



2013 Mid-Year Convention Airway Heights, Washington

RESOLUTION #13 - 48

“PERMANENT STRUCTURES ON TRUST LAND”

PREAMBLE

We the members of the Affiliated Tribes of Northwest Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants rights secured under Indian Treaties, Executive Orders, and benefits to which we are entitled under the laws and constitution of the United States and several states, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise to promote the welfare of the Indian people, do hereby establish and submit the following resolution:

WHEREAS, the Affiliated Tribes of Northwest Indians (ATNI) are representatives of and advocates for national, regional, and specific tribal concerns; and

WHEREAS, ATNI is a regional organization comprised of American Indians/Alaska Natives and tribes in the states of Washington, Idaho, Oregon, Montana, Nevada, Northern California, and Alaska; and

WHEREAS, the health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of the ATNI; and

WHEREAS, the regulations also state that “further consultation with tribes was not necessary because these are not drastic changes; and

WHEREAS, the requirement that the Department (OHA) not probate permanent improvements but that would be done by county or state courts is a direct assault on tribal sovereignty; and

WHEREAS, the probate orders as determined by OHA under the American Indian Probate Reform Act of 2004 may or may not be in alignment with state probate law resulting in conflicting ownership of land and related permanent structures; and

WHEREAS, the Indian Land Working Group has made a recommendation that OHA or BIA would not held responsible for keeping an inventory of permanent improvements; and

WHEREAS, leasing proposed rules (162.017)(a) do indicate that leases are subject only to applicable Federal Law, permanent improvements on the leased land without regard to ownership of those improvements, are not subject to any fee tax, assessment, levy or other charge imposed by any state or political subdivision of a State. Improvements may be subject to taxation by the Indian Tribe with jurisdiction; and

WHEREAS, in a meeting with BIA staff offered an opinion that the leasing regulations, vol 77 no 234, December 5, 2012, resolved the problem, however, in that the regulation covers leased land owned by a tribe or individual Indian that has a permanent improvement located on trust property and does not solve the problem of permanent improvements on trust property owned by an individual Indian or Indians; and

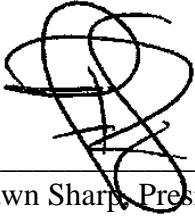
WHEREAS, OHA has been probating estates involving trust land and related, non-leased permanent assets and the counties and state probate processes have not occurred, time is of the essence in correcting this flawed; now

THEREFORE BE IT RESOLVED, that ATNI and member tribes request that the Secretary of the Interior engage in consultation with tribes to include their recommendations for changes to existing regulations and that the those recommendations include in the regulations that trust property and “non-trust” improvements on the property be fully included in the OHA probate process and be considered, for the purposes of inheritance, as whole real estate; and

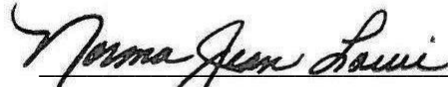
BE IT FURTHER RESOLVED, that ATNI and member tribes recommend that if there is a dispute among co-owners following probate of the particular improvements, ATNI states that the Tribal Court with jurisdiction over the allotment would process the dispute, the Tribal Court decision would be final.

CERTIFICATION

The foregoing resolution was adopted at the 2013 Mid-Year Convention of the Affiliated Tribes of Northwest Indians, held at Northern Quest Resort Casino, Airway Heights, Washington on May 13 – 16, 2013 with a quorum present.



Fawn Sharp, President



Norma Jean Louie, Secretary