

Program helps Native Americans develop wills

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(Photo: Jon Austria/The Daily Times)

STORY HIGHLIGHTS

- **Denver law school provides free services after federal law changes the way allotted land is inherited**
 - **The service helps tribal members fill out wills so they can determine who receives the land**
 - **Those legal services could cost as much as \$4,000**
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UPPER FRUITLAND — With the help of a Navajo language interpreter, Rosie A. Chavez asked questions about the process to draft a will.

She traveled from Nageezi to the Upper Fruitland Chapter house on Wednesday to participate in the Tribal Wills Project, an effort by the University of Denver Sturm College of Law that provides free wills to Native Americans.

The 76-year-old, who does not speak English, used an interpreter to explain her reason for seeking the documentation.

Chavez is among hundreds of Navajo tribal members who hold a title to an allotted plot of land and she wanted to divide the percentage of ownership among her seven children.

"I thought about my children. That's why I came here, so that I can give them a portion of my assets," Chavez said in Navajo.

She added that her decision would avoid future conflict.

"If I don't do nothing about my land, there's going to be fights. ...I want them to have shares and enjoy their life," Chavez said.

For Native Americans who hold trust land titles, the American Indian Probate Reform Act of 2004 changed the way such pieces of land are distributed to heirs. The law heightened the importance of making a will.

Julie Redhouse, an accounting technician for the Office of the Special Trustee in the U.S. Department of the Interior, said trust land was equally divided among heirs before the probate reform act.

Under the new rule, a will or gift deed designates who inherits the property and any payments from mineral leases, Redhouse said.

She added that if no such documentation is in place when the property owner dies and the ownership interest is more than 5 percent, the property is equally divided among the owner's children, which is the same as before the act was passed. However, ownership of most allotted land has been more deeply divided.

If the property owner holds less than 5 percent interest and has no will or gift deed in place, the property transfers to the oldest living child, she said.

If the oldest child is deceased, then the property goes to the oldest grandchild, Redhouse said.

She added that regardless of the ownership percentage, if the property owner does not have a will, gift deed, spouse or children, the remaining land goes to the tribe.

In response to the act, John Roach, a fiduciary trust officer for the Office of the Special Trustee, contacted numerous law schools in 2013 about developing a program that could provide estate services to tribal members, which can cost as much as \$4,000.



University of Denver first year law students Brooke Mulica, left, and Liz Trower assist with the Tribal Wills Project on Wednesday at the Upper Fruitland Chapter House. (Photo: Jon Austria/The Daily Times)

Lucy Marsh, a law professor at the university, said the law school was the only one to respond. She said the Tribal Wills Project is a collaborative effort among law students and state licensed attorneys, all of whom volunteer.

For this week's visit to Upper Fruitland and Nenahnezad, about 20 law students worked under the guidance of Marsh and six supervising attorneys.

The first-year students provided customer service while the second-year and above students interviewed clients, reviewed documents and wrote wills.

The supervising attorneys reviewed the wills before it was prepared for final signatures and notarized in a signing ceremony.

Traditionally, topics like death are not commonly discussed in Navajo society.

Chavez said she respects Navajo tradition but setting an example for her children outweighed her belief.

"I have to set the example, so they can follow what I wrote in this will. ...My belief in tradition, I had to overlook that, overcome that," Chavez said in Navajo.

Each step of the drafting process was explained to Chavez. Joe Henriksen, a second-year law student in charge of writing the will, asked numerous questions.

This is the first time Henriksen volunteered for the project.

"We tell them the will provides a set of instructions to carry out their wishes once they're gone. That way, it provides them and their ones receiving the will peace of mind," Henriksen said.

In some cases, the will goes beyond determining the future ownership of allotted land to include personal property, medical power of attorney and memorial instructions.

Henriksen said most clients did not know they could include items that carry sentimental value or significance, like hand woven rugs.

"Some clients are very sentimental about their pets. They want to make sure their two dogs or two cats are kept together," he said.

Prior to traveling to tribal lands – the project has provided services in Arizona, Colorado, Montana and Utah – students receive training about culture and etiquette.

For this trip, they learned which terminology to avoid when talking about death and burial because it could be regarded as disrespectful.



At right, DNA People's Legal Service attorney Heather Hoechst, watches Sammy Ahkeah sign his will on Wednesday at the Nenahnezad Chapter House. (Photo: Jon Austria/The Daily Times)

The Tribal Wills Project was one reason Felicia Acosta-Steiner decided to attend the university's law school.

"My interest is in social justice. I thought it was some way to give back to a community that is sometimes overlooked, underserved," she said in an interview at the Nenahnezad Chapter house.

This was the fifth time Jason Gould, a third-year law student, participated in the project.

Gould said his interest in helping Native American communities developed after he spent part of his childhood living on the Yakama Nation in Washington State, where his mother worked as a police department dispatcher. "The desire to take care of family is universal," Gould said.

Back at the Upper Fruitland Chapter house, Nageezi resident Bessie Cly wanted information about a will.

Her curiosity was piqued because of the probate reform act and concerns about the future of the land she inherited from a great-great-grandfather.

"If I'm gone, who's going to get it? It's best I hand it down to my daughter," Cly said, adding the Navajo people are taught not to give up land.

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