



# Eastern Band of Cherokee Indians

## REAL ESTATE ASSOCIATE ATTORNEY

### *Position Description*

<b>Program:</b>	Realty Services	<b>Reports to:</b>	Attorney General
<b>Division:</b>	Office of the Attorney General	<b>Position Number:</b>	906217001
<b>Classification:</b>	Exempt	<b>Revision Date:</b>	Pending
<b>Pay Level:</b>	17	<b>Safety Sensitive:</b>	No

### PERFORMANCE EXPECTATIONS

In performance of their respective tasks and duties all employees of the Eastern Band of Cherokee Indians (EBCI) are expected to conform to the following:

- Uphold all principles of confidentiality to the fullest extent.
- Adhere to all professional and ethical behavior standards of the Tribal Government.
- Interact in an honest, trustworthy, and respectful manner with employees, Tribal members, visitors, and vendors.
- Participate in departmental staff meetings, quality management activities and educational programs.
- Embody respect and understanding of EB CI traditions and values.
- Display willingness, initiative, and teamwork, to perform other duties as requested.

### POSITION PURPOSE

Performs a variety of legal services for the Tribe as directed by the Senior Associate Attorney General for both the Executive and Legislative Branches of government for the Eastern Band of Cherokee Indians (EBCI). The main functions of this position is to support legal review and provide advice to the Tribal Realty Services' Leasing Realty Specialists to efficiently execute Residential, Commercial, and Agricultural leases. Maintains good Tribal Government and community relations by providing efficient and comprehensive quality of service for the Tribe.

### ESSENTIAL DUTIES, FUNCTIONS, & RESPONSIBILITIES

- Review all proposed leases submitted to or developed by Tribal Realty Services for legal elements of a contract including offer, acceptance, consideration, capacity of the contractors in the lease, mutual consent, legality, and writing of the lease.
- Review all proposed leases for errors that cause the contract to become invalid.
- Review Title Status Reports (TSR) for any conditions that may prevent the lease/contract from being executed.
- Periodically review or audit lease files to ensure all information and data has been collected and stored to ensure the lease is valid and historical data is maintained for future lease development and TSR reviews and reports may be developed.
- Has good working knowledge of real estate law governing the leases submitted and developed for land use on the Qualla Boundary or for land owned by the Eastern Band of Cherokee Indians that may not be in Trust status.
- Drafts reports, letters, memoranda, and other documents, including legal opinions as necessary for both the Executive and Legislative Branches of government of the EB CI as directed by the Senior Associate Attorney General.
- Assists the Senior Associate Attorney General in ensuring that the laws of the Tribe to protect the health and welfare of the Tribe and its citizens are enforced.
- Advises Tribal divisions, departments and programs concerning business transactions, claim liability, advisability of prosecuting or defending lawsuits, or legal rights and precedents.
- Analyzes the outcomes of legal issues using knowledge of legal precedents.
- Assists the Senior Associate Attorney General in presenting and summarizing cases to judges and other attorneys.
- Evaluates findings and develops strategies and arguments in preparation for presentation of cases.
- Gathers evidence to formulate defense or to initiate legal actions, by such means as interviewing clients and witnesses

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to ascertain the facts of a case. Interprets laws, rules, and regulations for individuals and businesses.

- Prepares and drafts legal documents such as deeds, trademark applications, leases, and contracts.
- Searches for and examine public and other legal records to write opinions or establish ownership.
- Studies the Cherokee Code, U.S. Constitution, statutes, decisions, regulations, and ordinances of quasi-judicial bodies to determine ramification for cases.
- Must be able to work on multiple projects while remaining organized and meeting deadlines.
- Must be able to handle demanding, angry, or upset people in a professional manner.
- Must be able to work effectively with a wide variety of non-legal staff and policy makers.
- Assists the Senior Associate Attorney General in litigating matters on behalf of the Tribe through appropriate legal proceedings, as directed.
- Researches the law and prepares written reports for the supervising attorney.
- Assists other legal staff as instructed by the Senior Associate Attorney General.
- Performs legal mandates as assigned, including association on specific projects with other attorneys.
- Refers Tribal members to outside resources as the Senior Associate Attorney General deems appropriate.
- Performs job duties according to established office and safety guidelines as well as Tribal personnel policies.

**Scope of Supervision:**

This position is supervised by program leadership. This position is not responsible for supervising others.

**MINIMUM MANDATORY QUALIFICATIONS**

- Experience:** Two (2) years of related experience required.
- Education:** Juris Doctor Degree required.
- Licenses & Certifications:** Valid, insurable NC Driver’s License required.

**KNOWLEDGE, SKILLS, & ABILITIES**

**Key Job Knowledge:**

- A thorough knowledge of Federal, State, and Indian law is required.
- A thorough knowledge of real estate law governing land transactions and leasing on the Qualla Boundary and for property owned by the Tribal Nation that is not in Trust status.
- Requires a thorough knowledge of Federal, State, and Tribal court system policies, procedures, and guidelines. Requires knowledge of Tribal Personnel Policy Manual, and North Carolina State Bar Code of Ethics and Professional Responsibility.
- Good communication skills, both verbal and written, are required.
- Must be able to compile and analyze legal data and make verbal and written reports.
- The ability to operate a computer, facsimile, copy machine, and other related office equipment is required. Knowledge of computer operations and software programs typically used in a legal setting, including Microsoft Windows, Microsoft Word, Westlaw, Google, Microsoft Outlook, and other software commonly used by the legal profession.
- Ability to discern legal issues, defines problems, collect data, establish facts, and draw valid legal conclusions. Ability to follow a variety of instructions furnished in written or oral form.
- Ability to exercise independent judgment and engage in civil debate for the purpose of resolving legal issues.
- Must be able to calculate figures and amounts such as discounts, interest, commissions, proportions, percentages, etc.
- Ability to think and write in clear, progressive, and logical terms.
- Knowledge of a wide range of real estate principles, concepts, and practices as well as good understanding of the real estate market to manage EBCI Trust property. Knows and interprets, and applies Tribal, federal, and applicable state regulations.
- Is knowledgeable of the laws, regulations, etc., that govern EBCI Trust assets; applies applicable laws, regulations, etc.,

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in handling Trust assets.

- Planning and Evaluating: Administratively organizes work, sets priorities, and determines resources requirements for the program to meet goals and objectives; determines short and long-term goals and strategies to achieve them; monitors progress and evaluates outcomes.
  - Facilitation Skills: Conducts consultations and negotiations to protect both beneficiaries and maintain the fiduciary trust responsibility; effectively facilitates group processes.
  - Research Skills: Analyzes historical transactions and records to collect ownership records (TSR), locations, encumbrances, historical use, land consolidation plans, conflicts in land use or adjacent land use, or other data needed to resolve issues or potential issues; obtains information from various electronic or hardcopy sources; searches records to obtain information.
  - Operating Procedures and Manuals: Understands Policies and Procedures and relating to the management of EBCI Trust assets and resources; applies specific policies and procedures appropriately and effectively; uses information efficiently.
  - Realty Related Systems (automated systems): Access, understands, and updates realty related systems; uses applicable information technology resources (software); uses capabilities of software to perform jobs duties and responsibilities effectively; builds and performs queries skillfully and efficiently.
  - Report Writing Skills: Prepares comprehensive documents that indicate the facts, findings, and recommendations based upon thorough research; uses applicable standard format(s).
  - Communication: Listens and responds appropriately to others (oral, written, or non-verbal input); demonstrates attention to and conveys information ideas, facts, or messages appropriately and effectively.
  - Customer Service: Communicates and works with beneficiaries and clients to assess their needs; provides accurate information or assistance and addresses problems; knows about and provides available services with options; is committed to providing quality service; seeks to meet or exceed expectations.
  - Information Management: Stores, organizes, and maintains multiple formations (including automated systems of record) of data in a useable condition; assures information is readily available disseminates information effectively and securely.
  - Fiduciary Responsibility: Assures that any management of EBCI Trust assets considers the interest of the possessory holder and their intended use of the assets, conserves and protects Trust assets.
  - Collaboration: Encourages and facilitates cooperation, trust, and group identity; fosters commitment and self-esteem; works with others to achieve common goals.
  - Fosters Change: Evaluates current practices and openly seeks opportunities to more efficient and effective operations; understands the reasons for change, identifies the benefits, and implements approved change that helps meet goals and objectives.
  - Problem Solving: Identifies current and emerging problems; determines relevant information and procedures; uses reason to generate and evaluate alternatives; determines a course of action; communicates the selected course of action to all affected parties.
  - Conflict Management: Manages and resolves conflict, grievances, confrontations, or disagreements in a constructive manner to facilitate a positive outcome.
  - Interpersonal Skills: Demonstrates understanding, tact, and empathy for others; develops and maintains effective relationships; relates well to people in a variety of situations; appreciates cultural diversity, race, gender, disabilities, and other individual differences; works at knowing co-workers to build trust.
  - The incumbent must possess broad knowledge of agricultural, commercial, and residential operations in order to assist parties with the development and execution of leasing in these areas.
  - The incumbent must be able to determine the viability of the proposed terms of the contract to determine compliance with applicable Tribal, Federal, and State law.
  - The incumbent performs assignments involving a range of duties employing a broad range of fact-finding and analytical techniques, and requiring decisions by interpreting varied and complex situations in the context of the requirements of laws, regulations, or policies to solve highly complex problems generally characterized by:
    - Large body of disputed interrelated facts which must be considered in sequence depending on results of preceding steps.
    - Issues that are precedent setting in nature.
    - Issues that have major economic impact on the EBCI community and large number of people.
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- Interest groups both on and off the EBCI Trust lands who vigorously support their interest by disputing methods, approaches, and principles employed by the incumbent, and/or influence public opinion and the Tribal Government.
- Major or precedent setting technical decisions that establish criteria for deciding future cases of the same type.

### **Safety/Accuracy Focus:**

Review of work and subsequent procedures would detect most errors of job functions. However, more serious errors in judgment could have major impact if error occurred when not carried out in a sound legal manner. It is imperative that all real estate responsibilities be accurate, current and records be maintained accurately. The incumbent is concerned with resolving critical and highly unusual problems, developing new approaches or techniques to develop, preserve, and protect Trust resources; and to ensure that EBCI realty transactions meet title standards and comply with applicable laws, regulations, and policies. The work fulfills the Federal Government trust responsibility and that of the EBCI by assuring that just compensation and fair market value is received, and it affects the economic well-being of the possessory holders, lessees, lessors.

### **Key Relationships:**

Internal contacts occur on regular basis with Attorney General and divisional personnel. External contacts include officials of Tribal Government, Bureau of Indian Affairs (BIA), Internal Revenue Service (IRS), Cherokee Boys Club, real estate agencies, Tribal committees established by Tribal Council, businesses on the Qualla Boundary, public, and other Tribal entities. Additional contacts are made with various federal, state, and Tribal agencies and courts. Contacts are made to exchange ideas and information where a high degree of tact, courtesy, and professional decorum are required.

Contacts include interagency personnel, Tribal representatives, and individual Tribal members, as well as the general public. Communicates and works with beneficiaries and clients to assess their needs; provides accurate information or assistance and addresses problems; knows about and provides available services with options; is committed to providing quality service; seeks to meet or exceed expectations. Personal contacts are with persons that include Tribal, federal, state, county, and municipal officials; BIA line officials; Region; Agency personnel, and other agency officials (BLM, MMS, OST); EBCI citizens, parties of leases (lessors and lessees), attorneys, technical experts, business, and industry representatives, EBCI leadership, and land committees. The nature and content of each contact of each contact is different, and the role of authority of each party may need to be identified and developed during the course of contact.

The purpose is to influence, motivate, or control persons or groups. The persons contacted may be fearful, skeptical, or uncooperative. Therefore, the incumbent must be skillful in approaching the individual or group in order to obtain the desired effect, such gaining compliance with established and applicable policies and regulations by negotiation or gaining information by establishing a rapport.

### **Resourcefulness & Initiative:**

Follows well defined Tribal procedures and guidelines. Initiative is required to maintain accuracy, establish work priorities, and meet scheduled timeframes. Follow well-defined procedures and guidelines in job duties with minimal supervision. Must communicate and respond appropriately to various situations. Frequent demands for extra working hours beyond regular hours to meet certain deadlines of completion of reports or litigation matters may be made to the incumbent. The incumbent of this position may be required, as an incidental duty, to operate a Tribal motor vehicle in the performance of duties and may be also required to travel in commercial air carriers. The incumbent ensures that employees supervised adhere to all applicable regulations and guidelines governing the use of travel, holiday, administrative, sick, and annual leave.

### **Discretion – Confidential Data:**

Access to confidential and proprietary data and information which is not known by the public may occur during employment. Exercise excellent professional discretion regarding confidential and proprietary data and information, never disclosing or misusing such information. Has access to all divisional files, memos, court records and proceedings, legal documents, and discussions all of which are considered confidential. Must adhere to all Tribal confidentiality policies and procedures. Must not release confidential data without prior approval of the Senior Associate Attorney General. Must follow North Carolina State Bar Rules. Information contained in files may not be in the public domain and thus may be deemed confidential. Confidentiality is a required part of this position. Incumbent must always operate within this framework and must sign an agreement that they understand and will abide by this requirement per Housing Division and Tribal guidelines. Records are to be maintained in a

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confidential, accurate manner using Bureau guidelines. The following guidelines are applied in performing work assignments Titles 25, 43, and 30, Code of Federal Regulations; court decisions, BIA Manuals, state, county, Tribal, and federal statutes pertaining to real property transactions; federal and Tribal Executive Orders, Tribal ordinances, treaties, Solicitor’s opinions; precedent cases; BIA Manuals, policy statements and procedural guidelines; and 25 U.S.C.A. Personnel-Related Regulations; Knowledge of the Code of Federal Regulations and the United States Code, Departmental Manual, and the BIA Manual, including provisions of the Civil Service Reform Act (where applicable); Regional and BIA, personnel policies, and practices (where applicable); EEO program, including Affirmative Action and Upward Mobility (where applicable). The incumbent uses initiative to extend or redefine guidelines or deviates from traditional principles and practices to develop essentially new or vastly modified techniques and methods for obtaining effective results.

**Complexity of Duties:**

This position includes completing tasks of varying complexity levels. Follows well defined policies, procedures, and established guidelines. Requires the ability to solve problems, assess situations, and develop appropriate legal opinions. Must use judgment and initiative to maintain accuracy of work. Must be resourceful when responding to changing circumstances. Must be persuasive in order to get others to change their minds or behavior. Must be a good speaker, able to talk to others and convey information effectively. Must be skilled at negotiation, able to bring others together and reconcile differences. Uses deductive reasoning, must be able to apply general rules to specific problems to produce answers.

**PREFERRED QUALIFICATIONS**

No other preferred qualifications.

**WORK ENVIRONMENT**

**Work Environment:**

Work is performed in a normal office/court setting with occasional outside consultations. Extensive travel may be required for this position. Works in a normal business office environment while performing job duties. Occasional trips to sites outside the general workplace may be required. Overnight travel may be required periodically. Most of the work performed is in an office setting, although the incumbent may be exposed to varying outdoor weather conditions when making field trips or on government travel, as required. There is moderate risk of bodily injury when working around moving equipment such as printers, high speed copiers, mobile shelving units, and other information and management systems requiring exercise of safety precautions and best management practices to maintain hardware and safety of personnel as prescribed by the EBCI, BIA, or OSHA. Work is mostly sedentary, with occasional field trips to isolated areas and over rough terrain. Travel is required as necessary. There is some walking, standing, bending, lifting of moderately heavy objects such as computer printout binders, files, plats, deeds, books, etc.; and the ascending and descending of stairs and possibly stepladders as required. Tribal Realty Services must cope with a diverse set of land use activities and ownership problems, controversy, and jurisdictional issues, differences in the EBCI culture, economy, development, plans, and needs.

**Mental/Visual/  
Physical Effort:**

Must be able to lift 25 pounds and carry 5 pounds on a repetitive basis. High levels of concentration and attention to detail are required along with general observation necessary for problem solving. Job duties require physical efforts of sitting, standing, walking, bending, reaching with arms and hands, good eye/hand/foot coordination, manual dexterity, and visual acuity. Must be able to hear and speak.

Close concentration and attention to detail is required while performing most duties of the job. The employee is subject to frequent interruptions both by phone and in person that require varied responses with each contact. Work involves recurring tasks and considerable sitting, typing, writing, and communicating. Must be able to sit, stand, walk, kneel, reach, speak and hear. Occasional travel and training may be required. This requires a working knowledge of various laws and regulations that govern real estate transactions, the systems of title/record functions, and of local ordinances. Some EBCI Trust lands are contiguous and some are checker boarded with lands owned by the Tribal Nation.

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**OTHER**

**Confidentiality:** All employees must uphold all principles of confidentiality to the fullest extent. Sensitive information must be kept secure; a breach of these principles may be grounds for disciplinary action, up to and including immediate termination.

**Background Investigation:** All employees are required to complete a background investigation. Results of the background investigation will be evaluated against the requirements of the position, and as applicable to federal and state requirements. Candidates must be able to successfully pass all required background checks for data sensitive positions and for those positions subject to a 101-630 background check to ensure compliance with Public Law 101-630 "Indian Child Protection and Family Violence Prevention Act."

**Drug Screening:** All applicants must successfully pass a preemployment drug screening prior to beginning employment. Random drug testing will be carried out based upon position requirements.

***Disclaimer:** The information on this position description has been designed to indicate the general nature and level of work performance by employees in this position. It is not designed to contain, or be interpreted as, a comprehensive inventory of all duties, responsibilities and qualifications required of employees assigned to this position. Employees will be asked to perform other duties as needed.*

# REAL ESTATE ASSOCIATE ATTORNEY

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### ACKNOWLEDGMENT

I have reviewed the content of the **Real Estate Associate Attorney** position description and have been provided a copy of such position description. I certify that I am able to perform the essential functions of this position as outlined in this description.

\_\_\_\_\_  
*Employee (printed name)*

\_\_\_\_\_  
*Employee (signature)*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Supervisor (printed name)*

\_\_\_\_\_  
*Supervisor (signature)*

\_\_\_\_\_  
*Date*