



MEMORANDUM

TO: Oneida Business Committee

FROM: Jo Anne House, Chief Counsel

DATE: July 12, 2021

SUBJECT: Petition – Elm – Real Property Law – Eviction and Termination

You have requested a legal review of the petition for a General Tribal Council meeting presented by Lori Elm. The petition contains the following request.

Requesting a General Tribal Council (GTC) meeting be held by virtual or in-person, regarding the Real Property Law, concerning **Eviction and termination** including residential leases. With our current pandemic of addiction in the community, the stipulation of vacating your home in five (5) days, from the time of the incident is or should be considered and Unconstitutional, furthermore we need a due process to protect the heads of household leases), from losing their homes, an include procedures in the case they do. Including timeframes for them to sell their homes; implementation of a chart of penalties, (Drugs and type, violence, sexual abuse or assault, human trafficking and all unlawful activities) including intent of eviction Notice with timelines, from date of the incident as well as date of Notice and including Due Process; Request an advocated board be created between Oneida Land Commission, Oneida Police Commission, with representatives from Behavioral Health, and Comprehensive Housing Division Area; Request if the head of household is not the occupant in violation, a compliance agreement be done with them, outline, behavior or property for a period of time, before termination (eviction) of lessee is implemented; also requesting occupant of violation must be removed from residence and if a successful treatment plan and stability review is approved by advocate board, they may be able to enter into their own lease or reside back at residence, accusations and/or any other ways; Timeline(s) for getting another lease and how; The reasoning for this petition is to protect families from their loved one's addiction, and so they do not lose their home after all the other family suffering, they already have consumed over the addiction.

To draft this opinion, I have reviewed prior actions of the General Tribal Council, Tribal law, policies and procedures, and various other resources. This opinion is broken into sections to address the issues raised in the petition – regarding laws of the Oneida Nation, implementation policy of the Comprehensive Housing Division, the Nation's Tribal Action Plan and how the Comprehensive Housing Division and the Tribal Action Plan Office are working together.

Background

The Oneida Nation has had an adopted land use law since the 1930s. That early law identified how allotments and parcels could be identified and used. Since that time, several federal laws

and tribal laws have been adopted, amended, and superseded. The Oneida Nation is currently operating under several laws adopted to address land use in Title 6, Property and Land, some of which are guided by recent federal legislation. For purposes of this petition, the applicable laws are – Chapter 601, Real Property Law; Chapter 602, Leasing Law; and Chapter 610, Eviction and Termination Law.

The Comprehensive Housing Division offers several different options for homeownership and these programs are based on making housing affordable. In general, this is done by reducing the cost of the home mortgage through removing the cost of the land and taxes associated with the land. In many cases, this saves the potential homeowner \$30,000 to \$60,000 on the amount of financing needed, and about one-third of the share of the taxes owed annually if on fee land. This also results in a reduction of applicable property taxes. On fee land subject to a residential lease, approximately one-third of the assessed taxes are based on the amount of land, not the home. Those land related taxes are paid by the Nation. These savings are direct to the member and allow many members to purchase a home that might otherwise be out of their price range.

Overview of Oneida Nation Laws and Rules

In 2012, the HEARTH Act was signed into law. This federal law identifies a process for transferring land management of trust property from the Bureau of Indian Affairs back to tribal governments. The HEARTH Act contains several requirements for this transfer to occur – a law and/or regulation containing minimum requirements set forth in federal regulations 25 CFR Part 162, Leases and Permits as of December 2012.

§ 162.313 Are there mandatory provisions that a residential lease must contain?

(a) All residential leases must identify:

- (1) The tract or parcel of land being leased;
- (2) The purpose of the lease and authorized uses of the leased premises;
- (3) The parties to the lease;
- (4) The term of the lease;
- (5) The ownership of permanent improvements and the responsibility for constructing, operating, maintaining, and managing permanent improvements under § 162.315; and
- (6) Payment requirements and late payment charges, including interest.

[...]

(c) All residential leases must include the following provisions:

- (1) The obligations of the lessee to the Indian landowners are also enforceable by the United States, so long as the land remains in trust or restricted status;
- (2) There must not be any unlawful conduct, creation of a nuisance, illegal activity, or negligent use or waste of the leased premises;
- (3) The lessee must comply with all applicable laws, ordinances, rules, regulations, and other legal requirements under § 162.014;
- (4) If historic properties, archeological resources, human remains, or other cultural items not previously reported are encountered during the course of any activity associated with this lease, all activity in the immediate vicinity of the properties, resources, remains, or items will cease and the lessee will contact BIA and the tribe with jurisdiction to determine how to proceed and appropriate disposition;
- (5) BIA has the right, at any reasonable time during the term of the lease and upon reasonable notice in accordance with § 162.364, to enter the leased premises for inspection and to ensure compliance; and

- (6) BIA may, at its discretion, treat as a lease violation any failure by the lessee to cooperate with a BIA request to make appropriate records, reports, or information available for BIA inspection and duplication.
- (d) Unless the lessee would be prohibited by law from doing so, the lease must also contain the following provisions:
- (1) The lessee holds the United States and the Indian landowners harmless from any loss, liability, or damages resulting from the lessee's use or occupation of the leased premises; and
 - (2) The lessee indemnifies the United States and the Indian landowners against all liabilities or costs relating to use, handling, treatment, removal, storage, transportation, or disposal of hazardous materials, or release or discharge of any hazardous material from the leased premises that occurs during the lease term, regardless of fault, with the exception that the lessee is not required to indemnify the Indian landowners for liability or cost arising from the Indian landowners' negligence or willful misconduct.
- (e) We may treat any provision of a lease document that violates Federal law as a violation of the lease.

The Oneida Business Committee adopted two laws and approved a rule to centralize matters related to fee and trust land leases of commercial, agricultural, and residential leases and to be consistent with the HEARTH Act. This opinion will only address residential leases.

- Leasing Law, Chapter 602
 - Residential Leasing, Rule #1
- Eviction and Termination Law, Chapter 610

The Leasing Law identifies its purpose is, “to set out the Nation’s authority to issue, review, approve and enforce leases. In addition, the purpose of this law is to meet the requirements of the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012 (HEARTH Act) by establishing a process under which the Nation will be able to approve leases on tribal land without additional approval of the Secretary of the Interior.” *Sec. 602.1-1*. The law identifies, “it is the policy of the Nation to set out the expectations and responsibilities of the lessor and lessees of tribal land and to ensure the leasing of tribal lands results in minimal risk to the Nation.” *Sec. 602.1-2*. The law was adopted by the Oneida Business Committee in 2015, amended in 2016, and approved by the Secretary of the Interior on January 23, 2018. A residential lease authorizes the lessee to own improvements on the land, i.e., a house, related garage and sheds or outbuildings.

The Leasing Law authorizes taking emergency action, up to and including, cancellation of the lease, “if a lessee or other party causes or threatens to cause immediate and significant harm to the premises, or undertakes criminal activity thereon[.]” *Sec. 602.11-2*. Any action taken to enforce lease provisions must be taken in the Nation’s Judiciary. Section 602.12-2 prohibits actions by administrative hearing bodies, including any board, committee or commission to hear a complaint regarding actions taken affecting a lease.

To fully implement the Leasing Law, Rule #1, Residential Leasing was jointly adopted by the Comprehensive Housing Division and the Oneida Land Commission under the Administrative Rulemaking law. Like laws, rules must be presented for public review, approved by the authorized parties, and presented to the Oneida Business Committee. The purpose of the Rule is “to expand upon the information provided in the Leasing Law regarding eligibility,

administration, inheritability, and enforcement related to residential leases.” *Section 1.1-1*. The Rule also identifies the policy supporting actions under the Rule, “to provide Tribal member’s with access to Tribal land for the purpose of homeownership through policies that build strong, safe, and health Oneida neighborhoods and provide a consistent and fair process by which residential lease applications will be reviewed and residential leases awarded.” *Sec. 1.1-2*.

Rule #1 contains two sections regarding residential lease terminations. Section 1.9-2 regarding termination and Section 1-10 regarding compensation for residential lease terminations.

1.9-2. *Termination*. Any termination of a residential lease is subject to requirements of the Eviction and Termination law and shall require CHD to compensate the lessee for any improvements located upon the premises upon said termination in accordance with section 1.10 of this rule.

1.10-1(a) *Determining Compensation Amount*. The amount of compensation required for any improvements to the premises shall be calculated using a current appraisal of the improvements only and deducting the following from the appraisal value:

- (1) The cost to satisfy any mortgage/encumbrance upon the premises and/or improvements;
- (2) The cost of the appraisal and home inspection, provided that CHD shall select service providers;
- (3) The cost to bring the improvements to a minimal health and safety standard in accordance with determination of the Zoning Department and/or home inspection; and
- (4) Any debts and/or other administrative costs owed to the Nation by the lessee.

The process of termination of a residential lease is found in Chapter 610, Eviction and Termination Law. This law is intended to, “provide consistent procedures relating to the Nation’s rental and leasing programs for terminating a contract and/or evicting an occupant which affords the applicant due process and protects all parties involved.” *Sec. 610.1-1*. The policy of this law is, “to provide fair termination and eviction processes that preserves the peace, harmony, safety, health, general welfare and the Nation’s resources.” *Sec. 610.1-2*. The law has been in place since 2016.

A residential lease may be terminated for reasons listed in section 610.5, *Early Contract Termination*. Specifically, section 610.5-1(c), allows termination of the residential lease if the occupant is, “alleged to have committed one or more nuisance activities.” Under the Eviction and Termination Law, a “nuisance” is defined as, “an occupant’s interference with another occupant’s use and enjoyment of the premises. Nuisance activities include, but are not limited to, allegations of harassment, disorderly conduct, batter, lewd and lascivious behavior, prostitution, theft, possession of stolen property, arson, illegal drug activity, gambling, animal violations, trespassing, weapons violations, habitual noise violations (as defined in the rules which the Land Commission and the Comprehensive Housing Division shall jointly establish), execution of warrants, alcohol violations, obstruction/resisting, inspection related calls in which a law enforcement agency responds.” *Sec. 610.3-1(e)*.

A nuisance as defined in the Eviction and Termination Law rises to the level of potentially causing harm to the occupants, the neighborhood, and the Oneida Nation. Generally, a nuisance is an alleged violation of law, i.e. criminal activity. If an occupant commits a nuisance and the Comprehensive Housing Division determines that termination of the residential lease is

necessary, the Eviction and Termination Law requires specific notice to be provided and sets forth protections for the occupant. *Sec. 610.5-3(c) and (d)*.

- 610.5-3(a) – eviction for failure to pay rents: This section is only applicable to rental units. Under this section, tenants receive a 30-day notice to cure **or** vacate.
- 610.5-3(b) – eviction for waste or contract breach other than rent payment: This applies to rental units and residential leases. This section covers instances where it is presumed a cure is available (i.e. a zoning violation or a domestic animal issue) and requires a 30-day notice to cure **or** vacate. As a matter of practice, the Comprehensive Housing Division has not sent any notices of this type to lessees but have issued warning letters and/or imposed additional lease provisions (i.e. no pets for ‘x’ amount of years).
- 610.5-3(c) – eviction for violation of applicable law or rule or nuisance by occupant: Comprehensive Housing Division has used this only in instances where its position is that there is no cure available. It has never been used in relation to nuisance only. When this notice is used, it is a 5-day notice to vacate which supports that immediate termination is required to protect the health and safety of the community.

Overview of Comprehensive Housing Division Implementation

The Comprehensive Housing Division identifies that every renter or residential lease holder is treated individually based on the specific facts. However, in general, the following table provides guidance regarding actions that may be taken regarding a rental agreement or residential lease violation.

Type of Administrative Action	When It Is Used
No Action	CHD is not able to verify the allegations in the complaint received OR has verified the allegations and determined that no action is required (i.e. possession of small amounts of THC resulting in only a citation and not a criminal violation).
Warning Letter: Warns that continued lease violation may result in residential lease enforcement which, depending on the circumstances, would be inclusion of restrictive terms in the lease or lease termination.	CHD verifies the allegations in the complaint and determines lessee may be provided a warning to correct any lease violations before more serious measures are taken. Examples may include nuisance activity, zoning and building code violations, domestic animal calls and some types of criminal activity (i.e. by a resident that is not the lessee and not occurring on the leased premises and some misdemeanor crimes).
Restrictive Lease Terms Added to Lease: Identifies that restrictive lease terms are required to be included in the residential lease in order to avoid lease termination. Examples may include a no pet provision (often for a limited duration) or a restriction on who may reside in the residence (also possibly for a limited duration).	CHD verifies the allegations in the complaint and determines that the warning letter has not been successful in correcting the lease activity at issue OR that the activity is serious enough to require immediate enforcement action by CHD without a warning letter provided (i.e. dog bite – not just running at large, or serious criminal activity by a resident that is not the lessee occurring off of the property).
Lease Termination: Terminates the residential lease with a minimum of 5 days’ notice for criminal/nuisance activity and 30 days’ notice for all other activity. When the lease is terminated, CHD is required to compensate the lessee for the residence based on an appraisal less deductions outlined in the Residential Leasing Rule 1.10-1.	CHD verifies the allegation in the complaint and determines that the warning letter and/or restrictive lease terms have not been successful in correcting the lease activity at issue OR that the activity is serious enough to require immediate lease termination (i.e. lessee dealing drugs (on or off property), growing/manufacturing drugs on property, some violent crimes by the lessee).

A review of Oneida Judiciary decisions from 2015 through June of 2021 covers cases by the Oneida Housing Authority and through the creation of the Comprehensive Housing Division. Before the creation of the division, residential lease matters were heard by the Land Commission. Now, rental agreements and residential leases have been consolidated into the Comprehensive Housing Division.¹

There were 40 published cases involving the Oneida Housing Authority, Land Commission or Comprehensive Housing Authority involving eviction (rental agreement) or residential lease termination. Thirty-four of those cases involved failure to pay rent or mortgage, and/or failure to maintain utilities. There were six cases involving criminal activity, four involved rental agreements and two involved a residential lease.²

- 15-TC-032 – a rental agreement containing a “One Strike Rule” regarding criminal activities was terminated. The renter had been charged with a felony narcotic, misdemeanor drug paraphernalia and misdemeanor resisting arrest. The court upheld the termination of the rental agreement.
- 16-TC-020 – a rental agreement containing a “One Strike Rule” regarding criminal activities was terminated. The rental had a criminal charge filed which resulted in a deferred prosecution. The court accepted the settlement that so long as the renter successfully completed the requirements of the deferred prosecution agreement, not termination of the rental agreement would be enforced.
- 18-TC-022 – a rental agreement was terminated with a 5-day notice as a result of criminal activities taking place on the premises by an unauthorized occupant. The renter, acknowledged in a police statement, was aware of the criminal activity. The court upheld the termination of the rental agreement.
- 18-TC-023 – a residential lease was terminated with a 5-day notice as a result of criminal activities taking place on the premises by the homeowner. The court upheld the residential lease termination and the 5-day notice.
- 20-TC-013 – a rental agreement was terminated with a 5-day notice as a result of a criminal charge of manufacturing/delivery of heroin and/or narcotics by the son of the renter. The court upheld the rental agreement termination and the 5-day notice.
- 21-TC-004 – a residential lease was terminated with a 5-day notice as a result of criminal charges of growing marijuana and drug paraphernalia and a separate activity three days later involving arrest of a third party for criminal drug charges on the premises. The court upheld the residential lease termination and the 5-day notice.

In all cases, the appeal to the Trial Court resulted in extensions of the 5-day notice to vacate until a hearing could be held. In most cases, the Court granted additional time to vacate. The Court also identified that knowledge of criminal activity occurring on the premises was not a requirement, the fact that the activity was occurring was sufficient. In addition, the Court regularly points out Rule #1, section 1.4-1 which affords an additional 15 days from the date of the residential lease termination to retrieve belongings.

¹ This review does not cover Land Commission cases which are not posted on the Oneida Nation’s website, or case decisions which are not publicly available as determined by the Oneida Judiciary. The complaint title and case number are available; however, the decision contains the following note – “Please contact the Court for further information.” Those cases are not included in this review because they are not readily available to the membership to review if desired.

² Note, there may be additional cases which do not appear in the Judiciary because no complaint was filed by the renter or homeowner.

Comprehensive Housing Division has been working to be more proactive by issuing notices related to criminal activity to renters and homeowners. In addition, in response to renter and homeowner complaints, the Comprehensive Housing Division is collaborating with Oneida Police Department for referral of addresses with high volumes of police contact/calls. The Comprehensive Housing Division is also issuing notices regarding persons not permitted to reside on premises based on their illegal activity occurring outside the leased premises. The goal is to avoid termination of a rental agreement or residential lease by addressing issues early.

Part of the pro-active approach includes the creation of a team-based approach contacting any or all the following departments as needed: Zoning, Elder Services, Indian Child Welfare, Social Services, Behavioral Health, Tribal Action Plan personnel, the Bureau of Indian Affairs. By reviewing renter and homeowner activities through a team-based approach, the goal is to address issues within the household by providing aid through Tribal resources.

Tribal Action Plan – Alcohol and Substance Abuse

The Oneida Nation has historically explored methods and options to address alcohol and substance abuse within the Oneida Reservation and amongst the membership. In 1987, the Oneida Business Committee adopted the first formal Tribal Action Plan which took a broad perspective in addressing this problematic issue – examples include improving family and social networking, health, education and careers, economy, and housing. Between 1987 and the adoption of the most current Tribal Action Plan in 2017, many programming activities such as transitional housing, AODA programs, domestic violence housing, employment opportunities and support for employee needs, education opportunities, community development through low and moderate income housing units, kindergarten through 12th grade culturally relevant education, and many others. Some of these programs exist today, such as the Nation’s K-12 school system and the YES program.

The goals of the 1987 Tribal Action Plan were,

“(a) to develop a community vision of healing and development; (b) to have active community involvement, using existing multi-systems and resources to meet the objectives and impact the problems; and (c) to empower the Oneida people to initiate a healing process which enhances, strengthens, and (1) nurtures individuals to become health and strong spiritually, physically, mentally and emotionally. (2) to help families develop health parent-child, sister-brother, marriage and grandparent-grandchild relationships, and (3) have a positive impact on the overall development and interaction of the community in the areas of social, economic, political and cultural aspects.”

There were 15 objectives listed in this plan.

1. Increase Chemical Dependency Staff
2. Inventory/Assess existing tribal program services.
3. Increase community involvement, input, awareness and education.
4. Establish a database [of community based statistics/data gathering].
5. Prevent, Interview and provide AODA services for Youth/adolescents.
6. Strengthen existing support groups
7. Expand therapy services
8. Develop and increase quality and culturally appropriate aftercare services.
9. Impact and Implement AODA into Education systems.

10. Develop alternative activities to AODA.
11. Establish a local 24 hour Crisis Intervention Hotline.
12. Impact and address the Tribal employment issues of absenteeism, turnover, poor performance due to AODA.
13. A system to enforce Tribal Codes, Resolutions, ordinances and policies related to AODA.
14. Provide Training and overall Community education regarding AODA.
15. Establish a learning resource center for AODA and other Social Service issues.

In 2017, the Oneida Business Committee adopted resolution # BC-05-10-17-C, *A Resolution Authorizing the Establishment of a Tribal Coordinating Committee and to Develop and Implement a Tribal Action Plan for a Comprehensive Prevention and Treatment Program for Alcoholism and Other Substance Abuse*. This resolution re-initiated the creation of a Tribal Action Plan based on current needs of members, the Oneida Nation and its communities. The Tribal Coordinating Committee reviewed information regarding the communities within the Oneida Reservation boundaries, make-up of the membership, and programs and services available through the Oneida Nation organization and surrounding communities. This resulted in the development and approval of the Tribal Action Plan on October 6, 2017 which was, “prepared as a roadmap to achieving a system to prevent and treat substance abuse and addiction through the Oneida community. It builds on the positive qualities of our community and creates goals to address and recognize needs.” *TAP, p. 22*.

The findings of the initial research and a Community Readiness Assessment identified that the Oneida community scored at a level 2 awareness.³ This is a stage of denial/resistance defined as “some community members recognize that the alcohol and substance abuse epidemic is a concern, but there is little recognition that it might be occurring in Oneida.” *TAP, p. 13*. This assessment then assists the community and Oneida Business Committee by, “defining types and intensity of strategies appropriate to each stage of readiness.” *TAP, p. 12*. The Tribal Action Plan contained four goals.

1. By the end of year 3, raise the awareness of the drug and alcohol epidemic in our community from Denial/Resistance (level 2) to Preplanning (level 4) on the Community Readiness Assessment Scale.
Objectives: Create and implement a Communications Plan, data collection/evaluation/assessment, and implementing a trauma informed care expectation throughout the Oneida Nation.
2. By the end of year 3, increased coordination and collaboration across systems relevant to alcohol and drugs to embrace and support the TAP goals.
Objectives: Make this goal a priority in all services and systems to promote resolution [BC-]05-10-17-C, research policies and procedures already in place that creates barriers, develop a coordinated system for connection to services, hire full time TAP Coordinator.
3. By the end of year 3 increase accessibility to and bring awareness of the services and systems for all community members.
Objectives: Complete community needs assessment to evaluate programs and services and identify strengths and gaps, assess and amend current policies and procedures to ensure they are meeting accessibility needs and they are culturally congruent, improving existing programs to meet needs of the community based on results of assessment.
4. By the end of year 4 The Oneida Nation will open Tsi?niyukwalihot^ Wellness Campus.

³ The Community Readiness Assessment is a tool measuring, “the degree to which the community is prepared to take action on alcohol and substance abuse.” *TAP, p. 12*.

Objectives: Establish a CIP (Capital Improvement Project), Identify and create programming, Raise money and identify funding opportunities.

After approval of the Tribal Action Plan in late 2017, areas across the organization were involved with implementation of the goals and objectives. However, much of this activity was halted in late calendar year 2019, all of calendar year 2020, and much of calendar year 2021 as a result of the pandemic. The Tribal Action Plan Coordinator was hired in September 2020 to begin the process of rebuilding alcohol and substance abuse awareness and response.

Comprehensive Housing Division and TAP

The Comprehensive Housing Division and TAP Office are coordinating to utilize resources to reduce alcohol and substance abuse within the Oneida Reservation. This involves community clean-up activities, providing information and resources to residents, and encouraging community involvement in improving the Reservation communities. In addition, with the creation and constitutional amendment regarding the Oneida Judiciary, tribal laws have been adopted which allow for enforcement mechanisms regarding criminal activities and public nuisance issues.

Analysis

The petition requests a review board be created when a homeowner is in violation of the residential lease resulting in a 5-day notice to vacate. A nuisance which would invoke the 5-day notice to vacate is a criminal activity. As identified above, in all cases where the 5-day notice to vacate was invoked, the homeowner or renter was involved with or had criminal activity within the house or household. In the three cases where the 5-day notice to vacate was upheld by the Tribal Court, the homeowner or renter was charged with manufacturing and/or delivery of a narcotic or other drug. The last instance involved a marijuana grow in an amount sufficient for manufacture and/or delivery.

The Oneida Business Committee through the Oneida Police Department and Tribal Action Plan Office quarterly reporting has been made aware of an increase in substance abuse on the Oneida Reservation. Members have also presented complaints regarding alcohol and substance abuse problems in their neighborhoods. The 5-day notice to vacate included in residential leases allows the Comprehensive Housing Division to protect neighborhoods, members and others from the negative impact of alcohol and substance abuse issues. Weighing the homeowner benefits under various tribal programs and a residential lease, against the reduction of alcohol and substance abuse on the Reservation, is a policy decision that should be made by the Oneida Business Committee or General Tribal Council based on available information. Once that policy decision is made, the laws of the Nation can be amended to conform to that decision.

The Eviction and Termination Law, Chapter 610, is clear that criminal activity could lead to receipt of a 5-day notice to vacate. The law defines a nuisance as, “include[ing], but are not limited to, allegations of harassment, disorderly conduct, batter, lewd and lascivious behavior, prostitution, theft, possession of stolen property, arson, illegal drug activity, gambling, animal violations, trespassing, weapons violations, habitual noise violations (as defined in the rules which the Land Commission and the Comprehensive Housing Division shall jointly establish),

execution of warrants, alcohol violations, obstruction/resisting, inspection related calls in which a law enforcement agency responds.” *Sec. 610.3-1(e)*. The petitioner requests that a list of all prohibited activities be included within the law to allow a homeowner to know what constitutes a nuisance. Listing every prohibited substance would be many pages long, involve the brand name (like Ativan®), the generic name (Lorazepam) and the street names (candy, downers, sleeping pills, tranks) and would be no clearer than the phrase “illegal drug activity” listed in the definition.⁴

The creation of a review board would require amendment to the Eviction and Termination law and the rules related to this process as identified in the Statement of Effect. In addition, any amendment may result in requesting review and approval by the Secretary of Interior. As a result, any action by the General Tribal Council would be required to be developed as amendments to the Eviction and Termination Law which defines how a residential lease can be terminated, possibly the Real Property Law which delegates authority to the Land Commission, and possibly the Leasing Law which identifies lease requirements. In short, some of the decisions that would be needed include – identification of how selection of the review board occurs; what qualifications are required; what hearing processes would be utilized; is there an appeal from this decision; are there limitations on what the board could decide. These are not difficult questions to answer, but discussion about them will raise competing interests which would need to be developed into some consensus when drafting the legislative amendments.

Conclusion

The proposed actions in the petition would require amendment to Tribal laws and rules that are likely to trigger review and approval by the Secretary of Interior under the HEARTH Act. This is a limitation on the types of actions that can be taken – i.e., a motion directing immediate amendments or specific amendments would be out of order until such time as approvals could be obtained. However, an action that directed amendments be drafted and submitted for any required approval within six months. This would allow time for drafting of proposed amendments as well as public comment regarding the proposed amendments prior to submission for approval by the Secretary, if that step is required.

In addition, if amendments are directed, the new review board would need to have by-laws and hearing procedures developed prior to implementation. This would allow homeowners to be aware of the opportunity to challenge a 5-day notice to vacate and to know the processes for taking that action.

If you have further questions, please contact me.

⁴ See National Institute on Drug Abuse at <https://www.drugabuse.gov/drug-topics/commonly-used-drugs-charts> for a chart on commonly used drugs with the potential for misuse or addiction. This list of commonly used drugs is 55 pages long. Or, Addiction Center at <https://www.addictioncenter.com/drugs/> which lists drugs by common types and then by brand names, generic names, and street names.