



# NATIONAL AMERICAN INDIAN HOUSING COUNCIL

• 2010 LEGAL SYMPOSIUM •

PLANET HOLLYWOOD RESORT AND CASINO  
LAS VEGAS, NV • DECEMBER 7-9, 2010

## DRAFT AGENDA (UPDATED 11/02/10)

### Tuesday, December 7, 2010

8:00 a.m.-11:30 a.m.

**Effective Advocacy in Washington, DC—Part I: Tools, Strategies, and Tactics  
Melrose 3**

The morning session will be an overview of advocating in Washington, DC. It will include effective communication and correspondence with Congressional staffers, concise position and briefings papers, and identify major advocacy pressure points. It will also include a discussion of appropriate vs. inappropriate contact with legislative representatives, such as what constitutes bribing a public official, exchanges that are considered “gifts” and are prohibited under the ethical rules, and the overall do’s and don’ts of dealing with Congress and their staff in an ethical manner.

***Registration is free.***

Heather Dawn Thompson, Attorney, Sonnenchein Nath & Rosenthal, LLP

NAIHC Staff

11:00 p.m.-5:00 p.m.

**Early Registration  
Exhibitor Set-Up  
Foyer**

11:30 a.m.-1:00 p.m.

Lunch (on your own)

1:00 p.m.-4:00 p.m.

**Effective Advocacy in Washington, DC—Part II:  
Developing an Advocacy Plan  
Melrose 3**

The afternoon session will focus on developing advocacy plans for collective issues in tribal housing. In groups, participants will discuss the advocacy plan and then make contact with Congressional offices.

**Registration is free.**

Heather Dawn Thompson, Attorney, Sonnenchein Nath & Rosenthal, LLP  
NAIHC Staff

4:00 p.m.-6:00 p.m.

**Legislative Committee Meeting**

**Melrose 3**

The Legislative Committee meeting is open to all members and the public. Participation in legislative discussion is encouraged.

Wendy Lawrence, Chair, NAIHC Legislative Committee

**Wednesday, December 8, 2010**

7:30 a.m.-5:00 p.m.

**Registration**

Foyer

9:00 a.m.-12:00 p.m.

**Plenary Session I**

**Celebrity Ballroom 6 & 7**

**Invocation**

Local Tribal Member

**Welcome**

Cheryl A. Causley, Chairwoman, NAIHC

**Legislative Update**

Traci Hobson, Director of Governmental Affairs, NAIHC

**Litigation Update**

Brian L. Pierson, Attorney, Godfrey & Kahn, Attorneys at Law

**AMERIND Update**

AMERIND Chairman

**Census Bureau Update**

Sydnee Chattin-Reynolds, Regional Deputy Director,  
Kansas City Office, U.S. Census Bureau

**USDA Listening Session: Looking Toward the Future**

This interactive session will highlight USDA/tribal partnerships. It will showcase successful tribal housing and infrastructure projects that utilized USDA Rural Development funding in various regions of the United States. It will also examine ways in which USDA Rural Development and tribes may more effectively collaborate to maximize tribal access to USDA programs and resources.

Moderator: Cheryl A. Causley, Chairwoman, NAIHC

Panelists: Tedd Buelow, Native American Coordinator,  
Rural Development, U.S. Department of Agriculture

USDA Officials (*invited*)

**Closing Remarks**

Cheryl A. Causley, Chairwoman, NAIHC

12:00 p.m.-1:30 p.m.

**Lawyers' Luncheon: A Panel Discussion Regarding  
*Carcieri vs. Salazar* and the Future of Land into Trust  
Wilshire A & B**

*Tickets required.* In this session, a panel of attorneys from across the United States will discuss the U.S. Supreme Court's recent decision in *Carcieri vs. Salazar*, which held that the Indian Reorganization Act (IRA) limits the Secretary of the Department of the Interior's authority to take land into trust for tribes recognized after the IRA's passage in 1934. It will discuss the proposed legislative "*Carcieri* fix," opposition to the fix, and general issues regarding the process of taking land into trust on behalf of federally-recognized tribes, including delays within Interior and the cause for delays in such process. Representatives of the Department of the Interior will be present to answer questions from the agency's perspective.

Moderator: Brian L. Pierson, Attorney, Godfrey & Kahn,  
Attorneys at Law

Panelists: Dave Heisterkamp, Attorney, Wagenlander &  
Heisterkamp, LLC

Timothy Humphrey, Senior Attorney, Stetson Law Office,  
PC

Edmund Goodman, Attorney, Hobbs, Straus, Dean & Walker  
Edward K. Brooks, Attorney, Patterson Dilthey, LLP  
Patterson V. Joe, Attorney, Law Office of Patterson V. Joe

12:00 p.m.-1:30 p.m.

Lunch (on your own)

### **Concurrent Breakout Sessions – 1:30 p.m.-3:00 p.m.**

#### **Changing Numbers, Changing Needs: What You Need to Know About Using American Indian Census Data**

##### **Melrose 1**

The American Indian/Alaska Native population has grown rapidly over the last several decades. These changes raise questions for housing officials, policy makers, researchers, planners, and grant writers responsible for serving American Indian housing needs. This session will focus on important census issues and concepts as they pertain to determining race, tribal affiliation, American Indian household data, and housing indicators. Learn about the upcoming release of both the 2010 Census and the American Community Survey and how these data can be accessed and applied in the American FactFinder data retrieval system. This is a three-part workshop with the first hour covering the 2010 Census; the second hour focusing on accessing American Community Survey data; and the third hour devoted to the new American FactFinder system and applying Census Bureau data to grant applications.

**Note: This session is three hours.**

Jerry O'Donnell, Partnership and Data Services Program Manager, Denver Regional Census Office

Amadeo Shije, Partnership and Data Services Program Manager, Denver Regional Census Office

#### **Successful Strategies to Combat Illegal Drug Use**

##### **Melrose 2**

The Colville Indian Housing Authority has partnered with the Colville Tribal Police Department to utilize the Smith's Ion Scanner, the Controlled Substances and Sampling Policy, and the Default and Termination (D&T) process to combat illegal drug and substance abuse in tribal housing communities. The presentation will cover policy language, use of IMS with sample analysis, sample D&T Contract Rider, and key people involved for team coordination. The written protocol, scope of work, and procedures will be presented as an actual case study as well as a model for the development of successful strategies.

Elena Bassett, Executive Director, Colville Housing Authority

Brian Quill, Compliance/Crime Prevention Officer, Colville Housing Authority

Dave Butz, Housing Police Officer, Colville Police Department

**Creative Financing: Initial Considerations When Planning Your Tax Credit Project  
Melrose 3**

This session will start with basic information on the Low Income Housing Tax Credit (LIHTC) program, including development and compliance basics. It will also include information on the New Markets Tax Credit (NMTC) program for developing community facilities, for-sale housing, and other types of projects. It will continue with the items that surface when deciding whether or not to proceed with a tax credit project. These items include: waiting list considerations, selecting units to rehab, per capita impacts on eligibility, due diligence basics, compliance responsibilities, the impact of leveraging, accounting practices, timelines, and much more.

**Note: This session is three hours.**

Lorna Fogg, President, Travois

Robin Thorne, Director of Assessment Management, Travois

David W. Bland, Chairman, Director, Travois

**Building Sustainable Communities with Title VI and Loan Guarantee Demonstration Programs  
Melrose 4**

Sustainability is being widely acclaimed while its meaning is imprecise and open to interpretation. This session will explore what a sustainable community can be by using Native American Housing Assistance and Self-Determination Act's (NAHASDA) Title VI and the Loan Guarantee Demonstration Programs. This session will highlight illustrations, concepts, and principles when creating sustainable communities. It will address questions, such as: What does sustainable mean to you? What is your vision for the future of housing? How do we get there? What are the advantages of leveraging resources?

Robert Lamp, Loan Guarantee Specialist, Office of Native American Programs, U.S. Department of Housing and Urban Development

**Avoiding, Reporting, and Preventing Loan Modification Scams  
Sunset 5**

Participants will learn about foreclosure rescue and how to recognize loan modification scams. It will cover complaint gathering and reporting methods, as well as how this information will be used with the centralized national database in order to share information about and shut down loan modification scammers.

Bill Picotte, Marketing Specialist III, Fannie Mae

**Introduction to Grant Writing  
Sunset 6**

Millions of dollars in federal housing and community development funds are available to tribes and Tribally Designated Housing Entities (TDHEs) each year outside of the Indian Housing Block Grant (IHBG), but many tribes do not apply. In this session, participants will receive a list of grant resources, information on how to research additional opportunities, and examples of successful projects. The presenter will cover the basics of grant writing, what to do in the planning stage, and how to understand the requirements of Request for Proposals (RFPs) and Notice of Funds Availability (NOFAs). The session will conclude with a discussion on key ingredients to give participants the best chance of getting their applications funded.

Kristy McCarthy-Weight, Consultant/Grant Writer, Blue Water Grant Development

**Negotiated Rulemaking: Implementing NAHASDA Reauthorization  
Celebrity Ballroom 5**

The NAHASDA Reauthorization Negotiated Rulemaking Committee held six meetings from March to August and concluded this year's Negotiated Rulemaking process. In this session, members of the Committee will discuss the progress they made in developing regulations to implement amendments to the law that occurred between 1998 and 2008. In addition, representatives from the U.S. Department of Housing and Urban Development (HUD) Office of Native American Programs (ONAP) will provide an overview of the HUD and Office of Management and Budget (OMB) clearance processes and share information about when the Final Rule will be published.

Moderator: Erna Reeves, Lead Training and Technical Assistance Specialist, NAIHC

Panel: Negotiated Rulemaking Committee Members

3:00 p.m.-3:15 p.m.

Break

**Concurrent Breakout Sessions – 3:15 p.m.-4:45 p.m.**

**Washington Update: What the Midterm Elections Mean for Indian Tribal Housing and Economic Development**

**Melrose 2**

In November 2010, the Congressional mid-term elections were held and the results will bring seismic changes to Washington in 2011. Key Congressional committees will have new chairmen and include many new members. These changes will impact the legislative and policy priorities of tribes, including housing and related economic development areas. This breakout session will review the legislative and policy accomplishments of the 111th Congress and will look ahead to what can be expected in the 112th Congress beginning in January 2011.

Paul Moorehead, Esq., Drinker Biddle & Reath, LLP

#### **The Legal Aspects of Best Value Procurement in Indian Country Housing Melrose 4**

The Best Value Procurement (BVP) model is the most efficient methodology to deliver construction-related services. BVP eliminates the largest obstacles to efficiency by using performance information and information theory. It has been documented that best value can minimize management by up to 90% and increase performance to an average of 98%. This 90-minute presentation will introduce the BVP model, demonstrate how it can be used to deliver housing and construction-related services in Indian Country, and explore the legal aspects of implementing the BVP model, such as compatibility with tribal purchasing requirements, Indian preference in contracting, and contractual considerations.

Moderator: Kimberly Silentman-Kanuho, Coordinator for American Indian Initiatives, Del E. Webb School of Construction, Arizona State University

Dr. Roger Owers, Visiting Eminent Scholar, Del E. Webb School of Construction, Arizona State University

Dr. Kenn Sullivan, Director of the Facility Management Research Institute, Del E. Webb School of Construction, Arizona State University

#### **Where is Your Money? Helping Clients Claim and Grow Their Earned Income Federal Tax Credits and Avoid Practices that Constitute Predatory Lending under Federal Law Sunset 5**

This session will share the significant dollars the federal Earned Income Tax Credit (EITC) program can bring to qualified clients and tribal communities and explain the federal policy behind promoting the use of tax credits to build housing programs and leverage assets. It will describe, in detail, how tribal housing programs can help clients access this program and link it to asset building, as well as avoid the pitfalls of predatory lending, which, while not illegal in most situations, drains the benefit of the tax credit and is all too common.

Jaci Ree, Financial Education and Asset Building Manager, Oweesta Corp

Patsy Schramm, Independent Consultant, First Nations Development Institute

#### **New Doors Open to Tribes and Tribal Housing Programs for Using GSA Programs Sunset 6**

The 2008 reauthorization of NAHASDA provided several new benefits not previously available to tribes and tribal housing programs in administering their IHBG funds. One new elective opportunity under section 101(j) permitted such entities to participate in GSA programs, offering substantial benefits. This session will cover how to make funding go farther through cost-saving procurements using pre-negotiated, volume-discounted federal government GSA schedules contracts, as well as how to save substantial administrative time throughout the procurement process through the use of online tools and resources. Also covered will be the GSA SmartPay program that provides

charge cards to tribal governments and travel programs designed to be a one-stop source for travel needs.

Florence Francis, Advisor for Native Nations, General Service Administration

**Legal and Regulatory Issues: Criminal History and Tribal Housing Criminal Policies  
Celebrity Ballroom 5**

NAHASDA statutory provisions on criminal activity, including drug-related criminal activity and the NAHASDA-issued guidance on securing and maintaining confidential criminal information, will be examined. The Supreme Court case of *HUD v. Rucker*, involving possession of controlled substances in HUD-funded housing, and federal guidelines, will also be reviewed. Tribal housing policies to address drug-related and other serious criminal policies will be presented.

Joanne Foster, Attorney

Lorrie Ellsworth, Executive Director, Spokane Indian Housing Authority

6:00 p.m.-8:00 p.m.

**Opening Reception**  
Planet Hollywood

**Thursday, December 9, 2010**

8:00 a.m.-12:00 p.m.

**Registration**  
Foyer

9:00 a.m.-12:00 p.m.

**Plenary Session II**  
Celebrity Ballroom 6 & 7

**Beyond AARA: HUD Outreach to Tribes and Tribal Housing Professionals**

This listening session is an open forum for tribes, tribal members, and tribal housing officials to share their successes and voice their concerns. Suggestions on how to overcome regulatory, programmatic, and financial barriers will help shape recommendations for future federal housing programs for tribes. The session is hosted by senior HUD Administration officials and high level program managers. Topics will include the American Recovery and Reinvestment Act (ARRA) spend-out rates, reporting requirements, fund disposition status, and the progress made to date in the NAHASDA negotiated rulemaking process. An update on the Congressionally-mandated housing needs study is also scheduled.



Moderator: Russell Sossamon, Board Member, NAIHC

Panelists: Sandra B. Henriquez, Assistant Secretary, Public Indian Housing, U.S. Department of Housing and Urban Development

Rodger J. Boyd, Deputy Assistant Secretary, Office of Native American Programs, U.S. Department of Housing and Urban Development (HUD)

**Closing Remarks**

Wendy Lawrence, Board Member, NAIHC

12:00 p.m.-1:30 p.m.

Lunch (on your own)

**Concurrent Breakout Sessions – 1:30 p.m.-3:00 p.m.**

**USDA Rural Development: Housing, Infrastructure, and Economic Development Programs**

**Melrose 1**

Have you heard of other tribes and tribal housing programs using Rural Development's Housing, Community Facilities, Water, or Economic Development programs? Are you curious to know how these programs may help your tribe meet its housing goals and infrastructure objectives? This session will allow participants to learn more about Rural Development's programs in an informal, fun, and interactive workshop.

**Note: This is a three hour session.**

Tedd Buelow, Native American Coordinator, Rural Development, U.S. Department of Agriculture

Janie Hipp, Senior Advisor to the Secretary, Office of Tribal Relations, U.S. Department of Agriculture (*invited*)

**Developing Green Building Codes for Indian Country**

**Melrose 2**

All across the globe, communities and industries are responding to the climate change crisis by increasing the use of renewable energy resources and implementing energy efficiency measures. The basis of effective energy efficiency starts with proper building codes that ensure houses and buildings are built to literally produce energy efficiency from the ground up. This presentation will focus on models of "green" building codes and will provide templates for participants to take back to their communities for consideration and possible adoption by their respective tribal councils.

Kimberly Craven, Senior Project Leader, National Renewable Energy Laboratory

## **The Legal Guide for NAHASDA Indian Housing Grant Compliance and Investments**

### **Melrose 3**

This session is a review and discussion of the legal and regulatory compliance issues that are related to NAHASDA. Multiple components of compliance will be covered, including activities allowed or disallowed, allowable costs, cash management, the Davis Bacon Act, eligibility, property management, procurement, program income, and reporting. Presenters will also follow up on the special tests and provisions directly correlating to investment of IHBG funds.

**Note: This session is three hours.**

Christine Dennis, Owner, Dennis & Company

Paul Bradford, Governmental Auditor, Dennis & Company

Terry Weber, Chief Operating Officer, Investment Recovery Advocates

Barbara Smith, Attorney/Chief Justice of the Supreme Court, Chickasaw Nation

## **Introduction to Grant Writing**

### **Melrose 4**

Millions of dollars in federal housing and community development funds are available to tribes and TDHEs each year outside of the IHBG, but many tribes do not apply. In this session, participants will receive a list of grant resources, information on how to research additional opportunities, and examples of successful projects. The presenter will cover the basics of grant writing, what to do in the planning stage, and how to understand the requirements of RFPs and NOFAs. The session will conclude with a discussion on key ingredients to give participants the best chance of getting their applications funded.

**Note: This is a repeat session.**

Kristy McCarthy-Weight, Consultant/Grant Writer, Blue Water Grant Development

## **Cause and Effect: Housing Entity Liability Exposure when Enforcing Codes and Ordinances**

### **Sunset 5**

Tribes pass ordinances and codes to help protect community members and property. However, if they are not enforced, the housing program may become liable for injuries. This session will include hypothetical examples of housing-related codes, such as pet leash laws, abandoned vehicles, working smoke detectors, and illegal drug use. Also addressed will be the duties of the housing program to ensure that codes and ordinances are not being violated and how to avoid potential negligence claims. Defensive strategies, including sovereign immunity, will also be covered.

Alan Romero, Director of Claims Response, AMERIND Risk Management Group

## **Section 184 Indian Home Loan: Guarantees for Tribes and Individuals**

### **Melrose 4**

The goal of the Office of Loan Guarantee is to help build sustainable communities. Homeownership and home maintenance are cornerstones of that stability. The HUD Office of Loan Guarantee works to maintain the grassroots participation of the 184 Program, and works directly with tribes, tribal housing programs, certified development financial institutions (CDFIs), and other housing partners to address the housing shortage in Indian Country. This 184 training session will define the program and discuss various approaches to developing housing communities in Indian Country. This session will address the function of the 184 Program as well as the role of counseling agencies, CDFIs, credit unions, and other tribal programs.

**Note: This session is three hours.**

Deanna Lucero, Senior Loan Guarantee Specialist, Office of Native American Programs, U.S. Department of Housing and Urban Development

**Board of Commissioners Training  
Celebrity Ballroom 5**

This session will start with a discussion of the history of Indian housing and lead up to the current housing program under NAHASDA. It will cover organizational functions; board work vs. housing director's work; program requirements; funding; and tribal, HUD, and board responsibilities, including ethical issues and conflicts of interest. The main objective of this session is to inform the board of their roles and responsibilities while being cognizant of the pertinent federal legal and regulatory requirements.

**Note: This is a three hour session.**

LindaLee Retka, Training and Technical Assistance Specialist, NAIHC

3:00 p.m.-3:15 p.m.

Break

**Concurrent Breakout Sessions – 3:15 p.m.-4:45 p.m.**

**Corporate Law for Tribal Housing Programs  
Melrose 2**

The session will examine the many different types of corporate entities a tribal housing program may consider in executing its mission. Indian Reorganization Act Section 17, state and tribally chartered corporations, and limited liability companies will be discussed and examined. Corporate issues, such as corporate formation and formalities, IRS taxability, and retaining sovereign immunity will also be explored using relevant legal precedent.

Jack Duran, Attorney, Duran Law Office

**Fannie Mae Products: What We Have and What You Need**

**Melrose 4**

This session will cover available Fannie Mae Products that range from single-family to multi-family, rehabilitation to new construction. No matter how large or small a tribe is, Fannie Mae has a product to help tribes and tribal housing programs meet their goals and impact housing needs in Indian Country. Part of the session will be devoted to listening to tribes and tribal housing programs describe their needs and identifying how Fannie Mae can assist.

Bill Picotte, Marketing Specialist III, Fannie Mae

**Rightful Termination and Wrongful Recommendation**

**Sunset 5**

This session will address recommended policies and procedures to support proper termination of employment, including a discussion of the consequences of using progressive grievance procedures and employment-at-will, and steps employers can take to ensure their policies contain clear provisions. Background documentation necessary to support proper termination of at-will and for cause employment and the growing area of litigation involving wrongful job references will be presented. The session will cover approaches employers can use to reduce the threat and liability arising from wrongful job references, or subsequent employer claims that he or she was induced to hire an individual based on unfounded references.

Timothy Humphrey, Senior Attorney, Stetson Law

Jennifer Bradley, New Mexico State Bar Liaison, DNA People’s Legal Services

**Thank you for attending the 2010 National American Indian Housing Council Legal Symposium.**

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