



TO: Legislative Operating Committee (LOC)  
FROM: Krystal L. John, Staff Attorney  
DATE: August 17, 2016  
RE: Landlord-Tenant Law: Public Meeting Comment Review

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On July 21, 2016, a public meeting was held regarding a new Landlord-Tenant law, which:

- Provides rental programs offered to Tribal member by the Nation within the reservation boundaries and includes eligibility requirements and tenant selection criteria [see 710.4].
- Provides detail related to rental agreement provisions and terminations and specifies that assignments of rental agreements are not permitted [see 710.5].
- Details the rights and responsibilities of the Nation as landlord and Tribal members as tenants including disposition of personal property, repairs, damage, pest control, check-in sheet, required notice to enter, and annual inspections [see 710.6].
- Provides provisions related to domestic abuse and sex offender registration [see 710.7 and 710.8].
- Details the process required in the event of a tenant's death [see 710.9].
- Identifies the Comprehensive Housing Division as the entity delegated authority to develop rules under this law [see 710.3-1(f)].
- Identifies the Oneida Judiciary as the original hearing body authority for all actions taken under this law [see 710.10].

This memorandum is submitted as a review of the oral comments received during the public meeting process; there were not any written comments received within the public comment period. The public meeting draft with comments is attached for your review.

### **Comment 1 – Delegation of Rulemaking Authority**

710.3-1(f) “Rule” means a set of requirements, including citation fees and penalty schedules, enacted by the Comprehensive Housing Division in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and/or enforce this law.

#### *Comment*

**Rae Skenandore:** Speaking from the Land Commission perspective, I disagree that all the rule making authorities should be solely with the Comprehensive Housing Division because Landlord, tenants, DOLM, and the Land Commission have some authority and responsibilities

over those areas and this affects our funding that's going back into the land acquisition fund so there should be some joint rule making authority within the document.

*Response*

Mrs. Skenandore has a valid point that rentals currently managed by the Division of Land Management would continue to contribute towards the Land Commission's land acquisition budget and accordingly they have a direct interest in the policy setting related to such rentals. The sponsor and I discussed this item with Mrs. Skenandore and explained that the only consideration against a blanket joint delegation of such authority is that the Land Commission currently has no authority over Oneida Housing Authority Rentals and a blanket delegation would expand the Commission's scope of authority, which is not the intent of this law. The sponsor and Mrs. Skenandore agreed that a fair compromise would be to delegate joint rulemaking authority in all instances except where the rule is specifically related to rental administered using federal funding. In order to incorporate this compromise, I recommend revisions the definition of "Rule" as follows:

"Rule" means a set of requirements, including citation fees and penalty schedules, enacted jointly by the Land Commission and the Comprehensive Housing Division in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and/or enforce this law, provided that where such requirements relate solely to premises administered pursuant to federal funding, the Comprehensive Housing Division has sole authority.

This would also require additional revisions throughout the document to change all rulemaking references to joint authority.