



# The Federal Monitor

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News of Issues Affecting Tribes and Tribal Housing Programs

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### National American Indian Housing Council

NAIHC, a not-for-profit organization, assists tribes and tribal housing entities in reaching their goal of providing culturally relevant, decent, safe, sanitary and quality affordable housing for Native people in Indian communities and Alaska Native Villages.

### Office of Governmental Affairs

50 F Street NW  
Suite 3300  
Washington DC  
20001

Ph: (202) 789-1754  
Fax: (202) 789-1758

Wendy L. Helgemo  
Director

[www.naihc.net](http://www.naihc.net)

### NAIHC LEGAL SYMPOSIUM HIGHLIGHTS NAHASDA REAUTHORIZATION AND NEW LEGISLATIVE ISSUES

The 2007 Legal Symposium took place December 4-6, 2007, at the Planet Hollywood Resort & Casino in Las Vegas, Nevada, with nearly 400 participants.

The Symposium's Plenary was packed with information on this year's activities, which have centered on the reauthorization of NAHASDA and Indian housing appropriations. Plenary session attendees also heard remarks from NAIHC officials and staff, Joel Frank (Seminole Tribe of Florida), AMERIND Board Chairman, and Archie Lynch (Haliwa-Saponi), Regional Southeastern Area Vice-President, National Congress of American Indians.

NAIHC Board Chairman Marty Shuravloff addressed the plenary session noting that the NAHASDA reauthorization "... is on track—not without some controversy and not with everything we asked for—but, reauthorization is on track." Shuravloff also encouraged the membership "... to join us in the education and advocacy effort that is needed by calling and writing your Senators and Representatives—encourage them to support NAHASDA's reauthorization, as well as increased funding for our Indian housing and community development programs."

During the Plenary, Assistant Secretary for Public and Indian Housing Orlando Cabrera declared that NAIHC was his first, and now his last, speaking engagement in his official capacity. He emphasized that members should focus on achieving the big goals such as reauthorization of NAHASDA, which will benefit all tribal housing. Mr. Cabrera leaves office January 4, 2008.

NAIHC introduced a new segment in the Plenary, a Litigation Update, presented by Jon "Professor" Tillinghast, *Esq.* His outline included full citations for "Fort Peck and its Progeny" and "Housing Authority Sovereign Immunity."

Participants also enjoyed personal messages from Senator Harry Reid (Majority Leader), Senator Lisa Murkowski (R-AK) and Senator Byron Dorgan (D-ND).

The Plenary keynote address, delivered by Elsie Meeks, an enrolled member of the Oglala Lakota Tribe, emphasized the importance of starting financial education at the earliest possible age to instill "an entrepreneurial awareness" that is necessary if communities are to become economical healthy in Indian Country. Meeks is the Executive Director of Oweesta Corporation. She sits on the board the Oglala Sioux Tribe Partnership for Housing and is chairperson for the Native Financial Education Coalition. "The only way we're going to get our families into affordable mortgages is to help them learn to make smart financial decisions. Strong financial management skills will help to keep folks out of trouble by helping them to avoid predatory deals. Tribes, TDHEs and especially Native CDFIs are in a great position to provide this financial education to Native communities."

Please find videos, electronic materials and PowerPoints on [www.naihc.net](http://www.naihc.net).

Participants were treated to a banquet lunch, which featured keynote speaker Jamie Fullmer. His inspiring words, to have confidence and take charge of your destiny, were timely and appropriate.

The lawyers had a rollicking good time at the Lawyers' Luncheon which featured "14 Issues in 14 Minutes" by Jim "the Great Debater" Wagenlander, *Esq.*, and timer Dave "Coach" Heisterkamp, *Esq.*

A synopsis of the Breakout Sessions are listed below:

### **Meeting Diverse Needs in Tribal Communities: How Supportive Housing Works**

Presenters: Zoe LeBeau, Corporation for Supportive Housing, Barbara Broen, Broen Housing Consultants, Angela Christy, *Esq.*, Faegre & Benson, and Benjamin Artichoker, Cangleska, Inc.

Panelists told of how they developed and paid for supportive housing projects in their communities: a shelter for women and their children; a twenty townhome project for families who were longterm homeless. Panelists stressed how the key is to pool several resources and coordinate those resources which may involve complex reporting and tracking requirements. Specifically, participants learned about certain supportive housing requirements such as keeping three budgets: capital, operating and services. Additionally, panelists were advised of the intricacies of the tax code for using low-income housing tax credits in association with this type of housing, including non-eligible uses. Presenters also stressed that these housing entities need to be run like a business. On the Pine Ridge Reservation, where unemployment and alcoholism rates both run at 85 percent, Cangleska is looking at furthering their community development to support the economic, spiritual, child care, employment and housing needs of their tribal community.

### **Low-Income Housing Tax Credits Work for Your Tribe**

James Horvick, Raymond James Tax Credit Funds, Lorna Fogg, Travois, Karin Foster, *Esq.*, KLF Law, Craig Emden, *Esq.*, Bocarsly, Emden, Cowan, Esmail, Parker & Arndt, Donna Jacobsen, HUD Office of Native American Programs

Panelists gave a thorough overview of Low-Income Housing Tax Credit (LIHTC) process from project development to compliance. More than 100 people were present and the myriad questions demonstrated a far-reaching interest in the use of LIHTC to supplement and expand the Indian Housing Block Grant program as a leveraging tool. There is a clear need to increase the training opportunities for housing authorities in the area of LIHTC program development. Participants requested additional specific trainings with enough time to work with investors, program developers, compliance experts and consultants, and State Housing Finance Agencies and Housing Departments.

### **Get Ahead of the Curve: Sustainable Design and Building on the Rez**

Presenters: Brian Pierson, *Esq.*, Godfrey & Kahn, Jeffrey Fullhart, Pokagon Band of Potawatomi Indians and Jonathan Robertson, Navajo Nation Housing Authority

Sustainable and affordable housing promoting efficiency, and using local sustainable materials and traditional building practices can all be successfully employed. Presenters shared their stories of completed projects and planning for new projects. The Pokagon Band told of their efforts to build a housing

community: with a minimum footprint and maximum livability; infrastructure constructed with great care for environmental compatibility; roads constructed with porous pavers and natural water flow was considered; layout of houses encouraged a community and a healthy lifestyle (walking paths), including green spaces; some investment upfront, but housing community is less expensive and less upkeep. Navajo discussed FlexCrete, a construction material, which is a by-product of their energy plant, and durable, easy to use and resistant to mold. Data from the NAIHC survey was reviewed and indicated great interest in receiving more information on green building strategies. Participants want more information on federal resources to plan and implement green building strategies and commercial “green building” products available for housing.

### **Planning and Development for Infrastructure**

Presenters: Ron Ferguson, U.S. Indian Health Service, Jamie Fullmer, Chairman/CEO Blue Stone Strategy Group and Sandi Boughton, USDA Rural Development

Presenters summarized IHS and USDA programs and resources available for planning and financing development of sewer, water, sanitation and related physical infrastructure and facilities. USDA’s message was “we are here to help you and we have money.” The need for comprehensive planning was stressed. “Tribal departments cannot operate in silos.” Participants also learned how the Yavapai-Apache Nation developed, and paid for, a mixed use housing project on their reservation using a combination of funding from Section 184, Title VI, USDA, private grants, LIHTC, NAHASDA and tax exempt bonds. Tribes need to “Start talking about money from Day 1.”

### **Insuring Indian Housing under NAHASDA: The Statutory and Regulatory Framework**

Presenter: Lee Bergen, *Esq.*, Bergen Law Offices

Mr. Bergen, counsel for AMERIND, gave a litigation update on insurance cases in Indian Country and also outlined the history of insurance policy and law on sovereign Indian lands which led to the creation of AMERIND as a risk pool. He stressed the need for tribal code and policy development to ensure all tribal property is protected and state law is preempted. The session also highlighted the new final rule, “Self-Insurance Plans Under the Indian Housing Block Grant Program.”

### **A Model: Tribal Mortgage Leaseholds and Promissory Notes**

Presenters: Joanne Foster, *Esq.* and Eugena Hobucket, Quinault Nation

The Quinault Nation presented their Model tribal leasehold mortgage documents for federal, tribal, state and private guaranteed, insured and direct residential loan programs which are in use in conjunction with a tribal leasehold mortgage ordinance, and approved for use with Section 184 mortgages by the ONAP Office of Loan Guarantee. They are also available for use as second mortgages to satisfy the requirement that NAHASDA recipients enter into binding commitments to assure that dwelling units assisted with NAHASDA funding remain affordable for the useful life of the property. Sharing electronic documents will increase capacity and introduce “best practices” concepts for tribal housing authorities.

**Gaining Steam: Title Status Report Reform**

Presenter: John Dossett, *Esq.*, National Congress of American Indians, Sharon Redthunder, Redthunder Consulting, Jerilyn DeCoteau, First Nations Development Institute and Yvonne Johnson, HUD Office of Native American Programs

Expedient processing of title status reports (TSRs) can only help further housing development and homeownership in Indian Country. Upon collaboration between First Nations Development Institute and the National Congress of American Indians Policy Research Center, Stewart Title Company and NeighborWorks® America, they are conducting a study on Land Title Records Offices (LTRO) to lay a foundation for strategies that tribes can pursue to expedite the title search report processing. The discussion began with an overview of the difficulties encountered by tribes when they are unable to receive a certified title status report for either residential or commercial loans. HUD discussed its efforts to provide assistance to the Bureau of Indian Affairs by working closely with realty specialist to develop expedited procedures to process Title Search Reports. The Section 184 Indian Home Loan Program depends on the timely completion of TSRs. Sharon Redthunder discussed the background to the backlog in Land Title Records Office from her more than 30 years of experience as a realty specialist with the BIA. Redthunder discussed the preliminary findings from the LTRO study. Most of the models identified in the study required an investment in tribal resources. Further strategy needs to ensure that smaller tribes with limited resources are not left out of the process and any of the recommendations when the final study report is completed. The completed study will be used to make recommendations to Congress to fix the TSR backlog.

**Take the Predatory Out of Lending for Your Tribe**

Presenters: Jerilyn DeCoteau, *Esq.*, First Nations Development Institute, Elsie Meeks, OWEESTA Corporation, and Miriam Jorgensen, First Nations Development Institute and Sandra Avila, The Annie E. Casey Foundation

Collaborators First Nations Development Institute, Annie E. Casey Foundation, Native Nations Institute for Leadership, Management, and Policy at the University of Arizona and the National American Indian Housing Council conducted, and are analyzing, a nine-month study of predatory lending in Native communities. The study will identify the extent of the predatory lending problem in Native American communities and point to local solutions currently practiced by housing authorities, Native nonprofits, and tribal governments. Participants were briefed on the study and the results from the NAIHC data, as well as a previous analysis that displays the locations of banking institutions and predatory lending outlets near or on reservations in certain focus areas. Panelists emphasized the need to conduct financial education at all ages. Characteristics of predatory lending are: companies that intend to take advantage of those who are not well-informed, creates a cycle of debt that can ruin financial stability of families and individuals, and is an obstacle to new home ownership. Participants want to: expand current programs to deliver financial education to the tribal level and all school levels (grade school through college), explore legislative strategies to combat predatory lending, and strengthen partnerships to combat predatory lending in Indian Country.

**Voluntary Income Tax Assistance and Earned Income Tax Credits: A Tribal Model**

Presenters: Kerry Jacobs, Akwesasne Housing Authority and Patsy Schramm, OWEESTA Corporation

In a recent survey, Tribal Housing Authority leaders cited Refund Anticipation Loans (RALs) against federal income tax returns as one of the biggest predatory lending problems facing Native consumers. The Earned Income Tax Credit can be a powerful tool to help lift working families out of poverty and stimulate local economies. Panelists described, in-depth, why and how one Tribal Housing Authority developed their Voluntary Income Tax Assistance (VITA) program. For a tribe to be successful in setting up their own VITA site, they need to initiate the request in July for the next year.

**Documenting & Understanding Tribal Housing Needs**

Presenters: Miriam Jorgensen, Harvard Project on American Indian Economic Development, and Dr. Karl Eschbach, University of Texas at San Antonio

Native communities need housing. NAIHC is embarking on a research project that will document and lead to a better understanding of housing needs in Native America. Discussion in this session was extremely helpful in establishing the framework for this assessment. Participants discussed the definition and scope of the research project, which is not a study, but a comprehensive assessment that can be used for multiple purposes. These purposes include, but are not limited to, a massive effort by tribal housing professionals to seek additional federal funds for tribal housing. The assessment should be conducted: 1) by a multi-disciplinary team, formed to conduct the research, which includes tribal housing professionals; and 2) in a manner such that it can be easily updated as information is updated, perhaps annually.