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MEMORANDUM

September 8, 2016

To: Housing Clients

From: Hobbs, Straus, Dean & Walker, LLP

Re: *NAIHC Legislative Committee Meeting*

This memo reports on the monthly NAIHC Legislative Committee meeting, which was held on September 8 (by teleconference). The meeting included updates in the following areas.

1. NAIHC Legislative Priorities Setting

NAIHC has initiated the process of setting legislative priorities for the organization to advocate for in 2017 and beyond. The first step is to solicit input from the various regional Indian housing associations on their ideas for legislative priorities. The goal will be to have that input in hand by October 2016, so that it can be organized and presented at the in-person meeting of the NAIHC Legislative Committee in conjunction with the Legal Symposium in Las Vegas in early December. The Committee will review and finalize the priorities, and then develop white papers for use at the Legislative Conference in February 2017 in Washington, DC.

Chairman Gary Cooper reported that the various regions are working on developing legislative priorities lists. NAIHC has received a list of priorities from the Alaska Association of Housing Authorities. Once the regional listings are received, NAIHC will organize these and create a larger list to be discussed at the in-person meeting of the NAIHC Legislative Committee in conjunction with the NAIHC Legal Symposium in December. That meeting will take place on Monday December 5 at 1:00 PM at the Mirage Hotel in Las Vegas.

2. Legislative Update: NAHASDA Reauthorization and 2017 Appropriations

Shawn Pensoneau (assisted by Paul Moorehead, the NAIHC lobbyist) gave the legislative update. Both the House and the Senate have just returned from their August recess. There are now only 13 legislative days remaining before they head out to campaign. But it appears that there will be a lame duck Congress beginning after the election, around November 14, for three to four weeks.

a. NAHASDA Reauthorization

No action has occurred since the last NAIHC Legislative Committee meeting. There are currently two active bills in Congress: H.R. 360, which was passed by the House, and S. 710, which passed its Committee and is before the full Senate floor.

Both bills continue to face opposition from Senator Mike Lee (R-UT), based on the Senator's belief that the Native Hawaiian Housing Block Grant is unconstitutional. NAIHC has been working with the Hawaiian delegation to draft compromise language that may satisfy Senator Lee. The Hawaiian delegation has also been meeting with Senator Lee's office. Unfortunately, no progress has been made.

The short legislative calendar means it may be difficult to get NAHASDA reauthorization passed before the end of the 114th Congress. There are few legislative days available, and a number of interest groups who have legislative priorities as well, and all are trying to get their bills passed in the same small window.

NAIHC will continue to have communications with leadership in both houses, to see if there is a means of getting NAHASDA reauthorization done this session, perhaps by attaching it to another "must pass" bill.

Paul Moorehead reported that NAHASDA reauthorization is not likely to get any floor time or prioritization before the end of this legislative session. This does not mean reauthorization will not happen; it does mean that if reauthorization is to pass, it must be done through some kind of creative legislative mechanism. He also reported that at the end of a legislative session with a new president coming in, there is an effort to "clear the decks" and finish up various items of unfinished business. He gave the example of an omnibus Indian bill that was passed in the lame duck session at the end of President Bill Clinton's term. He said not to give up hope; a lot will depend on the outcome of the election and whether or not there is continued partisan acrimony.

b. 2017 Appropriations

There were no new updates on FY 2017 budget and appropriations since the last Legislative Committee meeting. Senate Appropriations has passed a Transportation-HUD bill, but there has been no action yet on the House side. As a result of the Congressional schedule, there are very few legislative days left before the end of the Fiscal Year (September 30) in which to get appropriations bills passed. While it looked there might be some momentum earlier in the year, it has since slowed down. Congress needs to pass some kind of appropriations by the end of September or there will be a government shut-down. The likelihood is that funding for FY 2017 will come through Continuing Resolutions (CRs). No one knows at this point whether the CRs would be short term or longer term.

House leadership met behind closed doors to discuss FY 2017 funding bills. There is a zero likelihood that Congress will pass the 12 full appropriations bills needed before the end of the fiscal year (September 30). The most likely approach will be a CR that funds the government from the beginning of the next fiscal year through a couple weeks past the election, and the lame duck session will take up the issue. There may be an effort to pass a CR to last for a full year. The conservative Republican caucus (the "Freedom Caucus") indicated that it is opposed to an end-of-year package to fund the government. This opposition may in fact give the Democrats a stronger hand, in that the Republican leadership will need Democratic votes to get a budget passed.

If FY 2017 comes through a CR, there is one significant issue we will need to keep our eye on: HUD-VASH funding. There was no funding appropriated in FY 2016 for the HUD-VASH program because it was funded as a demonstration project through existing funds. If a straight CR passes, there will be no funding appropriated for the HUD-VASH program for FY 2017. It would need to be specifically added to any CR for FY 2017.

3. Other Items

NAIHC has moved its offices. The new offices are located at 122 C St. NW, Suite 350. The location is very close to Union Station and House and Senate Offices. NAIHC will host an open house on September 28, 2015 – in conjunction with the White House-Tribal Nations Summit (the last one of the Obama Administration).

NAIHC just sent out the notices for the NAIHC Legal Symposium. The Symposium will be held at the Mirage Hotel in Las Vegas, NV, from December 5 through December 7. The NAIHC Legislative Committee will be meeting on Monday, December 5, at 1:00 PM. There is also a golf tournament scheduled for Sunday, December 4, for those who are interested.

The next NAIHC Legislative Committee meeting will be held on October 6, 2016, 1:00 PM Eastern, 10:00 AM Pacific, by telephone.

If you have any questions about the items in this memorandum, please do not hesitate to contact Edmund Clay Goodman at EGoodman@hobbsstrauss.com or by phone at (503) 242-1745.