

**“NATIVE AMERICAN HOUSING ASSISTANCE AND SELF DETERMINATION  
ACT REAUTHORIZATION”**

**BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY**

**CHERYL PARISH  
VICE-CHAIRWOMAN  
NATIONAL AMERICAN INDIAN HOUSING COUNCIL**

**WASHINGTON, D.C.**

**June 6, 2007**

Introduction

Good Morning, Chairwoman Waters, Ranking Member Biggert and Members of the Committee. Thank you for inviting me to testify. I am honored to appear before you today to provide our views about the reauthorization of the Native American Housing Assistance and Self-Determination Act (NAHASDA). I am pleased to be able to share our enthusiasm about—and concerns with—the discussion draft of the proposed legislation you have provided.

My name is Cheryl Parish and I am the Executive Director of the Bay Mills Housing Authority in Brimley, Michigan. I am also a member of the Bay Mills Indian Community. Today I am here as the Vice Chairwoman of the National American Indian Housing Council. The NAIHC is the only national Indian organization that represents Native American housing interests. The NAIHC is composed of 264 voting members representing nearly 460 American Indian Tribes and Alaska Native Villages. I am here on behalf of the NAIHC membership and the tribal communities they serve.

## NAHASDA

Tribal communities across this great Nation suffer daily from inadequate and unsafe housing. This reality impacts our education, our health, spirituality, and pride in community: we all want to lift our heads high, but cannot with housing that holds us back. NAHASDA has made significant strides to improve our communities. I urge this Committee, other Committees of jurisdiction, members of Congress, and this Administration to join us to ensure the timely reauthorization of NAHASDA. It is critical that we protect the nearly \$6 billion dollar investment the Federal government has made toward in Indian housing over the past decade.

It is clear from this discussion draft that the Committee too recognizes the importance of the reauthorization of NAHASDA. NAIHC's member tribes and tribally designated housing entities (TDHEs) appreciate the willingness and support of this Committee to focus on, and to understand, what the law means to Indian Country—providing—desperately needed tools so we can continue to improve the housing conditions that our People face every day.

## Discussion Draft (*See also Appendix*)

We will submit for the record a complete discussion of all amendments contained in the discussion draft. We would like to note for the Committee that we appreciate the clarification of the definition of essential families and program income. We look forward to the flexibility to establish reserve funds. The ability to purchase goods and services under \$5,000 and carry over funds will be so beneficial as much needed streamlining so we can focus more on our programs. Access to the National Crime Information Center for employee background checks further serves to safeguard our homes and families.

Allow me for the moment to focus on three amendments that we find most encouraging.

- **Eligibility for Federal Supply Sources.**

This amendment is an example of the this Committee’s continued support for the Congressional Findings in NAHASDA; namely, that federal assistance should be made available to tribes and their TDHEs in a manner similar to similar to those accorded Indian tribes in Public Law 93-638. This amendment would put housing on a par with other self-determination act programs administered by the Departments of the Interior and Health and Human pursuant to the *Indian Self Determination and Education Assistance Act, 25 U.S.C. §450*. On behalf of the NAIHC membership, thank you.

- **Tribal Preference in Employment and Contracting**

Again, thank you. This provision is a clear recognition of the inherent sovereignty of Indian tribes to follow their own tribal laws. This is not about good politics, this is about good policy.

- **Operations and Maintenance Costs**

This amendment will permit the use of funds provided for under NAHASDA to be used to operate and maintain NAHASDA-financed housing. Heretofore, only through a paperwork driven process could NAHASDA funds be used for such purposes. This amendment is devolution in the best sense of the term.

Again, we applaud—indeed we are grateful—to this Committee and the able staff we work have worked with, as together we seek ways to improve and to further enhance NAHASDA, especially in the area of self-determination. We hasten to add, however, that we are concerned about the discussion draft as currently written, particularly with regard to Subtitle B, “Self-Determined Housing Activities for Tribal Communities.” While we address this issue at length in our written testimony, please allow me to summarize.

We have four areas of concern:

- The permitted activities identified in the this section currently exist within the statute;
- This section does not seem to permit any “common area” construction or communal usage that is so important in tribal communities; and,
- We are concerned that there seems to be a prohibition on the use of any funds proposed for the “Self-Determined Housing Activities” to be used for infrastructure.
- The fixed-income families section may be more restrictive than current statute and regulation require. The requirement to verify incomes every three years for fixed income families should, therefore, be stricken from section 2 as now proposed.

### Conclusion

Indian tribes are steadily increasing their role in the decisions that governments make for their citizens. As Indian tribes become more and more self-sufficient, the federal role in providing key services such as housing will not be as crucial. But until that day, the NAIHC asks you to amend, extend, and reauthorize NAHASDA to address the daunting housing challenges facing Indian tribes and people.

I commented in my opening statement about the Federal housing investment that has been made in Indian Country. We must protect that investment by improving on our ability to manage that funding source. It is clear this Committee supports not only the investment, but the successful management of tribal housing programs.

I want to thank the Committee for its interest in pursuing the reauthorization of NAHASDA, its commitment to Indian self-determination and self-sufficiency, and its continued support for American Indian, Alaska Native, and Native Hawaiian people.

We believe it is the spirit of Indian self-determination that must be emphasized during the coming deliberations over the reauthorization of this law.

I would be happy to answer any questions you might have.



*"A Tradition of Native American Housing"*

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**APPENDIX**

**Discussion Draft – Section by Section**

**Section 2. Block Grants.**

**Section 2(b). Federal Supply Sources**

The NAIHC supports this amendment which deems tribe executive agencies and makes Federal supply sources for lodging providers, airlines, and other transportation providers, available to Indian Tribes and is consistent with federal law in other contexts. For example, the Departments of the Interior and Health and Human Services currently make their General Services Administration

(GSA) supply sources available to Indian Tribes pursuant to the Indian Self Determination and Education Assistance Act, 25 U.S.C. §450.

### **Section 2(b). Tribal Preference in Employment and Contracting**

The NAIHC supports this amendment, which would recognize Indian tribal preference (as contrasted with “Indian Preference”) by Indian Tribes for purposes of hiring and contracting when carrying out NAHASDA-related activities.

### **Section 2(c). Indian Housing Plans**

The NAIHC supports this amendment that requires Indian Tribes to identify in their Indian Housing Plan (IHP) funds from any previous fiscal year that have not been or are not expected to be obligated or expended before the beginning of the fiscal year for which the IHP is being submitted. Any reserve funds carried forward from a previous fiscal year are also required to be reported in the IHP. NAIHC would further support the elimination of multiple year, open Indian Housing Plans (IHPs) although there may be the unplanned carryover of funds. For auditing purposes, any unexpended funds get carried over to the subsequent IHP and are simply treated as "deferred revenue." This is common practice for many federal Indian/Alaska Native programs, particularly under P.L. 93-638 programs.

### **Section 2(d). Program Income**

The NAIHC supports this amendment, which will exclude from program income any amount of money attributable to developer’s fees for low-income housing tax credit (LIHTC) projects. This means that revenues from an LIHTC project initiated by IHBG funds will not be considered program income. More specifically, it means that although IHBG funds are initially used to jumpstart the project, project construction is ultimately funded by private investments through the subsequent sale of tax credits to a tax credit investor, who by definition, is not a recipient of IHBG funds.

### **Section 2(d). Essential Families Exception**

The NAIHC supports this amendment, which will authorize recipients to provide affordable housing or housing assistance to families if the recipient determines that family's presence in the community is essential to the well-being of Indian families, and the housing needs of the family cannot reasonably be met without such assistance. The amendment removes the distinction between Indian and non-Indian families that current law draws, thereby excluding essential Indian families from eligibility.

### **Section 2(e). Law Enforcement Officers**

The NAIHC supports this amendment, which will clarify current law that provides that law enforcement officers employed by any "local government" and who serve an Indian reservation or Indian area, are considered "eligible families."

### **Section 2(f). Operation and Maintenance**

The NAIHC supports this amendment, which would expressly authorize the use of NAHASDA funds to operate and maintain rental and homeownership units funded by NAHASDA.

### **Section 2(g). Reserve Funds**

The NAIHC supports this amendment, which allows 20 percent of any grant amount to be deposited in reserve accounts for funding affordable housing activities.

The NAIHC is concerned, however, with the investment restrictions of the 1937 Housing Act placed on such reserves. The NAIHC would like the Committee to note that Section 204 of NAHASDA already places restrictions on investments and proposes that those restrictions apply to such reserves. The NAIHC proposes that such language after line 13 be removed and that reference to Section 204 be made.



### **Section 2(f). Use of Grant Amounts Over Extended Periods**

The NAIHC supports this amendment, which authorizes Indian Tribes to carry unexpended funds from one fiscal year to a subsequent fiscal year.

### **Section 2(g). De Minimis Procurement Rule**

The NAIHC supports this amendment, which will provide a de minimis rule whereby the competitive bid requirement would be eliminated for the purchase of goods and services under \$5,000.

### **Section 2(i). Access to NCIC**

The NAIHC supports this amendment to make the criminal records of applicants for employment with the Indian Tribe or tribally designated housing entity accessible to a requesting Indian Tribe or tribally designated housing entity. NAHASDA expressly permits access to the National Crime Information Center (NCIC) records for tenants, but it is equally critical that tribes/TDHEs have access to NCIC for prospective employees. This access gives tribes/TDHEs an additional tool for ensuring the safety of their communities.

### **Section 3. Subtitle B - Self-Determined Housing Activities for Tribal Communities**

We applaud the Committee for its efforts to enhance and further Indian Self-Determination in NAHASDA. We appreciate how a tribe or tribally designated housing entity can set aside a portion of their IHBG to devote to housing activities with long term planning and decreased HUD reporting and oversight during the five year period in mind.

We are concerned, however, with a recent development in the Third Discussion Draft's Subtitle B – “Self-Determined Housing Activities for Tribal Communities.” Although the program carves out the lesser of 15 percent of the grant amount or \$1 million dollars, this proposal strikes us as more restrictive than the current NAHASDA. Our reading is that the language, as written, does not

allow any new opportunities beyond what is already allowed in NAHASDA. The allowed activities of construction, acquisition, or rehabilitation of housing units are readily allowed under existing NAHASDA language. Thus, the recipients of IHBG funds are not likely to embrace the Subtitle B option as written. The structure of Subtitle B is good for creating expansion of self-determination but the allowable activities language needs to be expanded.

As written, this section does not take into account any types of buildings for “common areas,” or communal use, which is so important in tribal communities.

We are also concerned about the prohibition on using amounts set aside for infrastructure. Infrastructure goes hand in hand with any structural development and it will really bind recipients’ hands in long term planning and development. Allowance of infrastructure should be included.

While the NAIHC appreciates the need for accountability and results, we ask that the ability for creativity on the part of TDHEs and tribes to serve their housing needs be enhanced. We propose that section 233 (a) incorporate the following language:

**SEC. 233. USE OF AMOUNTS FOR HOUSING ACTIVITIES.**

“(a) **ELIGIBLE HOUSING ACTIVITIES.** –Any amounts made available for use under this subtitle by a recipient for an Indian tribe shall be used only for housing activities, as selected at the discretion of the recipient and set forth in the Indian housing plan for the tribe pursuant to section 102(c) for new housing and housing related purposes that provide significant benefit to families described in Section 201(b). Such activities, however, may not be, capitalization or financing of non-recipient business or commercial activities, general government activities or infrastructure except as provided under Section 202(2). The Secretary shall not otherwise restrict or regulate this standard by regulations, rules or in the process of making determinations on Indian housing plans under section 103.

**Section 4. Effect of NAHASDA on HOME Investment Partnerships Act.**

The NAIHC supports section 4, which clarifies that “insular areas or participating jurisdictions” (as defined in 42 U.S.C. 12721 et seq.) are not precluded or prohibited from providing amounts under the HOME Investment Partnerships Act to Indian tribes or TDHEs.

**Section 5. Federal Guarantees for Financing Tribal Housing Activities.**

The NAIHC supports section 5, which reauthorizes to Fiscal Year 2012 both the Secretary’s authority to assume commitments for notes and obligations under section 605 (a), and the credit subsidy under section 605(b).

**Section 6. Training and Technical Assistance.**

The NAIHC supports section 6, which reauthorizes through Fiscal Year 2012 section 703’s financial assistance to a national organization representing Native American housing interests for training and technical assistance.

**Section 7. Housing Assistance for Native Hawaiians.**

The NAIHC supports section 7, which reauthorizes through Fiscal Year 2012 grants for Native Hawaiian housing.