



806 SW Broadway, Suite 900
Portland, OR 97205

T 503.242.1745
F 503.242.1072

HOBBSSTRAUS.COM

MEMORANDUM

November 2, 2017

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 November 2, 2017 (by teleconference). NAIHC Executive Director Tony Walters presided over the call.

NCAI Mid-Year Recap:

Mr. Walters and Gwen Salt provided updates on the NCAI mid-year meeting, held June 12 - 15, 2017 at Mohegan Sun in Connecticut. A new executive board was elected. Jefferson Keel is President, Aaron Payment is 1st Vice President, Juana Majel-Dixon is Secretary, and W. Ron Allen is Treasurer.

While no housing-specific resolutions were passed, NCAI held a listening session on DOI's recent Dear Tribal Leader Letter (attached), which seeks comments on DOI's proposal to create a two-step review and approval process for off-reservation trust acquisitions. DOI's proposal includes additional requirements for agreements between tribal and non-tribal entities, which has not been received well in Indian Country. The proposed requirements may negatively affect TDHEs, making it more difficult to acquire land for housing. The proposal will not go through a Federal Register process. DOI is receiving comments at consultation@bia.gov, or to:

Attn: Fee-To-Trust Consultation
Office of Regulatory Affairs & Collaborative Action
Office of the Assistant Secretary - Indian Affairs
1849 C Street NW, Mail Stop 4660-MIB
Washington, DC 20240

The deadline for comments is December 15, 2017.

Tribal HUD-VASH Legislation:

Two bi-partisan efforts to formally authorize the Tribal HUD-VASH program, a joint tribal housing initiative between HUD and the Veterans Affairs Supportive Housing (VASH) program, are moving forward with support in the House and Senate. The Senate version is the Tribal HUD-VASH Act, (S.1333), introduced by Senator Tester (D-MT). The Senate bill was ordered to be reported out favorably by the Senate Committee on Indian Affairs on September 13, 2017. NAIHC will provide an update shortly on when the report will be published. In the House, the authorization effort is part of the NAHASDA reauthorization bill (H.R. 3864). While no movement has occurred since the last update on H.R. 3964, the Tribal HUD-VASH authorization within the bill has broad support.

Home Ownership Issues:

Mr. Walters described two potential changes to home ownership opportunities. The first issue is that the VA is interested in streamlining the Native American Direct Loan program (NADL). Currently, the VA provides direct home loans to eligible Native veterans to finance the purchase, construction, or improvement of homes on trust land, or to refinance a prior NADL to reduce the interest rate. The VA would like to create mechanisms to allow partners such as TDHEs to assist Native veterans with all aspects of loan packaging, and then the VA would compensate those partners as third parties. The VA is very short-staffed and unable to work on the ground at full capacity. Staffers at the VA are currently discussing the proposal with senators, and a proposal may be attached to housing legislation or to an appropriations bill.

The second issue concerns the 502 Direct Home Loan Program, which assists low and very-low-income applicants obtain decent, safe and sanitary housing in eligible rural areas by providing a no money down home loan, on or off trust lands. The USDA is considering working with Native Certified Community Development Financial Institutions (NCDFI) to allow re-lending under the Direct Home Program and allow local partners to manage the lending. The USDA may attempt to conduct a demonstration project to determine how successful the approach would be.

Section 184 Jurisdiction:

Denise Zuni asked whether NAIHC should consider proposing legislation to remedy the Section 184 jurisdictional issues, as the DOJ has not moved on the issue for over one year. As you will recall, the issue is that after years of accepting Tribal Court jurisdiction to enforce loan agreements and loan guarantees, HUD reversed course, stating that the DOJ took the position that HUD cannot agree to provide such loan guarantees when the venue for enforcement is Tribal Court. After tribes raised a concern about this issue last year, the DOJ informally agreed to send a memorandum to HUD stating that the DOJ has no issues with tribal court jurisdiction. However, to date that has not happened. Mr. Walters said that NAIHC is still trying to confirm that someone from

DOJ will attend the Legal Symposium to address the Section 184 jurisdiction issues, as well as to provide updates from the administration.

NAHASDA Update:

In our last housing update memo, we provided an update and summary of the NAHASDA reauthorization bills introduced in both the House and the Senate. Mr. Walters noted that no movement has occurred since the last update.

NAIHC has spoken with Congressman Pearce's office, and Congressman Pearce intends to continue to shepherd the House bill (H.R. 3864) through, even though he will be retiring next year from the House.

Mr. Walters said that NAIHC intends to continue working with the sponsors of the two bills to develop and refine the strategy for moving the bills through Congress. He emphasized that NAHASDA reauthorization has been a bi-partisan issue, and that the goal is to keep it that way. He will continue to update the Committee on any progress.

Final Announcements:

Mr. Walters reminded participants that NAIHC sends out a Native Housing update newsletter every two weeks. If you do not receive that newsletter, you can subscribe on the NAIHC website. NAIHC will be adding additional regional content throughout 2018.

The next NAIHC meeting will be held in person at the beginning of the Legal Symposium on Sunday, December 3, 2017 at 1:30 PM. The Legal Symposium will run from December 3 – 5, 2017 at the Venetian in Las Vegas. Registration is now open. The final day to reserve a hotel room at the conference rate is November 9, 2017.

Conclusion:

If you have any questions about the items in this memorandum, or if you would like assistance preparing or submitting comments on the proposed fee to trust regulations amendments, please do not hesitate to contact Edmund Clay Goodman at EGoodman@hobbsstrauss.com or by phone at (503) 242-1745.