

Coleman pleads not guilty

Indian trader denies possessing stolen art items

By Bill Donovan
 Independent correspondent
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GALLUP — Indian trader Steve Coleman was in Gallup Magistrate Court Friday morning to plead not guilty to state charges of possession of stolen property.

Coleman informed Magistrate Judge April Silvermith that he had no other state charges pending against him but he was wearing an ankle bracelet because of federal charges that were still pending.

Coleman's attorneys have filed motions calling for the state to produce any evidence they had against Coleman. Other motions reserved the right to have the case heard by a jury and another one demanded a speedy trial.

Coleman, who is restricted to staying within the Gallup city limits under the guidelines for his federal release, was allowed by Silvermith to continue his release under state charges under the conditions that he not use alcoholic beverages or try to contact any of



Cayla Nimmo/Independent
 Steve Coleman waves as he heads into magistrate court in Gallup Friday along with his public defender Conrad Frieley.

the witnesses in the case.

He is scheduled to go on trial in federal court in Albuquerque Aug. 18 on charges of being a felon in possession of a firearm, but that may depend on how the federal judge rules on motions filed by his federal attorney,

who is seeking to get the search warrant that led to the discovery of the firearms quashed.

The hearing Friday lasted about six minutes and a preliminary hearing is expected to be set for late July or early August.

Earlier state charges, ranging from possession of a firearm by a felon, possession of stolen property, and extreme cruelty to animals — all centering on an incident when Coleman reportedly shot his neighbor's dog when the dog wandered onto his property in Thoreau — were all dropped earlier by the district attorney's office.

The current charges stem from two Gallup area residents, Emie Bulow and Elvina Emerson, who were among those who went to the New Mexico State Police to view photographs taken of Coleman's art collection during the search of his Thoreau home the day after the dog shooting occurred.

Both Bulow and Emerson told police they were able to identify some of the items that had been stolen from their homes in 2006.



Independent file photo
 A crowd of anxious patrons rushes to the doors as the new Fire Rock Navajo Casino opens east of Gallup in this Nov. 19, 2008, file photo.

Despite more casino revenue, NM still poorer

By Sherry Robinson
 Independent correspondent

SANTA FE — New Mexico's poverty statistics have been trending in the wrong direction for years, and they're usually worse in Indian country. So when 14 of the state's 22 tribes invested hopes and dollars in casinos, the expectation was that the jobs and revenues would make a difference, and they have in varying degrees.

But in recent years, casino revenues have leveled off, along with the state's share, as poverty statistics continue to spiral.

What does that tell us? We might observe, unfortunately, that casino patrons don't look like they can afford to be there and the parking lot is full of aging vehicles, but economists say that's anecdotal evidence. Poverty numbers reflect a great many factors, primarily the health of the state's economy and education levels.

At the same time, it appears the casino industry may have peaked. Gaming trade journals talk about the "maturity" of the New Mexico gaming industry, meaning the number of casinos has increased but the number of gamblers hasn't. However, the Navajo Nation's casino revenues are holding steady.

"You have to be careful not to conclude that gaming makes people poorer," economic developer Mark Lautman said. "I here are too many other factors in an economy."

But he said there is some truth to the adage that gambling is a tax on people who are bad at math.

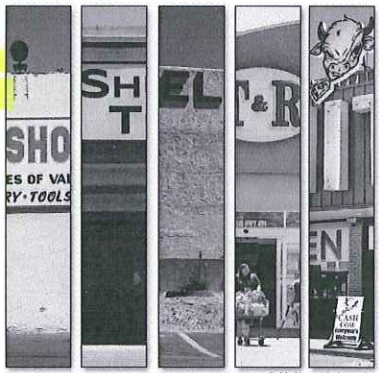
"If most of the customers are from your community, it's a problem," he said.

"We are able to create 1,400 jobs on Navajo," Derrick Watchman, CEO of the Navajo Nation Gaming Enterprise, said. "That puts a dent in unemployment. We have a lot of employees who are single parents, and there's money coming into those households."

bad biz?

"We have lots of cases around Gallup. Why are so many brought against Gallup businesses?"

—Attorney Richard Feferman



Cable Hoover/Independent
 According to attorney Richard Feferman, bad business plagues Gallup. Albuquerque firm Feferman & Warren has represented clients suing Gallup businesses over what they consider predatory lending.

15 or 16 lawsuits filed locally, businessman says

By Laura London
 Staff writer
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GALLUP — Bad business plagues Gallup, according to several lawsuits filed against area lenders.

Albuquerque firm Feferman & Warren has represented many clients suing Gallup businesses over what they consider predatory lending. Attorney Richard Feferman emailed a list of 10 Gallup lawsuits his firm is working on, 15 just finishing up or recently finalized.

"They're just horrible," Feferman said about the businesses he's suing.

no driver's license, no insurance and no ability to pay for the car, according to the complaint filed in 11th Judicial District Court.

"Her mental condition makes her a danger to herself and others when she is behind the wheel," the complaint states. "Corley's conduct shows depraved indifference to the safety of Ms. Tosie and others."

Calls to the Ed Corley Nissan dealership in Gallup seeking comment from the owner were not returned.

Feferman said he recently settled a case against Gully Motors and Red Rock Finance, and notices on that will go out soon. Feferman could not comment on that case beyond "we think the settlement was fair." The settlement stipulates plaintiffs and counsel are not to comment to the media about the case, unless to remark on the fairness of the settlement.

According to the complaint filed in U.S. District Court, District of New Mexico, Eugene and Phyllis Yazzie bought a truck from Gully and financed through Red Rock, with a down payment of \$4,500 plus an additional two payments of \$500 down, then 36 regular payments of \$662.69. The complaint alleges Gully and Red Rock failed to accurately disclose the "deferred down payment."

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Driving people further into poverty

Feferman said most of his cases are class action suits, except for one — not included in the list of 10 — filed April 15 alleging that Ed Corley Nissan sold a homeless schizophrenic woman a new car, secured her financing with phony paperwork and then repossessed the car when the woman couldn't pay. In that case, Feferman only represents the one woman, Mary Tosie, who had

Wealth of poverty data

New Mexico, by many measures, is becoming poorer.

In 2014, 20.6 percent of residents were living in poverty, up from 19.8 percent in 2010, according to the Bureau of Business and Economic Research at the University of New Mexico.

The caseload for the Supplemental Nutrition Assistance Program in December totaled 241,705, more than double the 106,976 cases in 2008, according to the state Department of Human Services.

Spending on SNAP, Human Services' biggest program, nearly tripled over 10 years, from \$255,989,491 in 2006 to \$685,981,537 in 2015.

Native Americans in the state also slipped backward, with 29 percent living in poverty in 2012, compared with an average 25.7 percent in 2007-2009, according to the state Department of Workforce Solutions. The number of Native Americans receiving SNAP totaled 81,349 in 2015, up from 76,885 in 2014.

In McKinley County, 35.8 percent of residents were living in poverty in 2014, compared with 32.6 percent in 2010. The numbers on SNAP cases in the county increased from 8,829 in December 2010 to 10,329 in December 2015. The Navajo Nation website says 43 percent of mem-

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Council delegate's dream of owning a home becomes headache, legal battle



Cable Hoover/Independent
 Navajo Nation Council Delegate Edmund Yazzie, right, sits with his wife Raedene Yazzie during a homeowners meeting in Pinedale Tuesday.

By Vida Volbert
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WINDOW ROCK — Raedene and Edmund Yazzie were sitting on the couch in the Franks' living room in Pinedale Tuesday, going through dozens of documents pertaining to a home they purchased through the Navajo Housing Authority's Mutual Help Occupancy Program.

Under the program, "NHA builds homes that eligible families may purchase by making monthly lease-purchase payments," according to NHA records.

Raedene Yazzie went through the Sunrise Housing Organization's meeting agendas and

records, which date back to 2001. The organization was formed by 10 families who purchased homes through the same program, and six of them, including the Yazzies and the Franks, are being sued by NHA for nonpayment of the homes. The families argue they stopped making payments because they were sold defective homes that have never been certified by licensed engineers or an architect as required by code and industry practice.

When the Yazzies signed the residential lease agreement for their home in February 2001, Edmund Yazzie was working for the McKinley County Sheriff's Office, and the couple had been looking at job opportunities in the southern part of the state. They stayed because they were

approved by NHA to build the home on their land in the Coolidge area, they said.

Edmund Yazzie was looking down, slightly agitated and emotionally distressed, talking about how their dream of owning a home on the reservation became a headache, then a legal battle and most recently a social media scandal when NHA released a statement outlining, complaining about the Yazzies' lack of payment on their house.

NHA claims the Yazzies never made a payment since they moved in August 2006.

According to the statement released by NHA June 11, officials decided to take this

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So many suits

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which made the contract appear less expensive than it actually was.

When contacted by telephone Thursday, Gurley Motors president and owner Steve Gurley said a settlement has been reached in the suit, but he would not comment further because nothing has been finalized through the court.

Fereman said he is still litigating against Speedy Loans, another lender on his list of 10, in Duve v. Community Assistance Service Centers LLC dba Speedy Loan. Fereman explains in his list Speedy Loan's transactions include excessive fees and understatement of the interest rate. Speedy Loans was issuing installment loans that were actually payday loans, according to Fereman.

Fereman said another case he has ongoing in 11th Judicial District Court, Peina et al. v. Carma Enterprises Inc. dba Cash Mart, Cash Stop, Lucky Loans and The Best Loan Store. According to Fereman, the company obtained numerous judgments against its customers, including many default judgments and orders garnishing wages and freezing employees who were not attorneys acting in unauthorized practice of law in McKinley County Magistrate Court.

Fereman said the owner of Speedy Loans is from out of state, possibly Chicago or Wisconsin, and the owner of Carma Enterprises is from Texas.

"A large number of owners are from out of state... we've got these bad people coming in here because we don't have any kind of unity limit here in New Mexico," Fereman said.

Fereman said many states have usury limits, explaining that is limiting the amount of interest a company can charge. He said New Mexico used to have a usury limit, but it was abolished sometime around 1981.

"We got hoodwinked," he said. "A new federal law regulating payday and late loan companies, which has its public comment period until September, proposes restrictions on lending, such as having to establish a person's ability to pay the loan."

"They just need to impose an interest rate cap," Fereman said in criticism of the proposed federal legislation. "It would be more like simple interest."

Fereman also represented Carvate Tullie, of Ganado, in her suit initiated in May 2014 against Cash Cash, doing business as Cash Cash Furniture and Cash Cow Tires & Service in Gallup. According to the complaint, Cash Cow threatened Tullie with reporting her to the IRS unless she did not refinance her late husband's loans. The resulting loan agreement is reportedly rife with errors, misrepresenting the nature of the loan, the interest rate, schedule of payments and the security interest, among other things. The complaint states Cash Cow made the same or similar errors in other loans to late husband and other consumers.

"We have lots of cases around Gallup," Fereman said. "Why are so many brought against me? It's because I'm the only lawyer in town."

Quick Cash filed bankruptcy last year when the company didn't have the cash available that Fereman was requiring for the Tullie case, according to Quick Cash owner Tim Delgado. A settlement has been reached, Cash Cow customers will receive a \$45 credit to their accounts, and Tullie's account will be brought current.

Delgado, not entirely unlike Fereman, also remarked on the number of lawsuits filed against Gallup businesses, estimating there are about 15 to 16 different lawsuits pending, during a telephone interview June 2. He noted T&R settled two lawsuits and is currently being sued a third time for the same reason, "supposedly all these violators."

Delgado said the attorneys are making a lot of money, but the customers represented get very little. He noted the benefit to Tullie in her suit is that she doesn't have to pay off her \$2,000 Cash Cow balance, but Fereman could make \$80,000 on the case.

"To me, that's not a level right... it's total exploitation, total extortion," Delgado said.

Fereman's 10 — pawn

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Market, Shash Yaz and Ted's Pawn & Jewelry. Complainants against these are three similar, alleging the pawn lenders misrepresented that they intended to "retain collateral in satisfaction of the debt when, in fact, they sold the pawned items in excess of amounts owed on loans and kept the surplus they received from the sales."

"We've been looking at Gallup because it's the heart of Indian pawn," Fereman said. "I can't say that I've encountered the practice one way or another, but I believe that Gallup's everywhere you look."

Fereman added the New Mexico Supreme Court settled the question of whether pawn lenders retain or lose their collateral in 1980 with the case of Reeves v. Foutz and Tanner. He said pawnbrokers are covered by Article 12C of the Uniform Commercial Code, but that Gallup's intent to retain collateral when they actually meant to sell it.

"That issue was decided by the New Mexico Supreme Court 36 years ago. The people are still doing it," Fereman said, adding he suspects the issue of pawnbrokers selling pawned items and banking the surplus was more prevalent than his list may indicate.

Fereman did not know if the issue is prevalent among Albuquerque pawnbrokers as most of the cases he has filed. He explained he meets many clients through Gallup on cases, and has many Gallup clients because he's worked on so many lending cases with the state. Albuquerque is a big city with many legal opportunities, and most people there seem more likely to opt for payday or title loans.

"In Gallup they seem to go to pawn shops taxidied, and those are typical for Gallup," Fereman said. "That's why we see so many cases with those."

"So we have a lot of money to ring, and it rings often from Gallup. Turns out it's not just Cash Cow that's the bad actor."

Fereman's 10 — tax refund loans

Fereman's list includes three tax refund loan providers: The Big E, Inc. and Native American Consumer Credit and Finance Trading Company, Tancore Finance Inc. and S/W Tax Loans Inc. dba H&R Block. Each case has similar complaints, that the companies failed to accurately disclose interest charges and other loan terms, thus violating the Truth in Lending Act.

Fereman said S/W Tax Loans is no longer in business in Gallup. The Chester cases pretty much certify the claims in the case due to an admission clause. A case was then filed against SW Tax Loans by the Consumer Financial Protection Bureau and the Navajo Nation, resulting in a consent judgment against the Farmington-based owner for \$836,000. Fereman states in his list that 20 plaintiffs also sued and settled with S/W Tax Loans and settled for a confidential amount.

Fereman's list states that in the case of Chester et al. v. Tancore Finance, Inc. dba H&R Block, the court misinterpreted the terms of financing by not accurately disclosing the finance charge and other loan terms.

"The Chester cases pretty open and shut," Fereman said. "They didn't disclose the information of what it was costing Mr. Chester to take the loan."

Fereman's list states that a case was settled for \$54,000 and the money distributed to 10,000 customers.

"Ten thousand people were cheated the same way," Fereman said. He noted that Gallup's population is only just over 20,000, and the entire population of the Navajo Nation was 173,000 at the 2010 census. "Anyhow, when we have 10,000 people in a class, that's a lot of people."

Anderson et al. v. The Big E, Inc. and Native American Consumer Credit dba Ellis Tanner Trading Company, filed in 11th Judicial District Court April 2014, is another suit Fereman filed happening because a lender misrepresented the terms of financing.

Fereman explained his client, Nora Anderson, took a \$500 loan that she was told to pay back in two months along with a \$130 finance charge. However, there were three other fees she was expected to pay later on that increased the cost of borrowing to \$250.

Casino profits

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bers live in poverty. Consulting economist Brian McDonald said levels of poverty have more to do with the overall economy.

"The New Mexico economy, beginning around 2007 and 2008, went into a very serious recession that was unprecedented in our state," he said. "We lost almost 50,000 jobs. This was within a very serious national recession. One of the policy responses was to relax employment requirements for SNAP."

He added: "The New Mexico economy is dependent on federal spending. The less sequester hit, it was a walk-up that federal spending is not safe and secure. When it's disrupted, it causes problems."

New Mexico State University economist Jim Peach said: "New Mexico as a whole is just not doing very well in economic terms. The GDP (gross domestic product) lags employment 'til I good. We have a lot going for us."

"Poverty is a bigger story than just casinos. We have very high unemployment in Dona Ana County, and we don't have a casino. The economy is not growing, and we've got a high school graduation rate that's trending and not improving. In the 21st century, if you're not a high school graduate, you're pretty much condemned to a minimum wage job and long periods of unemployment."

Casino impact
Gaming hasn't solved the problem of Indian poverty, Kevin Washburn, former assistant secretary for Indian affairs in the Interior Department, has said. He noted that unemployment rates and poverty percentages nationally.

Washburn said poverty is also a function of demographics. "We won't see the results of Albuquerque or Phoenix," he said.

"The way I look at it is we're not doing as well as the Navajo Nation."

New Mexico's 15 tribal casinos created about 4,000 jobs by the end of 2015, with an average wage of \$576, according to information provided by Tracy Shalen with Workforce Solutions. Five casino hotels added another 3,800 jobs, for a total average weekly wage of \$569.

Native American unemployment in the state has hovered around 19 percent in recent years, according to Workforce Solutions data.

Gallup unemployment was 4.4 percent in April, up from 3.2 percent in 2010. McKinley County was at 7.8 percent compared with 9.6 percent in the same period.

The Navajo Nation Gaming Enterprise, with four casinos, is budgeted for 1,400 positions but running at 1,333 (350 at Fire Rock Casino), and 83 percent are held by Navajo employees, according to Edgemoor Salaries and benefits total \$45 million a year. Spinoff benefits include buying beer from reservation producers, using Navajo vendors for the Navajo Nation and crafts in casino gift shops, and using Navajo Agricultural Products Industry produce.

"The beef program is moving along, but it could use more supply," Watchman said. The beef is organic and range fed, raised at choice-plus.

Native unemployment, reservation unemployment was 20.3 percent in 2014, down from 25.1 percent in 2010, the U.S. Census Bureau estimates. The average unemployment rate between 2010 and 2014 was 22.3 percent, in New Mexico that figure was 19.8 percent.

The Navajo Nation website pegs employment at 42 percent.

Navajo casino job numbers are significant, Peach said. Lastman said he thinks some of the employment in Navajo employment is because Navajos are better trained and edu-

ated, and they're getting good jobs in Gallup and Farmington and becoming a part of the economy. Nation has done a better job of pulling service businesses into the reservation."

It's clear that the Navajo casinos have made a dent in unemployment. But New Mexico's gaming industry has matured, there's more competition for the gambling dollar, and the recession took its toll.

In the five years from 2011 to 2015, net win increased from \$74 million in 2011 to a peak of \$760 million in 2012 and then declined to \$700 million in 2015, according to the state Gaming Control Board. Net win is the amount wagered on slot machines less payouts for prizes and regulatory fees. Revenues shared with the state are based on net win, which doesn't include table games.

In the same period, Navajo net win from its New Mexico properties stalled at \$46 million in 2011 and vaulted to \$81 million in 2012 with the opening of the new Edgemoor Casino. Since then revenues have remained just above \$80 million; in 2015 the New Mexico portion was \$82 million, according to the state gaming station.

Asked if the Gaming Enterprise was using revenues to seed other businesses, Watchman said it's been Navajo Nation policy to maintain a high interest rate on its investments in the casinos, so the Gaming Enterprise, after loan service and employee expenses, hasn't been able to seed more than \$7 million since the beginning.

"If I'm working to change that," he said.

Is it economic development?
Economists say that for casinos or any other enterprise, it depends on who's doing the spending. If the customer is often another state, it's a net gain, and the jobs are consid-

ered economic-base as the customer is local. All you're doing is moving the same money around.

The racism at Hobbs is economic-base because a majority of customers are from Texas and Colorado, but most of the casinos in northern New Mexico are not economic-base. Casinos along Interstate Highway 40 can be economic-base if they're pulling in travelers and tourists.

"Otherwise, they have the same impact as bringing in a Wal-Mart — it concentrates all the money in one place and kills small businesses and restaurants," he said.

Watchman sees a different picture. Navajo casinos attract relatively few outsiders, but by opening Navajo casinos, we're able to keep Navajo spending at home. Previously, Navajos were spending at other locations.

These economists differ on the contributions of casinos.

"It's clear that casino gaming has become an important part of our economy," McDonald said, noting the effects of destination resorts, golf courses and meeting facilities.

"Whether you like gambling or not, it's a successful part of the economy."

Jeff Mitchell, director of UNM's Bureau of Business and Economic Research, said: "If you think of more resources coming into the economy, I don't think casinos are a highly productive activity. To the extent they bring in net new dollars, yes; to the extent they're just moving money around, no."

The other question is how tribes are using the revenues, Mitchell said: "If they're building houses, the money stays here. If they're buying the state, it's not so positive."

Peach said he's not anti-casino but questions whether it's good for long-term economic development. "Casinos offer good benefits as well as employment,"

Housing dispute

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repairs on the defective homes. They also demanded that their mortgage be reduced to zero payments. The lawsuit was dismissed by Crowfoot Judge James M. Yazzie in 2006.

In her decision, the judge stated, the homeowners "failed to submit proper pleading to proceed with the case" and it "has been pending over eighteen months."

NHA's request for payment
In December 2015, NHA filed notices of eviction to all six families. The lawsuit against NHA filed against the families is pending with Toledo.

In a request for dismissal of the six families' counterclaims filed March 11, NHA appealed the court's judgment, claiming the "state of limitations" on fraud on the Navajo Nation, and further attempted to discard the families' claims arguing that they are based on house inspections and assessments that were conducted more than a decade ago.

In their Counterclaim, Defendants simply restate the same arguments they made over a decade ago, vis-à-vis their resident organization, which are based on a 2002 engineering report that Defendants had available to them no later than January 2004.

Toledo's response
Toledo denied NHA's request for dismissal of the tenants' counterclaims on May 16. In her decision, the judge stated that Defendants' request for "Court allow both sides limited discovery to determine whether the statute of limitations was triggered when the initial complaint was filed. The Court also does not know whether NHA has insurance, which would be applicable to the claims and this is an exception to the Navajo oversight of the Act. The Court may have to hold an evidentiary hearing to properly dispose of the statute of limitations matter and whether the actual bar applies for the exceptions to sovereign immunity."

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In an email to the Independent Thursday, NHA spokesman Chris Bigwater wrote, "NHA spent considerable time and money to inspect the homes and remedy what the alleged issues were. Mr. Yazzie's decision (dated about 2004)."

He further wrote: "From 2006 until 2014, NHA did not receive any complaints from Mr. Yazzie's tenants. The home was defective, and he appeared quite content with all of the remedies that NHA completed on the home."

The third-party inspector who Yazzie has added NHA tried to have a third party to inspect Yazzie's house and report on the new allegations.

Mr. Yazzie has refused to allow the third-party inspector to conduct such an inspection."

2015 inspection
At the request of the Sunrise Resident Organization, New Mexico licensed architect Greg Comer visited the six homes in question July 31, 2015, and produced a report about his findings.

Overall, he reported, the homes appeared to be well maintained by the homeowners. The third-party inspector and presentable and showed no signs of homeowner abuse of neglect, but there was evidence of water damage, cracking and other structural defects inside the homes.

Comer reported interior finishes in all six homes exhibited cracking and moisture intrusion. Doors, windows and hardware and fixtures are of low quality materials.

About Esther Frank's home, Comer wrote: "This unit appears to have been constructed by an inexperienced crew supervised by an incompetent foreman. The stairway to the second floor is too narrow, and does not meet Code. This unit has many serious framing issues."

He further wrote: "They constructed at least one exterior wall without adding insulation, and installed a built-in bookcase to hide sewer piping that was incorrectly placed during the structural walls."

"Cold air flows through outlets on the exterior walls, as well as most units, many of the upper outlets of the duplex outlets do not function."

calling repairs or sag, possibly due to placement and/or slippage of framing. Cracking of gypsum wallboard surfaces was evident in multiple areas."

About the Yazzie's home in Crowfoot, Comer reported: "This unit was similar in most respects to the Esther Frank residence, with extensive evidence of substandard construction including, but not limited to, cracking, the ceiling in the basement appears to sag at the center of the structural span, electrical outlets and switches inside of the unit are not properly installed, the HVAC unit is not functioning properly; the upstairs HVAC unit has not functioned since installation. Floors are uneven through the house. In all, the unit appears to be the Yazzie's occupancy of the home, a pipe burst emptying about 200,000 gallons of water into the house as a result of poorly installed plumbing, with the floor now bulging on the west side of the building on the bottom floor as a result of structural shifting... the balcony outside the master bedroom is cracked probably as a result of shifting foundation; and construction flaws in front yard pave a danger to people and animals."

In his report, Comer further stated that "NHA allowed the Homeowners to take possession of their homes without informing them of potential structural deficiencies, without providing them with copies of relevant documentation, such as required certifications by properly licensed architects and engineers, and without providing them with information on the possibility of water infiltration and resultant structural displacement. In other words, NHA transferred all liability for the construction defects to the Homeowners assigning blame to the Homeowners for failure to properly maintain their homes, or claiming the major, potential, hazardous defects in their homes are maintenance issues... It is difficult to understand how an organization that builds hundreds of houses using the same construction methods could spend \$85 million annually that require construction documents sealed and signed by architects and engineers could repeatedly construct houses with defects in the construction. This is clearly arrogant, irresponsible and illegal."

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Fereman's 10 — pawn

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Three pawn lenders are on Fereman's lawsuit list. T&R