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MEMORANDUM

June 4, 2018

To: Housing Clients

From: HOBBS, STRAUS, DEAN & WALKER, LLP

Re: *NAIHC Legislative Committee Meeting and NAIHC Annual Convention*

This memo reports on the NAIHC Legislative Committee meeting and the NAIHC Annual Convention held in San Diego, CA, on May 30 through June 1.

1. Plenary Session

a. Chairwoman Sami Jo Difuntorum

Chairwoman Sami Jo Difuntorum, a member of the Shasta Nation, opened the plenary session by giving a short history of her four-year tenure as the Chair of NAIHC. She is term-limited out, and there will be a new Chair elected at the business meeting on Thursday. NAIHC will be continuing its training and its advocacy work. But adaption to changing times is also important. The training and technical assistance program continues to grow and develop partnerships that matter.

Chairwoman Difuntorum also noted that the NAIHC Board has recently undertaken strategic planning, and has made solid progress. The process involved looking at all the pieces of NAIHC and figuring out what NAIHC does that is unique so that NAIHC's strength can be leveraged. While NAIHC has an excellent and robust training program, NAIHC's unique function is advocacy for Indian housing issues. She gave an introduction to Tony Walters, the NAIHC E.D., who is able to develop NAIHC's in-house advocacy abilities. He has the experience, contacts, and talent to take NAIHC's advocacy component to new levels.

Chairwoman Difuntorum used the remainder of her time to recognize tribal leaders, veterans, and, specifically NAIHC's staff, whom she gave gifts of necklaces. She also received gifts, including from staff and from the Yakama Nation for her four years of Chairmanship. She closed brief remarks with saying she looked forward to moving ahead with Native housing issues, and saying she was optimistic about NAIHC's future in advocating for tribes.

b. Executive Director Tony Walters

Executive Director Walters (Cherokee Nation) is just completing his first annual cycle of NAIHC's events. He said that the advocacy efforts of NAIHC are based on the work done by the NAIHC membership to lobby their respective delegations. The \$100 million in extra IHBG funding this year did not happen by accident; it is the result of a broad effort by NAIHC staff and the NAIHC membership.

Director Walters also discussed NAIHC's capacity building program and technical assistance services. He said the Pathways to Homeownership train-the-trainer curriculum has been updated, and will roll this out in the coming months to tribes for on-site. NAIHC is still developing and strengthening its training and technical assistance program. NAIHC is also seeking to enhance its membership services and attract more members to the organization. That is an ongoing and essential effort.

c. Amerind Chair Greg Borene

Chairman Borene is a member and Chairman of the Enterprise Rancheria. Housing is one of his priorities. He gave a brief update on Amerind. He introduced the Amerind Board. He said his update is similar to Chairwoman Difuntorum as far as the challenges and changes facing Indian housing. In particular, we need to meet the challenge of decreasing federal funding and find alternative funding sources.

d. Amerind CEO, Derek Valdo

CEO Valdo is from Acoma Pueblo, and has served on Tribal Council. He has been at Amerind for 18 years, and this is his sixth year as CEO. He gave a brief history of Amerind's founding, which was the vision of NAIHC, and the decision to incorporate the entity in Indian Country. Amerind competes, successfully, with large insurance companies, but they serve Indian Country with a focus on the specific needs of tribes. They are now offering a new element of coverage: cybersecurity.

e. HUD Secretary Ben Carson (video presentation)

Secretary Carson mentioned that he has been at several events in Indian Country over the past year, including an event hosted by UNAHA at the Salish and Kootenai reservation in Montana. He also spoke at NCAI and NAIHC events in Washington, D.C. He spoke about the goals of ONAP: to promote economic growth while preserving tribal sovereignty and self-determination. Housing is a key component for developing self-sufficiency for Indian people. He anticipates the approval of Hunter Kurtz as the OPIH Assistant Secretary.

f. Frederick Grieffler, HUD ONAP Director of Grants Management

Director Grieffler is here speaking on behalf of Deputy Assistant Secretary Heidi Frechette, who was unable to attend. He noted that HUD ONAP shares many of the goals

of NAIHC. He gave an update on ONAP's grant and loan programs. First, the IHBG program: the FY 2018 allocations were recently published, including for the six newly-federally-recognized tribes in Virginia. HUD ONAP is still working on the policy and procedures for the \$100 million in additional, competitive funds, and hopes to have that out shortly. HUD understands how important these funds are to tribes. HUD ONAP is also currently overseeing the Tribal HUD-VASH program demonstration project. This program is still getting off the ground, but HUD and the participating tribes are already seeing significant success. Last week, the Senate passed the bill to make the HUD-VASH program permanent (S. 1333). It now moves to the House. We will need NAIHC membership continued advocacy to get this bill passed. HUD hopes to expand the program as much as possible.

Director Grieffler then discussed the Section 184 loan guaranty program. HUD has completed the Tribal Consultation for the new regulations (11 sessions across six regional offices). HUD is now working on draft revised regulations, which will be circulated first to Indian Country for feedback before formally published for public comment.

Director Grieffler concluded with a quick run-through of success stories of housing development in tribes across the various HUD ONAP regions.

g. NAIHC Vice-Chair and Chair of Legislative Committee, Gary Cooper

Vice-Chair Cooper (Cherokee Nation Housing Authority) gave an update on the Legislative Committee and legislative issues that are the focus of NAIHC's advocacy efforts. The Legislative Committee will meet Thursday afternoon. There is a Legislative Committee conference call meeting once a month (first Thursday at 1:30 Eastern), but the Committee meets in person during NAIHC's meetings.

One of the big priorities has been the Tribal HUD-VASH bill (S. 1333). NAIHC will continue to advocate to get the bill passed through the House.

NAIHC continues to push for additional funding, which NAIHC succeeded in obtaining this year via the additional \$100 million in IHBG competitive grant funds, as well as an increase in ICDBG funds. NAIHC is also working on getting Senatorial approval of the nominated Assistant Secretary for OPIH (Hunter Kurtz). It is crucial that this position be filled as soon as practicable.

h. Senator John Hoeven (R-ND) (Chairman of Senate Committee on Indian Affairs) (video presentation)

Senator Hoeven congratulated Chairwoman Difuntorum on her successful work in advocating for Indian housing. He supports increasing resources for Indian housing. He also says we must work to improve the quality of life for Indian Veterans, and that he is proud of leading the effort for passage of the Tribal HUD-VASH legislation, which as a bi-partisan effort.

i. Kelly Coffey, Fannie Mae

Last Friday, Fannie Mae entered into an agreement with NAIHC to develop and provide homeownership manuals to use in Indian Country. These are very helpful tools. Fannie Mae is not new to Indian Country, but had to exit Indian Country in the early 2000s due to mortgage foreclosure crisis (when they had to shift priorities), but are glad now to be working in Indian Country again. Fannie Mae has partnered with various Indian Country entities, as well as providing grants and loans in support of LIHTC in Indian Country.

The duty to serve regulation that came out in December 2016 was implemented to ensure that Fannie Mae continues to provide leadership to facilitate a secondary market for and to improve the availability of home financing for very low to moderate income families in three underserved markets: (1) manufactured housing, (2) rural regions and populations, and (3) affordable housing initiatives.

j. Cora Ganne, Wells Fargo

Cora Ganne, the Senior Relationship manager and Tribal Advocate at Wells Fargo spoke after recognition as a primary sponsor. She shared a story from her time as a gaming lender that made her realize housing was a fundamental part of economic development in Indian Country, and that she felt it was her charge at Wells Fargo to enable every tribal member to realize the American Dream of owning her own home. She said Wells Fargo was deploying \$10 million a year over the next five years in grant funding for various Indian housing and financial programs. She mentioned a \$500,000 program for down-payment assistance grants that would be available to tribal homebuyers that go through homebuyer education. The other focuses are environmental sustainability, economic development, and diversity and social inclusion. The overall goal is to provide philanthropy for national organizations. They realized that there aren't that many national non-profits in Indian Country, but also that there was a need to serve tribes and not just national organizations. Accordingly, they made an exception to recognize Alaska non-profits to help. They will also provide funding for cultural education entities, financial education, and career and leadership training. She said Wells Fargo was providing \$400 million to all charitable causes in 2018.

k. Keynote Speaker: Patrice Kunesh, Assistant Vice-President and Director, Center for Indian Country Development, Federal Reserve Bank of Minneapolis

Director Kunesh did a presentation on "making homeownership finance accessible on trust land."

She began by providing background on the Center for Indian Country Development. The Federal Reserve Bank is governed by the Community Reinvestment Act, which requires them to look deep into underserved communities, determine what is

holding those economies back, and develop steps to address those problems. To address Indian Country and its particular issues, the Federal Reserve Bank developed the Center for Indian Country Development, and hired Director Kunesh to run it. She saw that housing is one of the most pressing and one of the most impactful issues in Indian Country. But there are significant obstacles to developing homeownership in Indian Country, particularly on trust land on reservations. The Center for Indian Country Development is not just focused on the Northern Plains, even though the program is centered out of Minneapolis: it is a nationwide program.

The next part of her presentation was to identify “the problem”: that housing financing is significantly less available on trust land than on fee land. Trust land is the major resource for most tribes. While the rates of homeownership on reservation trust land about the same as that on non-tribal land, the on-reservation housing stock is much older and in need of rehabilitation and repair. These are “legacy homes.” But there are much lower amounts of mortgage lending on reservation, and thus fewer resources for new construction or for repair and rehabilitation of the legacy housing. The Center looked at the data for the Section 184 program, which is a significant tool for homeownership lending in Indian Country. The use of that program has increased substantially since 2005, but the growth has all been on fee simple land, not on trust land. There was a short increase in such lending on trust land in the late 2000s, but it dropped off again after several years. And the numbers of such loans on trust allotments has always been flat. This situation concerned the Center very much, because it suggests that housing for Indian families is being moved off the reservation.

The Center also looked at the specific data on the types of home loans. There is a high percentage of manufactured loans in Indian Country, much higher than for comparable population. But there is also a very high denial rate of such loans in Indian Country: 65% denial rate for AIAN, compared to 30% for non-Hispanic whites. Further, most of the Indian Country loans are limited to a single lender. Yet credit scores for reservation populations are high: 63% of AIAN on-reservation have high enough credit scores to obtain home financing. Further analysis of the data showed that tribes in certain areas are much more successful in getting private financing onto tribal trust lands: Flathead, Oneida, Lac du Flambeau, Tulalip, Port Gamble and Grand Ronde are among those that are successful

The presentation then moved to the Center’s concept for “the fix”: that the federal government and tribes quickly establish efficient land record and loan processing systems. The data analyzed by the Center lead to the conclusion that denials and limitations on such lending was correlated with inefficient or inaccurate recordkeeping, processing, and enforcement. The Center suggests the following specific steps for tribes and the United States:

- Develop accurate land and title records;
- Ensure prompt processing of transactions;
- Provide for uniform and consistent enforcement of financial contracts and foreclosure through tribal courts and other institutions;

- Work closely with Amerind to develop and implement risk mitigation measures;
- Develop unified title for structures and land; and
- Resolve fractionated titles on individual trust land.

There will be a big homeownership event by the Center in Minneapolis in July. Director Kunesh encourage NAIHC members to attend, and to contact her with any questions.

2. Breakout Sessions

a. Opioid Litigation

Adam Bailey and Ed Goodman (both from Hobbs Straus) made a presentation on the ongoing opioid litigation. The presentation began with background on the opioid crisis: the massive increase in opioid-related deaths and opioid addiction, the impacts of that increase generally and on Indian Country specifically, and the role of the pharmaceutical industry in creating the crisis. The discussion then shifted to the litigation that has been filed against the pharmaceutical industry (over 400 lawsuits to date), and their consolidation in a “multi-district litigation” (MDL) proceeding in the Northern District of Ohio federal court. A number of tribes have filed suit and have been brought into the MDL proceeding. Hobbs Straus has filed suit on behalf of three such tribes, and in the coming weeks will be filing suit on behalf of additional tribes and tribal health care organizations. Indian Country has suffered disproportionately from the opioid crisis, and the impacts are substantial and wide-spread. Tribes are analyzing the impacts in order to flesh out damages claims. Tribal housing programs feel the impacts of the crisis through addiction/overdose-related evictions, increased homelessness, increased criminal activity and damage to housing stock. One of the reasons for tribes to file litigation and get actively involved in the MDL is because a significant focus of that proceeding will be on potential settlement. Tribes were largely on the outside looking in during the tobacco litigation of the 1990s, and want to play a more active role in this similarly large and complex litigation. The judge presiding over the MDL (Judge Aaron Polster) has repeatedly said that he wants to find a way to settle this issue comprehensively, and in a manner that turns the trajectory of the crisis downward. At this stage, the settlement discussions are focusing on preliminary relief – the kinds of steps that can be taken to slow down the crisis. At the close of the session, there was discussion of various ideas that could be implemented to do just that, including increased treatment, wrap-around services, supportive housing to help addicts transition out of treatment.

b. Updates on recent litigation

Robert Dahl and Geoffrey Blackwell led a breakout on legal updates. Blackwell began the session by discussing *Lewis v. Clarke*, which the U.S. Supreme Court decided last year. The case held that tribal sovereign immunity does not bar individual-capacity suits against tribal employees who cause damage or harm while in the scope of their employment. The Supreme Court held that the remedy sought in that case (an automobile accident involving a shuttle bus driver for a tribal casino) was not against the

tribal sovereign, but against Clarke in his personal capacity – even though ultimately the Tribe would be paying any damages through a indemnification provision covering the employee. Blackwell worried that it would lead to tribal employees being on the hook for personal suits as an “end-run” around sovereign immunity. He also said he thought the Supreme Court was telegraphing to tribes that they needed to start legislating immunity, much like states or federal governments have, to define who is immune and when.

Blackwell also discussed a case named *Murphy v. Royal*, a capital murder case arising from the 10th Circuit and currently on appeal to the Supreme Court. The case tests whether the US ever “disestablished” the historical boundaries of the Muscogee Creek Nation. The major implication is who has jurisdiction of the case: the State courts or the federal courts. The crime was between tribal members, but not on tribal land or any kind of trust land. The murder occurred within the “historical boundary” of the Muscogee Nation, and Murphy argued it happened within Indian Country. The 10th Circuit applied *Solem v. Barlett*, and followed *Nebraska v. Parker*. 10th Circuit found that the state lacked jurisdiction to prosecute Murphy, because that former territory constitutes a present-day “reservation” and therefore is “Indian Country” under 18 USC 1151. The U.S. Department of Justice argued that the state has jurisdiction (i.e., that the reservation no longer exists). Mr. Blackwell was not optimistic the tribe would be victorious in the case, especially given the fact that the United States has sided with the State of Oklahoma in seeking State jurisdiction.

Robert Dahl reviewed the *Waltrip v. Osage Million Dollar Elm Casino*, a workers’ compensation case. The facts of the case are undisputed: an employee of the casino slipped on the ice and injured himself while at work. He received benefits under the sovereign nation workers’ compensation policy. The insurer for the tribe sent him for an independent medical opinion with a specialist, who recommended surgery. The surgery was related only to the work injury, not a prior injury, which the insurer was trying to show. The insurer refused to pay anyway. The claim before the state workers’ compensation board was whether the tribe’s insurer could use the tribe’s sovereign immunity in order to avoid liability and payment. The State Supreme Court decided sovereign immunity applied, but not to the insurer. The deciding factor was likely the fact the Osage Nation did not have a workers comp law and appeals process. Mr. Dahl urged tribes to develop such laws and internal processes, to demonstrate that their workers comp programs are part of the government and thus protected by sovereign immunity.

c. LIHTC opportunities and options after Year 15

Robin Thorne of RT Hawk led a breakout title “Low Income Housing Tax Credit Options after Year 15,” discussing what happens when tax credit projects reach the end of the initial 15-year compliance unit. After this period, the unit enters the “extended use” period, and triggers several considerations needs to be made:

- The Land Use Restrictive Agreement (LURA), which contain what the tribe or entity agreed to in its application for tax credits (e.g., agreeing to longer terms of use periods)
- The Amended & Restatement LP Agreement, which is the agreement between the Tribe and the entity that purchased the tax credits (the investor); and,
- Did the tribe use other project funds, such as NAHASDA or other financing sources, that had promises attached to them.

These considerations dictate what happens at the end of the initial 15 year mandatory compliance period. The major change at the 15 year period is that the investor departs, and the tribe or TDHE becomes the owner of the units funded by the tax credits. Tribes may then seek to “re-syndicate” the projects with the same investor partnership to rehab or improve units (even if tenants are over-income). If the investor relationship is dissolved, any over-income tenants would not be eligible for the units that are re-submitted for tax credits for rehab or improvement uses. The re-syndication process does not require that *all* units be re-syndicated. A grey area is whether you can bring in other affordable housing units that were not part of the original group along with those “expiring” units; the IRS and states have not reached an answer here, yet.

Also, tribes must be advised that the extended use period creates a new partnership between the tribe and the state housing agency. The requirements are usually simpler, but the tax credit rules (like the 60% median income rule for tax credit units) will continue to apply. Inspection and reporting requirements remains with the state housing agency. However, the state may agree to increase limits on agreements that are limited to very-low-income families (i.e., 30% of median income). It’s important to check which program funded the projects, however. For example, the Affordable Housing Program does not have long-term compliance or reporting requirements, but those that use USDA’s rural development program rent vouchers will have continuing requirements. Another thing to keep an eye out for is requirements state housing agencies that the reserve funding account (for non-routine maintenance, usually) contribution obligations be funded still.

If the tribe transitions to ownership, the investor departments and 100% ownership of the LIHTC project reverts to the Tribe or Housing Authority. The exit may require some legal compliance, and may include exit fees (which Thorne recommended negotiating down).

Another option is a “qualified contract,” which usually apply to for-profit housing entities, which requires the state to look for a willing buyer to operate the units as tax-credit units. This has been unsuccessful for tribes, because most units are on trust land, and most tribal programs have capped rents that purchasers cannot raise immediately). Another question here is how to comply with NAHASDA. The bonus of this, however, is after one year the state does not find a buyer, the units revert to 100% tribal ownership and there is no extended use compliance (other than NAHASDA). There is a three year window where rents must be fair rents. This is an option to remove the state housing authority’s continuing oversight, but there is a risk a qualified buyer would be found.

However, states are not funding buyers (and many have stopped even trying to find buyers).

Thorne spoke about the situation where Tribes have a plan to convert tax credit units to homeownership, and talked specifically about the “nuts and bolts” of the plan. How is pricing going to be set? Do tribes subsidize the purchase price, and how much? Thorne recommended not giving away houses, but said that tribes have a lot of flexibility in decided how to sell the homes and for what price. Thorne said tribes should consider their own incentive programs. A critical part of transition tenants in low income units to homeownership is preparing tenants. Maintenance is one part, as is preparing a tenant for handing insurance and other requirements that go along with homeownership.

In extended use periods, tribes are able to modify the term of extended use, provided the tribes have good reasons for that (such as the fact that units will stay low-income, or other reasons). It might be necessary to modify the LURAs to recognize the tribe’s right to convey the units. The LURA may also have specific language about the qualified contract option (i.e, sale to another operator), that is aimed at keeping units as low-income housing.

Overall, Thorne recommended that Tribes set a wish list of what they want to do with units ending the initial LITHC period, and then review the applicable agreements to see what is possible.

3. Business Meeting

a. Preliminary matters

Raymond Perry, the Acting Secretary of the NAIHC Board (Tule River Housing Authority) provide the credential report. NAIHC’s membership is 279. The number of members present is 140, which is the exact number needed for a quorum. Last year, NAIHC did not have a quorum and was not able to conduct official business. NAIHC was able to proceed with the business meeting.

The membership adopted the prepared agenda, approved the June 2016 minutes (which were not approved last year because there was no quorum), and delegated approval of the 2018 minutes to the NAIHC Rules Committee.

Chairwoman Difuntorum provided her report to the organization. She introduced the Board members and each of their contributions. She feels that all have helped to put the organization on a strong footing going forward. When she took the helm, NAIHC was in a fiscal crisis – funding was much more limited, but NAIHC’s spending habits and business model had not changed. It took hard work and tough decisions by the Board, but the organization is now in much better financial condition.

b. Election of new NAIHC Chair

Chairwoman Difuntorum cannot run for re-election because she has served the two consecutive terms allowed under the NAIHC bylaws. Gary Cooper (E.D. of Cherokee Nation Housing Authority) ran for the Chair. He was unopposed. Since he was unopposed, Mr. Cooper was elected Chair by acclamation.

Chairman Cooper began with some opening remarks. He commended outgoing Chairwoman Difuntorum, and gave her a gift: a turtle sculpture made by a traditional Cherokee artist.

c. Executive Director's and Treasurer's report

Director Walters gave both the Executive Director's report and the Treasurers' report. He first presented the audit, which showed that the organization is on a strong footing. There were no findings and no areas of concern. The financial report was also positive. The organization showed a third year of growth. There is no long-term debt, and working capital is more than sufficient to cover existing liabilities. NAIHC has sufficient funds to pay contractors pending reimbursement from HUD for training and technical assistance. The training and technical assistance program has grown over the past three years, and they are trying to expand these services to NAIHC members. The membership voted to accept the audit report.

Director Walters gave a more detailed update in his Executive Director's report on the training and technical assistance NAIHC has been providing. In the last three years, NAIHC has been able to nearly triple the amount of tribes reached through its training programs (from 26 in 2015 to 73 in 2017). The goal is to continue to grow this area. NAIHC is also developing a program to help tribal members learn the skills and practices necessary to be successful homebuyers and homeowners. He also introduced the NAIHC staff and commended the work they do.

d. Legislative Report

Director Walters gave the legislative update. He discussed the work of the Legislative Committee, which met right after the Business Meeting concluded. There is an initiative to improve the USDA Section 502 legislation to make the program more accessible to tribes. The Senate passed the Tribal HUD-VASH bill earlier this week, and that bill now moves to the House for consideration and approval. The House appropriations committee is working on FY 2019 appropriations language, and they are keeping the same level of funding as the IHBG received in 2019. NAIHC is also continuing to work on NAHASDA reauthorization. There has not been any development in either the House or the Senate. Director Walters was unable to work with Senate staff all of last year because he had worked in the Senate prior to coming to NAIHC, and there is a one-year moratorium on his being able to lobby his former colleagues. That restriction is now lifted, and he is able to engage the Senate staff directly.

e. Resolutions

Resolution 2018-A was introduced by Oglala Sioux Lakota Housing, and it addresses the additional \$100 million in IHBG funds appropriate this year, which Congress has required be allocated by competitive grant. The resolution called for that \$100 million to be allocated “only to those tribes with the greatest need and capacity,” and that such additional funding be provided for each of the next nine years. The Whereas recitations include a statement that “NAIHC believes that priority in making these new grants should be given to tribes who lost significant funding under the new IHBG allocation.” There was a significant amount of debate on the resolution, and in particular the suggestion that the funds should be allocated to those tribes who lost funding under the new IHBG allocation. A representative of Yakama Nation Housing Authority generally supported the concepts in the resolution, but opposed the use of the funds for IHBG formula allocation shortfalls or losses. UNAHA urged that NAIHC adopt the language in the resolution, since this is a UNAHA-approved resolution. Ketchikan Housing Authority spoke in opposition to the resolution; they felt it was inappropriate to be arguing among ourselves as to “who has the greatest need.” The Southwest Indian Tribal Housing Association (SWITHA) also opposed the language and supported the statement by the Ketchikan Housing Authority. SWITHA proposed some amended language. NAIHC used a parliamentarian to help operate the meeting according to Roberts Rules of Order, and she required that the organization go through each proposed amendment one at a time, rather than take them up as a package. The amendments proposed by SWITHA (and approved by the membership) included:

- Removing the provisions in the Be it Resolved sections that speak to the funds being allocated “only to those tribes with the greatest need and capacity”;
- Expanding the language so it covers all tribes, not just those with reservations;
- Striking language throughout that referred to “some of our members” lands, so that it would speak more broadly on behalf of all NAIHC members;

In the midst of the amendment process, however, a member of the Alaska delegation moved to call the question for a vote on the resolution as a whole, and urged the NAIHC membership to vote it down. The call for the question – to bring the entire matter to a vote – requires a 2/3rds vote. The call for the question passed, which then put the resolution itself up for a vote. To pass a resolution requires a 2/3rds vote to pass, and the resolution did not receive enough votes to pass.

Resolution 2018-B was introduced by Cheyenne River Sioux Housing Authority and Sisseton-Wahpeton Sioux Housing Authority, and calls upon Congress and the United States to authorize the USDA Section 502 direct home loan program in the next reauthorization of the Farm Bill. The South Dakota Native Homeownership Coalition has designed a Section 502 relending demonstration program, whereby Native CDFIs are authorized as borrowers under Section 502 who can then relend those funds to individual Indian homebuyers. The language of the resolution would authorize the establishment of

such a program nationwide. There was some discussion about the intent and phrasing of the resolution, but ultimately it was adopted unanimously.

Resolution 2018-C was introduced by Kodiak Island Housing Authority, calling on Congress to support the BIA Housing Improvement Program. Funds have been cut for this essential program, from about \$23.1 million in 2005 to \$8 million in 2017. There were no amendments and no debate, and the resolution passed unanimously.

Resolution 2018-D was introduced by White Mountain Apache Housing Authority. It calls on Congress to appropriate \$200 million a year to federally recognized tribes to address the costs of methamphetamine remediation and clean-up, to set up a National Environmental and Drug Task Force in Indian country comprised of tribes and TDHEs, convene a national summit for dealing with meth, and include methamphetamine awareness and prevention efforts along with the federal government's response to the opioid crisis in Rural America. The resolution was amended to remove the reference to "federally recognized" tribes (since there are several state-recognized tribes who receive funds under NAHASDA). Several Alaska representatives spoke in opposition to asking for additional funds to a specific issue (like methamphetamine), arguing instead that tribes should be able to use additional funds to address the needs that they identify. The WMAHA representatives responded by saying that they are asking for this money outside of the Indian Housing Block Grant. Others also spoke in support because of how widespread and damaging the methamphetamine epidemic has been, and tribes need additional money because the crisis is very expensive to mitigate. A couple of amendments were proposed and approved to clarify that these funds would not come from the IHBG appropriations or to offset any current Indian housing funding as a result of appropriating such funds. The question was called and the membership voted to end debate. The resolution passed by a vote of 103 to 35 (it met the 2/3rds majority to pass).

Resolution 2018-E was introduced by Spokane Indian Housing Authority to authorize tribes and TDHEs to participate in the Section 8 housing voucher program. This resolution has been adopted by NAIHC in the past. The Spokane representative argued that Section 8 vouchers are needed for Low Income Housing Tax Credits, and that if operating costs could be covered by vouchers, it would be a "game-changer," and would permit many more tribes to develop LIHTC projects. Otherwise, funding for operation of LIHTC will have to come from limited IHBG funds. The resolution was amended to clarify that Congress would have to lift the prohibition in NAHASDA against tribes being eligible for Section 8 vouchers. The resolution was adopted.

Resolution 2018-F was introduced by Nez Perce Tribal Housing Authority, which supports expansion of the Low Income Housing Tax Credit program and establishing "parity" for Indian tribes in that program. The resolution passed without amendment or debate.

4. Legislative Committee

The Legislative Committee held its monthly meeting in person in conjunction with the NAIHC Annual Convention. The Chairman of the Legislative Committee, Gary Cooper, and the NAIHC Executive Director, Tony Walters, presided over the meeting.

a. John Simmermeyer, Policy Advisor, Senate Committee on Indian Affairs

Mr. Simmermeyer provided an update on the activities of the Committee, and the goals of the Committee going forward.

S. 1333, the Tribal HUD-VASH program legislation, passed the Senate with unanimous consent last week. Mr. Simmermeyer said that the proponents of the bill will need NAIHC's help to get the bill passed through the House, where things sometimes get more contentious. He encouraged the NAIHC membership to make this bill a priority, and particularly to speak with members of the House Armed Services Committee. The bill not only makes the demonstration project a permanent program, it also facilitates the hiring and training of appropriate case managers to work with Tribal veterans participating in the program. It also requires that 5% of the HUD-VASH program funds be allocated to the Tribal HUD-VASH program.

Mr. Simmermeyer also explained how this bill got across the finish line. There were four sponsors: two from each party, each from the leadership of the committees of jurisdiction. Those offices had to negotiate language that all four could support. Once they did that, it was easier to get support from both sides of the aisle in the Senate, as well as a letter of support from HUD Secretary Ben Carson.

Mr. Simmermeyer went on to discuss the additional \$100 million to be allocated on a competitive basis under the Indian Housing Block Grant, and the \$65 million for ICDBG. Chairman Hoeven worked with the chairs of the relevant appropriations committees to ensure these funds were included.

Mr. Simmermeyer also urged that the Senate move on approving the administration's nominees for various key positions (such as the Secretary of Veterans' Affairs), because we need leadership on the ground to make sure the funds are being used and used in the manner intended. He asked that the NAIHC membership urge their delegations to approve the Administration's nominees, some of which have been held up in committee.

He gave the example of Hunter Kurtz, whose nomination for Assistant Secretary of the HUD Office of Public and Indian Housing is being held up by the Senate Banking Committee. HUD needs his leadership, and tribes need this leadership to ensure the proper functioning and oversight of federally-funded Indian housing programs.

b. Tony Walters Legislative Update

Director Walters followed up by stating that NAIHC has sent letters of support for Hunter Kurtz to the Banking Committee. He will make sure the NAIHC membership get

copies of that letter. Mr. Kurtz is serving as a “senior advisor” at HUD, and he has been in Indian Country and engaged, and is ready to get working. But he is not permitted to work on Indian housing issues directly until he is confirmed.

Director Walters also spoke in support of S. 1333, which NAIHC has supported (Chairwoman Difuntorum testified in support of the bill). But there are also some other efforts to make sure the existing program works as best as it can. NAIHC has been seeking language to be included in the appropriations bills, including allowing the Tribal HUD-VASH vouchers could be used to pay for FCAS units. However, there has been some dispute over this provision, since some folks in the Senate feel that this is “double-dipping,” since tribes already get funding allocated for those FCAS units.

Director Walters also mentioned that NAIHC is continuing to work on NAHASDA reauthorization, and they are looking at larger, “must-pass” bills that can be used to adopt NAHASDA reauthorization. This kind of reauthorization would likely be a simple reauthorization without the amendments supported by Indian Country. NAIHC is also still working on passing the more comprehensive reauthorization bill. If NAHASDA does not get reauthorized this year, and we have to start over, we will also look at adding some amendments to address items that have come up in recent years (Section 184, FEMA flood mapping, etc.).

c. Frederick Grieffner, HUD ONAP Update

Mr. Grieffner, who spoke earlier in the conference, addressed the Legislative Committee in lieu of Deputy Assistant Secretary Heidi Frechette. He reiterated most of the points he made during the previous day. He stated that HUD hopes to get the ICDBG NOFA issued for this year by July. He was also asked when the FY 2018 IHBG funds would be available and distributed, since the allocations had already been determined. He stated that the target was early June (but he emphasized that was “at the earliest”).

d. V.A. Native American Direct Loan Program

The South Dakota Native Homeownership Coalition is operating a demonstration project providing direct loans for Native Veterans. They are working with the Section 502 and Section 184 direct loan programs. This project has been in the works for many years, but is now beginning to bear fruit. Joanna Donahoe is one of the co-facilitators at the Coalition. She knows that there are a lot of questions about and interest in the Native American Direct Loan program. The V.A. is actively working on this issue, but they are understaffed. So the Coalition and the V.A. are looking at ways to improve the program. Since the V.A. is understaffed, they are considering contracting with third parties to do the work on the ground. Many veterans correctly see the NADL as a V.A. benefit to which they are entitled, but are confused about the credit application and approval process, and need assistance in navigating that process. The third party could assist with that work, paid for by the V.A. and not the veterans. They are looking at Native CDFIs borrowing from the V.A., and then re-lending to the veterans, since the CDFIs have more contacts on the ground and work in the community.

USDA-Rural Development today announced the development of the Section 502 relending pilot project. This will permit Native CDFIs to borrow Section 502 funds from USDA and then relend to eligible tribal members.

The Coalition is also looking at improving the use of the VA NADL program. They want to try to establish “loan packagers” who can get these loans out to veterans without additional cost to the veterans. They are also working on several other ways to improve loan servicing.

e. FEMA Flood Mapping

Denise Zuni announced that Congressman Steve Pearce (R-NM) contacted her, noting that he is looking for co-sponsors for his bill that would authorize tribes to receive the same treatment as states for FEMA insurance purposes. Ms. Zuni asked the NAIHC membership to consider reaching out to their respective representatives to ask for their support of and co-sponsorship of the Pearce bill.

5. Final Announcements

The next NAIHC event is the Legal Symposium, to be held in Las Vegas, Nevada, December 10-12, at the Venetian Hotel. The NAIHC Annual Convention for 2019 will be held in Denver.

The Legislative Committee will hold its monthly call the first Thursday of each month, at 1:30 PM Eastern. However, the next call won't be until July 12, since the first Thursday of July will be during the July 4th holiday.

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, or Adam Bailey at abailey@hobbsstrauss.com.