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ON BEHALF OF COPPER RIVER BASIN HOUSING AUTHORITY
&
THE ASSOCIATION OF ALASKA HOUSING AUTHORITIES

TO THE UNITED STATES SENATE COMMITTEE ON INDIAN AFFAIRS

REGARDING THE DRAFT "NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT OF 2007"

July 19, 2007

Introduction

Good morning Chairman Dorgan, Vice Chair Murkowski and Members of the Committee. My name is Terri Nutter and I am an Athabascan of the Udjichu clan, a tribal member of the village of Gulkana and the Executive Director of the Copper River Housing Authority in Alaska. I am very pleased to appear before you today and thank you for the opportunity to provide comments on draft legislation to amend and reauthorize the *Native American Housing Assistance and Self Determination Act.*

Let me start by expressing our profound sadness over the recent loss of Senator Craig Thomas who, as you well know, was a good friend of America's Native people and was an advocate in the House of Representatives before coming to the Senate and serving on this distinguished Committee. Our sadness is tempered by the ascension of our own Senator Lisa Murkowski to be Vice Chair of the Committee and we are very pleased she has accepted this important leadership position and know that she will serve Alaska and all of Indian Country well and honorably.

Before getting into the specifics of the bill under consideration, I would like to provide some very brief background on the organizations I represent today and some of our unique circumstances that make the delivery of housing and other services in Alaska such a challenge.

My own housing authority is located in the south central part of Alaska and serves eight tribal communities spread over the 1.5 million acres of what is referred to as the "Athna Region" – the traditional place name of our people. Attending the hearing with me today is Dan Duame, Executive Director from the Aleutian Housing Authority, which serves 13 tribes spread over 100,000 square miles, a region slightly larger than Virginia, Kentucky and Maryland combined. The Aleutian region (which includes the Pribilof Islands to the north of the Aleutian Island Chain) extends westward over 1,300 miles from the southwestern corner of the Alaska mainland. Travel to the farthest village, Atka, is a 6-8 hour plane trip at a cost of approximately $950 – at least twice as long in time and three times as expensive as flying to Seattle from Anchorage – and that is if you do not get stuck for several days in Dutch Harbor on your way out there due to notoriously bad weather conditions.

In addition to our respective organizations, I am testifying today on behalf of the Association of Alaska Housing Authorities (or "AAHA"), which consists of the 14 Alaska Native regional housing authorities (including our own) recognized under Alaska state statute. AAHA members collectively represent and serve approximately 75% of Alaska's 229 tribes and administer approximately $72 million of the $98 Million NAHASDA appropriation that comes to Alaska. AAHA members are the primary providers of housing services – new construction and rehabilitation – in rural Alaska, having constructed well over 6,200 housing units since our inception in 1971.

An important recent AAHA accomplishment was its participation as a joint sponsor with the Alaska Housing Finance Corporation in the completion of the "2005 Alaska Housing Assessment Study," [1] which provides comprehensive data on current Alaska housing needs and costs. This important study illustrates both the significant on-going successes of the Association, but perhaps more importantly, our current (and growing) critical housing needs. A few mid-range estimates found in the Assessment include the following:

- An immediate need of at least 25,771 new housing units to meet population growth, relieve overcrowding, and replace substandard housing.
- To avoid replacement, the need for major repairs to 20,000 units that are substandard but salvageable.
- Total cost to repair, replace and alleviate overcrowding (defined as homes with 200 square feet or fewer per resident): $5.99 billion.

Some of the unique and difficult service delivery challenges we face in our respective regions include significant transportation and other construction logistical barriers, particularly as to the shipping of materials to our job sites which is often by barge, often under irregular schedules, and always at a very high cost. We also are often faced with permafrost conditions making our foundation systems complex and expensive; extreme weather conditions and short building seasons; and exceptionally high energy costs which in some of our communities means fuel costs which currently exceed $5.00 / gallon.

Given these challenges and our exceptionally high construction costs, we are obviously concerned about the erratic and in recent years decreasing NAHASDA funding, which as you know is currently below 1993 levels. We are struggling to avoid a backwards slide where our ability to even keep up, let alone get ahead of the demand curve is compromised. We look

[1] / Information Insights, Inc. (2005) *2005 Alaska Housing Assessment*. Fairbanks Alaska: Rogers, Brian & Lister, Cady (Produced for: Cold Climate Housing Research Center).

forward to the day when we are no longer able to come before this Committee with graphic illustrations, such as those on my right, of the "honey bucket" system still utilized by many of our communities to meet basic sanitation needs.

Our purpose in being here today is do our best to positively influence a process that will allow us to continue to improve the lives of our tribal members – those like George Nevzeroff, from Atka, who recently moved from a shack which you can see was falling down around him, into a modest new home constructed with NAHASDA funds.

As a general matter, AAHA is supportive of most of the provisions contained in the draft legislation and we commend the Committee for its work to move the bill in the right direction. It is a significant improvement over the existing law, and we might add, has numerous improvements relative to the House Draft. We thank you for the way you have solicited our views and those of our national advocacy organization, NAIHC, and included them in the bill as it has evolved.

We further urge the Committee to continue to seek a package of amendments that benefits Indian people by meeting their housing needs, while at the same time respects Indian self determination by letting tribes & TDHEs make the fundamental decisions as to how housing and housing-related infrastructure and development are made in our communities.

When Congress enacted the NAHASDA in 1996, it sought to revamp Federal laws dealing with housing and housing-related infrastructure in Native communities. The Act was intended to mark a clean break with past Federal policy by emphasizing tribal authority to design, implement, and administer housing programs in Native communities. It has resulted in real gains in the construction of new housing units and related utilities and infrastructure.

Although many of the proposed amendments contained in the draft legislation are

changes that would improve the Act by increasing tribal responsibility and authority, in our view NAHASDA remains in many respects a "*HUD-centric*", rather than a "*tribe-centric*" housing tool in terms of its latitude and apportionment of decision-making authority. Notwithstanding HUD's insistence that NAHASDA (and I quote) "already provides for tribes to exercise self-determination within the parameters of the statute", [2] the reality is that at the end of the day, NAHASDA empowers HUD, not the tribes, to make fundamental decisions.

We urge you to continue consideration of appropriate ways in the bill to promote a shift – even a reversal of this continuing paternalistic paradigm – particularly for those tribal entities with demonstrated capability and the willingness to assume greater programmatic responsibilities and authority.

Along these lines, a positive inclusion in the draft legislation --- and an improvement over the related provisions in the House Draft --- defines "Housing Related Community Development" as "any facility, community building, business, activity, or infrastructure," and is consistent with congressional intent to provide tribes the flexibility necessary to operate an effective and robust housing program.

Similarly, the draft legislation would have Indian tribes and TDHEs considered "Executive agencies" for purposes of accessing Federal sources of supply. The amendment will assist to help reduce many of our costs and is a welcome addition to the statute.

Section 103 is a positive step in the direction of relieving tribes and TDHEs of unduly burdensome reporting requirements so that once a tribe submits a housing plan under the Act, it may comply with subsequent reporting requirements by submitting only information related to changes that are necessary to the plan originally submitted. We continue to have significant

[2] *Self-Determination Act Demonstration Project Feasibility Study*, Office of Native American Programs, U.S. Department of Housing and Urban Development, January 2005, at 19.

concerns however, about the usefulness and effectiveness of the entire IHP/APR process. It is particularly burdensome for TDHEs such as our AAHA members who have large, disparate and numerous tribal constituencies.

Reflecting the intense frustration of the tribes with HUD's pinched interpretation of the Act and its inflexibility in guiding the tribes' implementation of it, we support section 105 of the draft legislation which imposes critically needed timeframes on any new regulatory processes.

Another positive addition, Section 202 of the draft legislation would redefine "affordable housing activities" to be those activities "to develop, *operate*, *maintain*, or support" affordable housing for rental or homeownership rather than just those to "develop or support" housing. We are particularly pleased to see the addition of "mold remediation" to the list of allowable activities, a serious problem in many parts of Alaska and Indian Country generally.

While we welcome the authorization for "Reserve Accounts," we are concerned that the proposed "Maximum Amounts" subsection may severely limit the usefulness of this section to many of the smaller recipients and would urge that this issue be given a second look.

We strongly support the funding "carryover" provisions of Section 203 and the $5,000 threshold exemption for the procurement of goods and services. These are significant, efficiency promoting improvements.

One of the more curious provisions of the draft legislation is found in section 207, which would authorize 2 or more Indian tribes to essentially pool their block grant funds to carry out "large-scale activities." We have no position on this proposal at this time as our Association is unclear about the intent, purpose and more important, the potential implementation impact of this section in Alaska, given our already complex service delivery systems and political structures.

We frankly have very mixed feelings about Section 208, which establishes a program entitled "Self-Determined Housing Activities for Tribal Communities." While we appreciate the apparent underlying intent, the restrictive nature of the provision in terms of both the use and amount of funding to which the provision can be applied may seriously negate its application. We also believe the section is fraught with implementation difficulties and costs that will inevitably far out weigh its benefits for most tribes & TDHEs. We further believe the development of this particular provision would benefit greatly from a more serious effort at focused tribal consultation prior to its adoption. While there are elements of the proposal that are commendable, it also fails to take advantage of the tribal experience gained from alternative service delivery models which are currently being successfully implemented.

While study of an issue is generally a good thing, and may provide some valuable problem-solving information, AAHA is extremely skeptical of the value and intent of the proposed amendment to Section 302, which calls for an alternative data set feasibility study. We strongly support the continued use of census data in Alaska and the resolution of Formula Allocation issues through other negotiated means or methods. We are opposed to the siphoning of already scarce resources for this effort.

Finally, we are frankly disappointed by the timid amendments to the HUD Monitoring and Compliance section of Title IV of the Act. There is no section of the Act where the "HUD-centric" approach is more prevalent. NAIHC has proposed significant, and what we believe to be reasonable changes to the structure of Title IV that so far have been mostly ignored. AAHA strongly supports the NAIHC recommended amendments and urges the Committee to reconsider its views on these provisions. You simply can not reconcile the intrusive and heavy-handed

structure of Title IV with the strong Congressional statement of support for self-determination and tribal self-governance contained in Section 2(7). [3]

Finally, I would be doing a great disservice to our AAHA members if I did not at least briefly raise the intractable issue of our frustration over our difficulty in meeting our basic infrastructure needs. We realize this is in part a significant funding issue, but it is also an agency coordination issue that simply must be resolved, by Congressional intervention if necessary. We are encouraged that NCAI, NAIHC and the Indian Health Board have once again taken up discussions on the matter and we would strongly encourage this Committee to support whatever results or recommendations may come out of these discussions. In our view it is simply unacceptable that our members continue to be forced to construct new homes with federal resources that are contributing to the already serious health problems of our people, simply because there has not been a definitive meeting of the minds by the various involved federal and state agencies on a workable strategy to coordinate our infrastructure and building construction projects.

Conclusion

Once again, on behalf of AAHA and the many tribal beneficiaries throughout the great State of Alaska that we have the privilege to serve, I sincerely thank the Chairman and Members for this chance to share our views on this important piece of legislation. We look forward to continuing our dialog, and offering our support as the bill moves towards passage.

[3] / Section 2(7), with the Senate proposed amendment, reads as follows: "(7) Federal assistance to meet these responsibilities *shall* be provided in a manner that recognizes the right of Indian self-determination and tribal self-governance by making such assistance available directly to the tribes or tribally designated housing entities under authorities similar those accorded tribes in Public Law 93-638 (25 U.S.C. 450, et. Seq.)." (Emphasis added.)

In closing, I would like to inform the Committee that AAHA intends to follow up with further written testimony that will include our more detailed thoughts and recommendations on many of the issues identified above, as well as other issues pertinent to this bill.