Federal Recognition Update:

Bureau of Indian Affairs Denies Recognition to Golden Hill Paugussets

In June of 1995, the Bureau of Indian Affairs refused to Acknowledge the Golden Hill Paugussets, finding that the Tribe had provided little or no evidence that it met one of the seven required criteria—that its members be descended from an historical Indian Tribe. The Bureau, therefore, refused to even consider the Tribe’s petition. In May of 1999, the Bureau agreed to review the petition but, in January of 2003, the Bureau issued a proposed finding declining to acknowledge the Tribe.

On June 15, 2004, the Bureau issued its final determination rejecting the Tribe’s request for recognition. The Bureau found that the Paugussets did not satisfy four of the seven criteria needed for recognition—failing to prove that the Tribe had been identified as an American Indian entity on a continuous basis since 1900; that most of the Tribe is a community that has existed from historical times until the present; that the Tribe has had political influence or authority over its members since historical times; and that the tribe’s membership must be made up of descendants from a historical Indian Tribe. The Bureau found that the Tribe had not shown that the Golden Hill group and the Turkey Hill group were in fact one Tribe. It also found problems with the Tribe’s attempt to show that its members were of Indian descent. The Tribe has stated that it will appeal the decision.

Native American Legal Briefs

-Jurisdiction of the National Labor Relations Board—

National Labor Relations Board Asserts Jurisdiction Over California Indian Casino Owned and Operated by Tribe

On May 28, 2004, the National Labor Relations Board established a new standard for determining the circumstances under which the Board will assert jurisdiction over Indian-owned and operated enterprises. In stating this new standard, the Board overruled a number of prior cases, finding that its prior reading of the National Labor Relations Act had been both under and over-inclusive. In this case, the Board found that it had jurisdiction over a casino operated by the San Manuel Band of Serrano Mission Indians on Tribal land. Both the Mashantucket Pequot Tribal Nation and the Mohegan Tribe of Connecticut had filed briefs in this case in support of the California Tribe.

The Board first looked at prior cases dealing with Indian commercial enterprises located on Tribal land. Those cases had found that the enterprises were, in fact, a “governmental entity” excluded from coverage under the Act. The Board next looked at a series of cases that held that Indian-operated enterprises were subject to the Board’s jurisdiction if they were operated off Tribal lands. The Board concluded that both sets of cases had been wrongly decided because the Act did not, in fact, exclude Indian Tribes from coverage and because the location of the enterprises was a statutorily irrelevant factor. The Board concluded that the terms of the Act applied to the Tribe in this case.

Next, the Board looked at whether federal Indian policy might require the Board not to assert jurisdiction. The Board found no such requirement. After looking at the language of a number of Supreme Court cases, the Board concluded that:

the activities at issue are commercial in nature—not governmental. Moreover, the operation of a casino—which employs significant numbers of non-Indians and caters to a non-Indian clientele—can hardly be described as “vital” to the tribes’ ability to govern themselves or as an “essential attribute” of their sovereignty.

Finally, the Board discussed whether there were policy considerations that should determine whether the Board should assert jurisdiction. The Board stated that:

Tribal enterprises are playing an increasingly important role in the Nation’s economy. As tribal businesses prosper, they become significant employers of non-Indians and serious competitors with non-Indian owned businesses. When Indian tribes participate in the national economy in commercial enterprises, when they employ substantial numbers of non-Indians, and when their businesses cater to non-Indian clients and customers, the tribes affect interstate commerce in a significant way. When the Indian tribes act in this manner, the special attributes of their sovereignty are not implicated. Running a commercial business is not an expression of sovereignty in the same way that running a tribal court system is. The Board’s mandate is to “protect and foster interstate commerce,” and assertion of discretionary jurisdiction over Indian tribes acting in these circumstances would effectuate the policies of the Act while doing little harm to the Indian tribes’ special attributes of sovereignty or the statutory schemes designed to protect them.

Neither, however, is a blanket assertion of jurisdiction appropriate. At times, the tribes continue to act in a manner consistent with that mantle of uniqueness. They do so primarily when they are fulfilling traditionally tribal or governmental functions that are unique to their status as Indian tribes. These functions are often performed on the tribes’ reservations. Such traditionally tribal or governmental functions, so located, are less likely than commercial enterprises to involve non-Indians and to substantially affect interstate commerce. Accordingly, in those circumstances, the Board’s interest in effectuating the policies of the Act is likely to be lower. Thus, when the Indian tribes are acting with regard to this particularized sphere of traditional tribal or governmental functions, the Board should take cognizance of its lesser interest in regulation and the tribe’s increased interest in its autonomy. In such circumstances, the Board should afford the tribes more leeway in determining how they conduct their affairs by declining to assert its discretionary jurisdiction.
Federal Court Will Not Intervene in State's Challenge to Federal Recognition Process While that Process is Still in Progress

The State of Connecticut and the Towns of North Stonington, Ledyard and Preston filed a complaint in Federal Court alleging several problems with a Final Determination issued by the Bureau of Indian Affairs. The Determinations had granted federal recognition to the Paucatuck Pequot Tribe and the Eastern Pequot Indians of Connecticut.

The complaint was dismissed by the Federal District Court and the State and the Towns appealed. The Circuit Court stated that:

Although Connecticut and the three towns...raise substantial questions about the fairness of the acknowledgment process in this case, we conclude that the plaintiffs' challenges are not ripe for judicial review. Although the BIA has issued a Final Determination with respect to the petitions, the plaintiffs have filed a request for reconsideration by the Interior Board of Indian Appeals... This administrative appeal is still pending. We conclude that until the Board's review is complete, the plaintiffs neither have suffered nor will suffer harm sufficiently concrete to warrant judicial intervention in the BIA acknowledgment proceedings.

Legal Briefs

The following information appeared in the May 2004 edition of CARN Fever (www.carcc.org)

Health Care Coverage for Some Working Parents Continued Through April, 2005

In February 2003, the legislature passed budget adjustments which eliminated HUSKY A health care coverage for parents in families with income above 100% of the federal poverty level (FPL). In March, 2003, working parents who were facing elimination of their health care coverage, represented by lawyers from Connecticut Legal Services, Greater Hartford Legal Aid and New Haven Legal Assistance Association, sued to maintain coverage for two years under the Transitional Medical Assistance (TMA) program. Health care coverage for these 15,000 families was continued under a court order while the court worked on a decision.

In March, 2004, the federal appeals court issued a decision in favor of the working parents. As a result of this ruling, HUSKY A parents who had earnings and income above 100% of the FPL when eligibility levels were reduced in April of 2003, will remain eligible for TMA until April 1, 2005. The ruling does not increase the income limit for coverage of parents; this limit remains at 100% of the federal poverty level.

Protecting the Rights of DSS Clients with Disabilities

In January 2003, the Department of Social Services closed six offices and reduced staff by 150 people. Case workers have seen their caseload increase from 600 to over 1,000 cases, and voicemail systems are consistently filled to the limit. Both the office closures and subsequent DSS staff layoffs have led to numerous delays and incorrect decisions regarding benefits for people with disabilities.

In January 2003, eight people affected by the DSS office closings challenged the office closings. The lawsuit, named Raymond vs. Rowland, alleges that DSS has failed to screen clients for disabilities and is in violation the Americans with Disabilities Act (ADA) and the U.S. Constitution. In addition, the suit claims that DSS has failed to provide an adequate appeal process for clients who have been denied benefits, a violation of constitutional due process rights.

On March 12, 2004, a U.S. District judge, granted class certification and authorized two legal services attorneys to represent the class of people affected. The number affected is in the tens of thousands, given the number of individuals receiving SAGA Cash, Aid to the Aged, Blind & Disabled (AABD) and Medicaid benefits based on disability, as well as those receiving TFA exemptions or extensions due to disabling conditions or impairments.

If you are a person with disabilities, or are working with someone with disabilities, who is experiencing problems accessing benefits through DSS, please contact the legal services lawyers representing the class members in this case: Lucy Potter, Maria Morelli-Wolfe or Greg Bass at Greater Hartford Legal Aid (860-541-5000); Joanne Gibau at New Haven Legal Assistance Association (203-946-4811); or, at Connecticut Legal Services, Shirley Bergert (Willimantic, 860-456-1761), Priya Cloutier (New London, 860-447-0323), or Cheryl Kohler (Waterbury, 203-756-8074).

We Want To Hear From You!

If you have comments, articles or ideas on how this Newsletter can be helpful to you, please let us know.

Please send articles or letters to:
Quinneshtukquat Legal News, Pine Tree Legal Assistance, Cxc Bldg., 61 Main Street, Room 41, Bangor, ME 04401.
Or you can send e-mail to csamp@ptra.org.
Statewide Legal Services

Statewide Legal Services of Connecticut, Inc.

Address: 61 Main St., Room 41, Danbury, CT 06810.

Call Statewide Legal Services of Connecticut, Inc. (SLS) if you are low income and need free legal help in the following areas:

- Housing
- Family Matters
- Welfare
- Medicare
- Medicaid
- Other Government Benefits

Telephone Numbers To Call:

In the Middletown area:
1-860-344-0380
From other places in Connecticut:
1-800-453-3320

9 a.m. - 3 p.m., Monday through Friday.
Call for free advice and information on Thursday nights from 5:30 p.m. to 7:30 p.m., as well as Monday-Friday from 9 a.m. - 3 p.m.

INDEX of COMMUNITY RESOURCES

This is a list of some key resources, which will offer you service or direct you to the best local resource.

CRISIS SERVICES

INFOLINE

Available 24 hours a day.

INFOLINE
www.infoline.org

INFOLINE is an integrated system of help via the telephone - a single source for information about community services, referrals to human services, and crisis intervention. It is toll-free and operates 24 hours a day, 365 days a year. Multilingual caseworkers and TDD access are available.

Child Abuse and Neglect:

Child Abuse & Neglect Hotline
1-800-842-2288
TDD 1-800-624-5518

Domestic Violence:

www.larc.org/pamphlets/children_family/get_restraining_order.htm

Statewide Hotline: This toll-free number will connect you to the nearest domestic violence agency.
888-774-2900

Ansonia:
The Umbrella Project
203-726-9944

Avon:
Interval House www.intervalhousect.org
860-409-2583

Bridgeport:
Center for Women and Families of Eastern Fairfield County, Inc.
203-384-9559

Columbia/Danielson/Dixville:
Domestic Violence Program/United Services
860-774-8648

Danbury:
Women's Center of Greater Danbury
www.danbury.org/womencor
203-731-5206

Enfield:
Network Against Domestic Abuse
860-763-4542

Falls Village:
Women's Support Services
860-364-1900

Greenwich:
Domestic Abuse Service Greenwich YWCA
www.ywca.greenwich.org/domesticabuse.htm
203-622-0003

Hartford:
Interval House www.intervalhousect.org
860-527-0550

Manchester:
Interval House www.intervalhousect.org
860-645-4033

Meriden:
Meriden-Wallingford Chysalis
203-228-1501

Middlesex:
New Horizons
888-774-2900

New Britain:
Prudence Crandall Center for Women
www.prudencecrandall.org
860-225-6357

New Haven:
Domestic Violence Services of Greater New Haven
www.dvsgnh.org
203-789-8104

New London/Norwich:
Women's Center of Southeastern Connecticut
888-774-2900

Norwalk:
Domestic Violence Crisis Center www.nvcc.org
888-774-2900

Stamford:
Domestic Violence Services
203-357-8162

Torrington:
Susan B. Anthony Project www.sbatproject.org/
860-482-7133

Waterbury:
Safe Haven of Greater Waterbury
203-575-0036

Williamstown/Norhegan:
Domestic Violence Program/United Services
860-456-9476

Elder Abuse and Neglect:

INFOLINE (for after hours emergencies)
1-800-385-4225

Poison Control:

Connecticut Poison Control Center
1-800-222-1222
poisoncontrol.utc.edu/
TDD 866-218-5372

Sexual Assault Crisis Programs:

(Hotline Numbers)
Call 888-999-5545 to get the name of the sexual assault crisis service nearest you or go to their website at www.commsacs.org/.

- Center for Women and Families of Eastern Fairfield Co., www.cwfcfc.org/sexual_assault.html
- Women's Center of Greater Danbury Sexual Assault Crisis Service www.danbury.org/womencor
- Hartford Region YWCA Sexual Assault Crisis Services www.ywcahartford.org

Connecticut Department of Social Services, (Statewide toll-free number)
1-888-385-4225
www.dss.state.ct.us/socialwork/pg3.htm
Lawyer Referral Service: www.ctbar.org/article/articlereview/201

This service can recommend a private lawyer who, for a small fee, will assess a case and give an estimate of charges.

Fairfield County
203-335-4116

Hartford
860-525-6052

New Haven Area/Waterbury/Middlesex County
203-562-8750

New London/Norwich
860-889-9384

Legal Assistance Programs:
These organizations give free civil legal help to eligible people. This help includes telephone advice, referrals, direct representation, and giving out self-help material, depending on the priorities and resources of the organization.

STATEWIDE
Statewide Legal Services 1-800-453-3320
in Middletown 860-344-0380

Statewide Legal Services (sclct.org) screens cases for all legal assistance programs in the state, giving brief service and advice, community education materials, and referrals to local legal services offices for non-legal cases. Please call Statewide Legal Services first, unless you have an emergency that needs to be settled that day or you are over age 60.

Bridgeport
203-336-3851

New Britain
203-225-8678

New London
860-443-9109

Stamford
203-348-9216

Waterbury
203-756-8074

Willimantic
860-456-1761

New Haven
203-346-4811

Hartford
860-541-5000

Connecticut Legal Rights Project www.mindlink.org/crrp.html
This organization helps low-income adults who have or are perceived to have psychiatric disabilities. Its staff may also help clients to protect their civil rights in conservatorship and commitment proceedings or in discrimination in housing.

Telephone: 1-877-402-2299

Connecticut Lawyer's Legal Aid to The Elderly
This organization offers legal help to low-income elderly in the Hartford area.

Telephone: 860-273-4303

Children's Law Center www.clct.org/
This organization gives legal representation to children in northeastern Connecticut using a lawyer/mental health team approach. The Center also provides legal information about situations involving children through the Children's Lawline (1-888-LAWDOOR)
Telephone: 860-232-9993

Connecticut Women's Education and Legal Fund www.cwealf.org/
This organization provides a free telephone counseling and legal referral line for help on discrimination, harassment and family matters. The group also offers community education and training, mainly in employment and family law. For information on workshops, call 860-347-1518.
Telephone: 1-888-479-2949

Legal Assistance to Medicare Patients ctelderlaw.org/
LAMP is part of Connecticut Legal Services, Inc., a non-profit law firm.
Telephone: 1-800-413-7796

Disabilities:

Connecticut Office Of Protection and Advocacy For Persons With Disabilities www.state.ct.us/OPAPD/
60B Weston Street
Hartford CT 06120-1551
Toll Free Telephone: 1-800-842-7303
Hartford area: 860-297-4300
TDD: 860-297-4380
Fax: 860-566-8714
E-Mail: OPA-Information@po.state.ct.us

Discrimination:

Connecticut Commission on Human Rights and Opportunities www.state.ct.us/ohro/index.html
Capitol Region:
1229 Albaury Avenue
Hartford CT 06112-2193
Tel.: 860-566-7710

Southwest Region:
1057 Broad Street
Bridgeport CT 06604
Tel.: 203-579-6246

West Central Region:
Rowland State Government Center
55 West Main St.
Suite 210
Waterbury CT 06702-2004
Tel.: 203-805-6530
TDD: 203-805-6579

East Region:
100 Broadway
Norwich CT 06360
Tel.: 860-886-5703
TDD: 860-886-5707

Central Office:
21 Grand Street
Hartford CT 06106
Tel.: 860-541-4300
1-800-477-5737

Social Security: www.ssa.gov/
Statewide 800-772-1213

Some Helpful Native American Web Sites

Native Web: www.nativeweb.org/NativeTech/Tipmuc/
Pine Tree Legal Assistance: www.pila.org
Index of Native American Resources on the Internet: www.hanksville.org/Nresources
Native Links: www.johnisco.com/native/
Aboriginal Links: www.hloostreet.com/aborcan.htm
Wabanaki Confederacy: www.wabanakiconfederacy.com
Legal Assistance Resource Center of Connecticut www.latrc.org
Statewide Legal Services: www.clct.org/