

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

IN THE MATTER OF THE PROPOSED ADOPTION)
OF RULES OF THE HOUSING FINANCE AGENCY)
RELATING TO THE INNOVATIVE HOUSING LOAN)
PROGRAM)

STATEMENT OF COMPLIANCE WITH MANUAL OF RULE MAKING PROCEDURES

As a Special Attorney, I, George Reilly, do hereby declare that I have examined the rules of the Minnesota Housing Finance Agency and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed.

George Reilly
Special Attorney

Dated: January 10, 1978

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed)
Adoption of Rules of the Housing)
Finance Agency Relating to the)
Innovative Housing Loan Program.)

REPORT OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on October 28, 1977, before Steve M. Mihalchick, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. §15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. §15.052, Subd. 3, was issued to the Housing Finance Agency on November 8, 1977; and

WHEREAS, the Housing Finance Agency has now determined to adopt rules pursuant to Minn. Stat. §15.0412, Subd. 4; and

WHEREAS, the Housing Finance Agency has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. §15.052, Subd. 4, and Rule HE 107; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Housing Finance Agency has met all requirements of Minn. Stat. §15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Housing Finance Agency has the responsibility of submitting the complete hearing record and the rules as adopted by the Agency to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. §15.0412, Subd. 4.

Dated this 4th day
of January, 1978

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA)
, (ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

Eileen A. Gaiovnik, being first duly sworn, deposes and says that on the 8th day of November 1977, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Report of Hearing Examiner HFA-78-001-SM

unstamped, by placing in the designated tray to be collected by messenger for delivery to the central mailing station as required by Minn. Stat., § 16.54 (1974), a true and correct copy thereof the individual named below.
on ~~all persons at the addresses shown on the attached mailing list~~

Eileen A. Gaiovnik

Subscribed and sworn to before me
this 8th day of November, 1977.

Sandra A. Haven

SANDRA A. HAVEN
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires July 29, 1983

Ms. M. Patricia Schaffer
Leonard, Street & Deinard
Attorneys at Law
1200 National City Bank Bldg.
510 Marquette Avenue
Minneapolis, Minnesota - 55402

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of Rules of the Housing Finance Agency Relating to the Innovative Housing Loan Program.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing in St. Paul on October 28, 1977 before Steve M. Mihalchick, Hearing Examiner assigned by the Chief Hearing Examiner.

This is a rules hearing pursuant to Minn. Stat. Ch. 15, to determine whether proposed new Minn. Rules MFHA 120 and 121 should be adopted.

Mark Korell, Director of Home Improvement and Mortgage Loan Programs, and M. Patricia Schaffer, Special Attorney, appeared for the Minnesota Housing Finance Agency (hereinafter "Agency.") Five persons attending the hearing signed the hearing register. The hearing continued until all interested persons had had an opportunity to participate.

Pursuant to Minn. Stat. § 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days.

The Agency shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record, including its Findings and Order, to the Chief Hearing Examiner no earlier than five days subsequent to the receipt of this Report. This submission shall clearly indicate any changes made to the rules as originally proposed, preferably in the format that will be submitted to the State Register for publication. The Chief Hearing Examiner shall complete his review and submit his report to the Agency on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 within ten calendar days. Thereafter, the Agency shall be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

PROCEDURAL REQUIREMENTS

1. On September 9, 1977, the Agency filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules;
(b) A proposed Order for Hearing;
(c) A proposed Notice of Hearing; and
(d) A Statement of the estimated length and number of people attending the hearing.

2. On September 26, 1977, a Notice of Hearing and a copy of the proposed rules were published at 2 State Register 675.

3. On September 27, 1977, the Agency mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On September 29, 1977, the Agency filed the following documents:

(a) The Affidavit of Receipt of the Secretary of State's list;
(b) The Affidavit of Mailing; and
(c) The Secretary of State's Certificate and list.

5. On October 3, 1977, the Agency filed the following documents:

(a) The Order for Hearing;
(b) The Notice of Hearing as mailed;
(c) The Statement of Need; and
(d) The Statement of Evidence.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

6. The record remained open through November 4, 1977, for the receipt of written comments and statements.

STATUTORY AUTHORITY

7. Laws 1977, Ch. 401, § 8, grants the Agency the following authority:

> "It may make loans **solely to 'non-profit' sponsors** as defined by the agency, with or without interest, and with such security for repayment, if any, as the agency determines reasonably necessary and practicable, solely from the housing development fund in accordance with the provisions of section

18, to encourage innovations in the development or rehabilitation of single and multiple family residential housing including the demonstration of new techniques for energy efficient construction.

"It shall promulgate rules, in accordance with the provisions of sections 15.0411 to 15.052, relating to the administration of the loans authorized by this subdivision. The rules may define types of projects eligible for loans, criteria for selecting between eligible loans, terms of the loans including interest rates and loan periods, and other characteristics that the agency deems necessary to administer the program.

Laws 1977, Ch. 401, § 18, provides the agency the authority to use certain funds for this program. It provides:

"It may make loans to enocurage innovations in the development or rehabilitation of single or multiple family residential housing pursuant to section 8. Loans pursuant to this subdivision shall only be made with money appropriated directly by the legislature specifically for this purpose."

These laws provide both the statutory authority and the general need for the promulgation of the proposed rules. The proposed rules deal only with basic eligibility and with selection criteria. They do not address specific details of the terms at which loans will be made because the agency expects to vary the terms and other details of the loan agreement in response to the particular type of project involved.

PROPOSED MINN. RULE MHFA 120 - APPLICATIONS FOR INNOVATIVE HOUSING LOANS.

8. MHFA 120 provides the basic requirements for an application for an Innovative Housing Loan. Any application that does not meet the criteria contained in that section will be rejected.

9. MHFA 120 A. requires that the applicant for the loan be a nonprofit entity, as required by Laws 1977, Ch. 401, § 8. Repeating the statutory requirement is crucial to a complete understanding of the rules. The definition of a non-profit entity is contained in Minn. Rule MHFA 2 G. and includes non-profit corporations, partnerships, joint ventures, and associations, and public housing and redevelopment authorities.

10. MHFA 120 B. reasonably requires that the project be located in the State of Minnesota.

11. MHFA 120 C. requires that the nonprofit entity applying for the loan have the organization, staff, and experience to actually carry out and complete the project for which the loan is made

so that the Innovative Housing Loan Fund is not wasted on unfinished projects.

12. MHFA 120 D. permits the proposed project to be either a limited-unit or a multi-unit development, but requires that it be designed primarily for occupancy by persons or families of low or moderate income. Laws 1977, Ch. 401, § 8, authorizes innovative loans for either "single" or "multi-family" residential housing. The purpose of the Agency as defined in Minn. Stat. § 462A.02 is to encourage housing for low and moderate income persons in Minnesota. The Agency's responsibility under the innovative housing loan statute is seen in the light of Minn. Stat. § 462A.02 as encouraging innovations that are practical for persons of low and moderate means, rather than financing the development of expensive new techniques which would be practical only for high income persons.

13. MHFA 120 E. requires that the non-profit entity show that it could not acquire financing for its project from the private financial market at this time. This requirement, which is imposed by statute (Minn. Stat. § 462A.05, subds. 2 and 3) with regard to certain other programs of the Agency, ensures that the limited amount of money available to the Agency for these innovative housing loans is not depleted on projects for which funding could be obtained from other sources. The legislative intent in establishing the Innovative Housing Loan Fund was to provide financing for innovative projects of potential benefit to the community in situations where private capital was unwilling to take the risk. The requirement of 120 E. ensures that the Agency will work with the private financial sector rather than compete against it so as to ensure maximum impact throughout the State.

14. MHFA 120 F. requires that the non-profit entity applying for the loan demonstrate its ability to repay the loan at the end of its term and to obtain other financing if necessary. Because the Innovative Housing Loan Fund was established as a revolving fund, the Agency must attempt to ensure repayment of the loans made from the fund so as not to eventually deplete it. The Agency's responsibility under the Innovative Housing Loan Program

is primarily to provide seed capital for projects which are unable to attract private financing in part because of their innovative nature. The Agency expects that most of these loans will extend only for the time necessary for the project to become functional, with the non-profit sponsor having the obligation to seek private financing to carry on the project after it has been able to demonstrate with Agency funding that its innovations are feasible and financially sound.

15. MHFA 120 G. requires that the project be "innovative" in a broadly defined sense. The intent is to encourage innovation in physical construction such as materials, equipment and building method, and also in intangibles such as marketing, financing and ownership. A project is defined as innovative if it is completely new to the housing industry, and also if it is new to a particular area of Minnesota. The purpose of the loans will be not only to provide money for experimentation on absolutely new techniques but also to educate the public, the construction industry, and the private financial market in particular areas as to already existing but little known techniques. This section is drafted as broadly as possible so as to include future innovations.

PROPOSED MINN. RULE MHFA 121 - SELECTION CRITERIA FOR INNOVATIVE HOUSING LOANS.

16. MHFA 121 is intended to provide selection criteria to enable the Agency to choose from among the applications that have met the basic requirements of MHFA 120. As was discussed at the hearing, the word "accept" should be changed to "approve" to more clearly show that the applications have already been "accepted" as meeting the basic requirements. This would not be a substantial change.

17. MHFA 121 A. requires the Agency to examine the extent to which the proposed project will provide new techniques for energy efficient construction as required by Laws 1977, Ch. 401, § 8.

18. MHFA 121 B. favors proposed projects that are capable of wide-spread practical and economic use. The intent of the

Agency is to use the limited funds available in such a way as to benefit the largest number of people in Minnesota by leveraging its funds through the attraction of private capital. This can only succeed if the Agency-funded projects, once under way, can be shown to have practical economic value.

19. MHFA 121 C. requires the Agency to look at the geographic location of the proposed project to ensure that the innovative loans are available to all the people of Minnesota and not just those of one particular region. The Agency realizes that a project can be innovative and new to one area of the State even though in another area it is well known. Therefore, the geographic location of the project must be examined to ensure that the loans are spread over different regions, that the projects serve the varied local needs of the people, and that the differing financial resources available to the various regions are taken into account.

20. MHFA 121 D. requires the Agency to look at the proposed time span for which the project will require agency financing. Because the loans will be made from a revolving fund, all other things being equal, the Agency will prefer to make short term loans so that the funds can be recycled most effectively. The exact term of the loan will, of course, depend on the type of project involved. Some long-term loans may be necessary and desirable.

21. MHFA 121 E. requires the Agency to examine the extent to which the proposed project may duplicate or conflict with other housing innovations. The purpose of the innovative loan fund is to encourage experimentation and to educate the public. Duplication of projects would normally not serve either goal unless the projects are in different areas.

22. MHFA 121 F. requires the Agency to examine the extent to which the proposed project will introduce an innovation, the effectiveness of which can be demonstrated or measured. The intent of the loan fund is to encourage innovations which can be put to effective use. An innovation may be so sophisticated, or provide benefits which would not be appreciable for so long a period of time, as to be incapable of practical demonstration. Such

projects would be less likely to serve the housing needs of Minnesota as a whole and therefore would be less likely to be approved.

23. MHFA 121 G. provides that the project should be available for demonstration purposes. The Agency will look at the extent to which the non-profit entity is willing to make its project available as an educational tool for the community and to make reports on its experience with the innovation so that knowledge of successful innovations can be broadened and the benefits of a particular loan maximized.

24. MHFA 121 H. requires the Agency to weigh the amount and terms of the requested loans. To maximize the effectiveness of the limited amount of money at its disposal, the Agency must select applications which, other things being equal, offer hope of a meaningful innovation in a short period of time at a reasonable cost. Because innovative proposals can be expected to vary considerably, it would be inadvisable for the Agency to put any specific limits on the terms of the loans at this time.

25. MHFA 121 I. requires that the proposed project be in conformity with Regional Development Commission plans and policies. A statewide agency must take into account the impact of its policies on local areas, and encourage rather than disregard local plans. Furthermore, it would be counter-productive to use Innovative Housing Loan Funds to sponsor projects that could not be widely used in a region because they were inconsistent with local zoning and growth plans.

CONCLUSIONS

1. Due, timely and adequate notice of the hearing was properly served and published by the Agency. All other substantive and procedural requirements have been fulfilled.

2. The Agency has demonstrated its statutory authority to adopt the proposed rules.

3. The Agency has demonstrated the need for and reasonableness of the proposed rules by an affirmative presentation of facts.

RECOMMENDATION

The Hearing Examiner recommends that the proposed rules be modified as suggested in Finding No. 16, and that, so modified, they be adopted.

Dated this 8th day of November, 1977.

STEVE M. MIHALCHICK
Hearing Examiner

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

IN THE MATTER OF THE PROPOSED ADOPTION)
OF RULES OF THE HOUSING FINANCE AGENCY)
RELATING TO THE INNOVATIVE HOUSING)
LOAN PROGRAM)

STATEMENT OF EVIDENCE

In addition to the "Statement of Need", which is available for inspection or purchase at the Office of the Hearing Examiner, Room 300, 1745 University Avenue, St. Paul, Minnesota and in support thereof the Minnesota Housing Finance Agency will introduce the following evidence to prove the need for and the reasonableness of the proposed rules:

Introduction:

The purpose of the Innovative Housing Loan Program is to encourage new techniques in the development or rehabilitation of housing. The very nature of the program demands flexibility on the part of the Agency because the exact form of the innovations that may be proposed in future years is necessarily unpredictable. The Minnesota legislature, in 1977 Minnesota Laws, Chapter 401, Section 8, gave the Agency this needed flexibility by stating that the Agency's rules for this program may define types of programs, terms of the loans, criteria for selection, etc. The proposed rules do not contain specific details of the terms at which loans will be made, because in keeping with the need for flexibility the Agency expects to vary the terms and other details of the loan agreement in response to the particular type of project involved.

MHFA 120:

MHFA 120 provides the basic requirements for an application for an Innovative Housing Loan. Any application that does not meet the criteria contained in that section will be rejected.

MHFA 120A requires that the applicant for the loan be a nonprofit entity, as required by Minnesota Laws of 1977, Chapter 401, Section 8. The definition of a nonprofit entity is contained in the rules of the Housing Agency, MHFA 2G and includes nonprofit corporations, partnerships, joint ventures, and associations, and public housing and redevelopment authorities.

MHFA 120B requires that the project be located in the State of Minnesota.

MHFA 120C requires that the nonprofit entity applying for the loan have the organization, staff, and experience to actually carry out and complete the project for which the loan is made, so that the Innovative Housing Loan Fund is not wasted on unfinished projects.

MHFA 120D permits the proposed project to be either a limited-unit or a multi-unit development, but requires that it be designed primarily for occupancy by persons or families of low or moderate income. Laws of Minnesota 1977, Chapter 401, Section 8 authorizes innovative loans for either "single" or "multi-family" residential housing. The purpose of the Agency as defined in Minn. Stat. §462A.02 is to encourage housing for low and moderate income persons in Minnesota. The Agency's responsibility under the innovative housing loan statute is seen in the light of Minn. Stat. §462A.02 as encouraging innovations that are practical for persons of low and moderate means, rather than financing the development of expensive new techniques which would be practical only for high income persons.

MHFA 120E requires that the nonprofit entity show that it could not acquire financing for its project from the private financial market at this time. This requirement, which is imposed by statute (Minn. Stat. §462A.05, subds. 2 and 3) with regard to certain other programs of the Agency, ensures that the limited amount of money available to the Agency for these innovative housing loans is not depleted on projects for which funding could be obtained from other sources. The legislative intent in establishing the Innovative Housing Loan Fund was to provide financing for innovative projects of potential benefit to the community, in situations where private capital was unwilling to take the risk. The requirement of 120E ensures that the Agency will work with the private financial sector rather than compete against it, so as to ensure maximum impact throughout the State.

MHFA 120F requires that the nonprofit entity applying for the loan demonstrate its ability to repay the loan at the end of its term and to obtain other financing if necessary. Because the Innovative Housing Loan Fund was established as a revolving fund, the Agency must attempt to ensure

repayment of the loans made from the fund so as not to eventually deplete it. The Agency's responsibility under the Innovative Housing Loan Program is primarily to provide seed capital for projects which are unable to attract private financing in part because of their innovative nature. The Agency expects that most of these loans will extend only for the time necessary for the project to become functional, with the nonprofit sponsor having the obligation to seek private financing to carry on the project after it has been able to demonstrate with Agency funding that its innovations are feasible and financially sound.

MHFA 120G requires that the project be "innovative" in a broadly defined sense. The intent is to encourage innovation in physical construction, such as materials, equipment, and building method, and also in intangibles such as marketing, financing, and ownership. A project is defined as innovative if it is completely new to the housing industry, and also if it is new to a particular area of Minnesota. The purpose of the loans will be not only to provide money for experimentation on absolutely new techniques but also to educate the public, the construction industry, and the private financial market in particular areas as to already existing but little known techniques. This section is drafted as broadly as possible so as to include future innovations.

MHFA 121:

MHFA 121 is intended to provide selection criteria to enable the Agency to choose from among the applications that have met the basic requirements of MHFA 120.

MHFA 121A requires the Agency to examine the extent to which the proposed project will provide new techniques for energy efficient construction, as required by Minnesota Laws 1977, Chapter 401, Section 8.

MHFA 121B favors proposed projects that are capable of wide-spread practical and economic use. The intent of the Agency is to use the limited funds available in such a way as to benefit the largest number of people in Minnesota, by leveraging its funds through the attraction of private capital. This can only succeed if the Agency-funded projects, once under way, can be shown to have practical economic value.

MHFA 121C requires the Agency to look at the geographic location of the proposed project, to ensure that the innovative loans are available to all the people of Minnesota, and not just those of one particular region. The Agency realizes that a project can be innovative and new to one area of the State even though in another area it is well known. Therefore, the geographic location of the project must be examined to ensure that the loans are spread over different regions, that the projects serve the varied local needs of the people, and that the differing financial resources available to the various regions are taken into account.

MHFA 121D requires the Agency to look at the proposed time span for which the project will require Agency financing. Because the loans will be made from a revolving fund, all other things being equal, the Agency will prefer to make short term loans, so that the funds can be recycled most effectively. The exact term of the loan will, of course, depend on the type of project involved. Some long-term loans may be necessary and desireable.

MHFA 121E requires the Agency to examine the extent to which the proposed project may duplicate or conflict with other housing innovations. The purpose of the innovative loan fund is to encourage experimentation and to educate the public. Duplication of projects would normally not serve either goal, unless the projects are in different areas.

MHFA 121F requires the Agency to examine the extent to which the proposed project will introduce an innovation, the effectiveness of which can be demonstrated or measured. The intent of the loan fund is to encourage innovations which can be put to effective use. An innovation may be so sophisticated, or provide benefits which would not be appreciable for so long a period of time, as to be incapable of practical demonstration. Such projects would be less likely to serve the housing needs of Minnesota as a whole and therefore would be less likely to be approved.

MHFA 121G provides that the project should be available for demonstration purposes. The Agency will look at the extent to which the nonprofit entity is willing to make its project available as an educational tool for the community and to make reports on its experience with the innovation, so that knowledge of successful innovations can be broadened, and the benefits of a particular loan maximized.

MHFA 121H requires the Agency to weigh the amount and terms of the requested loans. To maximize the effectiveness of the limited amount of money at its disposal, the Agency must select applications which, other things being equal, offer hope of a meaningful innovation in a short period of time at a reasonable cost. Because innovative proposals can be expected to vary considerably, it would be inadvisable for the Agency to put any specific limits on the terms of the loans at this time.

MHFA 121I requires that the proposed project be in conformity with Regional Development Commission plans and policies. A statewide agency must take into account the impact of its policies on local areas, and encourage rather than disregard local plans. Furthermore, it would be counter-productive to use Innovative Housing Loan Funds to sponsor projects which could not be widely used in a region because they were inconsistent with local zoning and growth plans.

The Agency intends to call Mark Korell, Director of Home Improvement and Mortgage Loan Programs for the Agency as an expert witness to testify at the hearing on these proposed rules. The Agency will cite the following statutes: Minn. Stat. Chapter 462A; Minnesota Laws of 1977, Chapter 401; and Rules and Regulations of the Minnesota Housing Finance Agency.

MINNESOTA HOUSING FINANCE AGENCY

By George Reilly
George Reilly
Special Attorney for the
Minnesota Housing Finance Agency

Dated: September 30, 1977

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

IN THE MATTER OF THE PROPOSED ADOPTION)
OF RULES OF THE HOUSING FINANCE AGENCY)
RELATING TO THE INNOVATIVE HOUSING) STATEMENT OF NEED
LOAN PROGRAM)

The above-captioned rules contain amendments to existing rules of the Minnesota Housing Finance Agency relating to the Innovative Housing Loan Program. The most recent formal amendment of the rules of the Minnesota Housing Finance Agency was June 23, 1977.

In general, the need to adopt these rules arises because of a legislative mandate contained in Minn. Stat. §15.0412, subd. 3 and Minn. Stat. §462A.06, subd. 11 that the Agency adopt rules setting forth the nature and requirements of the procedures relating to Agency programs. In particular the rules are necessary to establish the requirements for applications, and the criteria for selection of applicants, for the Innovative Housing Loan Program authorized by Minnesota Laws of 1977, Chapter 401, Sections 8 and 18, Minn. Stat. §462A.05, subd. 18 and §462A.21, subd. 9 as amended. These sections empower the Agency to make loans to nonprofit sponsors to encourage innovations in the development or rehabilitation of single and multi-family residential housing and to promulgate rules relating to the administration of such loans.

It is the considered judgment of the Agency that the rules as proposed are necessary to delineate program administration and are required to discharge the legislative mandate noted.

MINNESOTA HOUSING FINANCE AGENCY

By George Reilly
George Reilly
Special Attorney

Dated: September 30, 1977

RECEIVED
SEP 29 1977
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA HOUSING FINANCE AGENCY RELATING TO THE INNOVATIVE HOUSING LOAN PROGRAM

CERTIFICATE

I hereby certify that the attached 490 Labels, 2 Sheets constitute the complete list of persons, associations, and other interested groups who as of 1:00 o'clock PM, this 23 day of September, 1977, have requested pursuant to M. S. 1974, Section 15.0412, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

SECRETARY OF STATE

Joan Anderson Growe

By: Cheri L. Mattson

Agy's Exhibit No. F

File No.

Date

RECEIVED
SEP 29 1977
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA HOUSING FINANCE AGENCY RELATING TO THE INNOVATIVE HOUSING LOAN PROGRAM

AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S LIST

Mike Kuschke, being duly sworn on oath deposes and says:

1) That affiant is an employee of the Minnesota Housing Finance Agency, an Agency of the State of Minnesota.

2) That on the 23rd day of September, 1977, affiant went to the Secretary of State's Office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to M. S. 15.0412.

3) That on the 23rd day of September, 1977, in response to the above request, the Secretary of State provided such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Mike Kuschke

Subscribed and sworn to before me this 23rd day of September, 1977.

Linda M. Kluwe

Notary Public, Ramsey County, Minnesota.

My Commission Expires: 2/16/83

LINDA M. KLUWE
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My Commission Expires Feb. 16, 1983

Agy's Exhibit No. G

File No.

Date

RECEIVED
SEP 29 1977
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA HOUSING FINANCE AGENCY RELATING TO THE INNOVATIVE HOUSING LOAN PROGRAM

AFFIDAVIT OF MAILING

Bonnie Nelson, being first duly sworn, deposes and says:

That on the 27th day of September, 1977, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State.

Bonnie Nelson

Subscribed and sworn to before me
this 27th day of Sept., 1977.

Roseann M. Koran
Notary Public

ROSEANN M. KORAN
Notary Public, Ramsey County, Minn.
MY COMMISSION EXPIRES
March 14, 1979

Agy's Exhibit No. H
File No.
Date

RECEIVED
SEP 9 1977
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA HOUSING FINANCE AGENCY RELATING TO THE INNOVATIVE HOUSING LOAN PROGRAM	ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above-captioned rules be held in Conference Room A, Capitol Square Building on October 28, 1977, commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

James F. Dlugosch
Executive Director

Date: September 2, 1977

Agy's Exhibit No. B
File No.
Date

MINNESOTA HOUSING FINANCE AGENCY
480 Cedar Street
St. Paul, Minnesota 55101

RECEIVED
SEP 9 1977
OFFICE OF HEARING
EXAMINERS

RESOLUTION NO. MHFA 77-68

RESOLUTION AUTHORIZING PUBLIC HEARING ON
PROPOSED RULES

BE IT RESOLVED BY THE MINNESOTA HOUSING FINANCE AGENCY:

That James Dlugosch, the Executive Director of the Minnesota Housing Finance Agency, be and he hereby is authorized and directed (1) to call a hearing for the purpose of promulgating rules of the Minnesota Housing Finance Agency, relating to the innovative housing loan program; (2) to arrange for a hearing examiner to act as presiding officer at said hearing; and (3) to perform all other acts incidental to such hearing including without limitation signing an order of hearing and notice of hearing.

Adopted by the Minnesota Housing
Finance Agency this 25th day of
August, 1977.

By Demetrius G. Jelatis
Chairman

Attest: Robert W Mattson
Secretary

MINNESOTA HOUSING FINANCE AGENCY
480 Cedar Street
St. Paul, Minnesota 55101

RECEIVED
SEP 9 1977
OFFICE OF HEARING
EXAMINERS

CERTIFICATE OF RESOLUTION
OF
THE MINNESOTA HOUSING FINANCE AGENCY

The undersigned does hereby certify that he is the Secretary of the Minnesota Housing Finance Agency, an Agency duly authorized under the laws of the State of Minnesota; that the following is a true, complete and correct copy of a resolution adopted at a meeting of the Minnesota Housing Finance Agency duly and properly called and held on the 25th day of August, 1977; that a quorum was present at said meeting; that a majority of those present voted in favor of the adoption of said resolution; that said resolution is set forth in the minutes of said meeting; and that said resolution has not been altered, modified or annulled and remains in full force and effect:

"BE IT RESOLVED BY THE MINNESOTA HOUSING FINANCE AGENCY:

"That James Dlugosch, the Executive Director of the Minnesota Housing Finance Agency, be and he hereby is authorized and directed (1) to call a hearing for the purpose of promulgating rules of the Minnesota Housing Finance Agency, relating to the innovative housing loan program; (2) to arrange for a hearing examiner to act as presiding officer at said hearing; and (3) to perform all other acts incidental to such hearing including without limitation signing an order of hearing and notice of hearing."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 7th day of September, 1977.

Attest: Demetrius G. Jelatis
Member

Secretary

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

IN THE MATTER OF THE PROPOSED ADOPTION)
OF RULES OF THE HOUSING FINANCE AGENCY)
RELATING TO THE INNOVATIVE HOUSING LOAN)
PROGRAM)

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter will be held in Conference Room A, Capitol Square Building, on October 28, 1977 commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing or by mail to Steve Mihalchick, Room 300, 1745 University Avenue, St. Paul, Minnesota, 55104 either before the hearing or within 5 working days after the close of the hearing, or 20 days if ordered by the hearing examiner.

The proposed rules, if adopted, would establish guidelines for the innovative home loan program, as authorized by Laws of 1977, Chapter 401, Sections 8 and 18.

A copy of the proposed rules is attached hereto and one additional free copy may be obtained by writing to the Minnesota Housing Finance Agency, First Floor-Hanover Building, 480 Cedar Street, St. Paul, Minnesota, 55101. Additional copies will be available at the door at the date of the hearing. A "statement of need" explaining why the Agency believes the proposed rules are necessary and a "statement of evidence" outlining the testimony which the Agency will introduce will be filed with the Hearing Examiner's Office at least 25 days prior to the hearing and will be available there for public inspection.

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 a year or five (5) hours per month for lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone: (612) 296-5615.

James F. Dlugosch
Executive Director

Date: September 2, 1977

CHAPTER 10 : INNOVATIVE HOUSING LOAN PROGRAM

MHFA - 120 - Applications for Innovative Housing Loans.

To be eligible to be selected for an Innovative Housing Loan, to be made from the fund established pursuant to Minn.Stat. Sections 462A.05, Subd. 18 and 462A.21, Subd. 9, each applicant must satisfy the following requirements:

(a) The applicant must be a non-profit entity.

(b) The project must be located in the State of Minnesota.

(c) Satisfactory evidence must be presented of the applicant's ability to organize and to complete the project for which the Innovative Housing Loan is requested.

(d) The project may be a limited-unit development or a multi-unit development, but must be designed for, and intended for occupancy primarily by, persons and families of low or moderate income.

(e) Satisfactory evidence must be presented that a loan is not otherwise available from private lenders upon reasonable terms and conditions.

(f) Satisfactory evidence must be presented that the applicant has or will have the ability to repay the Innovative Housing Loan and to obtain other financing, if needed, at the expiration of the term of the Loan.

(g) The project must be innovative; that is, it must involve the use of equipment or materials or of a

method of design, construction, marketing or financing which is not generally in use in the housing industry or of which the public is not generally aware.

MHFA - 121 - Selection Criteria for Innovative Housing Loans.

In determining whether or not to accept applications from non-profit entities for Innovative Housing Loans, the Members shall examine the following facts and make their determinations thereon:

(a) The extent to which the project will conserve energy, result in a more efficient use of energy, or employ a source of energy not generally utilized by the housing industry.

(b) The extent to which the innovation is likely to be capable of widespread, practical and economic use.

(c) The geographic location of the proposed project within the State of Minnesota, taking into account other projects theretofore approved for Innovative Housing Loans.

(d) The period of time required to complete the project.

(e) The extent to which the project duplicates, or is in conflict with, other innovations in housing design, methods or materials.

(f) The extent to which the innovation will be capable of being monitored to demonstrate its efficiency, economy, acceptability, effectiveness, and durability.

(g) The extent to which the innovation will be capable of and available for demonstration.

(h) The amount and term of the requested Innovative Housing Loan, as compared to the total resources of the Agency available for such Loans.

(i) Whether the applicable Regional Development Commission has determined that the project is consistent with regional plans and policies.

STATE OF MINNESOTA
MINNESOTA HOUSING FINANCE AGENCY

IN THE MATTER OF THE PROPOSED ADOPTION) OF RULES OF THE HOUSING FINANCE AGENCY) RELATING TO THE INNOVATIVE HOUSING LOAN) PROGRAM)	CERTIFICATE OF RESOLUTION OF THE MINNESOTA HOUSING FINANCE AGENCY

The undersigned hereby certifies that he is the Secretary of the Minnesota Housing Finance Agency, an Agency duly authorized under the laws of the State of Minnesota; that the resolution attached hereto as Exhibit A is a true, complete and correct copy of a resolution adopted at a meeting of the Minnesota Housing Finance Agency duly and properly called and held on the 22nd day of December, 1977; that a quorum was present at said meeting; that a majority of those present voted in favor of the adoption of said resolution; that said resolution has not been altered, modified or annulled and remains in full force and affect.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 22 day of December, 1977.

Attest: James C. Price

Lawrence E. Gavin
Member

Robert W. Matt
Secretary

STATE OF MINNESOTA
MINNESOTA HOUSING FINANCE AGENCY

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE HOUSING FINANCE AGENCY RELATING TO THE INNOVATIVE HOUSING LOAN PROGRAM	Resolution No. 77 - RESOLUTION AND ORDER ADOPTING REPORT OF HEARING EXAMINER AND RULES

WHEREAS, pursuant to Board Resolution No. 77-68 of August 25, 1977 the Executive Director was authorized to call a public hearing on the above entitled proposed rules which were presented to the Board on that day; and

WHEREAS, the above-entitled matter having come on for hearing before Steve Mihalchick, Hearing Examiner of the State of Minnesota, on the 28th day of October, 1977 at 9:30 a.m. in the Capitol Square Building, St. Paul, Minnesota after proper notice required by Minnesota Statutes, Section 15.0412 was served upon all persons, associations, and all other interested groups registered with the Secretary of State for that purpose; and

WHEREAS, on the 8th day of November, 1977, after consideration of the proposed rules and the evidence presented in writing and at the public hearing the Hearing Examiner issued a report approving the rules as proposed by the Agency at the hearing with the single modification that the first line of MHFA 121 be amended to read: "In determining whether or not to ~~accept~~ approve applications from non-profit entities . . ."; and

WHEREAS, the Board finds that the modification proposed by the Hearing Examiner will improve the clarity of MHFA 121;

NOW THEREFORE, having afforded interested persons an opportunity to present written and oral data, statements, and arguments, having considered all of the testimony and evidence contained in the records, files, and proceedings herein and applicable statutory standards and criteria, and having confirmed the need for the above-captioned rules,

IT IS HEREBY RESOLVED BY THE MINNESOTA HOUSING FINANCE AGENCY:

(1) That the Findings of Fact, Conclusions, and Recommendations of the Hearing Examiner dated November 8, 1977 be and hereby are adopted; and

(2) That the rules attached hereto as Exhibit A and incorporated herein by this reference as if fully set forth herein be and hereby are adopted; and

(3) That James Dlugosch, the Executive Director of the Minnesota Housing Finance Agency be and he hereby is authorized and directed to present these rules as adopted to the Chief Hearing Examiner and to the Attorney General for review and approval pursuant to Minn. Stat. §15.0412; to arrange at the appropriate time for the publication of these rules in the State Register; and to perform all of the acts necessary in connection with the promulgation of said rules.

ADOPTED BY THE MINNESOTA HOUSING FINANCE AGENCY THIS 22nd DAY OF DECEMBER, 1977.

By_____
Chairman

Attest:_____
Secretary

Minnesota Housing Finance Agency
Adopted Rules Governing
the Innovative Housing Loan Program

CHAPTER 10: INNOVATIVE HOUSING LOAN PROGRAM

MHFA 120 - Applications for Innovative Housing Loans.

To be eligible to be selected for an Innovative Housing Loan, to be made from the fund established pursuant to Minn.Stat. Sections 462A.05, Subd. 18 and 462A.21, Subd. 9, each applicant must satisfy the following requirements:

A. The applicant must be a non-profit entity.

B. The project must be located in the State of Minnesota.

C. Satisfactory evidence must be presented of the applicant's ability to organize and to complete the project for which the Innovative Housing Loan is requested.

D. The project may be a limited-unit development or a multi-unit development, but must be designed for, and intended for occupancy primarily by, Persons and Families of Low or Moderate Income.

E. Satisfactory evidence must be presented that a loan is not otherwise available from private lenders upon reasonable terms and conditions.

F. Satisfactory evidence must be presented that the applicant has or will have the ability to repay the Innovative Housing Loan and to obtain other financing, if needed, at the expiration of the term of the Loan.

G. The project must be innovative; that is, it must involve the

use of equipment or materials or of a method of design, construction, marketing, or financing which is not generally in use in the housing industry or of which the public is not generally aware.

MHFA 121 - Selection Criteria for Innovative Housing Loans.

In determing whether or not to [accept] approve applications from non-profit entities for Innovative Housing Loans, the Members shall examine the following facts and make their determinations thereon:

A. The extent to which the project will conserve energy, result in a more efficient use of energy, or employ a source of energy not generally utilized by the housing industry.

B. The extent to which the innovation is likely to be capable of widespread, practical, and economic use.

C. The geographic location of the proposed project within the State of Minnesota, taking into account other projects theretofore approved for Innovative Housing Loans.

D. The period of time required to complete the project.

E. The extent to which the project duplicates, or is in conflict with, other innovations in housing design, methods, or materials.

F. The extent to which the innovation will be capable of being monitored to demonstrate its efficiency, economy, acceptability, effectiveness, and durability.

G. The extent to which the innovation will be capable of and available for demonstration.

H. The amount and term of the requested Innovative Housing Loan,

as compared to the total resources of the Agency available for such Loans.

I. Whether the applicable Regional Development Commission has determined that the project is consistent with regional plans and policies.