



**Contact:** Michelle Begay  
Acting Judicial Liaison Officer  
Administrative Office of the Courts  
Navajo Nation Judicial Branch  
928-871-7018 (office)  
928-871-6761 (fax)  
Email: [michellebegay@navajo.org](mailto:michellebegay@navajo.org)  
<http://www.navajocourts.org>

---

**FOR IMMEDIATE RELEASE**  
**Monday, July 19, 2010**

## **Supreme Court Provides Clarification on Status of Amendments Impacting Governmental Structure and Calls for Reestablishment of Commission on Government Development**

WINDOW ROCK— The Navajo Nation Supreme Court on July 16, 2010 issued an *Opinion and Order on Reconsideration* in *Shirley v. Morgan*, SC-CV-02-10 following the filing of a Petition for Reconsideration by the Speaker and Navajo Nation Council.

In its May 28, 2010 opinion in *Shirley v. Morgan*, the Court had acknowledged and held that the Whereas and Resolved Clauses of CD-68-89 operate today as a solemn promise by the Council to the People, intended to bind the hands of future Councils. The Court stated that the clauses embody the commitment of the Council to a structure they hoped and believed would serve the People effectively until the People themselves might find a path to a better way.

The Speaker and Council had asked the Court to reconsider its above holdings, asserting that the holdings had created confusion as to the status of amendments made by the Council since the enactment of CD-68-89 (Title II Amendments). They requested that the Court affirmatively state that the Council does have the authority to amend and modify Title I and II and related sections, and that the holding that the recitals in Council resolutions have the force of law should be limited only to CD-68-89 and the facts of this case.

The Court denied the requests, repeating that "The People must be able to hold the Navajo Nation Council to the whole of its words, not simply a portion thereof."

To address the asserted confusion, the Court provided clarification concerning four obvious provisions: 2 N.N.C. §102 relating to the size of the Council and the Council's authority; 11 N.N.C. §401 relating to matters removed by the Council from referendum vote; 11 N.N.C. §240(C) relating to administrative leave; and CO-37-07 (Navajo Government Development Act of 2007) on October 17, 2007 which dissolved the Commission on Government Reform.

The Court stated that of all the entities established at that time, the Commission on Government Development and the Office of Navajo Government Development were the sole entities established

according to the wishes of the People expressed through the coordinator of the Government Reform Project, who had recorded the People's comments from chapter to chapter. As the Commission served several functions including educating the People as to our government structure and alternative governmental forms, its dissolution on October 17, 2007 by the Council cannot stand.

Rather than for government to continue to put forward governmental structural changes piecemeal to public vote, the Court held that the Commission and Office must be immediately restored according to the original terms in the Title II Amendments of 1989 in order to renew providing information and education to the public and finally fulfill its purpose.

Also objected to in the Petition for Reconsideration were the Court's award of amicus attorney fees, invalidation of CJA-08-10 (*The Foundation of the Diné, Diné Law and Diné Government Act of 2009*), and the Court's position on sovereign immunity in internal governmental disputes. The Court denied reconsideration on these matters. However, the Court expanded the factors for finding special circumstances in an award of fees to an amicus, or friend of the court.

The Court's *Opinion and Order on Reconsideration* is available online at [www.navajocourts.org](http://www.navajocourts.org).