State of Minnesota

Minnesota Housing Finance Agency

In the Matter of the Proposed Rules
Relating to Income Limits for Limited
Unit Developments

Statement of Need and Reasonableness

Minnesota Rules Section 4900.0010, subpart 23:

Minnesota Statutes, Section 462A.03, subdivision 10 requires that the Minnesota Housing Finance Agency (Agency) establish in its rules income limits for the purpose of defining persons and families of low and moderate income. The sources for definition of low and moderate income persons and families are two Agency rules: Minnesota Rules part 4900.0010, subpart 23 establishes maximum limits for adjusted income for Agency programs therein specified, and adjusted income is, in turn, determined by a formula set forth in the definition of Minnesota Rules part 4900.0010, subpart 3.

The proposed rule defines persons and families of low and moderate income as those whose adjusted income does not exceed the amounts set forth in the tables in Minnesota Rules part 4900.0010, subpart 23.A(1), and Minnesota Rules part 4900.0010, subpart 23.A(2). By its terms, the rule applies to programs for three types of housing: limited unit developments, dwelling units in planned unit development and condominiums. The term "limited unit development" refers to new or existing residential housing intended for occupancy by a person or family of low and moderate income and by not more than five other families (see Minnesota Rules part 4900.0010, subpart 15).

The proposed rule continues to employ a set of income limits based upon the cost of obtaining money rather than one income limit. This is both reasonable and necessary because uncertain capital market conditions make it difficult to implement a program based upon one income limit, since income limits are a function of what interest rates must be charged to the mortgagor to meet the Agency's cost of money as determined when it raises capital.

There are two primary changes in the proposed rule from previous rules governing income limits for limited unit developments. The first change is in reference to the geographic areas for which specific income limits are in effect for new or existing construction. In response to concerns raised by the clientele for various Agency programs effected by the rule, the Agency undertook an analysis of local real estate markets by examining current sales price data in designated geographic areas. This is consistent with the mandate of Minnesota Statutes 462.05, subdivision 3, which specifies that in establishing maximum mortgage amounts and maximum purchase prices for single family dwellings, the Agency shall take into account housing cost differences throughout the state.

As a result of this analysis, it was both reasonable and necessary for the proposed rules to establish additional geographic areas for which income limits are to be in effect for new and existing construction. The Agency study indicated distinct differences in house prices within the real estate markets designated within the rule and, thus, different income levels are necessary to afford these homes. Hence, it reasonable to establish separate income limits for these counties.

The second change in the proposed rule is it establishes the income limits for the designated geographic areas. Minnesota Statutes Section 460A.03, subdivision 10, specifies four criteria for determination of persons and families of low and moderate income. They are (1) the amount of total income of such persons and families available for housing needs, (2) the size of the family, (3) the cost and condition of housing facilities available, and (4) the eligibility of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing sanitary, decent, and safe housing.

In reference to the first of the criteria set forth above, i.e., "the amount of total income of such persons and families for housing needs," the general underwriting standard in the mortgage loan industry is that the estimated monthly mortgage payment (principal, interest, taxes and insurance) should not exceed 28% of gross monthly income. This standard was applied in arriving at the maximum adjusted income limits specified in the proposed rule.

The second criterion specified in the statutory definition of persons and families of low and moderate income is the size of the family. This factor is addressed by the Agency in the formula for adjusting income under Minnesota Rules part 4900.0011, subpart 3, which was applied in arriving at the maximum adjusted income that would be available for housing needs.

The third criterion specified in the statute as set forth above is the cost and condition of housing facilities available. As specified above, the Agency conducted a study to determine housing costs in various geographic areas and establishes house price limits for these areas. The income limits herein are designed to be compatible with the income necessary to purchase a median priced home.

The fourth criterion specified in the statute is the ability of such persons and families to compete in the normal housing market. Mortgage interest rates vary from time to time and establishing income limits on the basis of the interest rate to be charged on Agency mortgage loans is appropriate. Typically, interest rates for Agency mortgage revenue bond programs are 1% to 1 1/2% lower than market interest rates.

The Agency is mindful of the provisions of section 14.115 of Minnesota Statutes, entitled Small Business Considerations in Rulemaking, but since the recipients of the funds under the proposed regulation must be persons and families of low and moderate income, the regulation does not effect small business directly, and the said law, by its terms, is inapplicable to this proposed regulation. Further, to the extent that the funds which are the subject of this regulation may have an indirect affect on small businesses, the affect of this proposed rule is to make home loans more capable of feasible underwriting and, consequently, more attainable; and, as a result, the proposed rule has no negative effect on small businesses.