

UNITED STATES DEPARTMENT OF THE INTERIOR  
OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS

|                            |   |             |      |        |
|----------------------------|---|-------------|------|--------|
| DAVID V. DILLENBURG        | ) |             |      |        |
| and THOMAS G. SLADEK,      | ) |             |      |        |
|                            | ) |             |      |        |
| Appellants,                | ) | Docket Nos. | IBIA | 15-005 |
|                            | ) |             |      | 15-006 |
| v.                         | ) |             |      | 15-007 |
|                            | ) |             |      | 15-008 |
| MIDWEST REGIONAL DIRECTOR, | ) |             |      |        |
| BUREAU OF INDIAN AFFAIRS,  | ) |             |      |        |
|                            | ) |             |      |        |
| Appellee.                  | ) |             |      |        |

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AFFIDAVIT OF SCOTT J. DENNY

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Scott J. Denny, being first duly sworn on oath, deposes and states as follows:

1) I have worked for the Oneida Housing Authority (“OHA”) of the Oneida Tribe of Indians of Wisconsin (“Tribe”) for the past five years. From 2009 to 2012, I was employed as the Comprehensive Housing Coordinator for OHA. Since 2012 I have served as the Operations Manager for OHA. From August of 2012 to November of 2013, I also served as Interim Director of OHA. Prior to working for OHA, I was employed as the Comprehensive Housing Coordinator for the Tribe’s Division of Land Management (“DOLM”) for four years. I am familiar with the Tribe’s policies regarding housing, and with the various housing programs administered by departments of the Tribe, including those administered by OHA, DOLM, and the Oneida Elder Services Program (“Elder Services”).

2) OHA is a housing assistance program operated by the Tribe and funded by the United States Department of Housing and Urban Development (“HUD”). As a recipient of federal funds, OHA is required to comply with the Native American Housing Assistance and Self-Determination Act (NAHASDA) and regulations promulgated by HUD pursuant to NAHASDA. As Operations Manager for OHA, I am responsible for the management, maintenance and rehabilitation of 300 rental units for low-income Indian families on the Oneida Reservation, and for ensuring compliance with NAHASDA and HUD regulations. Some of the properties managed by OHA are owned in fee by the Tribe (“fee properties”), and some are held in trust by the United States for the benefit of the Tribe (“trust properties”). The fee or trust status of the properties has no bearing on the rental rates charged for the properties.

3) One of the Tribe’s goals is to provide affordable housing for tribal members on the Oneida Reservation, and one of the primary objectives of NAHASDA is “to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in

safe and healthy environments on Indian reservations and in other Indian areas for occupancy by low-income Indian families.” 25 U.S.C. § 4131(a)(1).

4) OHA adheres to eligibility criteria in selecting and approving tenants for occupancy in OHA rental units. These criteria include: a) family income must be at or below 80% of the median income for the local community, b) no history of criminal convictions for offenses which preclude eligibility, and c) at least one member of household must be an enrolled member of the Tribe.

5) Under NAHASDA and HUD regulations, the rental rate for an OHA unit may not exceed 30% of a family's adjusted gross income, which is generally determined by totaling the annual income of members of the household and then applying adjustments for travel, childcare expenses, child support, dependents in the household, and elderly or disabled persons in the household. The final rent charged is determined after a utility allowance is applied and OHA's ceiling rental rates are applied.

6) Factors which normally determine market rental rates, e.g., the size and location of the rental unit and amenities offered with the rental unit, are not taken into consideration in determining rental rates for OHA rental units. Whether the property is owned in fee by the Tribe or held in trust by the United States for the benefit of the Tribe has no bearing or impact on the rental rates.

7) DOLM manages residential fee and trust properties located within the boundaries of the Oneida Reservation, and leases these properties to enrolled tribal members. Elder Services manages an apartment complex located on trust property, and leases the apartments to enrolled tribal members who are 55 years old and older.

8) All enrolled tribal members can apply for tribal housing programs, and eligibility is determined based upon the criteria for each program. Individuals who wish to participate in tribal housing programs must file applications with OHA, which has been designated as the clearinghouse for applications. OHA determines which programs the applicants are eligible for, and refers the applicants to the appropriate programs. OHA, DOLM, and Elder Services each have long waiting lists of enrolled tribal members seeking tribal housing. OHA, DOLM, and Elder Services do not advertise the rental units they manage on the open market.

9) There are numerous non-tribal landlords who provide subsidized housing for low-income families in and around Green Bay, Wisconsin. There are also several non-tribal housing authorities and agencies in the Green Bay area which provide subsidized housing for low-income families. These include the DePere Housing Authority, the Green Bay Housing Authority, Mutual Housing Association, NeighborWorks of Green Bay, and Integrated Community Solutions. Finally, there are numerous landlords and agencies which provide subsidized housing for low-income elderly and disabled persons. All of these landlords, housing authorities, and agencies operate under similar guidelines as OHA.

10) I am aware that David V. Dillenburg has appealed Notices of Decision issued by the Midwest Regional Office of the Bureau of Indian Affairs to take residential properties on the

