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MEMORANDUM

March 6, 2019

TO: Tribal Housing Clients

FROM: Hobbs, Straus, Dean & Walker, LLP

Re: *NAIHC 2019 Legislative Conference Held in Washington, DC*

On February 25–27, 2019, the National American Indian Housing Council (NAIHC) held its 2019 Legislative Conference in Washington, D.C. The event provided Members of Congress, tribal leaders, federal officials, and tribal housing representatives an opportunity to discuss housing-related legislative and policy developments impacting Indian Country. Attendees also had the opportunity to participate in a Listening Session on the Section 184 Indian Housing Loan Guarantee Program held by the Department of Housing and Urban Development (HUD) Office of Native American Programs (ONAP). This report provides a summary of the Listening Session, as well as the major issues discussed during the conference.

1. HUD ONAP Holds Tribal Consultation on Proposals to Amend Regulations for Section 184 Home Loan Guarantee Program; Tribal Comments Requested

On February 25, 2019, HUD ONAP held a tribal consultation to seek input on their efforts (to date) to amend the regulations for the Section 184 Home Loan Guarantee Program ("184 Program"). The 184 Program provides Native borrowers with home loans which have a low down payment and flexible underwriting terms. Section 184 loans can be used, both on and off tribal lands, for new construction, rehabilitation, purchase of an existing home, or to refinance. The tribal consultation was moderated by HUD ONAP's Office of Loan Guarantee Director Krisa Johnson and presided over by HUD ONAP Deputy Assistant Secretary for Native American Programs Heidi Frechette. Director Johnson noted that this process of re-writing the regulations is being undertaken in part because of concerns expressed by lenders who participate in the program. ONAP's draft regulations, organized by subpart, are attached.

Process and Timeline for Comments. Comments may be submitted to 184consultation@HUD.gov. Director Johnson described the process and timeline as follows:

- 1) Tribes were consulted before the attached draft subparts were written;
- 2) HUD is going through the draft subparts with tribes, section by section, as the subparts are being written;

- 3) When HUD completes this first stage of drafting and consultation and has a full set of draft subparts ready for review, they will release the draft rule, in its entirety, via email and attached to a Dear Tribal Leader Letter seeking comments within a 60-day window (HUD estimates that the Dear Tribal Leader Letter will be sent out by the end of this month or the beginning of April, and DAS Frechette urged tribes to make sure they have their current point of contact's email address on file with HUD);
- 4) After the 60-day comment window closes, HUD will review the comments and then decide which recommendations to incorporate into the proposed rule;
- 5) The proposed rule will then be published in the FEDERAL REGISTER for a 60-day notice and comment period open to any person or entity to submit comments;
- 6) After the comment window closes, HUD will review the comments and then decide which recommendations to incorporate into the final rule; and
- 7) The final rule will then be published in the FEDERAL REGISTER.

Some attendees expressed concerns with the process and timeline, noting that this process of reviewing the draft subparts section by section as they were made available was piecemeal. As a result, these attendees urged that the *entire* draft rule should be discussed section by section, and not just sent out for 60 days when it is completed.

Proposed Changes and Concerns. One of the proposed changes which generated the largest volume of comments and concern is HUD's proposal to have a yearly recertification process for tribal participation in the 184 program. This change is found under draft *Subpart C – Tribal Participation*. A tribe seeking to include its tribal trust lands as eligible for inclusion in the Section 184 program would be required to apply to HUD for approval. The application would include: a copy of the tribe's foreclosure, eviction, lease and priority lien ordinances. In order for an application to be approved, the application would need to provide evidence that the tribe:

- 1) will ensure HUD and lenders have access to the tribal lands for the purpose of servicing and evaluating properties insured under the Section 184 program;
- 2) has enacted foreclosure procedures;
- 3) has enacted eviction procedures;
- 4) agrees that if eviction and foreclosure procedures are not enforced HUD may cease insuring new Section 184 loans within their area of jurisdiction; and
- 5) has adopted procedures giving HUD first lien priority (where applicable) or otherwise ensuring that the Section 184 loan will be satisfied before all other property debts (excepting tribal taxes); or has adopted legislation stating that it will abide by applicable state or local laws with respect to lien priority.

Once certified, a tribe would be required to recertify annually to HUD whether it meets the requirements of the Subpart. Further, within 15 days of any changes to a tribe's contact information, foreclosure, eviction, lease and lien priority ordinances, the tribe

would be required to provide copies of the updated ordinances to HUD and would be required to certify on a form prescribed by HUD whether the updated ordinances and/or lease met the requirements of this Subpart.

Many attendees questioned the timeline for recertification—which allows only 15 days to provide notice of any changes to HUD *and* an annual recertification process. A number of attendees noted that working with HUD often means project delays and that subsequently, there is a substantial effort to enact a reauthorized NAHASDA which contains statutory deadlines for HUD. Adding a yearly recertification process for tribal lands to be included in the 184 program would only result in further complications and delays for individual borrowers trying to obtain guaranteed home loans. Director Johnson suggested that HUD could make efforts to make the recertification process as easy as a tribe simply sending in a form to HUD annually noting that nothing has changed since their last recertification. One attendee suggested that instead, a recertification should not need to be annually and that it would be better if the tribe could simply update HUD only if there were any changes to its: contact information, foreclosure, eviction, lease and lien priority ordinances. Further, one attendee noted that currently, tribes are not involved in the Section 184 process and that this would add an additional layer for complication and delay for potential borrowers. Director Johnson responded that often HUD runs into issues where the point of contact has changed for a tribe and they do not know whom to reach out to. Other attendees expressed concern about whether the tribe or the TDHE should be the point of contact for this Subpart and for *Subpart G – Servicing*, noting that designating the tribe as the point of contact could delay actionable, time sensitive information getting to the TDHE.

Separately, one attendee expressed concern about HUD not supporting tribal court jurisdiction for leases, liens and foreclosures. He said that his tribe had submitted an application to HUD but that HUD had wanted his tribe to adhere to federal court jurisdiction, instead of tribal court jurisdiction, even when other tribes were not required to do so. He said that his tribe reluctantly agreed to federal court jurisdiction in order to move forward with their application. He said that it appears that HUD and the Department of Justice (DOJ) are at odds on this matter and that each department says it is the other's responsibility to determine whether tribal court jurisdiction is possible. HUD responded that, "ONAP supports tribal court jurisdiction and is working with DOJ," but that "DOJ holds the levers on this."

2. Legislative Committee Meeting

A. Working with the New Congress

NAIHC Executive Director Tony Walters opened the legislative committee meeting by noting that although the 35-day shutdown made a rocky start to the 116th Congress, the Senate Committee on Indian Affairs (SCIA) has already been referred 22 bills, and reported out 15 bills. This includes S. 257, the Tribal HUD-VASH Act. Most of the bills are revival bills from the 115th Congress. With the new Congress, we have changes in the committees we work closely with for our policy agendas. In the Senate,

the Committee on Banking, Housing, and Urban Affairs is led by Sen. Mike Crapo (R-ID) as Chairman, and Sen. Sherrod Brown (D-OH), as the ranking member; on the Appropriations Committee, Sen. Richard Shelby (R-AL) chairs and Sen. Patrick Leahy (D-VT) is ranking member. Within the Appropriations Committee, the Transportation, Housing and Urban Development Subcommittee is led by Susan Collins (R-MN) as Chairman, and Sen. Jack Reed (D-RI) as Ranking Member. Lastly, the Senate Committee on Indian Affairs is led by Chairman Sen. John Hoeven (R-ND), and Ranking Member Sen. Tom Udall (D-NM).

On the House side, the primary leadership positions relevant to Indian housing are the Committee on Financial Services, which is chaired by Rep. Maxine Waters (D-CA), with Rep. Patrick McHenry (R-NC) as Ranking Member, the Committee on Natural Resources is led by Rep. Raúl Grijalva (D-AZ) as Chairman, and Rep. Rob Bishop (R-UT) as Ranking Member, and Appropriations Committee, with Rep. Nita Lowey (D-NY) as Chairman, and Rep. Kay Granger (R-TX) as Ranking Member. NAHASDA is overseen by the Financial Services Committee on the House side, and the Banking Committee on the Senate side.

After describing the changes in who Indian country will partner with on the Hill after the House flipped majority control after the last election cycle, he laid out the status of the federal budgeting process. He first addressed the FY 2019 Indian housing appropriations, which were part of the funding deal that ended the government shutdown. The Indian Housing Block Grant (IHBG) has been funded for FY2019 in the total amount of \$755 million, with \$646 million in formula grants, \$100 million in NAHASDA competitive grants, \$7 million in training and technical assistance, and \$2 million for the Title VI program. The Indian Community Development Block Grants (ICDBG) has been funded at \$65 million. The Tribal HUD-VASH assistance was decreased to \$4 million in FY 2019 (it was \$5 million in FY 2018)

Mr. Walters then discussed the main talking points and strategies set out by NAIHC for Indian housing advocates when talking with congressional members and their staff on the Hill. The first priority is to show to members that the money already appropriated is being spent well by tribes and housing authorities, and that the spending has been effective. Second, the Indian housing advocates should focus on the fact that even with the amount appropriated and used effectively, the money is still insufficient for tribes to fulfill the housing need in Indian Country.

The NAIHC's top three priorities for the Congress are to reauthorize NAHASDA, pass the Tribal HUD-VASH Act, and to complete a legislative fix to the Section 184 language, which will ensure tribal jurisdiction over certain housing matters rather than state jurisdiction.

B. Appropriations

At this point, the FY 2020 appropriations process should be under way. However, although traditionally the President's budget request goes out February 1, the budget still

hasn't been released. We expect the President's budget request to be released by March 12 this year. Although the budget request is expected to propose cuts across the board as in previous years, NAIHC expects Congress to maintain funding for programs in similar levels to the previous two years.

One main issue with NAHASDA funding is the that appropriations have been flat for many years, which is in fact a reduction in funding, since due to inflation the consumer purchasing power over time has decreased. NAHASDA is still funded at nearly its original level of \$600 million, which means the NAHASDA funding this year has only 80% of the purchasing power of the NAHASDA funds in 1998. If the \$100 million in IHBG competitive grants are removed from the analysis, then tribes are at about 66% of the purchasing power of the 1998 appropriation. Nation-wide increased construction costs have further eroded the purchasing power of NAHASDA funding. Mr. Walters concluded his presentation on these issues with an exhortation to tribes and housing authorities to focus on the need to maintain funding for NAHASDA in line with inflation and the rise in consumer prices over time.

In response, one tribal leader commented that when NAHASDA was passed in 1997, the tribal leaders then proposed \$600 million to fund the programs, and now we're still at the same level of funding. Maybe it with more foresight they would have asked for \$700 million. However, now we usually have more success in working with OMB and the President early on, when the budget request process begins in October, two years before the fiscal year. By now, we should be organizing and planning for the FY2021 budget planning process, rather than attempting to change the FY2020 budget at what is essentially the last minute. We need to play more offense to gain more funding, rather than always playing defense at this point with the goal of maintaining funding.

Mr. Walters agreed that an early strategy would be ideal, although the effectiveness of such early talks with the executive offices and agencies depends largely on the administration in place at that time. However, he did note that he was not aware of any previous targeted effort by NAIHC to impact the budget request that early on in process.

Another commenter disagreed with the budget analysis the Mr. Walters presented to the conference by slideshow, because he included the \$100 million in competitive IHBG funds to the growth of NAHASDA funding over time, rather than only the formula funding opportunities. Doing so, this commenter asserted inflated the actual number of available Indian housing dollars, because the competitive grants are not open to all tribes, and they are not permanent funding sources. Mr. Walters responded largely in agreement, that the \$100 million in competitive funding could be viewed as temporary funding because it is not permanent. If the analysis removes the \$100 million of competitive grant funding, then the overall NAHASDA funding trend would show the budget amount holding steady over the previous 10 years. Mr. Walters cited the recent reports show 68,000 housing units would be needed to meet Indian Country's housing needs. While Congress has often been unsupportive of providing more funding, Mr. Walters cited a bill introduced by Sen. Elizabeth Warren that would increase Indian

housing funds. He noted that while likely a messaging bill, and thus would not be expected to pass, it may help to generate support for more funding for Indian housing.

An audience member raised the issue of the use of Census data for the housing grant and loan programs, and asked why tribal data could not be used instead where the Census data was inaccurate and unreliable. Mr. Walters acknowledge this problem with inconsistencies in the data, however that system was established through the use of negotiated rulemakings, and thus requires the use of Census data for those grant programs. This relates to the larger issue that all government agencies base their data and demographic information processes in the U.S. Census Bureau's data. Because this issue touches all agencies that interact with tribes, Mr. Walters highlighted the importance of reliable and accurate data and information for the U.S. Census Bureau.

Finally, a tribal leader raised the issue of expanding tribal enrollment as a detriment to available housing, because when his tribe lowered tribal enrollment requirements, the tribal roll expanded but the federal government did not provide any more funding to meet the tribal members' needs. Tribes in similar situations are having to meet an increased need with fewer federal dollars and resources.

C. NAIHC Legislative Agenda

After discussing the appropriations issues, Mr. Walters switched to NAIHC's legislative agenda and discussing the Indian housing legislative priorities in order for all of the Indian housing advocates to communicate a unified and consistent message as they met with congressional members and staff. With new members on the House Financial Services Committee, and other congressional committees, it will be important to educate new members on the issues and build new relationships. Mr. Walters then further elaborated not only on the top legislative priorities for the 116th Congress, but also listed many secondary goals to focus on should NAHASDA reauthorization prove too difficult to pass again.

First, NAIHC is aiming to pass the NAHASDA reauthorization this congress. Last congress three separate NAHASDA bills were introduced The two introduced in the Senate (one a comprehensive reauthorization bill, the other a much more stripped down version) did not make it out of the Committee on Indian Affairs. The House, however, passed a comprehensive bill, as it did the prior session. Mr. Walters encouraged tribal leaders and housing authorities to focus on building relationships with and educating new members of the Financial Services Committee to help build support for passage during this Congress.

Second, Mr. Walters discussed the HUD-VASH Act, which almost passed during the 115th Congress. While the bill was taken off of the suspension calendar in the last Congress, the efforts to pass the bill have already begun early in the current session.

Third, NAIHC's efforts will go to fixing language in the legislation for Section 184 Loan Guarantee Program that will ensure tribal jurisdiction over certain housing

matters. Mr. Walters says this important legislative fix would only require one small paragraph.

Fourth, NAIHC will focus on the Housing Improvement Programs, to ensure adequate appropriations levels and for the use of the funds for down payments.

Fifth, NAIHC will also support amendments to the Low Income Housing Tax Credit (LIHTC), and related opportunities for Indian housing assistance.

Outside of these goals, Mr. Walters listed various issues and potential legislation NAIHC will work on, and may prioritize if the goals above prove unlikely to succeed during this congress. He listed working on drug remediation issues, and expanding Section 8 voucher access for tribal members by removing voucher program restrictions for them. Additionally, expanding housing access and opportunities at the USDA Rural Housing Program, Native American Direct Loan Program for increased veteran housing access, and homebuyer counseling support for tribes as eligible HUD homeownership counseling grants. He also discussed the possibility of revising the language in the flood insurance program, which exempts tribal NAHASDA projects from the Flood Insurance Program if the tribe has its own implementation plan. Finally, Mr. Walters culminated the NAIHC's full legislative priority list with obtaining parity with state governments for Section 8 voucher program access, potentially through the upcoming changes to the Section 184 Loan Guarantee Program, which is currently undergoing a revision process.

In closing, a tribal leader expressed frustration with the HUD funds involved in various HUD programs being distributed through the state governments rather than directly to tribal governments. He emphasized the need for the funds to be directly provided to tribes rather than be funneled through state governments. Without direct funding, some of the funds get diluted as states take out administrative fees and more time passes before tribes can deploy the funds. Additionally, several commented on situations where the states ended up withholding funds or not distributing any to tribal governments, essentially leaving tribes out completely of the housing benefits. Another commenter brought up the possibility of an infrastructure deal, and while not going into specifics, Mr. Walters stated they had been in high-level talks about infrastructure package deals and were framing the relevant Indian housing issues as infrastructure.

In concluding his remarks on the legislative priorities of NAIHC, Mr. Walters framed their efforts in terms of urgency. While on the Hill, he had seen bills lag for well over a decade before they were finally passed in congress. For tribes who need housing funded today, this timeframe is unacceptable, and even the value of an eventual success would be outweighed by the delay and costs incurred to achieve that legislative enactment. He iterated that the organization's goals were first, to pass NAHASDA reauthorization, and if unable to do so, then to achieve one of the secondary legislative goals he discussed. Rather than providing the congressional members with the full laundry list of legislative initiatives, he emphasized for advocates to focus on one or two priorities to help maximize what can be achieved with congressional members and their staffs during the meetings.

3. NAIHC Plenary Session: Legislative and Policy Updates

A. NCAI

NCAI President Jefferson Keel addressed the conference, focusing on the Tribal HUD-VASH Act as both a priority for Indian country and an issue important to him as a veteran. He emphasized that tribes are capable, self-determinate governments with growing capacities. In meeting with Congress, he urged attendees to advocate for our vision of the government-to-government relationship in meetings with congressional members. President Keel focused on the NCAI's priorities for the current Congress. First, the need for advanced appropriations was highlighted by the government shutdown, which hampered tribes and prevented consistent provision of tribal services. Legislation has already been introduced to carry out this policy.

Second, President Keel highlighted the potential benefits and risks in the upcoming infrastructure plan. Although expected previously, the infrastructure package may happen this Congress, which would provide opportunities for tribes in telecomm, roads, and the enormous backlog of Indian country projects across the nation. However, any infrastructure project that includes tribes, must provide parity with state governments, and provide tribes with local control of the resulting resources. President Keel warned that infrastructure legislation may also threaten tribal sacred sites with development, and therefore meaningful consultation must be included in any infrastructure package moving through Congress.

Third, President Keel raised nation-wide issues throughout Indian Country and focused on at NCAI's Joint Sovereignty Watch Initiative. These issues include the opposition to the Department of Interior's (DOI) changes to the land-into-trust process, the DOI's reorganization plan, continued call for the establishment in DOI of the Indian Affairs Undersecretary, and opposition to the DOI's recent decision to take land out of trust. President Keel asserted that action was unlawful, as it takes an act of Congress for land to be taken out of trust.

B. HUD ONAP

Deputy Assistant Secretary for the Office of Native American Programs at HUD (ONAP), Heidi Frechette, spoke primarily about the recent shutdown and impacts on the ONAP programming across Indian country. She noted the ONAP team processed 39 interim funding requests shortly before the shutdown, the team kept a Response Center active during the shutdown, and finally, she announced that the Indian Community Development Block Grant (FY2018) application deadline has been extended to March 20. Since returning, ONAP's priority is to get all of the grant money out to the tribes. HUD has been appropriated, including \$100 million for the competitive IHBG Program for FY 2018. ONAP is also finalizing the Notice of Funding Availability (NOFA) for the FY 2019 ICDBG program, which will be published in early spring and provide up to \$65 million of funding. The Title VI Tribal Housing Activities Loan Guarantee Program,

which tribes can leverage their block grant funds with, still has available funding. The Tribal HUD-VASH program has been funded at \$4 million, and has been actively supported by HUD Secretary Ben Carson. Finally, the ONAP staff is completing its draft Section 184 regulations update, holding its 14th consultation session over the week of the NAIHC Conference, as described above.

C. USDA

Diane Cullo, Advisor to the Secretary & Director, Office of Partnerships & Public Engagement at U.S. Department of Agriculture, announced that USDA will hold 7 regional consultation sessions around the country, lasting 2 days each. In addition to the consultation sessions, the office will hold potentially 11 listening sessions nationwide as well. Both schedules will be forthcoming. USDA has non-tribal specific loan opportunities for single- and multi-family homes. The multi-family loan guarantee, which provides for 1,200 units across the country, with \$230 million available, works well with NAHASDA funds and tax credits. The loans are only intended to be gap-fillers, but have lenient tenant eligibility requirements, maximum 40-year terms, and may be used for new construction or rehabilitation. The single-family loan program only serves rural lands, which includes all Indian trust lands, works with local lenders and includes no pre-payment penalties. Most loans go up to 115% of the poverty level for participating lenders, and direct loans for those below the 50% of area median income. The program serves over 13,000 families, with 1,000 families currently living on Indian lands, but must be fee simple. There are also programs with two Native CDFIs through the 504 Home Repair Program for up to \$7,500 in grant funding, and maximum loans of \$20,000, in order to remove health hazards from elderly housing. The home loan applications are processed on a rolling basis. Audience members commented that while these are good program opportunities, many tribes don't see these funds because they are passed through the state governments which don't provide the tribes with the money.

D. U.S. Census Bureau

Speaking for the U.S. Census Bureau, Geographer Madeline Sovich presented information about the upcoming 2020 census. The accuracy of the count relies upon the accuracy of the geography the Census records, which it does with Boundary and Annexation Survey (BAS) requests. These annual requests are updated every year in the publicly available Census geography data, accessible through ArcGIS software that tribes can obtain from the BIA. Tribes can request updates to the Census data to improve the accuracy of roads, new construction, boundaries, names and other features. However, changes regarding trust lands must include documentation. Of special note, in 2016 the Census Bureau and the Bureau of Indian Affairs entered into an MOU regarding the geospatial accuracy of tribal lands. That MOU resulted in a geospatial survey of Indian lands published in January 2019. However, before the Census Bureau will update the geolocal information in its database, the tribe has to notify it and agree to the data changes. Through this updating process, the Census Bureau remains respectful of tribal sovereignty and tribal consultation.

U.S. Census Bureau Intergovernmental Tribal Affairs Coordinator, Dee Alexander emphasized the importance of tribes communicating how many people are in multi-family households in order to get an accurate count. She stated that the information is confidential and does not go to other governmental agencies, such as the IRS or the FBI. Ms. Alexander explained the process of the census, that the census results establish school and voting districts, and ultimately allocate the \$677 billion federal budget. After consultations in 2015 and 2016, the U.S. Census Bureau has decided not to include tribal enrollment status on the census questionnaire. However, the racial question will allow a person to include up to 6 tribal affiliations. Finally, she promoted the idea of creating Tribal Count Committees to help ensure people fill out the information correctly. As an example, she noted that funding confusion happened during the last census because Oklahoma Chickasaw members had been counted as Mississippi Choctaw members instead.

E. Amerind and Wells Fargo

Derek Valdo, CEO of Amerind, announced the company had \$50 million of revenue this year, donated \$3 million to Oweesta and raised \$11.5 million for CDFIs throughout Indian country, and announced a \$2.2 million dividend, the company's first. He stated that 2018 resulted in the highest number of claims of any year for the company.

Connie Wright, who is the Assistant Director and National Housing Relationship Manager at Wells Fargo, described the company's \$50 million, 5-year pledge to Indian Country to support affordable housing, environmental programs, financial education and capital. Their efforts include a solar initiative, as well as a down payment assistance program through Oweesta.

4. Updates from Capitol Hill

The Legislative Conference also involved a number of presentations from various Members of Congress.

Sen. John Hoeven (R-ND) framed his comments by underscoring the vital importance of tribal engagement in the legislative process to ensuring that the interests of Indian Country are properly accounted for in housing-related bills. He described the challenges that NAHASDA reauthorization bills have encountered in the past, namely, the ideological opposition the Act has received in regards to its Native Hawaiian provisions. He stated that finding the right combination of provisions to ensure that the Act addresses the salient needs of Indian Country is a top priority for his staff.

The Senator expressed his support for S. 257, the "Tribal HUD-VASH Act of 2019," which would permanently authorize the Tribal HUD-Veterans Affairs Supportive Housing (HUD-VASH) Program as a way to reduce the number of Native veterans experiencing homelessness. We note that under existing regulations, HUD-VASH funds may only be used on-reservation or within an authorized service area. Efforts are also underway to include a provision within the FY 2020 Transportation, HUD, and Related

Agencies appropriations bills that would allow HUD-VASH funds to be used in connection with Formula Current Assisted Stock (F-CAS) under the Indian Housing Block Grant (IHBG) program.

Senator Hoeven reported that over the past two fiscal years, Indian housing accounts have received a cumulative increase of almost \$200 million in federal funding (he was referring to the additional \$100 million each year in competitive Indian Housing Block Grant funds). While he was buoyed by these gains, he expressed concern about the funds being timely dispersed by HUD. He stated that he has been in discussions with HUD Secretary Ben Carson on ways to move the distribution of funds forward.

Sen. Tom Udall (D-NM) discussed the multi-generational challenges posed by unmet housing needs in indigenous communities. He reported that in 2017 HUD conducted a broad assessment of housing needs in tribal areas and found that approximately 42,000 to 45,000 American Indian or Alaska Natives live in overcrowded conditions, which contribute to health, socio-economic, and other challenges.¹ He acknowledged the lack of progress Congress has made in addressing Indian housing issues but expressed optimism that Congress would finally pass a comprehensive NAHASDA reauthorization bill and the Tribal HUD-VASH legislative fix this session.

Rep. Don Young (R-AK) emphasized the common housing needs that exist within indigenous communities from Alaska to Florida. He urged tribal leaders and housing administrators to continue to press on the bipartisan reauthorization of NAHASDA, sharing his view that it is not a Republican nor a Democratic issue, but a shared challenge for all to overcome. He reported that the House – led by Representatives Denny Heck (D-WA), Deb Haaland (D-NM), and Tom Cole (R-OK) – is working to find a legislative vehicle to move a reauthorization bill forward with increased funding and the Native Hawaiian provisions.

Representative Young requested tribal support for his American Indian Empowerment Act (pending introduction) that would increase tribal authority over their own lands. Specifically, the bill would allow a tribe to request that the title to its tribal land be taken out of trust and conveyed to the tribe while retaining its "Indian Country" status, meaning lands would remain inalienable. We note that Rep. Young has periodically introduced revised versions of the Act over the course of several Congressional sessions. The most recent hearing on the Act was held before the then-Indian, Insular and Alaska Native Affairs Subcommittee in October 2017.²

Rep. Denny Heck (D-WA) focused his comments on the need for increased funding for building and lending accounts that address home ownership and construction needs in Indian Country. He recommended that tribal leaders pay more attention to the activities of the Federal Reserve Board that sets lending interest rates, among other

¹ A copy of the HUD report on AI/AN housing needs in tribal areas is available online at <https://www.huduser.gov/portal/sites/default/files/pdf/HNAIHousingNeeds.pdf>.

² The name has since changed to the Indigenous Peoples of the United States Subcommittee.

financial responsibilities. He noted that the country is currently experiencing stable interest rates, though he cautioned that we tend to fluctuate between periods of high and low interest rates. Rep. Heck also reported that a New Market Tax Credits Extension Act is expected to be reintroduced with reforms that are intended to make it more accessible.

We note that Rep. Heck has been designated to assume of the mantle of moving NAHASDA reauthorization through the House of Representatives. Rep. Gwen Moore (D-WI) has led the charge during previous sessions, but due to her new responsibilities on the Ways and Means Committee, the mantle is being passed on to new Members.

Rep. Markwayne Mullin (R-OK) shared personal reflections on growing up in Cherokee Country in Oklahoma as a young man and now as a Congressional leader. He expressed his deep commitment to Native veterans and housing issues, describing the transformative effect that access to adequate housing can have on both an individual and a community. He shared his frank opinion that Congress is still eight to ten years away from providing the funding that Indian Country needs to address the actual level of need. He stated that one of the largest hurdles in the appropriations process is the lack of data and hard numbers on Indian housing. He explained that statistics are critical to justifying budget requests. Rep. Mullin urged tribal leaders and housing administrators to provide clear data on local and regional unmet needs to facilitate the budget formulation process.

Rep. Ruben Gallego (D-AZ) serves as the Chair of the Indigenous Peoples of the United States Subcommittee. He echoed the concerns of his colleagues in the need for a timely reauthorization of NAHASDA. He described the stark statistics on unmet housing needs and how the lack of a stable home environment contributes to instability in other areas, such as academic achievement, health outcomes, and employment.

Rep. Gwen Moore (D-WI) framed her comments by sharing the honor that she has had of fighting alongside tribal leaders on issues such as NAHASDA, the Violence Against Women Act (VAWA), and tax issues, among many others. She stated that as a member of the Ways and Means Committee, she will continue her work on Indian housing issues through tax and infrastructure measures. She also mentioned the "American Housing and Economic Mobility Act" that she is co-sponsoring with Senator Elizabeth Warren (D-MA). The Act would provide a \$2 billion long-term investment in affordable housing through NAHASDA, strengthen anti-discrimination housing laws, and provide targeted support for individuals and families living in historically segregated areas. The bill is currently pending reintroduction after being introduced during the previous session of Congress as H.R. 7262 and S. 3503.

If you have any questions about this memorandum, please contact Ed Clay Goodman at egoodman@hobbsstrauss.com, or by telephone at (503) 242-1745.