, each general structure described above can in fact be organised in a wide variety of ways, using myriad combinations of tenure types and the technical solutions, outlined below. Making advances towards the optimal solution for the Cree communities therefore requires a four-step process:

1. Identify values and priorities
2. Assess current performance
3. Set targets

4. Identify “best practices” to adopt.

This four-step process is based upon the idea that there is no perfect housing program, and that any improvements or progress towards an “optimal” program must be developed as a response to existing problems, with a set of communally-derived values and priorities in mind.³⁵ Solutions, and the related housing programs, should therefore be constantly evolving by gradually fixing problems with the current situation. It is important first to define the overall structure of the housing program, before delving into the technical details of program implementation. At both these stages, proposed alternatives can be measured against the existing situation to identify improvements, using a best-practices framework.

A framework, such as the one developed by Minnery (2000), outlined in *Figure 4* below, is useful in terms of assessing performance, setting targets and identifying best practices as a housing program is comprised of a wide variety of aspects, all of which can often be improved independently, and in different ways. This particular framework splits housing provision into four stages: needs assessment, design and development, implementation and construction, and post-construction. At each of these stages, the following six implementation factors are assessed: funding, availability of skills, technology, organisational structure, cultural context, and supporting hard and soft infrastructure.³⁶ Current performance, objectives or targets, and observed “best-practices” can be identified for each aspect of housing provision. In *Figure 4* below are the objectives identified by Minnery based on observed housing programs that performed well in one or more aspects, as well as on the ideals of community consultation, promotion of community development, and respect for aboriginal culture. These objectives represent generally-accepted good practice but could be modified based on current performance level, community values and priorities to create a set of objectives tailored to the Cree First Nations.

A revised version of the table below could then be used not only to determine the overall structure of the new housing program, but also to assess the merits of adopting a program focused on homeownership, or other tenure types, and to select the required technical solutions from the list provided below.

		Implementation Factors					
		Funding	Skills	Technology	Organisation	Cultural	Infrastructure
Stages of Housing Implementation	Needs Assessment	<ul style="list-style-type: none"> ➤ adequate resources included in funding ➤ prioritise investment in terms of needs and not funding schemes ➤ benchmark audits 	<ul style="list-style-type: none"> ➤ skills/capacity building assessed in terms of community's ability to supply and utilise them 	<ul style="list-style-type: none"> ➤ appropriate to culture, environment, location and skills ➤ considers on-going maintenance etc. as well as current trends 	<ul style="list-style-type: none"> ➤ co-ordination ➤ avoid overlaps of responsibility ➤ agency acceptable to community ➤ communication with community 	<ul style="list-style-type: none"> ➤ clearly identified ➤ differences recognised 	<ul style="list-style-type: none"> ➤ audit of needs ➤ appropriate for area, culture, etc. ➤ includes skills needed to operate facilities
	Design and Development	<ul style="list-style-type: none"> ➤ technically adequate and addresses priority areas ➤ included in funding ➤ leveraging included 	<ul style="list-style-type: none"> ➤ use of professional expertise ➤ community skills harnessed 	<ul style="list-style-type: none"> ➤ innovation ➤ appropriate to culture and environment ➤ use of local resources 	<ul style="list-style-type: none"> ➤ organisational links to both housing and context ➤ long-term commitment ➤ good design of agency structure 	<ul style="list-style-type: none"> ➤ culturally-appropriate 	<ul style="list-style-type: none"> ➤ plans linked to housing
	Implementation and Construction	<ul style="list-style-type: none"> ➤ flexible funding in a longer-term framework ➤ adequate performance monitoring ➤ reinforce leveraging and different sources for different functions 	<ul style="list-style-type: none"> ➤ local skills development ➤ use of local skills 	<ul style="list-style-type: none"> ➤ remoteness considered ➤ local resources 	<ul style="list-style-type: none"> ➤ project management ➤ integration of local expertise 	<ul style="list-style-type: none"> ➤ cultural timeframes ➤ link to cultural mores 	<ul style="list-style-type: none"> ➤ phased implementation ➤ skills development ➤ issues of remoteness considered
	Post-construction	<ul style="list-style-type: none"> ➤ adequate performance monitoring of rent collection etc. ➤ life-cycle funding sustainable in terms of operations and management initially, and then capital funding ➤ continuing accountability ➤ long-term sustainability 	<ul style="list-style-type: none"> ➤ adequate management ➤ continuing improvement 	<ul style="list-style-type: none"> ➤ low maintenance ➤ life-cycle approach ➤ sustainable environmental and social impacts 	<ul style="list-style-type: none"> ➤ skills in management ➤ on-going training ➤ payments collectable ➤ continuing accountability and responsiveness 	<ul style="list-style-type: none"> ➤ community ownership ➤ review in light of community values 	<ul style="list-style-type: none"> ➤ community ownership ➤ continuing maintenance and management ➤ sustainable environmental and social impacts

Figure 1. Example of Best-Practice Framework Matrix to Assess Housing Programs.

Source: Minnery et al. (2000), pp. 252-253.

B. The Merits of Homeownership

Homeownership is often considered a solution to the housing crisis not only because it rests on firmly established and mainstream economic principles, but also because it confers advantages to various levels of government, to the individual homeowner and to their communities. Furthermore, there are many cases where aboriginal communities have successfully made the transition towards homeownership as the majority tenure. It is for this reason that homeownership can often be considered a solution to the housing crisis.

When assessing the merits of homeownership, it is however important to remember that many of the organisations publishing on housing (such as the CMHC and the Canadian Real Estate Agents) have a vested interest in publishing homeownership success stories in order to fulfill their mandates and ensure future business. As such, failed homeownership initiatives, if they exist, get significantly less coverage. Furthermore, a quick perusal of many of the successful homeownership programs shows that these were implemented within a wider framework, with many ancillary programs and initiatives being key to the adoption and success of homeownership, as will be expanded-upon in the following section.

The Economic and Political Advantage

One of the main draws of a housing program based on homeownership is the idea that the market will “do the work”. In a perfect market system, one where all actors have perfect information, an optimum is reached whereby supply is increased until there is no longer any demand (the marginal cost exceeds the value of the good from the consumers’ perspective). It is therefore thought that a market-based housing system can fill the gap between housing supply and increasing demand that is the basis of the present housing crisis.³⁷ Further, the market should, in theory, be self-governing if the correct institutional measures are in place to allow free exchange of goods (for example ensuring availability of ministerial guarantees and “droits de superficie” to overcome the lack of private land ownership). This property of markets presents a large political advantage to the Canadian and Cree governments as it absolves them of responsibility for housing outcomes, and reduces their costs. In fact for the Canadian government and its associated bodies, pursuing a market-based system would be advantageous as it would bring the Cree communities within the mainstream Canadian framework of housing as a market commodity.³⁸

However, as highlighted above, the current crisis exists in part because of the failure of the market to provide housing to the standards expected in a western society. Relying on the market to provide housing could therefore lead to inequity and an aggravation of the crisis, as will be expanded upon in Section C below.

Benefits to the Individual

Homeownership is popular in many areas because of the economic and social benefits it can provide to an individual homeowner.

Homeownership presents two main economic advantages to a homeowner. These two advantages are based on housing's dual properties of consumer good and investment. The first advantage is the distribution of payments for the consumption of housing over the course of an individual's lifetime. While homeownership presents a significant up-front cost, and large recurring payments for the duration of the mortgage, this burden is usually borne during an individual's high-earning years, such that in retirement the only costs are for maintenance and general repair. This arrangement is in stark contrast to renting, for which an individual's income needs to increase over time in order to keep up with rents, as they tend to increase faster than inflation.³⁹ This benefit however has to be scrutinised in the case of the Cree communities. While detailed income information was not available, it would appear that many individuals in their "high-earning" years do not have stable employment, or are unemployed. Therefore having a large financial burden during this time would be unadvisable, and it might be more appropriate to spread payments out over the course of a lifetime, even if this results in a slightly higher overall cost. Further, if the current system of rent-geared to income were to be maintained, or a similar system of community rentals based on the cost of housing provision were to be established, the uncertainty of possible rent increases and inability to pay in the later years would be mitigated. The second economic advantage of homeownership is that the home can act as an investment, allowing the individual to build equity, which can then be passed on to future generations. This capital generation is seen as being the primary benefit of homeownership, however some argue that it cannot be generated in the closed market that would exist as a result of community-owned lands.⁴⁰ This claim is countered by the experience of the Mohawks of the Bay of Quinte whose homeowners see a good return on investment through a strong resale market.⁴¹ Furthermore, even if the resale value of a home does not provide a capital gain to the homeowner, it remains a physical asset which can be passed on to the next generation for their benefit. However, if the home does appreciate in value, research has shown that this built up equity allows homeownership to act as a form of self-insurance, thereby decreasing individual reliance on state welfare or social assistance.⁴²

Even if the economic benefits associated with homeownership are reduced in aboriginal communities because of low earning capacity in early years and the closed market, the social benefits of becoming a homeowner can still make it an attractive option. Individuals surveyed across various aboriginal communities rather emphasise housing security, the ability to provide for future generations, and pride as being the main positive outcomes of homeownership.⁴³ As the property services clerk of Opaskwayak Cree Nation states, the responsibility of owning a home is a "small price to pay" in order to gain control of housing decisions, and have the pride and security associated with homeownership.⁴⁴ Becoming a homeowner can also reinforce an individual's commitment to moving away from welfare dependency, as expressed by an indigenous Australian homeowner.⁴⁵ It has been observed in fact that homeownership is simply one element of wealth accumulation, with homeownership associated with increased income in the long term, and steady accumulation of consumer goods.⁴⁶ Homeownership could therefore be a driver of positive cultural change in the Cree communities.

Benefits to the Community

In comparison to the individual advantages of homeownership, the benefits accruing to the community are rather limited. The primary benefit cited is the reduction in the community council's financial burden, allowing its assets to be re-distributed or spent on greater provision of housing for low-income or special-needs groups.⁴⁷ In addition, some macro-level studies of inequality at the national level have also indicated that home-ownership, by acting as a form of self-insurance and substituting for social policies may serve to reduce economic inequality.⁴⁸ However, it is unclear that this would also be the case if homeownership was only accessible to a small proportion of the community. Homeownership models may also contribute to community empowerment as they are generally supportive of the self-build and "bottom-up" ideologies.⁴⁹

Governments have also been touting homeownership as the key to a secure home base, which would lead to improved health and education outcomes, as well as safer and more stable neighbourhoods.⁵⁰ This claim is largely unsupported, with evidence largely showing that increased supply of adequate housing, regardless of its form of tenure, has a positive impact on social and community well-being.⁵¹ Finally, a large benefit to the community in terms of educational, social and health outcomes can be created through the proper maintenance of homes. Proper home maintenance not only reduces the health and safety risks associated with homes in major need of repair, but also represents an investment in the community which is generally associated with better community life and safer neighbourhoods. While home maintenance is not necessarily tied to homeownership, many aboriginal communities, such as the Mohawks of the Bay of Quinte, attribute high levels of maintenance to pride of ownership.⁵²

C. Critiques of Homeownership

Theoretical Objections

While homeownership is often identified as a policy solution to the myriad problems associated with housing provision for remote and aboriginal communities, this approach is not without its critics. Many experts, academics, and general observers make claims that a policy or program focused on homeownership is not appropriate for remote and aboriginal communities for a variety of reasons.⁵³

First among these critiques is the idea that homeownership is not culturally appropriate, and moreover that aboriginal cultures are not ready nor equipped to deal with the implications of private homeownership.⁵⁴ This contention is largely based on the precedent of communal concepts of land and property, as well as the importance of family and sharing of resources, and the lack of a cultural concept of homeownership or pride of homeownership. While these cultural obstacles to homeownership have been observed to some extent in the Cree First Nations of Quebec, they do not preclude an evolution of the culture to adapt to new concepts of property ownership. This adaptation may be related to economic status, as in the more affluent Cree communities, some

individuals are starting to use private property, such as trucks or even housing, to demonstrate personal wealth. Furthermore, the concept of homeownership can be used to emphasise culturally important elements such as attachment to the land and the importance of family life, by providing a new means through which these elements can be exercised and reinforced. It is in this way that the Navajo Nation view homeownership as important, and have appropriated it, all while reinforcing their traditional culture. Private homeownership allows them to build a stable home base with can be passed on to future generations.⁵⁵

The point is therefore not that homeownership is necessarily incompatible with aboriginal cultures, but that, as highlighted in Chapter 2, methods of housing provision can impact culture and drive cultural change. Awareness of this fact is crucial as this impact may not necessarily be positive, or desired by the community. For example, as some members of indigenous groups have embraced homeownership in Australia, it has been observed that they are less likely to live in the same home as their extended family, and family visits are for shorter periods, with a contribution expected to defray the costs of providing accommodation. While these individuals have by no means turned their backs on the cultural importance of family, they have reduced the extent to which their property and assets are to be shared with members of their extended family.⁵⁶ It would therefore be important to ensure that homeownership, as a solution to the housing crisis, is not being adopted because of pressure from external government bodies (notably the CMHC) or due to the present funding structure, which could influence policy decisions without accounting for their cultural impact.

A second critique is that due to the remote and often closed nature of the communities, as well as their general socio-economic profiles, housing markets are largely non-existent, would be difficult to establish, and would not provide the same economic benefits to homeowners as is generally expected in mainstream market situations.⁵⁷ As the 1992 Report of the Standing Committee on Aboriginal Affairs concludes, First Nation's economies are structurally different from those of the Canadian mainstream and this difference must be accounted for in policies.⁵⁸ In fact, those promoting homeownership for aboriginal communities often have in mind the goal of making their economies more similar to those of the "mainstream" – as was so eloquently stated in the report on the Indigenous homeownership program in Australia: homeownership is part of a larger scheme to get remote indigenous communities to "operate in the same way as other towns" and have "normal economic activity".⁵⁹ This kind of restructuring, while not necessarily undesirable, should be driven by the communities themselves, not imposed through "top-down" planning.

However, it should be recognised that it is not necessarily feasible for a remote, aboriginal economy to replicate all elements of the mainstream, especially given the legal restrictions placed on aboriginal lands in Canada. Policies must therefore be elaborated as a community, and address the following obstacles to housing market establishment. First is the fact that socio-economic conditions limit the number of individuals eligible for home-ownership, thereby naturally reducing the possible scale of the market, and its viability.⁶⁰ Second, is the lack of an existing market which makes it difficult for lenders to establish a value for the home to be constructed. If the value cannot be assessed, and further cannot be guaranteed to remain stable or increase, lenders are less likely

to make the loan, as they are unsure of the collateral they can recover.⁶¹ In the case of the Canadian aboriginal populations, this concern might be alleviated somewhat by the use of Ministerial Loan Guarantees, and the fact that bands take full responsibility for loan defaults. It is however clear that these objections can be overcome, as there have been a number of successful cases in which homeownership and housing markets have been established in Canadian aboriginal communities .

More fundamental critiques of the promotion of homeownership, and market housing more generally, do not directly relate to the specific case of aboriginal communities, but question the universal applicability of homeownership as a solution for providing adequate shelter and housing as a basic human right. Appeal to these critiques questions the use of homeownership as a solution to the aboriginal housing crisis on two bases; it is an imposition of a globalised, external solution for which potentially more appropriate alternatives exist, and homeownership often fails to provide its imputed benefits, rather depending on the structure of the economy for its success. Here the discussion has a broader focus, looking at macro-level structure of housing provision rather than the details of a specific program.

Critiques of homeownership and market housing in general are based on the idea that housing is a basic human right, which should be provided through the welfare state, as the market system does not create an equitable distribution nor does it ensure adequate supply. Housing is however generally provided under a mixed-economy model in most Western welfare states as households pay to meet their housing needs, and are then subsidised by the state. In theory such a mixed system allows subsidies to be directed primarily towards those in need.⁶² Such a system is what is being proposed by the CRA in their strategic plan when they emphasize that social housing is to be reserved for low-income individuals, and others will be encouraged to enter into homeownership.⁶³ However, the reality for most Western countries is that all forms of housing are in fact heavily subsidised, either directly through social housing, or indirectly through mortgage assistance and tax breaks.⁶⁴ Allowing the market to provide housing, and promoting homeownership as a way of ensuring access to adequate housing has not worked in most of these countries. As stated by Ball, "owner occupation as a form of private market housing provision is not only failing to meet the basic aspirations of most people for decent, cheap housing but is also coming into conflict with the economic interests of most groups in society".⁶⁵

While the rise of homeownership as a dominant form of tenure happened at different times in various countries, in almost all cases it was associated with a house-building boom which made ownership affordable for large segments of the population. In England, prior to WWII, ownership did not necessarily represent a financial advantage, and therefore most of the population lived in privately rented dwellings. It was only once owner occupation became relatively cheaper than renting that those who could afford to buy, did.⁶⁶ However, as of the 1970s when housing construction costs began to rise, homeownership became increasingly inaccessible, with the situation in England now being that those holding a mortgage are employed full-time and have a household income which is 50% above the mean. The economically weakest segments of society have seen a decline in the percentage of individuals who are homeowners.⁶⁷ This points to the fact

that homeownership as a form of tenure is a choice which is made when it is economically sensible to do so, or in the case of little to no alternatives (as is presently the case in England and most Western democracies where private rentals are hard to find and social housing is reserved for those with low income). When housing construction costs are high, and supply is low, homeownership is not the most economically advantageous form of tenure, and can exclude the economically disadvantaged. Therefore a focus on homeownership, when it is not economically advantageous for anyone, has the potential to reduce housing supply, reduce access to adequate housing, increase costs for individuals, require government subsidies, and increase inequalities between economic groups. Ball's summary of the housing situation in England could in fact be universally applied, and is a question that the Cree First Nations must consider when adopting market-based homeownership: "The housing crisis can be seen to be more than just a physical one of a shortage of new dwellings and a deteriorating existing stock. It is one of the cost of housing as well, and of who pays that cost and, as the economic crisis persists, who can afford to pay that cost".⁶⁸ Homeownership simply shifts the problem of rising housing costs from the state to the individual; and if the state wishes to ensure that its members are adequately housed, it will eventually end up bearing these costs in the form of subsidies rather than direct provision. Homeownership therefore does not accomplish the goal of ensuring that those who can afford to pay, do so, nor does it increase the housing supply through market mechanisms.

The use of homeownership and the market to provide housing is all the more heavily criticised given that, in theory at least, other structures of housing provision could exist. Ball, for example, advocates for state-controlled housing, which is not dissimilar to the present structure of housing provision in the Cree First Nations. State-controlled housing does not necessarily imply that the housing is subsidised, rather that it is removed from the market and no longer treated as a commodity to be exchanged. Instead, if land development and housing production is nationalised, and therefore not carried out for profit, a social audit of the system is possible to ensure that it serves the population's needs. Housing would then be provided at cost, and planned building programs would supply housing based on need, rather than according to the greatest profit.⁶⁹ This system does not preclude private homeownership per se, but rather removes the presence of the housing market in which it would generally operate (as is presently the case in Oujé-Bougoumou).

Another possible alternative within a nationalised system, would be to focus on state rental housing, again effectively the system that is already in place in some of the Cree First Nations, notably Chisasibi. This system is advocated as it can provide rent at cost, and minimises the risk, uncertainty and price irregularities associated with the private market. Affordability of rent could then further be ensured through a process of rent-pooling, whereby rent collected from individuals is pooled both across income types and the total housing stock to finance expenditures on operations and maintenance, as well as future construction. According to the historic cost principle, pooling rent across the total housing stock reduces the rents that must be charged, because the cost of building new homes is offset by the low cost of maintaining the older residences. However questions remain about whether such a system can actually be instituted in practice, as examples of universal social housing systems in Europe, were not really universal: low income groups were

excluded by the rental rates which were set to cover costs.⁷⁰ It is therefore clear that some form of subsidy will always need to exist for lower income groups, but the point remains that state-provided, or social, housing remains a possible alternative to homeownership.

While a public rental system does not have a very good track record in the Cree First Nations, it is possible for it to be structured and enforced so as to provide adequate housing to the population. The Enoch Cree Nation, located near Edmonton, is a case in point. There, the Housing Authority remains responsible for all housing needs, and a policy is in place since 2004 which establishes the roles and responsibilities of the occupants and housing department. This policy has ensured that members recognise that homes are important assets, and that occupancy is a privilege for which they must exercise certain responsibilities. Such a simple restructuring has helped the community better plan its housing provision, and has removed it from “crisis mode” as houses are now better maintained, and revenues are collected.⁷¹

One can therefore conclude that while theoretical objections to homeownership for aboriginal communities on the basis that it has never existed there are unfounded, there are some real concerns to be addressed, notably in terms of whether the local economy is properly suited to homeownership, and whether establishing a housing market is in fact the best or most appropriate solution given the present economy and culture in the Cree First Nations. This questioning is particularly relevant given that innovative alternatives to the mainstream Western system of homeownership and market-based housing could exist, and would in some ways be easier to establish in the aboriginal context because of the present structure of housing provision.

Practical Obstacles

In addition to the theoretical objections raised above, there are some practical obstacles to the widespread adoption of homeownership in aboriginal communities, and the Cree First Nations more specifically. These are largely related to the objections above, however they have been observed in various case studies as having a direct impact on the adoption of homeownership.

The first major obstacle is the limited affordability of home ownership in aboriginal communities. As detailed in Chapter 3, homeownership is inaccessible for a large portion of the Cree First Nation population in Northern Quebec, as is in fact the case for remote areas and aboriginal populations more generally.⁷² When looking at indigenous households that had achieved homeownership in Australia, it was found that these individuals were on average better educated and had much higher levels of employment than the general indigenous population. In fact, 88% of the homeowners were employed. The interviewees themselves stated that the conditions needed to succeed as homeowners were stable employment and a decent income, and low levels of other debt.⁷³ In addition, even if an individual is employed with a reasonable income, the large capital costs associated with a home purchase, and good credit rating required for mortgage approval can impose significant barriers to homeownership. In the case of the Navajo Nation, many individuals did not understand the importance of maintaining a good credit rating, and others simply had no formal credit, a situation which would appear to be fairly common across North American

aboriginal communities. This made approval for mortgages almost impossible without prior work to establish a rating or clean up their record. Furthermore, many individuals simply lacked the assets to cover the down payment and closing costs.⁷⁴ This latter requirement is however less of a barrier in the Cree First Nations where the A-base grant can be applied as a down-payment on the mortgage, as long as this source of funding is maintained.⁷⁵

The other side of the equation of affordability is obviously the cost of financing and constructing the home itself, and ensuring its subsequent maintenance. This cost is frequently cited as being prohibitive in remote areas due to labour and material availability, as is the case in some of the Cree First Nations.⁷⁶ Home construction by a private individual, as opposed to band or national construction, can further exacerbated this problem because of the failure to take advantage of economies of scale, the possibility of a poor choice of contractors, material or design, and limited ability for the community to minimise infrastructure provision costs.⁷⁷

The second obstacle is lack of experience with homeownership, and awareness or understanding of its implications. The Australian study of indigenous homeowners highlighted that most of the homeowners had previous experience with homeownership or the use of loans, or had extended family who had engaged in homeownership.⁷⁸ An assessment of homeownership in the Navajo Nation in the USA similarly found that lack of awareness or experience was an important barrier to homeownership, as the process of obtaining a mortgage is rather complex, time-consuming and not necessarily transparent. Many who could qualify for a mortgage simply did not think to do so.⁷⁹ This point is similarly raised by some Canadian cases; for example, when the Lac Seul First Nation serviced 6 lots and made them available for purchase to potential homeowners, homeownership was largely unknown in the community. However after 6 homes were successfully built, the rest of the community became interested in pursuing homeownership.⁸⁰ This demonstrates the very large impact that personal experience with home ownership can have on uptake of the system.

The third obstacle to homeownership is a poor supply of suitable homes. The previous two obstacles have dealt with the demand for homeownership, which may be limited due to economic, social and personal factors. However, if the supply of homes is limited, this can also prevent individuals from accessing homeownership, in much the same way as it poses a threat to one's ability to access suitable housing more generally.⁸¹ In non-aboriginal communities, homeownership is most commonly achieved through the purchase of pre-existing homes or homes constructed by a large-scale developer. It is only the wealthy, or those living in small communities that design and construct their own homes. Further, as highlighted above, homeownership only became prevalent in Europe and North America in a period when housing was in abundant supply.⁸² Shortage in the supply of both land and homes suitable for purchase has been cited as a major obstacle to homeownership programs in the Navajo Nation and remote communities in Australia.⁸³

Necessary Conditions

From a brief overview of numerous cases of homeownership programs being established or attempted in a number of aboriginal communities around the world, a few conditions have been found to be necessary for the widespread adoption of homeownership.

The first among these is interest in attaining homeownership. While it may sound simple, as mentioned above, if individuals are not aware of or interested in engaging themselves into the long-term commitment of becoming homeowners, no homeownership program can be successful. This was exemplified in the failure of the Home Ownership on Indigenous Land Program to meet its loan targets after 3 years of operation. This Australian program was launched to expand the general Home Ownership Program to communally-held indigenous lands in 2006.⁸⁴ While the program's success was also limited due to delays in securing long-term leases for some of the lands in question (the legal question of communal title had not yet been solved), lack of interest in homeownership also undoubtedly played a role in the awarding of only 15 loans in only one community, out of the target of 460.⁸⁵ Similarly, a University of Queensland study of the potential for homeownership in remote indigenous communities found that interest in homeownership was weakest in those communities isolated from more densely-settled "mainstream" communities due to different priorities and understandings, and that therefore homeownership programs may not be suitable in these areas. Furthermore, the community-rental houses already fulfilled some of the roles associated with homeownership, as they constituted a secure form of tenure and were informally passed on from generation to generation.⁸⁶

The need for awareness of, and interest in, homeownership leads to the second key component required for the success of any newly-instituted homeownership program: homeowner education and support. Almost every successful homeownership program includes some form of pre-mortgage homeowner education or capacity-building, as well as often providing homeowner support in the mortgage application and construction processes. These programs were often listed as key in generating not only interest for homeownership, but also making it more likely for potential applicants to be approved for a mortgage, and to cope with its maintenance and the responsibilities associated with homeownership.⁸⁷ This process ensures that homeowners will be successful in their new housing tenure, and that individuals who could qualify for and benefit from homeownership, are aware of its merits and the ways in which they can achieve this form of tenure.

In addition interest and education, homeownership must be financially feasible. Potential homeowners must have a stable income, long-term employment history, and a stable household size.⁸⁸ Homeownership is also generally associated with smaller household sizes, as a larger number of individuals puts additional pressure on household finances regardless of income level.⁸⁹ Therefore, for homeownership to be successful at a community level, a critical mass of individuals meeting these characteristics must be present, otherwise homeownership will remain at best an isolated anomaly. Looking at the Cree communities, it is unclear whether this critical mass is met.

While it is estimated that approximately 20% of the population should be able to easily access homeownership (10% already being homeowners), and household incomes are fairly elevated, especially in Chisasibi,⁹⁰ a more complete analysis would have to be undertaken to assess the income-to-debt ratio of these households, the amount of income available for loan servicing, whether capital assets are sufficient for a down-payment, and the stability of the households' economic situations.

Community and financial structures also have to be set up in order to facilitate access to homeownership. First and foremost among these is the availability of financing. This is a barrier which has hindered the growth of even the most successful homeownership programs. For example, in the case of the Six Nations of the Grand River in Ontario, although 95% of the housing units are individually-owned, and its homeownership program has been operating since the 1970s, over 700 families are waiting to access the housing program. Furthermore, it would appear that increases in funding and capital availability, secured through agreements with the Royal Bank of Canada and the Bank of Montreal in the mid-1990s, will not be sufficient to reduce this backlog due to increased demand. Similarly, the Mohawks of Kahnawake had to establish new agreements with the Bank of Montreal and their local Caisse Populaire to facilitate access to mortgages, and speed up the approval process, as the demand was far outstripping the supply, thereby hindering individual access to homeownership.⁹¹ Second among these is land availability, and the suitability or preparation of this land for construction. As may be obvious, if suitable land is unavailable, or lots are not serviced for residential construction, the cost of homeownership rises dramatically, making it less accessible, and in extreme cases homeownership may simply become impossible if no land is available. This is a challenge that was faced by the Mohawks of Kahnawake, who had to open up a new area of land outside the community for residential construction, and is a challenge the Six Nations are currently dealing with, as property prices inside the reservation are now higher than in surrounding communities.⁹² In the case of the Lac Seul First Nation, lack of funding to open up new serviced lots for construction has halted the homeownership program completely.⁹³ Land availability, and the related affordability of construction, is therefore a key component to the success of any housing provision system, but homeownership seems to be particularly sensitive to it due to the dramatic effects it can have on home affordability for the individual.

Homeownership alone is not THE solution

Not only are there some theoretical objections and practical obstacles to promoting homeownership as a housing provision system, but homeownership alone cannot solve the challenges discussed in the previous chapter. In fact, it may make some of them worse.

In terms of housing affordability, homeownership, in the sense of construction by individual homeowners, is likely to increase construction costs and potentially have a negative impact on housing quality. As it stands, the homeownership system proposed by the CRA gives full discretion to the individual in terms of choice of design, materials and contractor, and makes the individual fully responsible for managing the construction of his or her home. While this is a liberty many might enjoy, as has been outlined previously, such a system could result in the choice of

inappropriate or unsuitable designs, and constructions. As people will often choose the cheapest materials and designs, the lifetime cost of the home may increase due to their unsuitability for the local climate and conditions. Furthermore, benefits of group purchase of the materials are lost. Overall cost of the home would potentially further be increased given that the hired contractor and labour might not be local, depending on the applicability of a Nation's local hire by-law to individuals. Even if locals are hired, single buyers do not have the leverage to obtain competitive rates. Finally, it is unlikely that an individual looking to build his or her home will have sufficient knowledge to properly oversee the contractor and the quality of the work done, potentially resulting in increased maintenance costs in the future.

Furthermore, given the discussion above, and the economic situation of individuals in the Cree First Nations, subsidies for homeownership will have to be maintained in order to ensure the affordability of this type of tenure. Homeownership therefore will not directly reduce the Cree First Nations' dependence on external funding, be it government grants, or financial institutions. Even if a Nation were to set up an internal fund from which homeownership could be subsidised, as is the case in Oujé-Bougoumou, these types of systems have capacity limits both due to the size of the capital deposit and insurance rates, which would likely not be able to meet the growing need of the population. Further, if construction costs continue to rise faster than the increase in local income, the subsidy amount will have to be gradually increased, further straining such a subsidy mechanism.

While homeownership is largely praised as being the basis for a stable and performing economy, it is not clear that any such causal link exists. Homeownership has been associated with individuals earning higher incomes, but the direction of the causality is unclear, with the main hypothesis in the case of aboriginal groups being that those who enter into homeownership have already engaged in a wider commitment to financial independence, notably observed through a long history of employment prior to home purchase.⁹⁴ Homeownership may therefore be made possible by economic development, rather than being a cause or contributor to it; although it is clear that homeownership creates a number of associated industries, and so in that sense could contribute to diversification of the economy. However, as expressed previously, a pre-condition to homeownership as a general program is first that it be affordable for the majority, which will require economic growth in the Cree communities. In the short term, it is not clear how homeownership would drive economic development to a greater extent than general housing construction.

One of the other major challenges facing the community is maintenance of the housing stock. While homeownership would remove the responsibility for management and maintenance from the hands of the nation's housing department, it by no means provides a guarantee that the housing stock will be well-maintained and that problems with mold will not persist. The idea that maintenance levels are improved for homeownership in comparison to rental situations is a widely held opinion, but this is backed up by relatively little evidence. In fact, property maintenance, even

in the case of homeownership, would appear to depend on other factors, such as the initial quality of the home, the cost of maintenance, and the economic capacity of the individual homeowner.⁹⁵

In the particular case of Chisasibi, land shortage also poses a severe challenge for accommodating future growth. Just as in the case of construction costs, allowing individuals to make decisions about the design and location of their home, and to engage in construction in an independent manner is unlikely to produce the desired results. Homeownership, taken alone, will in fact tend to exacerbate the problem of sprawled, unplanned growth. The only solution to this particular problem would be to enforce a growth plan for any new construction.

As can be seen from the discussion above, while homeownership can be advantageous, primarily to the individuals who can access this form of tenure, it has its drawbacks and depends on larger economic and social structures, as well as a significant investment to create the necessary support structure. Homeownership therefore represents simply a transfer of responsibility to the individual in terms of financing construction and responsibility for maintenance; alone it is not a solution to the challenges faced by the Cree First Nations. Therefore, as concluded in a study of the potential for homeownership on remote community title land in Australia, “home ownership should not be seen as a blanket policy solution to problems in Indigenous housing in remote settlements, nor as a means to relieve pressure on funding for new houses, nor as a panacea to Indigenous development”.⁹⁶ Homeownership is therefore only one potential piece of a larger framework that needs to be established in order to ensure sustainable provision of adequate housing for the Cree Nations of Eeyou Istchee.

D. Technical Solutions

Should the Cree First Nations choose to go ahead with a housing program which includes homeownership, below are an array of technical solutions to the obstacles presented above, and the challenges listed in the previous chapter. Some of these are provided simply as a reference of what is possible, while others would be more strongly recommended as they are directly applicable to the situation of the Cree communities. In fact, some of these solutions are already in place in one or more of the Cree First Nations, and should be continued and possibly even adopted by the other communities. Further, some of these solutions are not restricted to homeownership, and could be integrated into any chosen housing program.

Reducing construction costs

Local labour

There is general consensus that the use of local labour would decrease the overall cost of housing, primarily through avoiding transportation and accommodation costs associated with external labour.⁹⁷ Furthermore, the use of local labour would have the advantage of ensuring that economic benefits of construction were accrued locally. However, as mentioned in the previous chapter, there are issues associated with the use and availability of local labour, notably in terms of

the availability of skilled tradespersons (plumbers and electricians) and the management capacity of some of the local contractors. Therefore, means used to ensure use of local labour, such as local labour by-laws (already in existence in a number of the Cree Communities) could be coupled with education and training initiatives, as was done in the case of Cherbourg, Australia. In this case the community partnered with a local post-secondary college which offered courses to develop housing construction skills among locals.⁹⁸ While the Cree First Nations have already had many years of experience using local labour, this was often with external contractors. Therefore a Cree partnership with a local college could focus not only on training in specialised trades, but also building skills in management and entrepreneurship, to increase the reliability of local contractors and the management capacity of the housing departments. It is also the case that in addition to local capacity-building initiatives and external training, time will be an important factor in the accumulation of experience and human capital.⁹⁹

Densification

Densification, in the sense of constructing housing units more closely together, as well as building more multi-unit dwellings, is also a simple tool for reducing construction costs. These savings come from a number of sources, including lot servicing, land consumption, and, in the case of multi-unit dwellings, per-unit cost of construction. This strategy is proposed by a number of professionals, particularly for the Cree situation, as it would not only reduce construction costs to the community (lot cost is estimated at about \$70 000 in Chisasibi), but also economise on scarce land resources, and provide a form of housing that is more accessible for the communities' young single workers.¹⁰⁰ However, as mentioned in Chapter 3, the Cree communities have become used to low-density development, and living in single family homes. Such a transition towards more dense forms of living may be met with high levels of resistance, and would therefore have to be implemented very carefully, in consultation with the community. This is not to say that this technique is impossible; it has been employed by the Navajo Nation in the USA, in conjunction with development planning,¹⁰¹ and is in fact already in use in Oujé-Bougoumou, where multi-unit dwellings are already constructed for singles and the elderly to provide them with more affordable alternatives.¹⁰² Densification is also occurring in other First Nations across Canada, especially those in which shortage of land is becoming an issue, as in the case of the Six Nations of the Grand River.¹⁰³ If properly planned, densification also has the added advantage of increasing the accessibility of community activities, especially for those without access to a vehicle.

Design and choice of material

While construction costs can certainly be reduced through the use of pre-fabricated homes, or housing models imported from southern areas, there are other environmentally-sensitive design adaptations that can be made to make houses more economical and climate-responsive. First among these is eliminating the use of basements. The use of basements is poorly suited to the northern climate, the particular geological conditions found in Northern Quebec, and material availability. Low levels of light, and large amounts of snow in the winter make finished basements an impractical option. Further, in communities such as Chisasibi, the soil is not suited to digging the

deep foundation required for basement installation. Finally, basements require the use of a large amount of cement for which a high premium is charged in the north, due to the need to mix it on site.¹⁰⁴

Alternatively, instead of changing the housing shape, it is possible to reduce costs through the use of alternative materials, such as preserved wood foundations, if soil and ground conditions allow. This method was employed in Oujé-Bougoumou at the time of the initial village construction, and significantly reduced the initial cost per unit.¹⁰⁵ However this use of alternative materials has been criticised, as it would appear that much of the cost savings were eventually eliminated due to the need to replace a large proportion of the foundations following water seepage.¹⁰⁶ It is therefore advisable to ensure the applicability of alternate materials or designs before implementing them at a large scale.

However, individuals living in these communities and even the housing departments themselves are unwilling to make such changes as they involve additional costs, and residents are generally used to and satisfied with the current models.¹⁰⁷ pre-fabricated housing units are not at all adapted to the northern climate, and often do not even account for variations in terrain of the lots on which they are to be erected. Furthermore, these are often built or put up by contractors from the south which were privately hired, which can be problematic since these individuals lack experience working in Northern areas.¹⁰⁸ Overall then, due to the extreme climate conditions in Northern Quebec, especially for the more remote communities such as Chisasibi, it can be less costly over the lifespan of the building to use more expensive designs and materials which are climate-adapted. For example warm roofs or mold-resistant materials will cut down on energy consumption, and reduce the premature deterioration of the structure.¹⁰⁹

Finally, using a pre-existing model or template for housing construction, with few additions or personalisation can also reduce construction costs. While an example of standardisation, this method is already used in many of the Cree First Nations for the community and s.95 housing, notably in Chisasibi. The cost reduction associated with using a common model was observed during the period in which Chisasibi allowed individuals to make design requests and modifications to their homes prior to construction, resulting in increased costs and construction delays.¹¹⁰ Although this example is for community-owned housing, it can equally be applied to homeownership whereby a portfolio of climate-adapted housing designs can be provided to mortgage applicants.

Maintenance and Renovation

Maintenance and renovations can impose important costs to a homeowner over the course of a building's lifespan if general maintenance and minor repairs are not carried out regularly. Different solutions are again available to ensure that regular maintenance is carried out, and large renovation costs are avoided. The first is, as stated above, choice of appropriate materials and design. To this effect, the Mohawks of the Bay of Quinte imposed their own stringent construction and efficiency standards to improve the quality and the durability of the housing constructed on their territory.¹¹¹ The second measure is through education and support. The Navajo Partnership

for Housing, which is responsible for promoting and supporting homeownership in the Navajo Nation, for example, includes a section on basic construction issues and techniques in its homebuyer's course. It also carries out a post-purchase visit to new homeowners, offering advice on home maintenance, among other services.¹¹² In this vein, it would be possible to carry out regular workshops on home maintenance and renovation, and provide support to individuals looking to renovate their homes, in order to ensure such work is carried out regularly and at low cost. Third, it would theoretically be possible for the band to retain responsibility for home maintenance and renovation, for example by charging a service fee, which would ensure that regular home inspections, necessary maintenance, and minor repairs were carried out. The idea of continued band control will be further expanded in the following paragraph.

Band/First Nation Government control

Another simple way to reduce construction costs is for the band, council or nation government to retain control of housing construction. This control can be exerted to varying degrees, ranging from passing stringent by-laws regulating construction, through publishing of development plans, to the band acting as a developer, or contracting a developer, constructing housing and subsequently selling it to its members. This band control could extend to the full lifetime of the home, although this degree of band control has not been observed in any of the cases consulted as one of the main motivations for adopting homeownership is precisely the handing over of responsibility for maintenance to the individual. A good example of a system of strong band council involvement in construction is in fact that of Oujé-Bougoumou. In Oujé, the housing authority determines the types of homes to be constructed in a given year, based on assessed need. These homes are then sold to individuals who take out a mortgage with the band, or leased through their rent-to-own program.¹¹³ In other First Nations, a lesser degree of control is exercised. For example, in the Six Nations of Grand River Territory, the majority of home construction is carried out by private individuals, however the community is building a 50-unit senior's residence to complement this housing supply. K'ómoks First Nation in BC similarly allows individuals to build their own home, but the plan and contractor must be approved by the band prior to the commencement of construction.¹¹⁴

The advantage of the band controlling housing construction to varying degrees is not only felt in terms of economies of scale, but also in the ability to enforce all of the above cost-saving measures. Band or government control allows for planned development, densification, and ensuring appropriate design, and could also extend to management of maintenance and renovation. This would negate many of the drawbacks of homeownership listed in the previous section. Further, as stressed in the first section of this chapter, given that adequate housing supply is just as important to homeownership as affordability and socio-economic factors, the band could have an important role to play in boosting housing supply to promote homeownership.

Education, promotion, support and assistance

The methods described below have been variously used alone or as part of a single coherent program to meet the necessary condition of educating future homeowners, and providing them with support or assistance. In some cases, an independent non-profit, such as the Navajo Partnership for Housing in the Navajo Nation or the Manitoba Tipi Mitawa, has been established in order to provide a one-stop-shop offering programming, information and technical support to assist potential and current homeowners. The advantage of such a system is that a non-profit can be eligible to obtain certain forms of funding and donations a government cannot access.¹¹⁵ Furthermore, as it operates independently from the local governments, its work is not political, and it can offer services to a wider area. It is however also possible, as is already the case with the CRA's Housing Authority, for the local or regional aboriginal government to take on this role directly. Furthermore, in Canada, the CMHC already offers many services similar to those listed below, to which the local government or non-profit can refer its prospective homeowners, as is done in the case of the Manitoba Tipi Mitawa.¹¹⁶

Outreach Activities

Outreach activities are important to attract individuals to a homeownership program, and to build general interest in and understanding of the concept of homeownership. The Navajo Partnership for Housing (NPH) offers good examples such activities: providing program information, holding orientation sessions in the communities and at places of work, and holding regular homeownership fairs at various locations within the Nation. These forms of outreach advertise not only the benefits of homeownership, but also the services and programs offered through the NPH. These activities have been very successful in attracting individuals to the educational programs, and to submit mortgage applications. The CRA has in fact already begun to engage the Cree population in this way, through the publication of a pamphlet outlining the benefits of homeownership, as well as an estimate of the overall and monthly costs associated with such a form of tenure.¹¹⁷ The example of the NPH shows that there is scope for these outreach activities to be expanded and enhanced.

Homeownership and financial management courses

Offering courses in homeownership and financial management appears to be one of the most common and effective ways to ensure not only that individuals proceed with a mortgage application, but also that they are well-positioned to pay off their loans and maintain their home into the future. A large number of government bodies, non-profits and local communities offer such courses which can range from simple workshop sessions to part-time courses which offer a certificate upon successful completion of the program. The content of the courses also varies in the different cases. For example, the NPH offers a full course for homebuyers which deals with general homeownership concepts and responsibilities, the specific mortgage process for First Nations, and basic construction issues and techniques.¹¹⁸ In contrast to the NPH's very broad course, the Home Ownership on Indigenous Land (HOIL) Program's educational component focused on money management.¹¹⁹ There are different advantages associated with offering courses of different scopes. For example, a broad course like that of the NPH ensures that homeowners are prepared for all

aspects of homeownership, and are therefore more likely to experience a high level of satisfaction.¹²⁰ However, one can assume that such an intensive and complex course could suffer from lower participation and completion rates than less demanding course such as that offered by HOIL, which had a perfect graduation record in its first 3 years of operation.¹²¹ The First Nation Market Housing Fund offers funding to eligible First Nations in Canada for such courses and workshops through their Capacity Development Program.¹²²

Another educational service which can be highly beneficial to prospective homeowners is individual counselling. This service is offered by the NPH and is generally used to cover questions of personal finance in greater detail than can be accomplished in a group course.¹²³ The K'ómoks First Nation also offers similar financial support to its members, through personal assistance from the band manager, however this is provided to individuals already in the process of seeking mortgages, and therefore demonstrates the overlap between mortgage assistance and education programs.¹²⁴

Incentivisation

Another rather simple tool for attracting interest in homeownership is to provide incentives to individuals who access or are applying for a mortgage. This tactic can also be used to promote available educational programs to increase the chances of successful mortgage applications and positive homeownership experiences. While the Australian Home Ownership on Indigenous Land (HOIL) program was not successful in attracting many mortgage applicants, for the reasons outlined in Section C, it is possible that its incentives component could be useful in other contexts. The HOIL offered three separate financial incentives. First was the Good Renters' Discount which gave a grant towards the purchase of the new home to individuals with a good rental history. Second was the Matched Savings Scheme which provided half the initial deposit on the mortgage to individuals who had completed the money management classes. Third was the Establishment Grant which reimbursed individuals the up-front costs associated with obtaining a mortgage and initiating construction.¹²⁵ Similarly, the Manitoba Tipi Mitawa covers the down payment on the mortgage for its mortgage applicants if the three educational components it prescribes have been completed.¹²⁶ Due to the infrequent use of incentives to promote homeownership, it is unclear how efficient such a tactic is in comparison to simply offering the other services listed in this section and making people aware of these opportunities.

Mortgage Assistance

Mortgage assistance appears to be crucial to supporting first-time homebuyers to navigate the rather complex process, select the financing option most suited to their needs, and prepare a mortgage application package that is likely to be approved. This kind of assistance is already offered in most First Nations as a matter of course, due to the requirement for the band to back an individual member seeking a loan. However such assistance can be expanded in many ways. First, the NPH offers not only personal financial counseling, which assists an individual in the process of finding a lender, as well as assistance in assembling a complete mortgage application, but also financial assistance by distributing funding from external organisations or government grants.¹²⁷ As

highlighted above, the K'ómoks First Nation also offers mortgage assistance by providing an information package and direct assistance from the band manager to all applicants seeking a mortgage through the band.¹²⁸

Post-purchase Assistance

Post-purchase assistance is less common, but appears to be an effective way to retain homeowners and ensure a positive and successful experience over the life course. It can also be offered upon mortgage approval, as a way to support the new homeowner throughout the construction process, which can be a daunting challenge for an individual inexperienced in construction or management. The NPH offers both such services. First, upon mortgage approval, it offers assistance to the individual in hiring a contractor, choosing their housing design, and monitoring the contractors' performance. Next, in the years after the home is completed, the NPH carries out home visits, advising individuals on possibilities for home retention in the case of financial difficulties.¹²⁹ Such construction assistance is also provided by the K'ómoks First Nation in a more indirect way through their band approvals process. As the mortgage is applied for through the band, and the band subsidises housing construction (much as is done in the Cree First Nations), the band is able to withhold final approval of the home and the certificate of possession demonstrating ownership of the home and right to the land (similar to the Cree right of superficie). The housing subsidy is paid directly to the contractor by the band, and once this amount is spent, the mortgage is then tapped-into to complete the payment. The band therefore uses its control of the process to provide assistance to the individual homeowner, by not only approving the housing plan and contractor, but also withholding payment to the contractor until after inspection of the work done.¹³⁰ The Mohawks of the Bay of Quinte use a similar band-controlled approvals process. Before funding is allocated, but after mortgage approval, the applicant must submit a detailed environmental report, as well as a house plan and construction cost sheet. During construction, the band only releases the funding after approval by the Housing Inspector in each stage of their 6-stage construction inspection process.¹³¹

Financing

In addition to obtaining a regular mortgage through a bank loan supported by a ministerial guarantee and backed by the band, there are three other ways in which the band or council can facilitate the financing of constructing or purchasing a new home.

Revolving Loan Fund

Revolving Loan Funds are remarkably common among First Nations in Canada. These were generally set up to eliminate or reduce dependence on external sources of funding by amassing capital from a variety of sources in order for the band or council to act as a financial institution. The Mohawks of the Bay of Quinte and the Six Nations of the Grand River both set up such a financing mechanism in the late 1960s and early 1970s by saving the surplus from the CMHC housing subsidy.¹³² Similarly, at its establishment in 1992, the Oujé-Bougoumou Cree Nation set aside money from its federal grant to establish a Housing Fund, to not only provide the financing for the homes, but also to subsidise the cost of construction.¹³³ The Lac La Ronge Indian Band also

established such a fund as late as 2005 through an agreement with INAC when the community chose to focus their housing efforts on increased homeownership. Revolving loan programs can also be used to assist in financing renovations, as is offered by the Mohawks of the Bay of Quinte through their Residential Renovation Policy, with special regard to providing financing free of conditions where health or safety are concerned.¹³⁴

One of the main advantages of having a band-financed system is the ability to reduce the overall cost of construction through low interest rates, or even providing interest-free loans, making housing accessible to a larger proportion of the population.¹³⁵ The Mohawks of the Bay of Quinte's (MBQ) revolving loan fund, which provides affordable mortgages to between 7 and 14 families each year, is an example of how a revolving loan fund allows mortgages to be tailored to the community's needs.¹³⁶ The MBQ revolving loan program uses a Housing Affordability Scale to determine the amount of the mortgage that can be awarded to a given applicant, in order to ensure that the mortgage can be repaid without affecting prior financial commitments (loan payment at 30% of gross monthly income). Only a very small down-payment (1%) is required, thereby allowing even those with little accumulated capital to access homeownership. Further, to the revolving loan program assists in maintenance of homeownership, by providing an interest-free mortgage to seniors over the age of 55 to renovate a primary residence. Accessibility is further promoted by basing the credit check on the applicant's history within the community, for example by looking at payment of service charges, rent, or previous loans or promissory notes taken out with the community.¹³⁷ Using culturally-appropriate forms of mortgage approval, especially in terms of the credit check, is widely recognised as promoting homeownership among aboriginal groups. For example, in Australia, individuals participating in the Home Ownership Program were most likely to have their loan with the Indigenous Business Australia (IBA) financial group, not only because of their low interest rates and deposit requirements, but also because many of the individuals could be approved through their process despite being declined by mainstream financial institutions. None of the individuals who had been previously declined were in danger of defaulting on their present loan with the IBA.¹³⁸

Locally-provided loans, made possible by a revolving mortgage fund, are therefore key to increasing the accessibility and affordability of homeownership in aboriginal communities. However, these mechanisms are limited by the amount of capital present in the fund, which can severely restrict the number of loans available at any given time. In the case of the Six Nations, there is an 8-10 year waiting period to obtain a loan!¹³⁹ Further, there is no guarantee that the fund will grow at the same rate as the increase in housing construction costs, meaning that the effectiveness of these funds could be dramatically reduced over time, as is proving to be the case for the Oujé-Bougoumou Cree Nation. The Six Nations have in fact structured their fund such that it receives an annual boost, whereby 20% of the capital is derived from their AANDC grant, with the other 80% coming from rental and mortgage revenue.¹⁴⁰ Increasing demand, limited fund size, and increasing housing costs have pushed a number of First Nations, including the Six Nations,

the Mohawks of the Bay of Quinte, and the Mohawks of Kahnawake to seek partnerships with financial institutions to secure a larger source of capital.¹⁴¹

Bank Partnerships

Mainstream Canadian financial institutions are becoming increasingly open to creating flexible banking solutions for aboriginal groups and First Nations and have therefore become a good source of capital for many First Nations operating revolving loan funds. There are two main ways in which First Nations can partner with mainstream banks to ensure successful mortgage applications for their members. The first is by coming to an agreement on a basic mortgage package which can be applied for by the individual, backed by the band. This is the system used by the Mohawks of the Bay of Quinte and the Mohawks of Kahnawake, who have both established a partnership with the Bank of Montreal to ensure faster processing of the loans.¹⁴² The Mohawks of Kahnawake have also established a similar program with their local Caisse Populaire. Similarly, the Lac La Ronge Indian Band was able to establish mortgage loan programs with the Bank of Montreal and the Royal Bank of Canada when it established its revolving loan fund in 2005. As of 2009, it has been able to review these agreements to obtain lower interest rates by using the First Nations Market Housing Fund as a second guarantor on the loan. This has made homeownership affordable even for low-income families.¹⁴³ The second system, developed by the Six Nations of the Grand River Territory in partnerships with the Bank of Montreal and Royal Bank of Canada, acts as a capital allocation to the First Nation, from which it can draw at a fixed interest rate when it receives mortgage applications beyond the capacity of its revolving loan fund.¹⁴⁴ Individuals however still have to go through the regular bank mortgage approval process. The Royal Bank of Canada has made this program available nationally as of 2001.¹⁴⁵

Although more costly than locally-financed mortgages, mortgages from mainstream banks have become a necessity due to the capital limits of the revolving loan programs, and the ever-increasing demand for homeownership. Securing a special agreement with the bank to facilitate and speed-up the approvals process, as well as to obtain lower interest rates is a good way of tapping into this external source of capital, without dramatically decreasing the accessibility of homeownership. Furthermore, such agreements allow mortgages to be obtained without recourse to Ministerial Loan Guarantees, thereby speeding up the process and eliminating an additional fee to be paid to the CMHC.¹⁴⁶ Setting up mortgage agreements would therefore facilitate access to financing, not only as a supplement to a revolving loan fund, but for all the Cree communities.

Rent-to-Own

Although they do not represent an additional source of mortgage financing, rent-to-own programs managed by the band or council, are an interesting way for an individual to finance private homeownership if he or she cannot get a mortgage approved or does not have sufficient assets or income. Such programs exist in a number of First Nations, with slight variation in their management styles, however they are generally aimed at the low-income groups in the community. This is the case for the Six Nations, Oujé-Bougoumou, and the Mohawks of the Bay of Quinte.¹⁴⁷

Increasing supply

As outlined in the previous sections, in order to ensure the success of a homeownership program, it is important for the housing supply to increase, especially as it is often easier for a first-time homeowner to buy a pre-existing property.¹⁴⁸

Band-sponsored Construction

As is done for the regular community or s.95 housing, it is possible for a band, council or housing department to construct housing for purchase by individual members. This is effectively the situation in communities such as Oujé-Bougoumou where control of construction is retained by the band, as described above. However, the possibilities for this type of supply expansion are limited as bands often have limited capital assets and may not be willing to take the risk of developing large amounts of housing for which no mortgage has yet been approved, or owners identified. Such an initiative was however successful in the Six Nations community where three housing subdivisions (totalling 273 units) were developed in 1968 using DIAND and CMHC allocations to form the base of the nation's rent-to-own program.¹⁴⁹

Housing Developers

While not common practice in Canada, it would theoretically be possible for a band or council to provide a long-term lease for its community land to a housing developer, who could then build upon the land and sell the completed units to band members. It is however not clear that many developers would be willing to take the risk of operating in a closed market where profits will necessarily be lower because of the limited demand for luxury units. An alternative to the traditional developer would be non-profit organisations, and institutions focusing on aboriginal business and development, and government departments which appear to be willing to engage in such a process in the USA and Australia. The NPH for example has expanded its area of action in recent years, and by 2009 was acting as a real estate developer in the Navajo Nation, in addition to continuing its homeownership education and mortgage assistance programs.¹⁵⁰ Similarly, as part of the (HOIL) Program in Australia, the Commonwealth Department responsible for Indigenous Affairs constructed 45 homes in two communities which were then sold to individual homeowners.¹⁵¹ It would therefore be possible to envisage that the Cree First Nations could enter into such partnerships with Canadian Aboriginal organisations, business associations or developers, or even mainstream developers, especially as mainstream banks become more involved in aboriginal mortgage financing through the agreements described above. Alternatively, given their strong propensity for development, adaptation and independence, the Cree First Nations could organise at a regional level to create a residential development agency or organisation which could obtain financing for construction of large volumes of units.

E. Recommendations going forward

The Need for a Complete Program and Community Engagement

As has been demonstrated in the previous section, there are practical solutions and programs which can be put in place to build a successful homeownership program that tackles some of the housing challenges facing the Cree First Nations. Together, one or more of these measures can be assembled to create a robust and sustainable homeownership program which provides the benefits of homeownership to as large a section of the community as possible, while mitigating the potentially negative outcomes of private homeownership. However, proper implementation of such a homeownership program requires a large investment, in terms of financial and human resources, and its effects are likely to only be observable in the long-term. For the Australian HOIL program for example, the costs associated with administering and establishing the program, as well as providing the education support to participants were significantly higher than that of providing the loans.¹⁵² As is presently the case for individuals seeking homeownership in the Cree communities, subsidies and financial support to access mortgages and make them affordable for middle- income groups will need to be maintained or increased if income does not increase in stride with the cost of construction. Furthermore, the long-term nature of this solution can be exemplified by the Navajo Partnership for Housing, which had only closed two mortgages 3 years after beginning operations.¹⁵³ However, after almost 15 years of offering its services, the NPH was assisting approximately 25 families per year and had established its own revolving loan fund.¹⁵⁴

The large investment required to establish and maintain such a successful homeownership program, and the length of time needed to see results has two major implications for the Cree First Nations. The first is that community consultation and discussion is essential, and the second is that a short-term solution to the very acute crisis still needs to be devised if homeownership is to be pursued. However, an analysis of the housing crisis in Nunavut has produced the recommendation that due to the almost complete absence of a housing market in the territory, and the structural difficulties in implementing one, the Nunavut Housing Corporation should focus on public housing rather than homeownership.¹⁵⁵ It may well be that the optimal housing program for the Cree does not include promotion of homeownership, but rather leaves this as an option for wealthy individuals to pursue.

It would therefore be advisable, prior to launching a homeownership program, that the Cree First Nations and the CNG engage in a participatory planning exercise to determine the best approach, or approaches, to tackling the housing crisis. Following the 4-step process outlined in Section A of this chapter to devise a best-practice framework could lay the foundation for meaningful negotiations between the two levels of Cree government, as well as discussions and consultations within the community. This assessment would allow the population to better understand the housing crisis and the possible approaches to resolving it, and could therefore lead to more innovative solutions and ideally to widespread engagement with and support for the chosen alternative(s). The power of community engagement in devising a sustainable housing policy is exemplified by the Enoch Cree Nation, which held a community vote on their new rental

housing policy. This direct community approval created community buy-in to the system that had previously been lacking, resulting in a “stronger recognition that homes are important assets” which contributed to alleviating their severe housing crisis without recourse to a market-based solution.¹⁵⁶

Although time-consuming and resource-intensive, community engagement in making such a decision is imperative, as the housing program chosen will shape the community and its future development. Furthermore, any housing program implemented to resolve the crisis in the long-term will require a large investment of capital and human resources, as well as recurring costs for program operation and maintenance. Community members should therefore, as a matter of principle, be involved in deciding how their resources are allocated for the future. Finally, their involvement in such a process can facilitate decision-making by elucidating the “real” demands imposed on a housing system and the trade-offs the community is willing to make, through “public appreciation of the value of different service options and an understanding by consumers of what they can or cannot afford”.¹⁵⁷

Community engagement must also be harnessed to devise or approve a short-term solution to the housing crisis. A top-down decision-making structure is doomed to failure. For example, while the measures proposed by the CRA in their strategic housing plan are a good first step to alleviating the desperate housing conditions in some of the communities, they will require some major changes to established norms and practices. Therefore, community acceptance of these new measures, as well as awareness of the role that individuals can play in ensuring their success, will be essential to ensure that individual behaviour does not eliminate the expected positive outcomes.

Beyond community engagement in the planning stages, individuals and the Cree First Nations should be able to retain a degree of control over their housing. A successful housing program must therefore include a variety of options from which the individual can choose, and which serve the needs of all segments of the population. This is already acknowledged to a certain extent in the CRA Strategic Housing Plan, however the plan as it stands attempts to push middle-income households towards homeownership through rent pricing. As a 2010 study on homeownership amongst indigenous Australians concluded, homeownership should be provided as a choice, along with other development pathways, such that an individual can make an informed decision about his or her housing and financial future.¹⁵⁸ This implies that alternatives to homeownership should be available to all, not simply to those who cannot afford homeownership, as was advocated by Ball in his assessment of the 1980s British housing crisis.¹⁵⁹ In the case of the Cree Strategic Plan, this concern could be resolved for example by maintaining rent at 25% of income, but capping it at market value or real unit cost. The idea of providing alternatives should be integral to any housing program that is devised, as it is largely through choosing an alternative and committing to it that pride in one's home or property is created, and it is this pride and accompanying sense of responsibility which appears to be a missing ingredient so desperately sought by the housing departments, the Cree First Nations, professionals, and the CRA.

Suggested Program Orientation

The CRA/CNG and the Cree First Nations are facing difficult choices in the area of housing provision due to the existing shortage combined with decreasing Federal funding and increasing housing need and construction costs. While there is no clear blanket solution, the CRA has created a strong Strategic Plan which it hopes the communities will adopt to stabilise the housing situation. The first two orientations of the Strategic Plan, which aim to stabilise and increase community housing revenue through increased rents, are exactly what is needed to ensure the program remains self-financing. However, the plan also proposes market-based homeownership as a way to increase housing supply through the investment of private capital and to reduce demand for publicly-provided housing units. It is unclear that an increased housing supply and corresponding decreased financial burden on the community housing program will result from simple rent-pricing and promoting awareness of the benefits of homeownership. As has been outlined in this chapter, adoption of homeownership depends upon increased housing supply, individual capacity and interest, and most importantly economic growth and development, which is uncertain and difficult to control. The CRA appears to be well-aware of these challenges, however little mention appears to be made of the large investment in time and resources that will be necessary to launch a market-based housing system.¹⁶⁰ Furthermore, increasing construction costs remain a major barrier to the sustainability and affordability of any housing program, as both individuals and the Cree governments have constrained budgets. It could in fact be interesting to try and retain higher-income households in community housing in order to avoid the problem of low average rents that cannot cover construction or maintenance costs, as will be expanded upon below.

Given that the question of how to sustainably provide affordable housing within the Cree context is one that has been extensively considered by the CRA and its member First Nations, it can be expected that much of the information presented above will simply confirm existing knowledge. The question that remains therefore is *why* the CRA's plan relies so heavily on homeownership, especially given that some communities appear to be resisting this approach. Is this policy direction the result of pressure from external sources (such as the CMHC) or an attempt to align the Cree housing system with that of mainstream Canada to ensure continued Federal funding and support? Is homeownership a way for the CRA/CNG to cope with a constricted budget by increasing individual responsibility for housing construction? Has homeownership been chosen because it is the most prevalent example of a successful housing system in Western economies, generally associated with strong social and economic development? Or is homeownership rather a well-thought out approach, resulting from the analysis of multiple alternatives? If the latter is the case, this information should be published and promoted, and specific plans should be made for each Cree First Nation to incorporate the relevant technical solutions, detailed above, to ensure successful adoption of homeownership and a housing market.

However, if it has not already been done, an in-depth assessment of all available options should be carried out according to a participatory planning structure, to devise one or multiple housing programs which are adapted to the specific context, challenges, and priorities of each Cree

First Nation. Even if the current Strategic Plan turns out to be the most viable alternative at a regional level, it should be possible to further adapt it to the situation in each community.

Given the high cost of establishing a homeownership program, the small proportion of the population that could readily access such a program, and the fact that homeownership programs alone do not increase the supply of housing or its affordability, in my opinion, the CNG and the Cree First Nations' resources would be better spent elsewhere. My suggestion would be instead to focus on developing a community-controlled housing scheme, with individuals able to pursue homeownership independently if they so choose. In this regard, Oujé-Bougoumou's existing housing program serves as a good model. The issue of its increasing inability to cope with housing demand can be dealt with through minor modifications to the system, which will be proposed below. Community control of housing production ensures that the challenges restricting access to adequate housing within the Cree First Nations are tackled directly through reduction of construction costs, increasing housing supply, appropriate community planning, and improved access to financing. Such a program however does not preclude the possibility of homeownership, with Oujé-Bougoumou's housing program being a case in point.

By retaining community control of housing production, cost reduction measures can be greater due to principles of centralisation, and are easier to implement. Further, regional organisation, either through existing CRA departments, or through the creation of a separate Cree housing board or corporation, could lead to significant cost reductions for both community-controlled programs or community-supported homeownership. First, by expanding upon the CRA's existing teams of housing inspectors and statisticians, a regional resource centre could be built-up to provide tradespersons and professionals. This would allow for a system similar to that of the 1980s whereby these experts could travel between the communities, allowing each First Nation to benefit from a wider range of specialised services without increasing their local staffing requirements. Similarly, the communities could engage in group-purchasing of materials, or even collaborate to establish housing manufacturing businesses which could produce climate-adapted pre-fabricated units or pre-fabricated sections of housing units for distribution among the communities. Finally, a regional education program or technical college could be established to train local tradespersons and improve the reliability of local contractors, thereby reducing labour costs.

Community control of housing construction is also beneficial for ensuring a sufficient supply, and that unit types and design are adapted to local conditions and observed housing need. A Cree First Nation, or other Cree housing corporation, can, much more easily than an individual, raise the necessary capital to construct the volume of houses required annually. In addition, coordinating the construction of multiple units could further reduce unit costs. In terms of unit maintenance and repair, community involvement could also be highly beneficial to ensure regular upkeep remains affordable and is carried out. Offering a centralised repair department whose services individuals can employ may be beneficial in this regard. Further, the maintenance and upkeep responsibilities of households should be clearly outlined, and support provided to ensure they are met. Coordinated

investments in construction and renovation are necessary to ensure the housing stock remains in good condition, and this can best be carried out at a community level.

Related to the question of housing supply is that of community planning, for example ensuring that infrastructure expansion is coordinated with construction, and that new areas of the community are built at a sustainable residential density. Appropriate development planning further reduces the cost of construction, not only for the individual unit, but also in terms of lot servicing and land consumption. This process can be most easily carried out through community-controlled development, however, it could also be achieved through stricter development controls and appropriate use of by-laws, as is done in mainstream municipalities.

Finally, community control of housing construction allows for easier access to financing in some respects, and more equitable distribution of available funds. First, in terms of securing loans from financial institutions (which will become a necessity, even for the Cree First Nations operating a Revolving Loan Fund), the process is simplified due to there being a single applicant, and is more likely to be subject to approval because of the assets and resources available to the First Nation council. Furthermore, the council can seek partnerships or agreements with the banks. Second, more so than an individual, the governing body of a community has the resources and capacity to apply to all relevant programs, such as the CMHC's RRAPs and capacity development initiatives. Third, community control of the housing stock allows for more flexibility in the way that households cover the costs of its construction and maintenance. Given the constraints of high construction costs and limited external funding, the subsidies currently offered (through low rent and direct grants) will have to be reduced. In order for this to occur in the most equitable way possible, a system in which rent-pooling takes place would be ideal. Subject to community approval of course, a universal community rental housing or rent-to-own program in which rent was proportional to income as proposed in the Strategic Plan (instead of having to cover costs for each unit) would theoretically allow for the system to be self-subsidising to a large extent. The key to balancing rental revenue and housing costs in this case is that high-income households also participate. By combining this benefit with the cost-reduction measures, access to affordable housing could be ensured for low- and middle-income groups with limited input of external funds. This system could be easily adopted as it strongly resembles the current community housing structure. Alternatively, community control of the housing stock would also allow for individuals to purchase homes from the council according to a repayment schedule and interest rate that is based on a household's ability to pay, rather than a bank's return on investment. However, this financing flexibility for the individual could also be achieved through the establishment of a Revolving Loan Fund, with Oujé-Bougoumou, the Mohawks of the Bay of Quinte and the Six Nations of the Grand River serving as good examples of mortgage design. In all cases however, it is necessary that the program design allows for subsidies to flow to low- and middle-income households, even if this means removing currently available subsidies from those who can afford to pay for the full cost of their homes.

While three of the Cree First Nations have already made a commitment to move towards a market-based housing system, through their partnership with the First Nations Market Housing

Fund, this does not appear to be a viable approach for all of the communities because of the requirement for economic development to ensure affordability. Unfortunately, individual communities have relatively little control over economic growth, short of developing industries themselves. While an already complex task, industrial development is particularly difficult for the Cree First Nations due to their remote location and the fact the land's resources are primarily owned by the Government of Quebec. Homeownership may therefore only be a viable solution for those communities which already benefit from resource extraction and other industries which provide employment opportunities in close proximity. The CRA however seems to suggest that the adoption of homeownership will itself generate economic development, through the created demand for homeownership-related goods and services. While homeownership and economic development are certainly linked, it is unlikely that homeownership could increase consumption sufficiently to affect employment and wages, especially given that housing construction is already one of the main elements of the local economies. Due to the closed nature of the proposed system of homeownership and business development, the homeowners will require increasing amounts of money to spend on their homes in order to generate economic growth. This increased income can only come from an external source, through employment in other industries.

Assuming minimal economic growth therefore, the main way in which affordability and housing supply can be increased is through reduction of construction costs. The simplest way to achieve this outcome is through a community-controlled housing program, as described above. However, despite the fact that developing a housing market (and focusing on homeownership) is likely beyond the reach and not in the best interest of many of the communities, accessing funding for a non-market solution may prove difficult because of the priorities and mandate of the CMHC, the First Nations Market Housing Fund, mainstream financial institutions, and the Government of Canada. This is likely to be the case even though research carried out by the CMHC in 2001 recommended that alternative housing and planning models be promoted, instead of imposing southern norms.¹⁶¹ The CRA and the Cree First Nations therefore face a difficult task in developing sustainable housing programs that will provide adequate housing for their entire population, gain general acceptance within the communities, and be financially viable. Unfortunately support and funds from external sources may heavily influence this decision. The homeownership approach may therefore be inevitable. However, as outlined above, there are some technical solutions which can be employed to ensure that a market-based approach addresses the challenges of affordability and housing supply.

While the above discussion has focused on a long-term solution, immediate alleviation of the housing crisis would be ideal. Unfortunately, it is almost impossible to imagine such a resolution given that present levels of funding are simply insufficient to finance the large number of renovations and the volume of new construction required. Furthermore, even if this funding should be available, it is unlikely that there is sufficient labour available to complete such a task immediately. In addition, it is possible that a large capital grant from the Federal Government or the CNG, accompanied by massive construction and renovation in the short term, could remove the

pressure to find a long-term solution and make the structural adjustments necessary to build a sustainable housing program. Therefore a one-off investment in a short-term solution could simply push the housing crisis back into the future for the next generation to tackle, an outcome which is clearly undesirable. The best available approach is therefore for the Cree First Nations and the CNG to continue in their work to devise a sustainable housing program through which housing provision can be gradually restructured to approach an ideal established by the community.

¹ Cornell, "Organizing Indigenous Governance in Canada, Australia and the United States"; Steyer, "Planning Across Distance: Remote Housing and Government Intervention in Australia's Northern Territory."

² Steyer, "Planning Across Distance: Remote Housing and Government Intervention in Australia's Northern Territory"; Listokin, "Confronting the Barriers to Native American Homeownerships on Tribal Lands"; Fien et al., Towards a Design Framework for Remote Indigenous Housing; Fien et al., Flexible Guidelines for the Design of Remote Indigenous Community Housing.

³ Habibis et al., Progressing Tenancy Management Reform on Remote Indigenous Communities.

⁴ Steyer, "Planning Across Distance: Remote Housing and Government Intervention in Australia's Northern Territory."

⁵ Fien et al., Towards a Design Framework for Remote Indigenous Housing; Steyer, "Planning Across Distance: Remote Housing and Government Intervention in Australia's Northern Territory."

⁶ Australian National Audit Office, Home Ownership on Indigenous Land Program.

⁷ Tester, "Iglutaasaavut (Our New Homes)"; Moran, "Demand Responsive Services."

⁸ Habibis et al., Housing Conditionality, Indigenous Lifeworlds and Policy Outcomes.

⁹ O'Brien, "Home to Own."

¹⁰ Moran, "The Practice of Participatory Planning at Mapoon Aboriginal Settlement: Towards Community Control, Ownership and Autonomy."

¹¹ Habibis et al., Housing Conditionality, Indigenous Lifeworlds and Policy Outcomes.

¹² Steyer, "Planning Across Distance: Remote Housing and Government Intervention in Australia's Northern Territory"; Nethercote, "Sustaining Tenancies in Australia's Indigenous Town-Camps."

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- ⁴³ Moran, Mcqueen, and Szava, "Perceptions of Home Ownership among Indigenous Home Owners"; Canada Mortgage and Housing Corporation, The Ownership Advantage.
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¹⁵² Ibid.
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¹⁵⁷ Moran, "Demand Responsive Services," 189.
¹⁵⁸ Moran, Mcqueen, and Szava, "Perceptions of Home Ownership among Indigenous Home Owners."

¹⁵⁹ *Ball*, Housing Policy and Economic Power the Political Economy of Owner Occupation.

¹⁶⁰ *Bolduc*, Grand Council of the Crees (Eeyou Istchee), Cree Regional Authority, Annual Report 2012-2013.

¹⁶¹ *"On-Reserve Housing."*

Aboriginal title and the requirement of treaties

Although aboriginal groups are now generally viewed as being the initial residents of Canada, and as such are thought of as possessing certain rights with regard to their sovereignty as well as access to the land and its resources, this special status was not always recognized by European colonisers, and in many respects continues to be a topic of discussion to this day. The French, who were the first to settle in the area that was to become Quebec, did not recognize aboriginal title to the land.¹ Their concession to the original inhabitants of the land was to set aside what they considered to be French land for "amerindian use under certain conditions", which later became known as "reserves" after Confederation (1867).² Upon conquest by the English in 1763, recognition of aboriginal title and rights could theoretically have improved because of the British legal tradition of recognition of the sovereignty of existing cultures with an established legal system.³ However, as many Canadian aboriginal populations did not live in permanent settlements and their legal systems and culture were poorly understood, this recognition was not granted them, and all "conquered" land became property of the English monarchy even though Canada's First Nations were never formally conquered.⁴ The Royal Proclamation of 1763, claiming North America for King George III, did however recognize aboriginal title to the land that could only be extinguished via treaty ceding the land.⁵ The Canadian government has generally understood this "title" to be usufructuary (one of exclusive use) and not one of ownership.⁶ It is however still believed that successive governments have failed to uphold the spirit and intent of the Proclamation by exploiting and developing land for which no treaties were signed.⁷ To this day, the absence of aboriginal title to the land has been upheld in many Canadian court cases, although compensation for lands which First Nations "had been led to suppose were set aside for their benefit" is required.⁸ However, aboriginal rights, and the sovereignty of First Nations, were recognised to a certain extent, and are presently being solidified through landmark cases. Further, agreements between First Nations and the Canadian Government are now being used to grant sovereignty and control over portions of traditional territories.⁹

In 1763 then, English relations with aboriginal peoples were based on two fundamental principles, that of their autonomous status and their right to exercise full use of their lands until these were ceded to the English for their use.¹⁰ Despite these underlying principles, the actions of the new colonists often infringed on aboriginal rights to control and exercise full use of their land. The aboriginal peoples were not a priority for the new English government, and therefore when colonists attempted to settle on their land, or exploit its resources, they were powerless to intervene as they had no mechanism of appeal.¹¹ Luckily for northern populations, such as the Cree of Eeyou Istchee, development pressure on their lands was minimal.

As of 1763 therefore, a large number of treaties were signed between First Nations and the Canadian Government. Through these treaties, First Nations ceded large areas of their traditional lands to the government, and renounced any further claims and aboriginal rights, in exchange for

lump-sum payments or annuities and the protection of an area of land reserved for “Amerindian” use. This type of treaties, known as the “numbered” treaties, were initially encouraged by the Crown and the federal government as a way to ensure peaceful land development and expansion of European settlement areas. However, as of 1923, the government was less willing to sign such agreements, as it did not want to take on greater fiscal or legal responsibility for the First Nations. There was therefore a 50-year hiatus in which no treaties were signed.¹² In addition to the reluctance on the part of the government, there was no impetus to approach First Nations residing on land for which there was no development or settlement interest, and as such the Northern areas of Canada remained un-ceded until the late 1900s.¹³ However, as of the 1970s, when First Nations regained control of their finances, and were therefore able to spend money advocating for their interests and rights, a large number of such treaties were signed to settle outstanding claims. The James Bay and Northern Quebec Agreement of 1975 between the Cree of Eeyou Istchee and the Governments of Canada and Quebec is considered to be the last of these “numbered” treaties as it incorporates many of the elements listed above.¹⁴ However, despite the fact that Northern lands remained un-ceded, the Crown laid claim to them and eventually carved up the lands into sections to be administered by the provinces, as the governments continued to believe that aboriginal peoples did not have land rights.

Aboriginal Lands as Crown Lands

By the 1830s, the official position of the British administration was that the native peoples were disappearing (their population was in decline due to a number of factors), and that the best way to deal with these peoples would be to assimilate them into British society through “civilizing” efforts, or to remove them to isolated communities.¹⁵ This was to be achieved through a “reserve” program whereby lands set aside for aboriginal use were to be sold, and proceeds used to fund the establishment of farms and educational programs to force First Nations into a sedentary lifestyle, as advocated in the Darling Report of 1828.¹⁶ Many government officials in fact saw themselves as acting in the best interest of the aboriginal peoples, because they thought nomadic lifestyles based on hunting would not be able to sustain human life and therefore aboriginals had to be assisted to become “self-supporting citizens within the cultural framework of colonial life”.¹⁷ In many cases, the aboriginals were willing to adapt because they perceived that their traditional way of life was threatened, and in these cases the model farming villages were successful.¹⁸ During this period, many agreements were signed between First Nations and governments of both Lower and Upper Canada, ceding large portions of land in order to obtain either protection of the land or other benefits, such as funds or housing.¹⁹ However rights granted through these agreements were often not respected, especially in relation to exclusive land rights, as the colonial government strongly favoured non-aboriginal interests.²⁰ In order to resolve this issue, the 1839 Crown Lands Protection Act established that all Indian lands were Crown lands (belonging to the English monarch) to be held for the use and benefit of First Nations and their peoples.²¹ In 1851, a second attempt was made to better protect aboriginal title to un-ceded or “reserved” land: An Act for the Better Protection of the Lands and Property of the Indians of Lower Canada established that “Amerindians” could not deal with private individuals concerning their lands, and that these could not be taxed or seized for non-payment of debt, and further that damages were to be awarded for

public works activities. These measures created a legacy of aboriginal political and economic disenfranchisement, the effects of which can still be observed today. Economic power, in a western capitalist system, largely depends on individual property ownership and the ability to leverage individually-possessed capital. While the Act does protect native lands, by keeping them in the hands of the natives, it also prevents them from obtaining loans, mortgages or other forms of financing, as their land (a major capital asset) cannot be used as collateral since it cannot be seized or taxed. These Acts therefore established a system in which First Nations could effectively only deal with the government; in order to obtain benefits, they were required to either relinquish title to their land, or accept that it be used for public works projects - a situation which strongly resembles that of today. From the late 1830s until the 1970s, British, and eventually Canadian, efforts were therefore focused on assimilating aboriginal populations and appropriating their lands, with little interest in improving their living conditions or addressing their concerns, grievances and claims.²²

Aboriginal "Rights" in the Indian Act

The concept of "Indian" and "Indian status" was legally defined in 1851 as resulting from blood relation through the male line to a band having "interests" in Indian land.²³ However assimilation efforts were used to entice individuals to relinquish their special status.²⁴ The Indian Act of 1876 reinforced earlier laws; bands were defined as bodies of "amerindians" for whom land and money has been set aside by the government, Amerindians were persons of amerindian blood belonging to a band and entitled to its lands, and reserves were the land belonging to the Crown but set aside for the use and benefit of a band.²⁵ Some level of local government by aboriginals was provided for in the Indian Act, however this was largely an administrative right as agents of the Indians Affairs department retained control through disbursement of band funds.²⁶ This act further hindered both individual and community development for First Nations, as bands were not a legal entity, and therefore were not allowed to enter into contracts and other legal obligations.²⁷ The lack of importance given to aboriginal rights by the British governments of the 19th and early 20th centuries was most notably manifested in the British North America Act's treatment of aboriginal affairs, which not only did not consider the question of aboriginal partnerships, but gave control of Crown lands to the provinces while maintaining federal responsibility for aboriginal services and rights claims; effectively ignoring the link between aboriginal rights and livelihood and aboriginal use, access to and possession of their lands.²⁸ This administrative structure meant that no level of government would defend or advocate for aboriginal rights or land title.²⁹ In fact, by 1911, the Indian Act was amended to allow the expropriation of portions of reserves without surrender.³⁰

Economic downturn and Aboriginal Self-sufficiency

By the mid-1930's, government policy had shifted towards promoting self-sufficiency among northern aboriginal populations through encouragement to retain traditional lifestyles.³¹ This shift can largely be attributed to the stock market crash of 1929 which put pressure on governments to provide welfare and support for their largely under-employed populations. Unfortunately however, the economic downturn had also severely affected the viability of traditional aboriginal lifestyles

due to a drop in the price of fur and fish which the aboriginals used to trade for goods or other essential items, thereby forcing large segments of the aboriginal population to rely on welfare or other government and trading company handouts.³² It is unclear whether the issue of housing was addressed as part of welfare provision, as previously housing had only be offered in a context of promoting the adoption of sedentary and European lifestyles. Furthermore, the government's official position remained that it had no responsibility towards aboriginal peoples who had not signed a treaty; and the government remained uninterested in signing treaties for northern areas for which there was little development interest. This lack of governmental support contributed to the widespread starvation and deprivation in Northern Areas.³³ It was only in the early 1960s that the government began to take an interest in resource exploitation in northern areas, leading to many land claims disputes. Therefore, in 1966, a separate department was created for administration of Indian Affairs, the Department of Indian Affairs and Northern Development (DIAND), today called Aboriginal Affairs and Northern Development Canada (AANDC), but also referred to as Indian and Northern Affairs Canada (INAC) from about the mid-1990s to the early 2000s.

Following World War II, when inequalities between non-aboriginal and aboriginal populations became glaring, while the government officially continued to engage in assimilationist policies, these were based on encouragement rather than coercion. The Indian Act was again amended in 1951, allowing bands to incorporate as municipalities. Full control of reserve land management, band funds and by-law administration was obtained by 1958.³⁴ By 1963, the use of assimilation as a way of improving aboriginal social and economic conditions was being called into question; the Hawthorn report recommended that aboriginal populations should not be forced to acquire the values of the majority society, and further found that band autonomy was hindered by lack of control of its revenues, lack of clear authority to enforce by-laws, and dependence on welfare grants.³⁵ However, this report did little to change direct government action in aboriginal communities. By 1972 a limited definition of aboriginal rights, as representing a property right, had been accepted by the government, although many considered these rights to include not only the right to land, but also to self-determination and self-government.³⁶ By 1982, when the British North America Act was patriated, and the Canadian Charter of Rights and Freedoms enacted, aboriginal rights had become a major issue. After a long series of negotiations, these rights were recognised in the 1982 Constitution, however these were to be defined at a later date.³⁷ The Constitution also provided that any aboriginal self-government which was to exist would remain only at the local level, not receiving a status similar to that of the provinces.³⁸ Self-government also was supposed to be negotiated at a later date, allowing for aboriginal governments to gain status under provincial legislation as distinct from municipalities. These negotiations however did not bear fruit.³⁹

In 1991, the Royal Commission on Aboriginal Peoples was established to report on the situation of aboriginal peoples and provide recommendations to remedy poor or undesirable conditions. This report found that there is a need for a new relationship between aboriginals and non-aboriginals, that self-determination should be enabled through self-government, and that economic self-sufficiency and community healing are necessary to achieving these goals.⁴⁰

Evolution of First Nation self-government

While the Indian Act established some provisions for local self-government, these were in fact purely administrative structures, dealing with issues such as public health, infrastructure, construction and maintenance of buildings and the registration of lots on reserve.⁴¹ In 1884, the Indian Advancement Act extended the powers of band councils, granting them powers of taxation, creation of by-laws, and the power to punish transgressions against these.⁴² However, these "governments" were not truly legitimate as they were established through an elective system which was imposed by the Canadian government (often going against First Nation traditional government structure), the results of which could be overridden by Indian Affairs officials.⁴³ Further, as of 1884, the Superintendent-General could summon and preside over band meetings, and their funds continued to be controlled and disbursed by the Canadian government.⁴⁴ By 1958, although government structure was still controlled by a federal body, bands gained control of the expenditure of their funds, and could use these to advocate for their interests. However, funds still were, and continue to be, allocated by a federal government body, which raises questions of accountability of these governments as they are more responsive to external agencies than to community members.⁴⁵ The Government is however currently in the process of elaborating a new formula-based approach to deal with the fiscal relations between First Nations and the Federal government in a consistent and fair manner.⁴⁶

The Constitution of 1982 dealt not only with aboriginal rights, but also provided for aboriginal self-government; however this was confined to a local level.⁴⁷ In 1983, the Penner report was published by the Special Committee of the House of Commons on Indian Self-government, recommending that Canada recognise First Nations as a distinct order of government within the Canadian Federation and that processes leading to aboriginal self-government should be pursued.⁴⁸ As a result, the Community-based self-government (CBSG) policy was announced in 1985, promoting the negotiation of agreements for self-determination between the Government and First Nations outside of the Indian Act, however jurisdiction was only to be delegated through legislation.⁴⁹ The Inherent Right Policy was then adopted in 1995 following the failure of the Charlottetown Accord (1992). The latter had proposed to recognise aboriginal self-government as an inherent right, thereby further defining "aboriginal rights" in the Constitution of 1982, and to define aboriginal government as one of three orders of government in the country.⁵⁰ The Inherent Right Policy, recognised the first right, but does not establish a separate order of government, instead maintaining the CBSG policy of negotiation for self-government, either as a stand-alone issue or as part of a land claims settlement.⁵¹

Some would suggest however that true aboriginal self-government is not encouraged or enabled by the Canadian government as it is often not forthcoming with the resources necessary for self-government, and administration of associated programs.⁵² Others contend further that the Canadian government still has a tendency to conceive of Indigenous self-government as self-management or self-administration of local affairs, implying that aboriginal communities should be administering programs designed by the federal government with a focus on fiscal accountability,

process and bureaucratic rules.⁵³ These two stumbling blocks to self-government and aboriginal autonomy can be observed in some of the agreements signed between the Federal Government and the Cree of Eeyou Istchee, as well as in dealings between the governments and specifically in federal policies related to housing provision and its funding.

¹ Dickason, Canada's First Nations.

² *Ibid.*, 209.

³ Dickason, Canada's First Nations.

⁴ *Ibid.*; Patrick and Armitage, "Media Contestation of the James Bay and Northern Quebec Agreement: The Social Construction of the 'Cree Problem'"; Asch, Home and Native Land: Aboriginal Rights and the Canadian Constitution.

⁵ First Nations Studies Program.

⁶ Patrick and Armitage, "Media Contestation of the James Bay and Northern Quebec Agreement: The Social Construction of the 'Cree Problem.'"

⁷ Angus, "And the Last Shall Be First" - Native Policy in an Era of Cutbacks.

⁸ Dickason, Canada's First Nations, 328.

⁹ Dickason, Canada's First Nations; Asch, Home and Native Land: Aboriginal Rights and the Canadian Constitution.

¹⁰ Brennan and Assembly of First Nations, "Successful First Nations Policy Development: Delivering Sustainability, Accountability, and Innovation."

¹¹ Dickason, Canada's First Nations.

¹² *Ibid.*

¹³ Asch, Home and Native Land: Aboriginal Rights and the Canadian Constitution.

¹⁴ Dickason, Canada's First Nations.

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Ibid.*, 210.

¹⁸ Dickason, Canada's First Nations.

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ *Ibid.*

²² *Ibid.*

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ Cree-Naskapi Commission, Report of the Cree-Naskapi Commission.

²⁸ Dickason, Canada's First Nations.

²⁹ Angus, "And the Last Shall Be First" - Native Policy in an Era of Cutbacks.

³⁰ Dickason, Canada's First Nations.

³¹ *Ibid.*

³² *Ibid.*

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ *Ibid.*; Asch, Home and Native Land: Aboriginal Rights and the Canadian Constitution.

³⁷ Dickason, Canada's First Nations; Asch, Home and Native Land: Aboriginal Rights and the Canadian Constitution.

³⁸ Dickason, Canada's First Nations.

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ *Ibid.*

⁴⁵ *Cree-Naskapi Commission*, Report of the Cree-Naskapi Commission.

⁴⁶ *"General Briefing Note on Canada's Self-Government and Comprehensive Land Claims Policies and the Status of Negotiations."*

⁴⁷ *Dickason*, Canada's First Nations.

⁴⁸ *"General Briefing Note on Canada's Self-Government and Comprehensive Land Claims Policies and the Status of Negotiations."*

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² *Dickason*, Canada's First Nations; *Angus*, "And the Last Shall Be First" - Native Policy in an Era of Cutbacks; *Schneider*, *A Time for Action: Aboriginal and Northern Housing*.

⁵³ *Cornell*, *"Organizing Indigenous Governance in Canada, Australia and the United States."*

Appendix B – Historical Government Housing Provision

DIAND and CMHC programs

1970s

Nation-wide housing programs for aboriginals living on reserve were deployed as of the mid-1960s. By the 1970s, three types of housing program were available on reserve: DIAND subsidy housing, CMHC's Indian on-reserve housing program, and the band-administered housing program. These programs persisted for many years, with some still existing today, however details of program management and funding allocation were adapted over time. In addition, other programs or initiatives were implemented periodically to either supplement available funding, or to focus on certain aspects of housing provision.

DIAND's subsidy housing program, initiated in the 1960s, was meant to provide housing for low-income families living on reserve.¹ DIAND provided a subsidy for construction, the amount of which was based on an individual's income and assessed "need", up to a maximum of \$8, 500, and expected a "small personal contribution" from the recipients. This program however proved to be an insufficient source of funding for housing construction, as the amount of the subsidy fell well below construction costs of the early 1970s (around \$13, 090/unit on average in Quebec) and was significantly less than the amount spent on general Canadian public housing, for smaller housing units, again in the same time-period (\$11.06/sq.ft. versus \$15.50/sq.ft). Furthermore, it was reported to be an unpredictable source of housing, as allocations appeared to be made in an arbitrary manner by the band council or government officials.²

The Indian on-reserve housing program provided CMHC loans, up to a maximum of \$25, 000, either to individuals looking to construct their own housing, or to supplement the above subsidy received from DIAND. There was therefore a clear recognition by the CMHC that programs would have to be combined in order to construct adequate housing units. However, individuals had to prove that they had a stable monthly income in order to qualify for the program, thereby theoretically excluding those qualifying under DIAND's subsidy housing program. Interest in this program was low in the early 1970s.³

Finally, the band-administered housing program represented an evolution of DIAND's initial subsidy housing program (described above), although these operated in parallel, at least in the early 1970s.⁴ Instead of funding individuals, the band-administered program required that bands submit project proposals to DIAND, for which subsidies could then be awarded.⁵ The band was responsible for the housing construction and securing other sources of financing, as the subsidy was never intended to cover the full cost of the homes.⁶ DIAND backed the bands seeking loans by offering Ministerial Loan Guarantees.⁷ The resulting homes could then be sold to band members, or rented by band members with the view of becoming eventual owners (an early rent-to-own scheme). By the mid-1970s DIAND's subsidy housing program had been completely restructured to

channel all funding for housing through the band-administered program. Rent for the band-operated houses was expected to come from DIAND's social aid or shelter allowance, and, should the tenant become employed, he/she could enter into the rent-to-own scheme.⁸

Housing design was very basic, and generally followed CMHC models of single family homes imported from the south. Over time, these models were adapted to the climate through minor alterations to the design of the buildings.⁹ In the case of Chisasibi, further cultural adaptations to the design were made following a process of community consultation at the time of the community's relocation, resulting in "model A" homes.¹⁰ "Model A" homes became the norm for construction across most of the Cree communities, and as these were the only housing that people had known, levels of satisfaction with the design were generally fairly high, with concerns largely focused on issues of overcrowding and housing size.¹¹

1980 to mid-1990s

While little information is available, it would appear that the housing programs for aboriginals living on reserve changed little from the late 70s, through to the 1980s, even though new policies and improvements were suggested and endorsed.¹²

DIAND continued to provide a subsidy towards the capital cost of housing construction through the band-administered housing program; subsidies were no longer specifically for low income individuals and instead could be spent on construction, renovation or rehabilitation of any on-reserve housing.¹³ Seventy-five percent of the subsidy amount was provided unconditionally, with the final twenty-five percent being awarded if the band had constructed the units that had been subsidized in the previous year.¹⁴ DIAND's resources were allocated on a per-capita basis to regions (provinces and territories); within the regions, the money was allocated to the individual bands on a roughly per-capita basis.¹⁵ However, the regions did have the discretion to deviate from this formula based on bands' requests, expressed need or proposed projects.¹⁶ DIAND and the CRA assessed housing need as being one unit per two individuals over the age of 19.¹⁷ However this formula was only used to assign proportional amounts of resources to the regions and then the bands, as funding levels depended more on DIAND's budget than the observed shortage.¹⁸ Although by 1992 the subsidy amount had increased considerably since the 1970s to between \$19 000 and \$46 000 per unit, this amount remained insufficient as unit costs are estimated to have been around \$80 000 for Canada as a whole.¹⁹ DIAND's funding therefore still had to be combined with other financial resources. Instead of funding construction for low income individuals, as it had done in the previous decade, DIAND operated a Social Development Program, providing a shelter allowance to individuals on social assistance, provided that the CMHC paid the operating subsidy for the units (see below).²⁰

One of the possible mechanisms to supplement the DIAND funding was through CMHC's loan interest subsidy, a new form of financing which was established at some point during the 1980s. This came to be known as the non-profit on-reserve housing program, or Section 95 (s.95) housing, in reference to Section 95 of the National Housing Act under which the program was operating.²¹

This subsidy theoretically covered outstanding costs to the band (mortgage servicing and operations and maintenance), after receipt of DIAND subsidies and rent collection.²² However, when interest rates were high, the subsidy amounts per unit were greater, allowing bands to set aside funds if the units were being well-managed.²³ On the contrary, when interest rates dropped in the mid-1990s, so did the subsidy amount, resulting in a shortfall on a per-unit basis.²⁴ The loan interest subsidy was designed based on existing city programs in the south to create an affordable housing program on-reserve in which rent would be geared to income.²⁵ It was therefore expected that the average rent would then be able to cover 2% of the costs of the unit. However, due to the low income of a large portion of the population in the Cree communities, the program effectively became social housing – a situation for which it was not designed.²⁶ After the mortgage period was over, the CMHC subsidy would end, and full ownership, control and management of the housing would revert to the band council.²⁷ CMHC's involvement extended beyond simply funding the program; it also acted as an advisor for the planning, building, management and maintenance of the housing, a role which would become its primary one after 1996.²⁸

The CMHC also offered low-interest or interest-free loans, backed by a Ministerial Guarantee, to supplement DIAND funding and traditional mortgages from financial institutions.²⁹ Use of these loans also resulted in the requirement to adhere to certain CMHC guidelines in terms of tenancy and rent collection. About 50% of First Nations across Canada did not use the CMHC's programs in order to avoid incurring debt and being forced to collect rent, but also because some felt that housing was a treaty right which should be provided by the government at no cost.³⁰ It was of course also possible for individuals or the band to seek financing from banks or other financial institutions, and these could be backed by the band or a Ministerial Loan Guarantee.³¹ In addition, capital and revenue accounts set up on behalf of the bands with proceeds from the management of traditional lands, as per the Indian Act's sections 61-67, could be used to finance social programs and infrastructure investments, such as housing.³² However, in the case of the Cree First Nations, these accounts contained insignificant amounts, and were therefore largely useless.³³ Settlement and treaty monies were also often allocated to social and economic development or specifically for housing, and therefore represented another source of capital to supplement DIAND's subsidy.

DIAND also operated a renovation program, for which up to \$6000/unit could be allocated for renovations.³⁴ It however did not provide any funds for operation or maintenance of band housing, or programs aimed at minor repairs.³⁵

It was only as late as 1982 that DIAND set in place the requirement that all on-reserve housing had to meet National Building Code standards.³⁶ A decade previously, according to the 1973 report of the Native North American Studies Institute, houses were not being built to the standards in Northern Quebec, often failing in terms of construction or heating, and with many houses lacking electricity and plumbing.³⁷ Given that the Building Code applies only at the time of construction, this change did not have a large effect on the existing housing stock.³⁸ Post 1982, CMHC inspectors were hired to ensure that houses were built to these standards, as this became a condition of funding.³⁹ While few pre-1982 houses remain in Cree communities today, the late

institution of this policy may have been a contributing factor to the significant portion of funds that had to be expended to replace deteriorated houses, instead of enlarging the housing stock.

Other Initiatives

In addition to the main programs above, there were also a number of other government initiatives, made available from time to time, which could be used to finance housing construction or maintenance. These initiatives often took the form of funding for specific projects or financing for the creation of employment opportunities. While these initiatives could finance the construction of a large number of homes in any given year (for example 60 houses were built in 1971-2 in Fort George through a "Work Opportunity Project"),⁴⁰ they did not represent a stable source of housing provision, and should therefore be seen as one-off or bonus supplements to the DIAND/CMHC housing provision described above.

Increasing Local Control

While DIAND initially maintained control of the subsidy program for on-reserve housing, by the mid-1970s housing construction and program administration was devolved to the band councils. Funding levels however remained constant at \$8 500/house, therefore effectively giving over program administration to the bands, without providing a budget to cover such additional costs.⁴¹ DIAND later realised that bands were in fact in a better position to design their own programs, so by the early 1990s, band councils were developing and submitting their own project proposals to DIAND for approval, and funds were provided on a project basis, rather than unit-by-unit.⁴² In this process bands were also responsible for finding the majority of the financing (for which ministerial guarantees had to be obtained), as DIAND funds remained insufficient.⁴³ By the late 1980s and early 1990s, both DIAND and the CMHC had stopped providing "units" per say, and instead funds were allocated to the communities to spend as they deemed appropriate.⁴⁴

¹ *Indian and Northern Affairs Canada, "Indian and Northern Affairs Canada (INAC) On-Reserve Housing"; Ornstein, The First Peoples in Quebec.*

² *Ornstein, The First Peoples in Quebec.*

³ *Ibid.*

⁴ *Ibid.*

⁵ *Indian and Northern Affairs Canada, "Indian and Northern Affairs Canada (INAC) On-Reserve Housing."*

⁶ *Ornstein, The First Peoples in Quebec; Indian and Northern Affairs Canada, "Indian and Northern Affairs Canada (INAC) On-Reserve Housing."*

⁷ *Government of Canada, "Ministerial Loan Guarantees"; Ornstein, The First Peoples in Quebec.*

⁸ *Ornstein, The First Peoples in Quebec.*

⁹ *Benoit, interview.*

¹⁰ *Shaw, "Town Planning in Consultation with and Participation from a Native Community."*

¹¹ *Larue, interview; Shaw, "Town Planning in Consultation with and Participation from a Native Community."*

¹² *Schneider, A Time for Action: Aboriginal and Northern Housing.*

¹³ *Ibid.; Fiocco, interview; Indian and Northern Affairs Canada, "Indian and Northern Affairs Canada (INAC) On-Reserve Housing."*

¹⁴ *Fiocco, interview.*

¹⁵ *Schneider, A Time for Action: Aboriginal and Northern Housing.*

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- ¹⁶ *Ibid.*; Regional Tripartite Committee on Housing, "Allocation of Federal Housing Funds to Quebec's First Nations Communities."
- ¹⁷ *Fiocco, interview.*
- ¹⁸ *Katapatuk, interview*; Regional Tripartite Committee on Housing, "Allocation of Federal Housing Funds to Quebec's First Nations Communities."
- ¹⁹ *Schneider, A Time for Action: Aboriginal and Northern Housing.*
- ²⁰ *Ibid.*
- ²¹ *Minister of Public Works and Government Services Canada, The James Bay and Northern Quebec Agreement and The Northeastern Quebec Agreement 1995 Annual Report.*
- ²² *Fiocco, interview.*
- ²³ *Ibid.*
- ²⁴ *Ibid.*
- ²⁵ *Minister of Public Works and Government Services Canada, The James Bay and Northern Quebec Agreement and The Northeastern Quebec Agreement 1995 Annual Report*; *Fiocco, interview.*
- ²⁶ *Fiocco, interview.*
- ²⁷ *Ibid.*
- ²⁸ *Minister of Public Works and Government Services Canada, The James Bay and Northern Quebec Agreement and The Northeastern Quebec Agreement 1995 Annual Report.*
- ²⁹ *Canada Mortgage and Housing Corporation*; *Schneider, A Time for Action: Aboriginal and Northern Housing.*
- ³⁰ *Schneider, A Time for Action: Aboriginal and Northern Housing.*
- ³¹ *Fiocco, interview.*
- ³² *Ornstein, The First Peoples in Quebec.*
- ³³ *Ibid.*
- ³⁴ *Schneider, A Time for Action: Aboriginal and Northern Housing.*
- ³⁵ *Ibid.*
- ³⁶ *Ibid.*
- ³⁷ *Ornstein, The First Peoples in Quebec.*
- ³⁸ *Larue, interview.*
- ³⁹ *Schneider, A Time for Action: Aboriginal and Northern Housing.*
- ⁴⁰ *Ornstein, The First Peoples in Quebec.*
- ⁴¹ *Ibid.*
- ⁴² *Schneider, A Time for Action: Aboriginal and Northern Housing*; *Fiocco, interview.*
- ⁴³ *Schneider, A Time for Action: Aboriginal and Northern Housing.*
- ⁴⁴ *Benoit, interview.*

Appendix C – Current sources of funding for Cree First Nations Housing

General CRA/CNG funds

Funding for First Nation bands and regional governments initially came from a number of sources, including Operations and Maintenance and Capital Grants agreements, as well as regular “core” funding distributed to regional associations for their governance and management.¹ The primary source was the First Nation Indian Government Support Funding Programs which are split into five sections, covering government and administrative costs, delivery of advisory services (for regional level governments), delivery of basic services, and capacity development.² However, as per a proposal submitted in 2010, these federal sources of money are to be reduced, and come under a single long-term funding arrangement.³ In addition to these general sources, the CRA/CNG receive additional annual transfers under the various settlements and agreements detailed in the previous chapter. These funds are used in part to support the self-government structure, at both the regional and the band level, as well as to supply a large number of regional services. From these funds, amounts are distributed to each community to be spent on local programs, services or projects. A portion of the amounts received by the communities can be put towards financing housing needs, be they construction, repairs and renovation or general maintenance. However the CNG limits the subsidy per house to a maximum of 60% of the cost of construction.⁴

An example of the funds made available to the communities from agreements are the funds received by the Eenou-Eeyou Limited Partnership under the New Relationship Agreement with Quebec, which are managed by the Cree Heritage Fund Foundation Inc..⁵ Although the NRA did not explicitly deal with housing, of the more than \$50M disbursed to the communities in 2008-9, just over \$9.5M was spent on housing.⁶ The proportion of the capital revenue spent on housing differed greatly by community, depending on their current needs and development focus. Chisasibi for example spent \$4.7M on housing (almost a third of the funds received), adding 16 new units to their housing stock, and using the rest to repay a housing infrastructure development loan. Oujé-Bougoumou on the other had spent less than 10% of the capital received on housing, focusing instead on economic and human resources development.⁷

CMHC and AANDC housing programs

Government funding to assist First Nations in constructing, maintaining and renovating housing continues to be provided through two main channels, the CMHC and AANDC (formerly DIAND). The CMHC offers a number of subsidies, assistance programs and loans, while AANDC’s funding is provided solely through the Capital Facilities and Maintenance Program (developed as the on-reserve housing program in 1996). AANDC however also provides assistance through Ministerial Loan Guarantees, as outlined in the following subsection. Not all First Nations have chosen to take part in the programs offered by both DIAND and CMHC, with some, including a number of Cree First Nations, now operating their own independent housing programs.

On-reserve non-profit housing program (s. 95 housing)

CMHC's program, offered as part of its mandate under Section 95 of the National Housing Act, which has been variously known as the loan subsidy program, the on-reserve non-profit housing program, s.95 housing or social housing since the 1970s, continues to be offered to this day. This program provides assistance for the construction, purchase, rehabilitation and administration of affordable rental housing on reserve through the form of a subsidy which is meant to offset the costs of financing and operating the units.⁸ This subsidy is meant to be used in combination with a loan from an external financial institution, and as such requires the approval of AANDC, which grants the Ministerial Loan Guarantee.⁹ However, the CMHC can also provide direct loans for construction, purchase and rehabilitation projects, covering up to 100% of the capital costs. The subsidy is provided for the duration of the loan amortization period, up to a maximum of 25 years, and is determined by taking the difference between the costs (loan repayment and operating expenses) and revenue (rent).¹⁰ Occupation of the units is controlled by the First Nation, and rents are geared to income.¹¹ This subsidy can also be combined with Proposal Development Funding, a CMHC loan meant to assist the development of project proposals for s.95 housing.¹²

Allocation of s.95 units is determined through cooperation between the CMHC, AANDC and First Nations groups.¹³ However the Assembly of the First Nations of Quebec and Labrador specify that the formulae used to determine national allocations were imposed by CMHC/AANDC.¹⁴ The allocation process takes place in 3 steps. First, a national allocation is made to the regions (provinces) based on "core housing need" which is defined as the number of households with an income below a set on-reserve threshold who are living in inadequate housing (too few bedrooms or of substandard quality). Based on this formula, Quebec receives 7.1% of the national budget, which allows for the construction of approximately 50 units per year when the lifetime costs of financing the units are taken into account. Next, the CMHC and AANDC regional offices distribute Quebec's portion of the funding between communities under agreements (i.e. the Cree and Naskapi) and other first nations, taking into consideration their current, projected and off-reserve population, and the existing housing stock to determine "housing need".¹⁵ "Housing need" is calculated as being equal to half of the on-reserve population over the age of 19, minus the existing stock.¹⁶ This "housing need" is then multiplied by the average construction cost of a unit to determine the financial requirement of the communities for housing construction. The First Nations under agreement are then granted the proportion of Quebec's subsidy amount which is equivalent to the ratio of their financial requirement to that of the whole province.¹⁷ Finally the CRA is responsible for distributing its portion of the budget (32% or approximately 16 units in 2011) to the individual Cree First Nations.¹⁸

Proposal Development Funding

Proposal Development Funding, as briefly mentioned above, is an interest-free repayable loan offered to Band Councils by the CMHC to assist them in developing project proposals for the non-profit on-reserve housing program, as project details are required to secure the s.95 funding. This assistance can be used for a number of planning exercises such as developing unit designs, and is

therefore essential to ensuring good use is made of the above subsidy, especially in communities where housing programs are under-developed.¹⁹

Home Adaptations for Seniors' Independence (HASI)

The HASI program offered by the CMHC is a forgivable loan of up to \$3500, which only needs to be repaid if the senior vacates the unit. This program allows for adaptations to be made to low-income seniors' residences to ensure their continued independence.²⁰

Residential Rehabilitation Assistance Programs (RRAPs)

There are a number of RRAPs offered by the CMHC which are targeted at various types of housing and individuals or organisations. These programs are in place to ensure that repairs to substandard units take place in a timely fashion so that minimum standards of health and safety are met. They can also be used to improve accessibility of housing for the disabled. The programs offer a loan (up to a maximum of \$24 000 - \$36 000/unit depending on the unit type in Northern Quebec) to the individual, band or landlord who puts in an application. This program can also be used to finance construction of secondary suites on a property to provide affordable housing for low-income seniors and adults with a disability (loans of up to \$36 000/unit).²¹

The method in which funds for the RRAPs are distributed is unclear. While the regional tripartite committee on housing says that funds are distributed in much the same way as for s.95 housing, CMHC's website would appear to suggest that funds are awarded on a first-come first-served basis based on receipt of applications, given that they encourage applicants to submit proposals early in the year to benefit from the limited funding.²² If funds are in fact distributed on a first-come first-served basis, this could be a major drawback of the program, as the communities with greater organisational capacity would likely benefit from greater levels of funding, regardless of comparative need. Furthermore, the loans are small in comparison to the cost associated with some of the proposed renovations or construction (for example it would be difficult to construct a secondary unit for only \$36 000). However it is highly beneficial that a separate program exists for renovation and rehabilitation of existing units, as the severe housing shortage in many communities makes it unlikely that resources from the other funds and programs will be allocated to renovation rather than new construction. Further, if the funds are allocated in the same way as for the s.95 housing subsidies, the effectiveness of both programs would be increased, as those communities with the greatest levels of overcrowding would receive large amounts from both, thereby allowing the overcrowding to be reduced at the same time as units are renovated. This coordination between programs is essential, as a study in Australia has shown that investment in renovations to indigenous housing, without reduction of overcrowding, is futile because the houses return to their original deteriorated condition within a very short timeframe due to the intensive use of their infrastructure and facilities.²³

Capital Facilities and Maintenance Program

AANDC's on-reserve housing policy, initiated in 1996, continues to operate, but under the larger Capital Facilities and Maintenance Program. This program allocates funds to each community for all

capital works, based on their assessed need in terms of core funding, housing construction, housing renovation, and non-residential infrastructure and maintenance; where housing construction is usually the main component of the grant. The First Nation then has the discretion to decide how the budget will be spent on their various capital works projects. Funds from this program can be applied to supplement the First Nation's s.95 housing, but can also be used to provide a subsidy for community or privately-constructed units.²⁴ This funding is not designed to cover the full cost of unit construction: First Nations and individuals are expected to secure funding from other sources, including through rent and private sector loans.²⁵

Allocation of funds from the Capital Facilities and Maintenance Program takes place in a similar multi-step process to that of the s.95 housing. From the national distribution, Quebec receives about 10% of the budget (allowing construction of 200-300 units per year). Regional allocation is then done using 1996 DIAND data based on assessment of need for the different components of the capital budget. Housing construction allocation is determined by housing need (population size by age group, the existing housing stock and the units to be replaced) which is then weighted against the average household size and subsidy amount provided per unit. The housing renovation allocation is determined purely based on the size of the housing stock.²⁶

Special Programs

In addition to the main housing programs listed above, the Canadian government will from time-to-time initiate special housing programs designed to target a specific aspect of aboriginal housing, or especially vulnerable groups. These programs can be used to boost annual funding, and therefore unit construction or renovation, but usually only last for a period of one to three years, and therefore can only be considered as unpredictable bonuses. For example, the 3-year Homelessness Initiative, running from 2008 and renewed in 2011, almost doubled Quebec's budget under the RRAPs, allowing the renovation of up to 55 units per year across the province.²⁷ Similarly, over the course of the financial years 2009-10 and 2010-11, Canada's Economic Action Plan provided \$48M in additional investment for construction, renovation, improvement and infrastructure for social housing, thereby allowing the construction of over 100 additional housing units and renovation of over 2000 units (representing a 6-fold increase in investment in renovation) across the province.²⁸ While these budgetary boosts certainly help to relieve the strained housing budgets of the province's First Nations, and reduce the backlog in housing provision, they do not make a strong contribution to a long term solution for the housing shortage and the substandard quality of the housing stock.

Allocation of units or renovations funded through special initiatives generally takes place following the regular allocation models described above, unless it has its own allocation criteria.²⁹

Loans and other funding mechanisms

The government is very clear to state that "in addition to government funding, First Nations are encouraged to identify funding from other sources for their housing needs, including shelter charges and loans".³⁰ Not only is this practice encouraged, it is necessary given the that the levels of

funding provided are not only individually insufficient in terms of single unit construction, but also on the whole do not represent the levels of investment required to reduce the housing backlog and overcrowded conditions. The following sources of capital generation are therefore available to First Nations and individuals looking to invest in their housing programs.

Loan Insurance Program and Ministerial Loan Guarantees

Given that the land on which First Nations' communities are located are not owned outright by the First Nation, nor by its members, and subject to provisions of the Indian Act (the JBNQA and Cree-Naskapi Act in the case of the Cree) this Crown land cannot be bought or appropriated by non-First Nation individuals, it is difficult to meet the capital and loan security requirements imposed by most lenders and financial institutions. The CMHC and AANDC therefore respectively provide this security in the form of loan insurance and a Ministerial Loan Guarantee (MLG). These programs can be used by the First Nations or their individual members to assist in acquiring loans or mortgages relating to the construction, purchase or renovation of "single family homes" or "multiple residential rental properties".³¹ While not explicitly stated, it is unclear whether assistance would be provided to secure a loan for purchase of a unit in a multi-unit (greater than 4 units) residential property. In order to qualify for the loan insurance program, the First Nation must be approved for an MLG, satisfy the lender's requirements, and prove its ability to support loan repayment. Individuals seeking loans must meet the above requirements, as well as have capital assets corresponding to a certain percentage of the loan sought (depending on the unit type and whether the individual is a homebuyer or a rental investor) and have obtained a band council resolution that the band will assume the loan in the case of default.³² AANDC applies similar requirements to individuals seeking to obtain an MLG.

In the case of the Cree First Nation, obtaining loan insurance depends upon a Cree First Nation's council resolution to waive an individual's right of superficie (the right to construct and own buildings on a given plot of Category IA land, as per the Cree-Naskapi Act), which allows the band to recover the land and associated infrastructure in the case of a loan default.³³

Direct Lending Program

In addition to providing loan insurance, the CMHC also offers loans to the First Nations either to finance new social housing projects, or to renew and renovate existing ones.³⁴

First Nations Market Housing Fund

In addition to the loan security options available through the CMHC and AANDC, Canada has created a fund, managed by the CMHC, to assist First Nations and First Nation individuals in securing loans from private investors and lenders in order to promote market-based housing in the communities. The fund offers a Credit Enhancement Facility, which provides backing for individuals and bands seeking loans, allowing them to access regular market housing loans. Individuals must first be backed by their band, in a similar manner to the process above for MLGs and loan insurance. The enhancement facility will back loans obtained not only for homeownership, but also to allow access to rental units or to undertake renovations. In order to qualify for the loan backing, the First

Nation must demonstrate sound financial management, good governance, and a commitment on the part of the community to move forward with market-based housing, and its members must have the financial means to afford homeownership or market-rate rentals.³⁵ This fund is therefore largely inaccessible to communities with high rates of unemployment, or where homeownership and paying market-rate rents is a relatively new concept that may not yet have gained acceptance.

Private Financial Institutions

Ministerial Loan Guarantees, provided since 1966, allow individuals living on-reserve access to loans and mortgages from private financial institutions and other recognised lending bodies, as described above.³⁶ A number of institutions, for example the Bank of Montreal, Desjardins and the Royal Bank of Canada, have established partnerships with specific First Nations to either establish separately-controlled branches on-reserve, or to offer specialised loan and mortgage services to members of the First Nation.³⁷ In addition to the traditional financial institutions, the First Nations Bank of Canada, chartered in 1997 and becoming controlled by a majority of aboriginal investors in 2009, which specialises in serving aboriginal clients.³⁸ This bank operates an interesting program for the First Nations to assist in housing construction, and financing of other ventures: it first provides the band with funding which the band can use to make loans to individual members.³⁹ The bank has branches in Chisasibi and Nemaska to serve the population there.⁴⁰ Furthermore, some First Nations have used their own funds to establish a loan or mortgage program, for example the Mohawks of the Bay of Quinte, and Oujé-Bougoumou.⁴¹

¹ *Cree-Naskapi Commission*, Report of the Cree-Naskapi Commission.

² Government of Canada, “Funding of First Nations Basic Services: Cost Drivers Project - Indian Government Support Programs.”

³ *Cree-Naskapi Commission*, Report of the Cree-Naskapi Commission.

⁴ Fiocco, interview.

⁵ *Eenou-Eeyou Limited Partnership*, Eenou-Eeyou Limited Partnership Annual Report 2008-2009.

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Regional Tripartite Committee on Housing*, “Allocation of Federal Housing Funds to Quebec’s First Nations Communities”; *Canada Mortgage and Housing Corporation*.

⁹ *Canada Mortgage and Housing Corporation*.

¹⁰ *Ibid.*

¹¹ *Ibid.*; Katapatuk, interview; Fiocco, interview.

¹² *Canada Mortgage and Housing Corporation*.

¹³ *Ibid.*

¹⁴ *Regional Tripartite Committee on Housing*, “Allocation of Federal Housing Funds to Quebec’s First Nations Communities.”

¹⁵ *Ibid.*

¹⁶ Fiocco, interview.

¹⁷ *Regional Tripartite Committee on Housing*, “Allocation of Federal Housing Funds to Quebec’s First Nations Communities.”

¹⁸ *Ibid.*

¹⁹ *Canada Mortgage and Housing Corporation.*

²⁰ *Ibid.*

²¹ *Ibid.*

²² *Ibid.; Regional Tripartite Committee on Housing, "Allocation of Federal Housing Funds to Quebec's First Nations Communities."*

²³ *Crabtree, "Community Land Trusts and Indigenous Housing in Australia-Exploring Difference-Based Policy and Appropriate Housing."*

²⁴ *Regional Tripartite Committee on Housing, "Allocation of Federal Housing Funds to Quebec's First Nations Communities."*

²⁵ *Government of Canada, "First Nation On-Reserve Housing Program."*

²⁶ *Regional Tripartite Committee on Housing, "Allocation of Federal Housing Funds to Quebec's First Nations Communities."*

²⁷ *Ibid.*

²⁸ *Regional Tripartite Committee on Housing, "Canada's Economic Action Plan (Housing) in Quebec's First Nation Communities."*

²⁹ *Regional Tripartite Committee on Housing, "Allocation of Federal Housing Funds to Quebec's First Nations Communities."*

³⁰ *Government of Canada, "First Nation Housing."*

³¹ *Canada Mortgage and Housing Corporation.*

³² *Ibid.*

³³ *Katapatuk, interview; Loi Sur Les Cris et Les Naskapis Du Québec.*

³⁴ *Canada Mortgage and Housing Corporation.*

³⁵ *First Nations Market Housing Fund, "First Nations Market Housing Fund."*

³⁶ *Government of Canada, "First Nation Housing."*

³⁷ *Schneider, A Time for Action: Aboriginal and Northern Housing; Mohawks of the Bay of Quinte, "Mohawks of the Bay of Quinte"; The Canadian Real Estate Association, "The Path to Homeownership."*

³⁸ *Dickason, Canada's First Nations; First Nations Bank of Canada, "Our History."*

³⁹ *Fiocco, interview.*

⁴⁰ *First Nations Bank of Canada, "Our History."*

⁴¹ *Mohawks of the Bay of Quinte, "Mohawks of the Bay of Quinte"; Wertman, interview.*

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