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MEMORANDUM

February 8, 2018

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 February 8, 2018 (by teleconference). NAIHC Board Member and Legislative Committee Chair Gary Cooper and NAIHC Executive Director Tony Walters presided over the call.

I. NAIHC Legislative Conference

The NAIHC 2018 Legislative Conference will be held at the Capitol Hilton from March 5-7, 2018. Registration is still open, although the host hotel is now full. There are alternative hotels in the vicinity if you had not yet made travel plans. Mr. Walters also noted that there are some important updates to the agenda for that meeting.

a. March 5, 2018, 9:00 AM Consultation on Section 184.

Deputy Assistant Secretary Heidi Frechette has requested and NAIHC has agreed to set aside Monday morning, March 5, for a consultation session with HUD on the Section 184 loan guarantee program. (This will follow on a consultation session next week at NCAI.) DAS Frechette will be sending out an advance letter with more details, but the purpose of the consultation is to consider ways to amend the program regulations to improve and increase the use of Section 184 loan guarantees on reservation. The Section 184 program has been very successful on off-reservation fee lands, but the goal has always been to facilitate more mortgage lending on reservation trust lands. The consultation will be for the purpose of hearing ideas that will lead to the development of proposed regulations. Jason Adams (Salish-Kootenai Housing Authority) asked that NAIHC urge DAS Frechette to utilize negotiated rulemaking to make any amendments to the Section 184 regulations. Negotiated rulemaking has not been used before on these regulations, and it is needed to ensure a significant tribal voice in developing necessary changes to the program. Mr. Walters stated that NAIHC is still waiting on the initial letter from DAS Frechette to formulate its response, but will include the request for negotiated rulemaking.

As you will recall, one significant 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.

b. HUD Secretary Ben Carson: Tuesday Morning

HUD Secretary Ben Carson has accepted NAIHC's invitation, and will speak at the plenary session on Tuesday morning, March 6. The specific time has not been set.

II. Tribal Housing Legislation Update

a. 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 House version is part of the NAHASDA reauthorization bill, but given the current prospects of that bill, it will likely move separately. While no movement has occurred since the last update on H.R. 3864, the Tribal HUD-VASH authorization within the bill has broad support. Senate staff has contacted NAIHC for the organization's position on S. 1333, to which NAIHC responded that it supports the bill. Mr. Walters stated his hope that the contact from Senate staff means there will be movement shortly on the bill. There is a meeting tomorrow between Senate Indian Affairs and V.A. committee staff (not clear if it is bi-partisan meeting, or just Democratic staff) to discuss the legislation.

b. NAHASDA Reauthorization

There is still not much new to report on NAHASDA reauthorization. The Pearce bill (HR 3864) has been moved out of Committee, but there has been no word yet on when it will come to the floor for a vote. NAIHC is asking whether there will be further opportunities to amend the bill, since it includes a \$650 million appropriations cap (that NAIHC opposes) and no longer includes Native Hawaiian provisions (which provisions NAIHC supports).

There are two Senate bills: Senator Hoeven's BUILD Act, S.1275, which is a very stripped-down version of reauthorization, including only a few proposed amendments; Senator Udall's more comprehensive reauthorization bill, S. 1895 (which is very similar to HR 3864). There has been no movement on either bill, and there has been no word from SCIA Chairman Hoeven's office as to how the Committee plans to move forward. NAIHC hopes to have an update sometime during the next month, prior to the

NAIHC Legislative Conference, so that NAIHC and its members can develop an advocacy strategy in conjunction with the Conference.

c. Appropriations and Budget Deal

The media has been reporting on the terms of a bi-partisan budget deal reached among the Senate leadership. The current Continuing Resolution funding the operations of the federal government expires today, and it is expected that the House and Senate will pass a continuing resolution through March 23, 2018, which will continue funding for FY 2018 at FY 2017 levels, although approval by the House is still an open question. The Senate budget deal lifts the caps for spending: an additional \$80 billion for defense, and an additional \$65 billion for “discretionary” domestic spending. Those new caps will be in place for two years. The deal also proposes lifting the debt ceiling. Assuming that the new budget caps are put into place, the specific appropriations for individual programs (such as the Indian Housing Block Grant) will go through the relevant appropriations committees. NAIHC and tribal advocates will have the opportunity to ask for an increase in the IHBG appropriations, given that the budget caps have been increased substantially. NAIHC is going to develop information showing how much money goes to each state via the IHBG, and how much an increase in the IHBG appropriations amount would mean to each state. That information can then be passed on to the Congressional delegations in each state to ask for their support for the increases.

d. S. 2270: Mitigating Methamphetamine Epidemic and Promoting Tribal Health Act

S. 2270 was introduced by Senator Steven Daines (R-MT) with bi-partisan support. The bill would amend legislation passed during the Obama Administration that provided \$1 billion in funding for addressing the opioid crisis. The S. 2270 amendments would expand the legislation to cover damage and harm from methamphetamines, and would include tribes and tribal entities as eligible to receive the funding. It also includes an increase in the amounts appropriated for the program. The bill is co-sponsored by four Democrats and two Republicans, and Senator Daines is seeking additional co-sponsors. The request from his office was passed on to the NAIHC membership, asking to reach out to your Senators to see if they support this legislation and, if yes, whether they would be interested in co-sponsoring it.

e. Section 502 Direct Loan Program (USDA)

The USDA 502 Direct Home Loan Program 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 (NCCDFI) 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. NCAI has sent in comments on the Farm Bill regarding this issue,

and NAIHC will send a letter in support as well, focusing its comments on the potential for positive impacts to Indian housing from the proposed changes.

f. S. 548 – Affordable Housing Credit Improvement Act

S. 548 was introduced by Senator Cantwell (D-WA) last year. The goal of the bill is to increase the use of Low Income Housing Tax Credits. One participant in the meeting (a lobbyist for Yakama Nation), indicated that he had been meeting with her office to discuss the bill, the need for which, he argued, has become more pressing with the recent tax legislation passed. That legislation has reduced some of the incentives for LIHTC, and as a result tribes are seeing proposals from investors come in with much lower pricing. S. 548 would increase the amount of available LIHTC credits to states, and would require states to take tribal needs and areas into account. Senator Cantwell is looking for additional support, in particular from Republican members of the House and Senate.

III. Additional Items

The next meeting of the NAIHC Legislative Committee will be held in-person, in conjunction with the Legislative Conference, on Monday afternoon, March 5, 2018.

Mr. Walters noted that registration is open for the NAIHC/Amerind Annual Convention, to be held in San Diego from May 30 through June 1, 2018. NAIHC has not yet set the date and time for the in-person Legislative Committee meeting to be held in conjunction with the Convention, but will be working on that issue and hopes to get word out soon.

If you have any questions about the items in this memorandum, or if you would like assistance preparing or submitting comments on legislation or Section 184 proposed regulations, please do not hesitate to contact Edmund Clay Goodman at EGoodman@hobbsstrauss.com or by phone at (503) 242-1745.