

Facts regarding Nooksack Tribal Housing, October 2nd, 2024

FROM THE OFFICE OF NOOKSACK TRIBAL COUNCIL:

"Tribal sovereignty ensures that any decisions about the tribes with regard to their property and citizens are made with their participation and consent." – US Department of Interior Bureau of Indian Affairs.

Nooksack citizenship is governed by the Nooksack Constitution and housing policies are determined by the Nooksack Housing Authority. The Nooksack Indian Tribe has followed both our constitution and our housing policies. The Housing Policies are adopted by the Tribal Council, have been vetted by the U.S. Department of Housing and Urban Development, and have been reviewed and approved by the US Bureau of Indian Affairs.

Tribal Enrollment options at Nooksack are relatively expansive and the Nooksack Tribe's Constitution spells out six ways an individual can qualify for membership. Many sovereign nations around the world grant citizenship based on descendency, including the Nooksack Indian Tribe. **Eight years ago, in 2016, 315 people were removed from Nooksack enrollment because they could not show that they were descended from a Nooksack Tribal member,** nor did they qualify for citizenship based on the other five paths. At any point these individuals may bring in their papers showing descendency. One person has successfully done that. At every stage in the process, the Tribe encouraged disenrollees to produce evidence of eligibility and made clear that the decision to disenroll would be reversed upon a showing of proper evidence.

Several of those who were disenrolled are members of the Shxwha:y Band in British Columbia and hold elected office there. They have access to services, resources, and their own tribal culture. Recently the Shxwha:y Economic Development Corporation purchased properties near Nooksack, in Whatcom County, and according to Whatcom County Assessor's website, they are building twenty housing units (attached).

The Nooksack Housing Authority operates 111 housing units on Nooksack land, and provides housing for Nooksack Tribal members who are also low-income. To qualify for Nooksack low-income housing, you must be a) Nooksack and b) low income.

Nooksack Housing Waiting List has grown to 214 individuals, 15 of whom are elders.

Eviction notices were served over five years ago to nine individuals in Nooksack Housing. They became ineligible for Nooksack Housing in 2016, when they were no longer members of the Nooksack Tribe. These units are in the housing rental program. Today seven still face eviction, having pursued legal action, as is their right, at every level of court available to them: local, state, federal, and tribal court. Nooksack Tribe has defended its right to follow our housing laws and the appeals have now been exhausted. At least one of the seven individuals facing eviction has stated they are unable to have legal representation at court. This is false. NW Justice Project represented them at trial. Federal and State courts have rejected their claims that they were deprived of a right to counsel, as there are attorneys available in Washington who can practice in Nooksack Tribal Court.

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Though they have more than five years to find housing, the disenrollees chose instead to resist. The Nooksack Tribe understands that it may still take a few months for the seven individuals to move. It is also our understanding that at least two already have housing, possibly in Canada, or that housing is being built. We hope to work with those seven individuals to determine a date when the much-needed units will be available to those on our waiting list.

We respectfully ask that those who were served eviction notices over five years ago spend the next several months securing other housing, and we call on those who have expressed concern to do two things: determine which of the seven individuals still need housing and then to assist them. To state this again, the seven individuals have known they needed to find other housing since they were disenrolled in 2016, and since 2019 when they were served eviction notices. They have had a more than reasonable amount of time to find housing.

In 2022 the Bureau of Indian Affairs (BIA), with the permission and cooperation of the Nooksack Tribal Council, conducted an in-depth investigation into the removal of nine individuals from Nooksack Indian Housing Authority homes at the request of HUD. This was in response to claims that there were violations of the Indian Civil Rights Act. Under that Act, *"No Indian tribe in exercising powers of self-government shall...deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law."* 25 U.S.C 1302(a)(8). The BIA concluded that the Housing Authority has complied with the Rental Agreements and the Housing Authority procedures, as they relate to the eviction of the nine individuals. As stated above, not only are our housing policies approved by Nooksack, they've been reviewed and approved by HUD, the federal agency that oversees housing.

Washington State Housing. We urge you to reach out to them with any questions.

Regarding the volunteer UN Raconteurs - please refer to the Nooksack Indian Tribe's 2022 letter to the UN, attached. The volunteers claim they investigated and claim they wrote a report. We have never heard from them nor have we received this alleged report, despite our efforts. We invited them to reach out to the Tribe for a more complete understanding of the dispute and received no response.

Attachments:

- BIA Letter
- Nooksack Letter to the United Nations
- SHXWHA:Y VILLAGE Chief Councilor and Council Members
- Whatcom County Assessor & Treasurer Property Search Results for Shxwha:y Economic Development Corporation



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Northwest Regional Office

911 Northeast 11th Avenue

Portland, Oregon 97232

The Honorable Ross Cline, Sr.
Chairman, Nooksack Tribe
P.O. Box 157
Deming, Washington 98244

Dear Chairman Cline:

Last fall, the Department of Housing and Urban Development (HUD) notified the Department of the Interior (Department) of potential Indian Civil Rights Act violations surrounding the evictions of individuals from Nooksack tribal housing. The Department agreed to review the situation, looking particularly at compliance with applicable and relevant federal laws within the scope of the Department of the Interior's purview. (*Letter from AS-IA to Chairman Cline, dated October 5, 2021*). Additional questions have been raised regarding compliance with Department of Housing and Urban Development regulations, policies, or funding agreements. These issues are beyond the scope of this Department's review.

In the Fall of 2021, an attorney for the individuals began sending emails and letters to various offices in the Department concerning the removal of nine individuals from Nooksack Indian Housing Authority (NIHA) homes. The emails and letters generally warned of potential Indian Civil Rights Act and due process violations by NIHA and the Tribe in their attempts to remove these individuals from tribal housing. I also discussed these allegations with you and Tribal Council, and on January 13, 2022, you agreed to delay any action on evictions for these nine individuals until February 1, 2022, to allow the Regional Office of the Bureau of Indian Affairs (BIA) to review the allegations.

Though numerous of Departmental employees have engaged on these issues over the past few months, multiple employees from the Northwest Region of BIA and the Portland Regional Solicitor's Office conducted an in-depth regional review over the last month. These offices reviewed the emails and letters sent by the individuals' attorney, documents provided by the Nooksack Tribe concerning the nine individuals proposed for eviction, tribal housing policies, Nooksack Tribal Code, Chapters 45 and 80, Title Status Reports and other title documents recorded with the BIA. The review was based only on examination of these documents and pertains only to the following nine individuals: Norma Aldredge, Cathalina Barril, Saturnino Javier, Alexander Nicol-Mills, Olive Oshiro, Francisca Rabang, Francisco Rabang, Michael Rabang, and Michelle Roberts, collectively, the "Tenants."

The Department's review found that the Tenants currently reside in NIHA developments located on trust land owned by the Nooksack Indian Tribe. Each of the nine Tenants entered into a Rental Agreement with NIHA for housing. The Tribe's process for removing tenants from tribal housing is a multi-step process. In addition to the termination process outlined in the terms of



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the Rental Agreements, the processes set out in the *Nooksack Indian Housing Authority Program Policy & Procedures* (June 15, 2021) (Procedures) also apply.

NIHA initially notified the nine Tenants that they were ineligible for tribal housing because they have been disenrolled from the Nooksack Tribe. After the Tenants failed to reestablish their eligibility for tribal housing, NIHA issued each Tenant a Notice of Termination. Some, but not all the Tenants, challenged those Notices of Termination pursuant to NIHA Procedures. The Procedures allow an individual to request a Resolution Conference to discuss with the Housing Director why their lease should not be terminated. (Procedures, Section XV, B.3.) The Housing Director issues a written decision after discussion with the tenant. (Procedures, Section XV, B.4.) If a tenant disagrees with the Housing Director's decision, the tenant may request a Grievance Hearing before the Housing Committee. (Procedures, Section XV, C.1.)

All Tenants who challenged their Notice of Termination are currently in the administrative review process; they are waiting for dates to be scheduled for a Resolution or Grievance Hearing or waiting for a decision on a Grievance Hearing. At this time, while the administrative process is not complete, it appears that NIHA has followed its Procedures and the process for removal of individuals from tribal housing. NIHA has not filed any complaints in tribal court for unlawful detainer at this time for any of the Tenants; accordingly, the Department is not commenting on the validity of any future tribal court actions concerning the Tenants.

Emails and letters received by the Department of the Interior over the past several months have made numerous claims of violations under the Indian Civil Rights Act (ICRA) 82 Stat. 77, 25 U.S.C. 1301 *et seq.* The Department's review of the ICRA claims was limited in scope to whether the Tribe's eviction process complied with the due process requirements of ICRA. Under ICRA, "[n]o Indian tribe in exercising powers of self-government shall ... deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law." 25 U.S.C. § 1302(a)(8). From our review of the materials pertaining to the Tenants' proposed evictions, even though these eviction processes have not been finalized, NIHA has thus far, adhered to the terms of the Rental Agreements and NIHA Procedures.

We appreciate the Nooksack Tribe's cooperation in refraining from eviction actions in the last weeks to allow the Department to proceed with its review. We also recognize the detrimental effects that evictions can have on a community, particularly on the Tenants and their families. Though they lack tribal citizenship, they are members of the community, and we encourage the Tribe to treat them with dignity and respect their legal rights moving forward. In summary, as of the date of this letter, it appears that NIHA has complied with the Rental Agreements and NIHA procedures, as they relate to the eviction process, concerning these nine individuals: Norma Aldredge, Cathalina Barril, Saturnino Javier, Alexander Nicol-Mills, Olive Oshiro, Francisca Rabang, Francisco Rabang, Michael Rabang, and Michelle Roberts.



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The Department makes no conclusions on any future actions taken against the nine Tenants or on any eviction processes for any other individuals.

Sincerely,

Digitally signed by
BRYAN MERCIER
Date: 2022.02.02 15:56:13
-08'00'

Bryan Mercier

Regional Director, Northwest Region, BIA

Cc: Bryan Newland, Assistant Secretary – Indian Affairs
Darryl LaCounte, Director, Bureau of Indian Affairs
Heidi Frechette, Deputy Assistant Secretary, Native American Programs, HUD



Contact: Roswell Cline, Sr, Nooksack Tribal Chair, rossc@nooksack-nsn.gov, 360-595-3944

FOR IMMEDIATE RELEASE: 2/4/22

NOOKSACK INDIAN TRIBE DEMANDS A RETRACTION FROM THE UN HIGH COMMISSIONER

Deming, Wa., February 4, 2022 - Today the Nooksack Indian Tribe reached out the United Nations High Commissioner demanding an immediate retraction after two UN special rapporteurs failed to contact the Nooksack Indian Tribe, accepted as fact outrageous and disproved allegations from a Seattle attorney, then released an investigation riddled with misinformation.

All sovereign nations have rules for who is a citizen, and the most common is to be descended from a citizen. You cannot simply move to another country, declare yourself a citizen, and take government housing or health care away from citizens. Whether it is Germany, the United States, or the Nooksack Indian Tribe, it is widely understood that those are benefits governments reserve for its citizens.

At the Nooksack Indian Tribe our rules for citizenship are simple: if you are descended from a Nooksack Tribal member and an Indian, you take your proof of lineage to the enrollment office and are granted citizenship. There were over 200 people – many represented by attorney Gabe Galanda - who said they were citizens, but who did not follow the rules for citizenship. They did not take proof of lineage to the enrollment office, and therefore are not citizens of Nooksack. However, that path to citizenship remains open to them under our constitution. At any time, they can take their proof of lineage to the enrollment office and become a citizen. We have over 2,000 citizens, all of whom followed the process to become a citizen; those 200+ did not.

The eight people in question – not 63 as the UN investigation stated – are not suddenly being evicted as their attorney falsely claims. This is low-income rental housing and each year every tenant must recertify. One of the rules for Nooksack housing is that the person on the lease must be a Tribal member. Between July and November 2021, notices to requalify were sent to those who failed to do so. Beginning in October, 2021, nine were sent notices of termination. One was able to qualify. Nooksack Indian Housing Authority (NIHA) is following the rules to ensure that everyone who leases low-income housing qualifies to live there, but also making sure people have time to come into compliance. This process began over six months ago.

"We have 60 Nooksack families on a waiting list for housing, and some are homeless," said Nooksack Chairman Ross Cline Sr. "Like most governments, we don't have extra housing for non-citizens. We have homeless people, including elders, who need a place to live and we need those



who aren't Nooksack to move. Under the rules, they don't qualify for housing. We believe that sufficient time has passed for them to make other arrangements. I encourage them to ignore their attorney's ill-advised recommendation to fight eviction and to work to find new housing. We cannot wait forever while our people need housing."

The Nooksack Indian Tribe welcomed the full investigation ordered by the US Department of the Interior conducted by the Bureau of Indian Affairs (BIA) and the results of that investigation are attached. The BIA states: "Nooksack Indian Housing Authority has followed its Procedures and the process for removal of individuals from tribal housing," and "we appreciate the Nooksack Tribe's cooperation in refraining from eviction actions in the last few weeks to allow the Department to proceed with its review."

Some news reports have expressed concern that the people will lose access to their culture, but those who are truly Indian are not left without a tribal cultural identity. Many of the people in question are enrolled at the Skway First Nation in British Columbia and some are even elected leaders there. Nooksack wishes them well at Skway. But we cannot grant citizenship, or the benefits of citizenship, to people who aren't descended from Nooksack ancestors. Those are the rules for citizenship in our Tribal constitution and we follow those rules.

To the two individuals at the United Nations: we never heard from you. You were misled by an attorney for eight people who want to remain in housing for which they are not qualified, and you failed to conduct even the most cursory investigation. Your statement to the United States government was riddled with inaccuracies, falsehoods and outright lies that you accepted on face value without a shred of proof. There are important issues examined by the United Nations and unfortunately this complete lack of fact-finding calls your work into question. You cannot purport to speak for marginalized or indigenous people yet try to steamroll the rights and sovereignty of an indigenous nation and our 2,000 people. Under separate cover, we have contacted the High Commissioner to demand a formal retraction.

XXX

About the Nooksack Indian Tribe

The Nooksack Indian Tribe are a federally recognized Tribe, a party to the Point Elliott Treaty of 1855, and today are based in their ancestral homeland of Whatcom County. They are Coast Salish people who lived, fished, hunted, and gathered for untold generations in their historic traditional lands from the base of Mt. Baker to the saltwater at Bellingham Bay. They extended into Skagit County to the south, and British Columbia to the north. Their territory included a primary Nooksack area, not open to free use by members of other groups, and joint-use areas, which were shared. Today there are approximately 2,000 enrolled Tribal members and the Nooksack reservation is at the town of Deming with Tribal land extending from Lynden to the South Fork Valley.

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☒ Property Address ☐ Legal Description

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