

**PREPARED STATEMENT OF**

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**TO THE UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON FINANCIAL SERVICES  
SUBCOMMITTEE ON HOUSING AND INSURANCE**

**JULY 21, 2017**

**FIELD HEARING: NAHASDA: 20 Years On**

**Introduction**

Good morning Chairman Duffy, Committee members and other Congressional leadership. My name is Mark Montano and I have been the Executive Director of the Lac Courte Oreilles Housing Authority for nearly 4 years. I am an enrolled citizen of the Red Cliff Band of Lake Superior Chippewa. It is an honor to be invited to provide testimony in regards to the reauthorization of the Native American Housing Assistance and Self-Determination Act (NAHASDA). I am optimistically enthused about the possibilities of NAHASDA being reauthorized and will offer some suggestions to improve the delivery of housing services to Tribal Members.

**Background on the Lac Courte Oreilles Housing Authority**

The LCOHA was established in January 1967 shortly after the establishment of an effort to address housing in Indian Country. The Lac Courte Oreilles Housing Authority (LCOHA) is a Tribally Designated Housing Entity and by virtue of this designation receives direct NAHASDA funding from the Department of Housing and Urban Development and is required to comply with all rules and requirements of the program. After the establishment of the LCOHA the Tribe, through the Housing Authority, began to construct homes utilizing funding provided by HUD. From 1971 to the current time the LCOHA has constructed a total of 554 homes. Approximately 160 homes were built utilizing the discontinued mutual help program which assisted families to become homeowners of which to date all but 3 homes have been conveyed. The LCOHA currently receives NAHASDA formula funding for 343 homes which leaves a shortfall of 54 homes that have been built with no annual appropriations to operate and maintain. This shortfall means that the LCOHA has had to utilize its NAHASDA formula funding to operate and maintain all of its housing stock thus creating a further shortage of adequate funding.

The LCOHA currently receives an annual average appropriation for its Formula Current Assisted Stock of \$2.7 million which has been relatively stagnant since the passage of NAHASDA. This issue alone causes the LCOHA difficulty due to the previous mentioned FCAS versus total actual

housing stock. I will address this issue in greater detail later in my testimony when addressing specifically H.R. 360.

Over the past 20 years the LCOHA has made great strides with leveraging its NAHASDA dollars to address housing issues and in fact has been very successful in utilizing the Low Income Housing Tax Credit (LIHTC) program with the IRS. The following projects were a direct result of those LIHTC efforts;

- **LCO LIHTC #1**  
Project consisted of the rehabilitation of 24 existing homes scattered throughout the reservation.
- **LCO LIHTC #2**  
Project consisted of the construction of 24 new rent to own homes in a newly created subdivision which included all of the infrastructure needed to support the development.
- **LCO LIHTC #3**  
Project consisted of the rehabilitation of 24 homes in the K-Town and Schoolhouse areas.

### **Conditions of Housing in Indian Country**

Numerous reports have been written and provided to Congress in regards to the deplorable conditions of housing in Indian Country and the challenges that have been faced by Tribes to address this issue. The following reports, along with others, have been provided to Congress and I have taken excerpts from those reports that directly relate to the subject matter of my testimony;

- **July 2003 US Commission on Civil Rights A Quiet Crisis, Federal Funding and Unmet Needs in Indian Country**

“This study reveals that federal funding directed to Native Americans through programs at these agencies has not been sufficient to address the basic and very urgent needs of indigenous peoples. Among the myriad unmet needs are: health care, education, public safety, housing, and rural development. The Commission finds that significant disparities in federal funding exist between Native Americans and other groups in our nation, as well as the general population. Among immediate requirements for increased funding are: infrastructure development, without which tribal governments cannot properly deliver services; tribal courts, which preserve order in tribal communities, provide for restitution of wrongs, and lend strength and validity to other tribal institutions; and tribal priority allocations, which permit tribes to pursue their own priorities and allow tribal governments to respond to the needs of their citizens. The Commission recommends that all federal agencies administering Native American programs identify and regularly assess unmet needs based on their authority. The federal government, through laws, treaties, and policies established over hundreds of years, is obligated to ensure that funding is adequate to meet these needs. Moreover, the government must work diligently to elevate the standard of living among Native Americans to that of other Americans by ensuring that federal agencies create attainable resource-driven goals toward this end.”

“The federal government has a long-established special relationship with Native Americans characterized by their status as governmentally independent entities, dependent on the United States for support and protection. In exchange for land and in compensation for forced removal from their original homelands, the government promised through laws, treaties, and pledges to support and protect Native Americans. However, funding for programs associated with those promises has fallen short, and Native peoples continue to suffer the consequences of a discriminatory history. Federal efforts to raise Native American living conditions to the standards of others have long been in motion, but Native Americans still suffer higher rates of poverty, poor educational achievement, substandard housing, and higher rates of disease and illness. Native Americans continue to rank at or near the bottom of nearly every social, health, and economic indicator. Small in numbers and relatively poor, Native Americans often have had a difficult time ensuring fair and equal treatment on their own. Unfortunately, relying on the goodwill of the nation to honor its obligation to Native Americans clearly has not resulted in desired outcomes. Its small size and geographic apartness from the rest of American society induces some to designate the Native American population the “invisible minority.” To many, the government’s promises to Native Americans go largely unfulfilled. Thus, the U.S. Commission on Civil Rights, through this report, gives voice to a quiet crisis.”

- **January 19, 2017; Housing Needs of American Indians and Alaska Natives in Tribal Areas: A Report From the Assessment of American Indian, Alaska Native, and Native Hawaiian Housing Needs**

“The centerpiece of the assessment of American Indian and Alaska Native (AIAN) housing conditions is the first ever national survey of American Indian and Alaska Native households in tribal areas. This survey sampled 1,340 AIAN households from 38 tribal areas and achieved a response rate of 60 percent. The survey offers information not available in existing census data sources, including estimates of electrical and heating problems, physical conditions problems, and the extent of “doubling up” among AIAN households in tribal areas. The report contextualizes data from the household survey with information on demographic, social, and economic conditions and regional and historical comparisons based on the 2000 and 2010 decennial censuses and the 2006-10 American Community Survey (ACS). Analyses show that housing conditions are substantially worse among AIAN households than among all U.S. households, with overcrowding in tribal areas being especially severe. Findings from a survey of 110 tribally designated housing entities, site visits to 22 tribal areas, and data on housing production before and after enactment of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) show that tribes have produced and maintained low-income housing much more effectively since the passage of NAHASDA. Nominal dollars for the Indian Housing Block Grant have not been increased since 1996, however, leading to a substantial decrease in buying power. Limited funding is a key constraint for many tribes who could increase their rate of housing production if they had more funding.”

The above referenced passages from reports is a clear indication that there is a lot of work that needs to be done in Indian Country regarding improving the living conditions but most particularly as it relates to housing conditions and the mechanisms used to provide funding.

### **Comments on H.R. 360 – 114<sup>th</sup> Congress (2015 – 2016)**

The LCOHA supports the re-authorization of NAHASDA, and we previously supported H.R. 360 114<sup>th</sup> Congress (2015 – 2016), with only one primary concern. We understand the rules of the House of Representatives normally require authorizations to include a specific total amount, rather than “such sums as necessary” language. Accordingly, H.R. 360 would cap the authorization of NAHASDA at \$650 million dollars per year. Since NAHASDA was enacted 20 years ago, tribal programs have received between \$600 and \$650 million annually. However, when factoring for inflation, funding of \$650 million only provides tribal housing programs about 2/3 in the purchasing power they received 20 years ago. In addition to this the LCOHA would ask that tribes be allowed to increase their FCAS to the true number of housing stock they own and operate as low income housing rental units. We also encourage Congress to ask HUD to provide a report that would accurately state the real operation and maintenance costs so that a starting appropriations number could be identified.

The LCOHA would request language that allows for inflationary and fixed costs increases over the authorization time period. We believe the increase in authority and appropriations is justified as Indian Country continues to see rates of substandard housing and overcrowded homes well in excess of the national average. A HUD needs assessment published in January of this year inaccurately indicated that 68,000 new units are needed in Indian Country but actually that number is closer to a published HUD ONAP shortage number of 290,000 units. As the ability of tribes to develop new housing units has diminished in the last few years due to inflation, the problem cannot be solved by limiting funding to current levels.

Despite that primary concern, H.R. 360 largely improved and built upon existing NAHASDA provisions. Title I of the bill placed deadlines on HUD to act upon waiver requests, and included language that would greatly simplify NEPA reviews for tribal projects. Because tribal projects routinely combine multiple federal sources of funding, compliance with multiple environmental review processes wastes time and resources, so any effort to reduce those burdens, while still complying with the spirit of NEPA is appreciated in Indian Country. Title I also required a study to streamline Indian Housing Plans, and allow for multi-year housing plans. This provision builds upon self-determination policies and is in line with other successful self-governance policies used by the Bureau of Indian Affairs and Indian Health Service.

Title II of H.R. 360 included multiple provisions that provided flexibility to tribal housing programs. This includes providing tribes a greater ability to use Native-owned companies in construction, which helps spur job creation in these communities as well. Another provision allowed tribes more flexibility in determining minimum rent requirements, recognizing tribes’ rights to self-governance. Title II also provided greater flexibility for converting a tribal family from renter to a homebuyer, and other helpful leasing provisions. Finally, Title II provided tribal housing programs access to sanitation facilities funding from the Indian Health Service.

Title III contains the 5-year reauthorization and incorporated the 3x language developed through negotiated rulemaking into the NAHASDA statute. The LCOHA does not believe that is necessary, as negotiated rulemaking allows for periodic updates to the rules as needed to address new circumstances. While LCOHA does not believe it is needed, we do appreciate Congress simply adopting the current policy as decided through negotiated rulemaking with tribes.

Title IV streamlined the audit process by ensuring that HUD is timely in its communications with tribes who are working to correct insufficiencies found in their programs.

Title V included language making the tribal HUD-VASH program permanent, which the LCOHA supports. A bipartisan bill in the Senate, S. 1333 115<sup>th</sup> Congress (2017 – 2018); Tribal- HUD VASH Act of 2017, includes some additional language that would address a few of the problems identified in the demonstration phase of tribal HUD-VASH implementation. Title V also included a reauthorization of the 184 loan guarantee program.

Title VII of H.R. 360 would establish a demonstration project providing Tribes a new method of leveraging their NAHASDA funding with private investment. We believe any efforts to expand access to capital and getting new private investments in Indian Country is worth looking into and tribes who are willing to utilize the demonstration program should have that option.

Additionally, the LCOHA would encourage Congress to further amend NAHASDA to allow for Tribal Housing programs to have full access to all of the services provided by Federal Supply Sources, which is not the case with the current language, similar to other Tribal programs. The LCOHA would also ask that any provisions related to compliance with Davis Bacon labor standards be waived for expenditures related to NAHASDA funds.

### **Other Recommendations**

The LCOHA additionally offers the following recommendations and observations;

- There should be a study done immediately that determines the actual financial need of Tribal housing.
- Direct allocations from the IRS of Low Income Housing Tax Credits instead of Tribes having to go through the state for competitive applications.
- Tribes should be able to have full access to all HUD programs and services similar to States, Public Housing agencies and other entities.
- Tribal Housing Authorities should have access to all financial information data clearing houses related to applicants and current tenants for the purpose of properly calculating rent.
- Tribes are faced with a serious methamphetamine epidemic and there needs to be federal intervention. This issue is costing the LCOHA in excess of \$100,000 annually for cleanup and testing. Currently the State of Wisconsin has no regulations in regards to this including cleanup standards and by such the people of Wisconsin are going into homes not knowing the history and potentially becoming contaminated by this drug. Further, I would also ask that provisions be included in NAHASDA that results in immediate eviction of those causing the contamination and tie existing law about

exclusion in federally assisted housing for convictions. In addition it may be advisable to restrict those that are found to contribute to the contamination of the houses from federally assisted housing.

- Training and credentialing of staff for the inspection of houses and possibly a central repository of that information for Tribal housing.

### **Conclusion**

I applaud the Committee for scheduling this hearing and would further encourage the committee to have other hearings throughout Indian Country. We certainly have many more suggestions that would or could improve the housing conditions and the ability to deliver services however the information contained in this testimony will certainly begin addressing the issues we face. In addition, I firmly believe that we can collectively address the needs of Indian Country by being proactive and not by “kicking the can down the road” or closing our eyes to a crisis that exists but more importantly not blaming each other and agree to cooperatively work to improve the lives of the First Americans of this land. Tribes have been the invisible people for far too long and if anything should come out of this hearing it is due time that the reports are done being written to Congress and a resolution is found to address this one important issue once and for all. I personally stand ready to assist my native brothers and sisters anyway possible and also commit to assisting Congress with this endeavor. Mii iw and Miigwech