



MEMORANDUM

October 4, 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 October 4, 2018 (by teleconference). NAIHC Executive Director Tony Walters presided over the call.

I. Congressional Update

a. Schedule

The House is already in recess until the November election. The Senate is still in session and there has been some discussion of keeping the Senate in session through October. However, many members want to get home to campaign, and it is not likely that the Senate is going to get a lot of work done this coming month. There will be a lame duck session after the elections. How long and what gets accomplished will in large part depend on the outcome of the elections.

b. Appropriations.

The Senate has passed most if not all of its appropriations bills, but the House is still working on appropriations. Several appropriations bills for full-year funding have been approved by both the House and Senate, and signed into law by the President. For the remaining appropriations, which include the Transportation-HUD bill, Congress has passed and the President has signed a Continuing Resolution through December 7, largely at last year's levels. However, both the Senate and House Transportation-HUD bills for FY 2019 include \$655 million in base Indian Housing Block Grant funding, and the additional \$100 million in competitive funding, so the outlook for FY 2019 is promising. The numbers are pretty much in line with what Congress passed for FY 2018: a \$655 million IHBG block grant, a \$100 million competitive grant, \$65 million for the Indian Community Development Block Grant and \$5 million for HUD-VASH. The Section 184 program was again funded at only \$1 million. While NAIHC is happy to see that the funding has remained at the FY 2018 levels (including the additional \$100 million in competitive grants), NAIHC is going to keep pushing for more funding, so that

the appropriations actually bring the IHBG in line with the original NAHASDA appropriations, adjusted for inflation.

One participant on the call asked if there had been any further information from HUD as to when they would be issuing the NOFA for the \$100 million in competitive IHBG funding. Mr. Walters and the NAIHC Chair, Gary Cooper, were on the Hill last week and met with HUD. The timeline they heard was that the competitive funding NOFA would be issued by the end of the calendar year. However, the date has already been pushed back several times. HUD has still not yet released the FY 2018 NOFA for ICDBG, and NAIHC is not sure why that is being delayed, since this program is well-established and the program parameters have been set. The CDBG NOFA was issued already.

c. Other Indian Housing Legislation

NAHASDA. Mr. Walters stated that there is nothing new to report on NAHASDA reauthorization. NAIHC does not expect passage of the bill by the end of the year, which means that the effort will need to begin again with the next Congress. NAIHC is already gearing up for a discussion at December's Legal Symposium, so that the membership can identify its priorities for a new NAHASDA reauthorization bill. While NAIHC went through this exercise prior to the expiration of the last NAHASDA bill, that is now six years old, and it is time to re-evaluate. Mr. Walters said that NAIHC is working on and will shortly be circulating a spreadsheet that contains some suggested priorities. This will be a iterative document, published through Google documents, which NAIHC members can add to or comment on. There will be time set aside at the Legal Symposium for a detailed discussion.

HUD-VASH. There are two bi-partisan efforts to authorize the Tribal HUD-VASH program 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). S.1333 has been passed out of the Senate by unanimous consent. The Senate bill does not address the issue of allowing HUD-VASH vouchers to be used to make payments on FCAS units. Mr. Walters thinks the language is broad enough to allow HUD the flexibility to permit use of the vouchers on FCAS units. But NAIHC's position is that the existing law is also broad enough. While more specific language in the bill would be good, the goal now is to get it passed, and making any significant changes would almost certainly delay passage. The House Financial Services Committee is still sitting on this legislation. NAIHC is moving forward with a letter writing campaign from its members to the House leadership and relevant committee heads. NAIHC is hopeful that this bill can pass out of Committee soon. There was some discussion about trying to enlist other veterans' groups to write letters or make calls in support.

American Housing and Economic Mobility Act of 2018. Senator Elizabeth Warren (D-MA) has recently introduced this major housing legislation. While it is not likely to move this year, given the Senate's schedule, it is more of a messaging bill. The

bill proposes to invest more than \$470 billion over 10 years in a number of federal programs, such as the Housing Trust Fund and Capital Magnet Fund, that build or support new housing for lower- and middle-income families, including in rural areas, where Senator Warren says “housing is falling apart.” Tribes would be eligible for Housing Trust Fund monies (in fact, they already are). If this bill passes, NAIHC would focus on ensuring that tribes are more easily able to access the Housing Trust Fund money. Overall, the new spending under this bill would nearly double the Department of Housing and Urban Development’s current \$48 billion annual budget. The bill includes a significant one-year infusion of \$2.5 billion for the Indian Housing Block Grant for FY 2019, and then “such sums as may be necessary for each of fiscal years 2020 through 2028.” The bill also includes a \$10 billion grant program that communities can use to build “infrastructure, parks, roads, or schools,” under the condition that local governments reform land-use rules to ease zoning restrictions on urban development that hamper the construction of more affordable housing. The bill proposes to pay for this additional funding by increasing the estate tax.

II. Section 184 Regulations Update

HUD ONAP has been in the process of considering input that it received on the Section 184 regulations. Deputy Assistant Secretary Heidi Frechette and her staff met with tribal leaders and housing professionals at various meetings over the Spring and early Summer of this year. However, they have not yet released a discussion draft of the proposed regulations. NAIHC has been pressing her office for a draft, which would be useful to have before the upcoming NCAI meeting in late October, so that it can be presented and discussed among the tribal leaders and housing professionals at that meeting.

III. NCAI Annual Convention, Hyatt Regency, Denver, October 21-26

NAIHC is working with NCAI leadership to get housing issues in front of tribal leaders. The main focus at this point is on tribal member homeownership issues, but the idea is to elevate housing concerns at NCAI. There will be four separate panels addressed to tribal housing issues throughout the convention.

IV. NAIHC Legal Symposium, Venetian Hotel, Las Vegas, December 10-12

NAIHC’s Legislative Committee will meet on December 10, and the NAIHC Legal Symposium will convene on December 11-12. There is a block of rooms at conference rates.

V. Conclusion

The next Legislative Committee meeting will be held by teleconference on Thursday, November 8, at 1:30 EST. Note that this is not the first Thursday in November.

However, NAIHC decided to move it in part so that the call would take place after the mid-term election results come out, which will inform the discussion.

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.