

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed
Adoption of Rules of the Minnesota
Housing Finance Agency Relating to
Cooperative/Rental Multifamily
Housing Innovative Loans

Statement of Need
and Reasonableness

In 1983, the Minnesota Legislature passed legislation (Legislation) which created an innovative housing loan program Minn. Stat. §462A.05, Subd. 18a (1983 Supp.) and appropriated funds to the Minnesota Housing Finance Agency (MHFA) to implement such a program. The funds are to be used expressly for the purpose of financing cooperative or rental multi-family housing that is either owned and operated on a nonprofit cooperative basis by the residents, or owned by a limited dividend entity and operated by a residents' association.

The Agency has drafted and adopted temporary Rules to implement the Cooperative or Rental Multifamily Housing Innovative Loan Program (Program). In compliance with the Administrative Procedures Act, the proposed Permanent Rules are necessary to allow the Agency to continue to operate the Program in accordance with the Legislation.

4900.1220 DEFINITIONS

For purposes of clarity in reading the Rule, definitions of terminology that may have an ambiguous meaning are provided at the beginning of the Rule. It is reasonable to define terminology used in the Rule so that all readers will have a similar understanding of the Rule.

With regard to the definition of persons and families of low and moderate income, the legislation requires that occupancy in the development be restricted to persons and families of low and moderate income as defined by Minn. Stat. §462A.03, Subd. 10. Such subdivision authorizes the Agency to promulgate rules regarding the definition of low and moderate income. For the Innovative Cooperative Loan Program the Agency has utilized the definition of low and moderate income promulgated for the Agency's Multifamily Program. It is reasonable to use the same definition of low and moderate income as is used in the Multifamily Rules because the proposed developments will be of the same nature as a multifamily rental development processed under the Agency's Multifamily Program. For purposes of consistency among the Agency's multifamily development programs, the application of the same definition of low and moderate income is reasonable.

4900.1230 ELIGIBILITY REQUIREMENTS

Eligibility requirements established in the Rule specify certain characteristics and qualifications that an applicant and a development must have in order for an applicant to receive a loan under the Program. It is necessary to establish the eligibility requirements of Subparts 1A, 1D, and Subparts 2B and 2C, of 4900.1230 because the criteria are specified in the Legislation. The Agency has reiterated the requirements in the Rule so that all eligibility criteria are comprehensively represented.

Subpart 1B of 4900.1230 requires that the applicant have the ability to organize and complete the development. This requirement is reasonable because it prescribes that applicants have a high probability of being successful in organizing and completing the development which in turn ensures that the funds are effectively utilized.

Subpart 1C of 4900.1230 requires that the applicant have the ability to repay the loan or obtain other financing, if needed, at the expiration of the loan. The capability of the applicant to repay the loan increases the Agency's ability to continue making loans and hence provide the benefit of the legislative appropriation to a variety of applicants and developments.

Subpart 2A of 4900.1230 requires that the development be located in the State of Minnesota. It is reasonable to restrict the use of funds for developments that are located in Minnesota so that the residents and economy of Minnesota benefit from an appropriation of Minnesota-earned dollars.

4900.1240 OTHER REQUIREMENTS

Other requirements under Subpart 1 of 4900.1240 that specify alternative sources of funding must not be available for the development upon equivalent terms and conditions. It is reasonable to qualify and limit the use of the funds only to those developments that are not feasible if they are required to use conventional financing.

The intent of the legislation is to make funds available for innovative loans that provide long-term affordability to residents. Because this type of housing may not be feasible in light of conventional financial underwriting criteria and market interest rates, it is clearly within the intent of the legislation to only finance developments that would not otherwise be feasible if the legislative appropriation were not available.

The occupancy requirement under Subpart 2 of 4900.1240 specifies that initial occupancy of the development must be restricted to persons and families of low and moderate income. Such occupancy requirement is necessary to meet the intent of the legislation in providing housing which is designed to provide long-term affordability to the residents of the development. The occupancy requirement is essentially the same as the Agency's occupancy for its Multifamily Program. It is reasonable for the Agency to apply similar requirements regarding occupancy to the Program for the purposes of consistent implementation of multifamily programs.

4900.1250 SELECTION CRITERIA

In the event that more applicants apply for the program dollars than are available to meet the demand, it is necessary for the Agency to be able to objectively establish a priority of funding. Selection criteria enable the Agency to prioritize a development in light of other requests from other developments.

Selection criteria 4900.1250 A, B, and C are reasonable in that the characteristics of the development are prioritized to the extent that the development meets the intent and spirit of the legislation.

It is reasonable to prioritize the development in terms of its location to other developments so that the appropriated dollars may benefit a large geographical area. Additionally, it is reasonable to prioritize the loan request in terms of its duration and the length of time to complete the development, so that the appropriation is efficiently recycled into future developments, thereby benefitting an increased number of loan requests. It is also reasonable to request that the development be consistent with regional plans and policies to ensure that a development funded under this program is not deleterious or in violation of other governmental policies.

4900.1260 PROJECT FEASIBILITY LOANS

This section of the Rule allows the Agency to consider applications for a loan, the proceeds of which would be used to determine the feasibility of a cooperative or rental multifamily housing development. Because the legislation was promulgated in order to encourage innovative housing, it is reasonable to consider application for which the purpose is to explore the feasibility of innovative housing, yet have not progressed to a point where firm financing is needed. Because this type of application may prove that a development proposal is infeasible, it is reasonable to not require repayment of the loan.

The Agency is cognizant of the provisions of Section 14.115 of the Minnesota Statutes, entitled Small Business Considerations in Rulemaking, however, the proposed rules do not establish any compliance or reporting requirements, design or operational standards, or directly affect the way any business must operate. Therefore, the provisions contained in Minn. Stat. §14.115 (1983 Supp.) do not apply to the proposed rules discussed herein.