

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our file #61

Permanent Rule X

Temporary Rule _____

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 5/15 DUE DATE 6/4

Resubmitted and Received _____

a. Returned to Agency w/o Filing w/Secretary of State _____
b. Approved 6/2 Date Sent Back to Agency 6/4

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1. Rules as Adopted ✓
2. Rules as Proposed ✓
3. Certificate of Board's Authorizing Resolution, where applicable ✓
4. Order for Hearing ✓
5. Notice of Hearing ✓ 3.28.80
   Sufficiency ✓
6. Secretary of State's List ✓ (one copy only)
7. Certificate of Acquisition of Secretary of State's List ✓ copy not submitted but see HE rpt page 2.
8. Secretary of State's Certification of Delivery of Secretary of State's List to Agency ✓
9. Affidavit of Mailing ✓
   At least 30 days prior to hearing ✓
10. Publication in State Register ✓ copy not submitted but see HE rpt. page 1
    At least 30 days prior to hearing 3.25.80
11. Statement of Need and Evidence ✓
12. Hearing Examiner's Report ✓
13. Agency's Findings of Fact ✓ incorporated in #14
14. Certificate of Board's Resolution Adopting Rules, where applicable ✓ Resolution itself submitted
15. Order Adopting ✓ incorporated in #14
16. Report of Chief Hearing Examiner ✓
17. Order Approving Incorporation by Reference, where applicable N/A
18. Certificate of Compliance with Rulemaking Procedures ✓
19. Copy of Notice of Intent to Solicit Outside Opinion, where applicable ✓ only for Urban Indian Housing Program — SA 2.5.79.
20. Petition by Public, where applicable N/A

#501

ADMIN 1000 (Rev. 1/78)
SF-00006-01

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : JAMES E. DINERSTEIN
Special Assistant
Attorney General

DATE: June 4, 1980

FROM : JERRY ANDERSON
Special Assistant
Attorney General

PHONE: 296-1288

SUBJECT: Rules as Approved In the Matter of the Proposed Adoption of Rules of the Minnesota Housing Finance Agency Relating to the Home Improvement Grant Program, the Definition of Developmentally Disabled, and American Indian Housing Programs.

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Note that they have NOT been filed with the State Register; this must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of the stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages of the rules in the approved set.

Directly following the approved rules is a complete set of required documents and transcript which must be retained with the rules by you or your agency.

If you have any questions in this regard, please contact me.

JA/bw
Enclosure
cc: Duane Harves
Susan Robertson

ADMIN 1000 (Rev. 1/78)
SF-00006-01

STATE OF MINNESOTA

DEPARTMENT MN HOUSING FINANCE AGENCY

Office Memorandum

TO : Jerry S. Anderson
Special Assistant Attorney General

DATE: May 29, 1980

FROM : James E. Dinerstein
Special Assistant Attorney General

PHONE: 296-7994

SUBJECT: MHFA Rules Relating to the Home Improvement Grant Program, The Definition of Developmentally Disabled, and American Indian Housing Programs

In reviewing the materials submitted to the Attorney General for review, I have discovered 2 typographical errors which should be corrected in the rules submitted to the Secretary of State.

The adopted rules are described in the heading to the rules as "proposed" rules. The word "proposed" should be changed to "adopted".

In the first line of 12 MCAR Section 3.002 P, the word "as" appears before the word "individual". The word "as" should be changed to read "an".

Thank you for your assistance in this matter.

RECEIVED
MAY 29 1980
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

PRINTED ON RECYCLED PAPER

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 HOME IMPROVEMENT GRANT PROGRAM, THE DEFINITION OF DEVELOPMENTALLY DISABLED, AND AMERICAN INDIAN HOUSING PROGRAMS	Resolution No. MHFA 80-17 RESOLUTION ADOPTING REPORT OF HEARING EXAMINER AND RULES

WHEREAS, pursuant to Board Resolution No. MHFA 80-1 of January 24, 1980, the Executive Director was authorized to call a public hearing on the above-entitled proposed rules which were presented to the Board on that date; and

WHEREAS, the above-entitled matter having come on for hearing before Peter C. Erickson, Hearing Examiner of the State of Minnesota on March 28, 1980, at 9:00 a.m. at Room 300, 1745 University Avenue, St. Paul, Minnesota after proper notice required by Minn. Stat. §15.0412 was served upon all persons, associations, and other interested groups registered with the Secretary of State for that purpose; and

WHEREAS, on April 16, 1980, 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 a number of suggested amendments; and

WHEREAS, after consideration of the Hearing Examiner's report, the Agency has proposed the Amendments in the attached Exhibit A in order to respond to the suggestions in the report of the Hearing Examiner;

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 April 16, 1980 be and hereby are adopted; and

2. that the rules attached hereto as Exhibit B and incorporated herein by this reference as if fully set forth herein be and hereby are adopted; and

3. that the Executive Director of the Minnesota Housing Finance Agency, be and 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 other acts necessary in connection with the promulgation of said rules.

Adopted by the Minnesota Housing Finance Agency this 24th day of April, 1980.

By _____
Chairman

By _____
Secretary

EXHIBIT A

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA HOUSING FINANCE AGENCY RELATING TO THE HOME IMPROVEMENT GRANT PROGRAM, THE DEFINITION OF DEVELOPMENTALLY DISABLED, AND AMERICAN INDIAN HOUSING PROGRAMS

12 MCAR § 3.152 The urban Indian housing loan program. The urban Indian housing loan program provides loans for housing for American Indian persons and families residing in urban areas of the state. The program is implemented through Administrators selected by the Agency after review of proposals submitted pursuant to these rules. A proposal by an Administrator may serve all or a portion of the eligible areas of the state of Minnesota. The eligible areas are the metropolitan area as defined in Minnesota Statutes § 473.121, subdivision 2 and any city with a population greater than 50,000 persons. To the extent practicable, the Agency shall allocate urban Indian loan program funds equitably among eligible areas, based upon American Indian population estimates. To assist potential applicants, the Agency shall provide, upon request, information describing potential uses of urban Indian housing loan program funds.

12 MCAR § 3.155 Application of other rules. 12 MCAR § § 3.093 to 3.098, 3.101 and 3.105 shall apply to programs under this chapter, except that the Administrator may make loans with appropriated funds without interest.

12 MCAR § 3.157

D. Any further provision necessary to assure that the program will be carried out pursuant to these rules and Minnesota Statutes Section 462A.07, Subdivision 15.

EXHIBIT B

Minnesota Housing Finance Agency

~~Proposed~~ Adopted Rules Covering the Home Improvement Grant Program; the Definition of Developmentally Disabled; and American Indian Housing Programs.

12 MCAR § 3.002 O. "Persons and Families of Low and Moderate Income" means:

3. with respect to Home Improvement Grants to be made by the Agency, those persons and families whose Adjusted Income does not exceed ~~$5,000~~ $6,000 and whose Assets, excluding the property to be improved, does not exceed $25,000; and

12 MCAR § 3.002 P. "Developmentally Disabled" means ~~as~~ an individual who has a severe, chronic disability which:

~~1. is attributable to mental retardation, cerebral palsy, epilepsy, or other neurological condition found to be closely related to mental retardation or to require treatment similar to that for mentally retarded individuals;~~

~~2. originated at an age earlier than 18 years of age, is continuing, and can be expected to continue indefinitely; and~~

~~3. constitutes a substantial handicap to the individual.~~

1. is attributable to a mental or physical impairment or a combination of mental and physical impairments;

2. is manifested before the person attains the age of twenty-two;

3. is likely to continue indefinitely;

4. results in substantial functional limitations in three or more of the following areas of major life activity; (i) self-care (ii) receptive and expressive language (iii) learning (iv) mobility (v) self-direction (vi) capacity for independent living and (vii) economic sufficiency;

5. reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services which are of lifelong or extended duration.

12 MCAR § 3.061 G. ~~The Agency shall submit all plans to the applicable Regional Development Commission (including the Metropolitan Council) and shall consider the comments and recommendations of such Commissions with respect to the extent to which the plan assists in satisfying the housing needs for such region.~~

12 MCAR § 3.061 ~~B~~ C. The Agency shall allocate the ~~total~~ funds available at any time ~~ratably~~ among the several regions, based upon data assembled by the Agency and accurately reflecting housing needs and related factors. The Agency shall submit its proposed allocation of funds to the applicable Regional Development Commission (including the Metropolitan Council) and shall consider the comments and recommendations of the Commissions with respect to the extent to which the proposed allocation assists in satisfying the housing needs for the region.

12 MCAR § 3.096 Duration of loan. No loan shall be made for a term in excess of thirty (30) years on a structure or structures designed for occupancy by not more than four families, or a dwelling unit in a planned unit development or a condominium. The maximum term of a rehabilitation loan for an existing structure or structures designed for occupancy by not more than four families or a dwelling unit in a planned unit development or a condominium shall not exceed ~~twelve-(12)~~ fifteen (15) years. For all other residential structures, the maximum term of any loan including a rehabilitation loan, granted pursuant to the Act, Plan, and these Rules shall not exceed forty (40) years.

Chapter 13. Urban Indian Housing Loan Program.

12 MCAR § 3.150 Scope of rules. The rules provided in 12 MCAR § § 3.150 to 3.157 shall govern the implementation of the urban Indian housing loan program established in Minnesota Statutes section 462A.07, Subdivision 15.

12 MCAR § 3.151 DEFINITION. "Administrator" means a nonprofit entity or local community as defined by 12 MCAR § 3.002 or Indian tribal organization eligible pursuant to 12 MCAR § § 3.090 to 3.108 which carries out a loan program of housing for low and moderate income American Indians using urban Indian housing loan program funds.

12 MCAR § 3.152 The urban Indian housing loan program. The urban Indian housing loan program provides loans for housing for American Indian persons and families residing in urban areas of the state. The program is implemented through Administrators selected by the Agency after review of proposals submitted pursuant to these rules. A proposal by an Administrator may serve all or a portion of the eligible areas of the state of Minnesota. The eligible areas are the metropolitan area as defined in Minnesota Statutes § 473.121, subdivision 2 and any city with a population greater than 50,000 persons. To the extent practicable, the Agency shall allocate urban Indian loan program funds equitably among eligible areas, based upon American Indian population estimates. To assist potential applicants, the Agency shall provide, upon request, information describing potential uses of urban Indian housing loan program funds.

12 MCAR § 3.153 Proposal from Administrators.

A. The Agency shall announce the availability of urban Indian loan program funds by publishing in the State Register a notice of Request For Proposals and by sending such notice to the persons and organizations on the Agency's Urban Indian mailing list. The notice shall specify that interested parties should obtain a complete Request for Proposals from the Agency and shall specify the period in which proposals may be submitted, which period may not be less than 60 days from the date on which the notice is published in the State Register.

B. The Request for Proposals shall be prepared by the Agency and made available to interested parties as provided in paragraph A. The Request for Proposals shall contain a description of the purposes and objectives of the urban Indian housing loan program, the content of a proposal, and the Agency process for selecting proposals.

C. The Request for Proposals shall provide that each proposal submitted to the Agency shall contain:

1. evidence that the organization submitting the proposal is a nonprofit entity, local community or Indian tribal organization and evidence that the organization has the capacity to successfully carry out the program;

2. a proposed program which describes, in adequate detail as determined by the agency:

a) the communities or portions thereof to be served.

b) the housing needs of the American Indians residing in the areas to be served and the manner in which the proposed program assists in meeting those needs.

c) a financial description of the program, including the dollar amount of program funds requested, types of loans to be made, the terms of the loans and the costs of program administration and the manner in which these costs will be paid.

d) a description of the manner in which the program will be implemented and operated, including the duration of the program method of outreach and selection of loan recipients, and procedures for servicing loans over the life of the program.

e) the source of any funds other than the urban Indian housing loan program to be included in the program of

the applicant, and evidence that these funds will be available.

3. any additional information which the Agency in its reasonable discretion deems necessary after initial review of the proposal to evaluate the merits of the program. The Agency may meet with representatives of the organizations submitting proposals to review proposals and request such additional information.

D. The Agency shall provide a copy of each proposal it receives to the Advisory Council on Urban Indians, and shall forward to the Advisory Council a copy of any additional written material received regarding each proposal. The Advisory Council on Urban Indians shall review all proposals. Upon request of the Advisory Council, the organization submitting a proposal shall present the proposal before the Advisory Council.

E. The Request For Proposals shall provide that an organization submitting a proposal which meets the objectives of the urban Indian housing loan program and which the organization determines is not best presented in the form of proposal required by the Request For Proposals may submit the proposal in any form desired, provided that the organization also submits a proposal meeting the requirements of the Request For Proposals.

12 MCAR § 3.154 Additional requirements. Each program must provide for loans for the construction, purchase, or rehabilitation of residential housing. Except as otherwise provided herein and by 12 MCAR § 3.034, each person or family initially occupying a dwelling unit financed pursuant to the act, program and these rules shall be an American Indian as defined by Minn. Stat. § 254A.02, subd. 11 or an American Indian family as defined by 12 MCAR § 3.092, and of low and moderate income, as defined by 12 MCAR § 3.002; provided that developers of multifamily housing developments need not be American Indians or low and moderate income. In obtaining assistance under this program, Indian persons and families

shall not be discriminated against on the basis of tribal affiliation or tribal enrollment.

12 MCAR § 3.155 Application of other rules. 12 MCAR § § 3.093 to 3.098, 3.101 and 3.105 shall apply to programs under this chapter, except that the Administrator may make loans with appropriated funds without interest.

12 MCAR § 3.156 Selection of proposals. The Agency may approve a program of an administrator in whole or in part, and may approve a program for a limited geographic area. In determining whether or not to approve applications to administer programs under the urban Indian program, the members shall examine the following facts and make their determinations thereon:

A. Any written comments received by the Agency from the Advisory Council regarding the applications for the proposed programs. The Agency shall consider the conclusions of the Advisory Council and the reasons given in support of the conclusions, including the Council's evaluation of the applications under the criteria listed in paragraphs B and C;

B. The extent to which the program will assist in serving the housing needs of the urban Indian community. Factors to be considered include:

1. the extent to which the program duplicates or is in conflict with other programs which provide housing for urban Indians and the extent to which the program will demonstrate the feasibility of alternative methods for providing housing for urban Indians.

2. the geographic location of the proposed program and the percentage of the Minnesota urban Indian community residing in the geographic area or areas to be served, as determined by the Agency according to population data.

3. the method of program administration, the time required to implement the program, and the capacity of the administrator to carry out the program.

4. the extent to which American Indians are involved in the administration of the program, and in the ownership, management, and labor force of any contractors and subcontractors intended to be employed in the program.

C. The extent to which the use of appropriated funds reduces housing costs to American Indian persons or families and the extent to which the program combines the proceeds of appropriated funds with proceeds of bonds of the Agency, or of other issues of bonds, or otherwise uses available money to leverage the appropriated funds.

12 MCAR § 3.157 Agreements. Any decision by the Agency to select a proposal to administer funds pursuant to these rules shall be contingent upon the execution of an agreement, satisfactory to the Agency, between the Agency and the administrator. The agreement shall include a detailed description of the program to be administered and shall provide:

A. The conditions for repayment, without interest of all funds advanced by the Agency;

B. The circumstances under which the Agency shall provide technical assistance to the administrator and the amount of remuneration to be received by the Agency from the administrator for its assistance and monitoring;

C. That, except for loans made under programs administered by the Agency under other programs, the final decision on applications for loans to eligible borrowers shall be made by the administrator and that the duties of the originator and rights of the Agency shall be the same as those provided for the Tribe, Band, and Communities and the Agency pursuant to 12 MCAR § § 3.104, 3.107, and 3.108; and

D. Any further provision necessary to assure that the program will be carried out pursuant to these rules and Minnesota Statutes Section 462A.07, Subdivision 15.

APPROVED AS TO FORM AND LEGALITY

JUN 0 2 1980 19____

WARREN SPANNAUS, ATTORNEY GENERAL

BY _____

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN - 4 1980
Joan Anderson
Secretary of State
1:30

ADMIN 1000 (Rev. 1/78)
SF-00006-01

STATE OF MINNESOTA

DEPARTMENT MN HOUSING FINANCE AGENCY

Office Memorandum

TO : Jerry S. Anderson
Special Assistant Attorney General

DATE: May 29, 1980

FROM : James E. Dinerstein
Special Assistant Attorney General

PHONE: 296-7994

SUBJECT: MHFA Rules Relating to the Home Improvement Grant Program, The Definition of Developmentally Disabled, and American Indian Housing Programs

In reviewing the materials submitted to the Attorney General for review, I have discovered 2 typographical errors which should be corrected in the rules submitted to the Secretary of State.

The adopted rules are described in the heading to the rules as "proposed" rules. The word "proposed" should be changed to "adopted".

In the first line of 12 MCAR Section 3.002 P, the word "as" appears before the word "individual". The word "as" should be changed to read "an".

Thank you for your assistance in this matter.

RECEIVED
MAY 29 1980
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

PRINTED ON RECYCLED PAPER

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of Rules of the Minnesota Housing Finance Agency Relating to the Home Improvement Grant Program, the Definition of Developmentally Disabled, and American Indian Housing Programs.

REPORT OF THE HEARING EXAMINER

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson of the State Office of Hearing Examiners at 9:00 a.m. on Friday, March 28, 1980 in Conference Room A of the Capitol Square Building, St. Paul, Minnesota.

James E. Dinerstein, Special Assistant Attorney General, appeared on behalf of the Minnesota Housing Finance Agency (HFA). Riva Lee, Director of Research, Mary Tingerthal, Manager of Home Improvement Programs, Ramona Jones, Indian-Rural Housing Specialist, and Monte Aaker, Research Analyst, appeared and were available for questioning on the proposed rules. The hearing continued until all interested groups or persons had had an opportunity to be heard concerning the adoption of the proposed rules.

Pursuant to Minn. Stat. § 15.0412, subd. 4 (1978), this Report shall be available for review to all affected individuals upon request for at least five days. Thereafter, the Housing Finance Agency shall, if it proposes to adopt the rules as originally proposed or amended, submit a copy of the Order Adopting Rules, a copy of any additional agency findings, a copy of the rules as originally proposed, and a copy of the rules as adopted to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, subd. 4 (1978). The submission to the Chief Hearing Examiner shall precede review by the Attorney General. The Chief Hearing Examiner shall complete his review and submit his report to the Housing Finance Agency on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 (1978) within ten calendar days. The Agency will 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

1. On February 6, 1980, the HFA filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules.
(b) The Order for Hearing proposed to be issued.
(c) The Notice of Hearing proposed to be issued.
(d) A Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

2. On February 25, 1980, a Notice of Hearing and a copy of the proposed rules were published at 4 State Register 1326.

3. On February 21, 1980, the HFA 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 March 3, 1980, the HFA filed the following documents:

(a) The Order for Hearing and authorizing resolution.
(b) The Notice of Hearing as mailed.
(c) The Affidavit of Receipt of the Secretary of State's list.
(d) The Affidavit of Mailing the Notice to all persons on the Secretary of State's list.
(e) The Secretary of State's Certificate and list.
(f) The Statement of Need and Reasonableness.
(g) All materials received following a Notice of Intent to Solicit Outside Opinion published at 3 State Register 1546 (February 5, 1979)
(h) The names of HFA personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.

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

5. The record remained open through April 4, 1980 for the receipt of written comments and statements.

6. Statutory authority to promulgate the proposed rules is contained in Minn. Stat. §§ 462A.03, subd. 10; 462A.06, subds. 4 and 11; and 462A.07, subd. 14.

7. 12 MCAR § 3.002(o)(3)

Minn. Stat. § 462A03, subd. 10, requires that the HFA promulgate rules which set income limits for the purpose of defining persons and families of low and moderate income. The adjusted income limit for the Agency Home Improvement Grant Program has remained at $5,000 since the program was first implemented in 1976. The proposed amendment increases the limit to $6,000. This increase is necessary because of inflation and because the pool of eligible applicants has been significantly reduced since the limit was first established.

Lois Enebo, Executive Director of Senior Housing, Inc., and Byron Zuidema, representing the Region 6E Community Action Agency, spoke in support of the proposed amendment.

8. 12 MCAR § 3.002 (P)

The definition of "Developmentally Disabled" is included in the Agency rules because the Agency Multi Family Division provides long-term financing for group homes for the developmentally disabled. The loans are financially feasible because the owner of the group home receives a subsidy under a Federal program administered by the Minnesota Department of Public Welfare. The definition in the Federal law has been amended since the rule was first adopted. It is necessary to amend the definition to make it consistent with the definition in Public Law 95-602, the Developmental Disabilities Assistance and Bill of Rights Act, the Federal law under which the subsidy provided.

9. 12 MCAR § 3.061

This amendment eliminates existing 12 MCAR § 3.061 C. and includes the subject matter of that rule in relettered 12 MCAR § 3.061 D. It is necessary because some confusion has occurred over the precise nature of the review process by the Regional Development Commissions (RDCs). The confusion has occurred because the word "plan" has different meanings in the various paragraphs of 12 MCAR § 3.061.

10. 12 MCAR § 3.096

The HFA administers a program under which the Minnesota Legislature appropriates funds to be used by the Minnesota Chippewa Tribe, the Red Lake Band of Chippewa Indians, and the Sioux Communities to make loans for housing both on and off reservations in the state. The Tribe, Band and Communities make loans both to finance the purchase of homes and to finance home improvements. The amendment to this rule is necessary because the existing rule limits home improvement loans to a term of 12 years. The 12-year term in the rule was based upon the maximum term for FHA insured home improvement loans. Since that time, FHA has increased its maximum term to 15 years. This is also the maximum term permitted by HFA for its Home Improvement Loan Program. The Agency stated that it is both fair and reasonable to permit the Tribe, Band and Communities to make loans with the same term as HFA and conventional FHA home improvement loans.

11. Chapter 13. Urban Indian Housing Loan Program; 12 MCAR §§ 3.150 - 3.157

The proposed new rules governing the administration of $1,500,000 appropriated for an urban Indian housing loan program are identical to amended temporary rules now in effect which will expire on July 1, 1980. Pursuant to statutory mandate, the HFA worked closely with the Advisory Council on Urban Indians in the development of the temporary rules. The basic format of the administrative process is for the HFA to send out a request for proposals to interested parties and then select program administrators who will implement their proposed programs in the eligible areas of the state.

§ 3.150 delineates the scope of Chapter 13.

§ 3.151 defines who is an eligible "administrator" to implement the program.

§ 3.152 provides a general description of the Urban Indian Loan Program. The rule states that the Agency ". . . may provide additional technical assistance upon request. . .". Many rule review reports of the Attorney General have rejected use of the word "may" in rules because it allows discretion without criteria to exercise the discretion. Use of the word "may" has been found to be illgal rule terminology. Consequently, the HFA must either: (a) change the may to shall; (b) delete the provision; or (c) set forth specific criteria which must be followed to exercise the discretion. The Examiner recognizes that the statute provides that the ". . . agency may provide . . . technical services . . .". However, Minn. Stat. § 15.0412, subd. 3, requires the Agency to establish by rule "every agency statement of general applicability and future effect." Here, the Agency appears to be permitted to consider unstated criteria in determining whether to provide technical assistance. Those criteria, which should consist of all the factors to be considered in the decision to provide technical assistance, must be established by rule. As an alternative, this provision could be deleted and the statute relied upon.

§ 3.153 describes the process by which the availability of funds will be announced and the content of the "Request for Proposals."

§ 3.154 sets forth additional requirements for occupancy of a dwelling unit financed pursuant to the Loan Program.

§ 3.155 lists several rules from the Tribal-based American Indian Loan Program which apply to the Urban Indian Housing Program. The rule states that

". . . loans may be made . . . without interest." This language must be changed as is stated above.

§ 3.156 sets forth the criteria which the HFA will use in the selection of Administrators among the competing proposals. Use of the word "may" in this rule is governed by those enumerated criteria.

§ 3.157 describes the contents of the contract which Administrators must enter into with the HFA. At hearing, the HFA proposed to amend paragraph D. as follows to eliminate elements of discretion:

> D. Any other provision deemed necessary by MHFA to assure that the program will be carried out.

After further review, the Examiner suggests the following alternative language:

> D. Any other provision necessary to assure that the program will be carried out pursuant to these rules and Minn. Stat. § 472A.07.

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

CONCLUSIONS

1. Due, timely and adequate legal notice of the hearing was properly given by the HFA. All substantive and procedural requirements of law or rule have been met.

2. The HFA has documented its statutory authority to promulgate the proposed rules.

3. The HFA has demonstrated the need for and reasonableness of the proposed rules by an affirmative presentation of facts. In Finding 11, the illegal exercise of unbridled discretion was discussed and changes suggested.

Based upon the foregoing Conclusions, the Hearing Examiner makes the following:

RECOMMENDATION

That the HFA adopt the proposed rules with due consideration to the Findings set forth above.

Dated this 16 day of April, 1980.

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

minnesota housing finance agency

May 15, 1980

The Honorable Warren Spannaus
Attorney General of Minnesota
Room 102 - Capitol Building
Aurora Avenue
St. Paul, Minnesota 55155

RE: In the Matter of the Proposed Adoption of Rules of the Minnesota Housing Finance Agency relating to the Home Improvement Grant Program, the Definition of Developmentally Disabled, and American Indian Housing Programs.

Dear Mr. Spannaus:

Enclosed please find for your review pursuant to Minnesota Statutes Section 15.0412, Subdivision 4, the proposed rules of the Minnesota Housing Finance Agency.

The following materials are submitted to you for your review pursuant to Atty. Gen. 302:

Rules as Adopted.

Rules as Proposed.

Order of Hearing.

Notice of Hearing.

Secretary of State's List.

Affidavit of Mailing.

Statement of Need.

Order Adopting Rules and Findings of Fact.

The record of the Rules Hearing as kept by the Hearing Examiner.

Sincerely,

James J. Solem
Executive Director

JJS/jag
Encl.

333 sibley - suite 200 - saint paul, minnesota 55101 - (612) 296-7608

AN EQUAL OPPORTUNITY EMPLOYER

R E C E I P T

RECEIVED OF the Minnesota Housing Finance Agency this _____ day of May, 1980, the following items with respect to the Proposed Adoption of Rules of the Minnesota Housing Finance Agency Relating to the Home Improvement Grant Program, the Definition of Developmentally Disabled, and American Indian Housing Programs:

Rules as Adopted.

Rules as Proposed.

Order of Hearing.

Notice of Hearing

Secretary of State's List.

Affidavit of Mailing.

Statement of Need.

Order Adopting Rules and Findings of Fact.

The record of the Rules Hearing as kept by the Hearing Examiner.

OFFICE OF THE ATTORNEY GENERAL

By: _____

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA HOUSING FINANCE AGENCY

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA HOUSING FINANCE AGENCY RELATING TO THE HOME IMPROVEMENT GRANT PROGRAM, THE DEFINITION OF DEVELOPMENTALLY DISABLED, AND AMERICAN INDIAN HOUSING PROGRAMS.

ORDER OF THE CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on March 28, 1980, before Peter C. Erickson, 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 the Hearing Examiner made pursuant to Minn. Stat. § 15.052, subd. 3, was issued to the Housing Finance Agency on April 16, 1980; 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 9 MCAR § 2.110; 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 Order, 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, notifying all persons who requested to be informed that the hearing record has been submitted to the Attorney General, and publishing in the State Register, all pursuant to Minn. Stat. § 15.0412, subd. 4.

Dated this 6th day of May, 1980.

DUANE R. HARVES
Chief Hearing Examiner

By: GEORGE A. BECK
Hearing Examiner

STATE OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General James E. Dinerstein, do hereby declare that I have examined the proposed rules 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. Any exceptions are noted below.

Special Assistant Attorney General

Dated: May 15, 1980

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EXAMINERS

Minnesota Housing Finance Agency

Proposed Rules Covering the Home Improvement Grant Program; the Definition of Developmentally Disabled; and American Indian Housing Programs.

12 MCAR § 3.002 O. "Persons and Families of Low and Moderate Income" means:

3. with respect to Home Improvement Grants to be made by the Agency, those persons and families whose Adjusted Income does not exceed ~~$5,000~~ $6,000 and whose Assets, excluding the property to be improved, does not exceed $25,000; and

12 MCAR § 3.002 P. "Developmentally Disabled" means as individual who has a severe, chronic disability which:

~~1.--is-attributable-to-mental-retardation,-cerebral-palsy,-epilepsy,-or-other-neurological-condition-found-to-be-closely-related-to-mental-retardation-or-to-require-treatment-similar-to-that-for-mentally-retarded-individuals;~~

~~2.--originated-at-an-age-earlier-than-18-years-of-age,-is-continuing,-and-can-be-expected-to-continue-indefinitely;-and~~

~~3.--constitutes-a-substantial-handicap-to-the-individual.~~

1. is attributable to a mental or physical impairment or a combination of mental and physical impairments;

2. is manifested before the person attains the age of twenty-two;

3. is likely to continue indefinitely;

4. results in substantial functional limitations in three or more of the following areas of major life activity; (i) self-care (ii) receptive and expressive language (iii) learning (iv) mobility (v) self-direction (vi) capacity for independent living and (vii) economic sufficiency;

5. reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services which are of lifelong or extended duration.

12 MCAR § 3.061 ~~C. The Agency shall submit all plans to the applicable Regional Development Commission (including the Metropolitan Council) and shall consider the comments and recommendations of such Commissions with respect to the extent to which the plan assists in satisfying the housing needs for such region.~~

12 MCAR § 3.061 ~~B~~ C. The Agency shall allocate the ~~total~~ funds available at any time ~~ratably~~ among the several regions, based upon data assembled by the Agency and accurately reflecting housing needs and related factors. The Agency shall submit its proposed allocation of funds to the applicable Regional Development Commission (including the Metropolitan Council) and shall consider the comments and recommendations of the Commissions with respect to the extent to which the proposed allocation assists in satisfying the housing needs for the region.

12 MCAR § 3.096 Duration of loan. No loan shall be made for a term in excess of thirty (30) years on a structure or structures designed for occupancy by not more than four families, or a dwelling unit in a planned unit development or a condominium. The maximum term of a rehabilitation loan for an existing structure or structures designed for occupancy by not more than four families or a dwelling unit in a planned unit development or a condominium shall not exceed ~~twelve (12)~~ fifteen (15) years. For all other residential structures, the maximum term of any loan including a rehabilitation loan, granted pursuant to the Act, Plan, and these Rules shall not exceed forty (40) years.

Chapter 13. Urban Indian Housing Loan Program.

12 MCAR § 3.150 Scope of rules. The rules provided in 12 MCAR § § 3.150 to 3.157 shall govern the implementation of the urban Indian housing loan program established in Minnesota Statutes section 462A.07, Subdivision 15.

12 MCAR § 3.151 DEFINITION. "Administrator" means a nonprofit entity or local community as defined by 12 MCAR § 3.002 or Indian tribal organization eligible pursuant to 12 MCAR § § 3.090 to 3.108 which carries out a loan program of housing for low and moderate income American Indians using urban Indian housing loan program funds.

12 MCAR § 3.152 The urban Indian housing loan program. The urban Indian housing loan program provides loans for housing for American Indian persons and families residing in urban areas of the state. The program is implemented through Administrators selected by the Agency after review of proposals submitted pursuant to these rules. A proposal by an Administrator may serve all or a portion of the eligible areas of the state of Minnesota. The eligible areas are the metropolitan area as defined in Minnesota Statutes § 473.121, subdivision 2 and any city with a population greater than 50,000 persons. To the extent practicable, the Agency shall allocate urban Indian loan program funds equitably among eligible areas, based upon American Indian population estimates. To assist potential applicants, the Agency shall provide, upon request, information describing potential uses of urban Indian housing loan program funds ~~and may provide additional technical assistance upon request by the applicants.~~

deleted per HE rept. p. 11.

12 MCAR § 3.153 Proposal from Administrators.

A. The Agency shall announce the availability of urban Indian loan program funds by publishing in the State Register a notice of Request For Proposals and by sending such notice to the persons and organizations on the Agency's Urban Indian mailing list. The notice shall specify that interested parties should obtain a complete Request for Proposals from the Agency and shall specify the period in which proposals may be submitted, which period may not be less than 60 days from the date on which the notice is published in the State Register.

B. The Request for Proposals shall be prepared by the Agency and made available to interested parties as provided in paragraph A. The Request for Proposals shall contain a description of the purposes and objectives of the urban Indian housing loan program, the content of a proposal, and the Agency process for selecting proposals.

C. The Request for Proposals shall provide that each proposal submitted to the Agency shall contain:

1. evidence that the organization submitting the proposal is a nonprofit entity, local community or Indian tribal organization and evidence that the organization has the capacity to successfully carry out the program;

2. a proposed program which describes, in adequate detail as determined by the agency:

a) the communities or portions thereof to be served.

b) the housing needs of the American Indians residing in the areas to be served and the manner in which the proposed program assists in meeting those needs.

c) a financial description of the program, including the dollar amount of program funds requested, types of loans to be made, the terms of the loans and the costs of program administration and the manner in which these costs will be paid.

d) a description of the manner in which the program will be implemented and operated, including the duration of the program method of outreach and selection of loan recipients, and procedures for servicing loans over the life of the program.

e) the source of any funds other than the urban Indian housing loan program to be included in the program of

the applicant, and evidence that these funds will be available.

3. any additional information which the Agency in its reasonable discretion deems necessary after initial review of the proposal to evaluate the merits of the program. The Agency may meet with representatives of the organizations submitting proposals to review proposals and request such additional information.

D. The Agency shall provide a copy of each proposal it receives to the Advisory Council on Urban Indians, and shall forward to the Advisory Council a copy of any additional written material received regarding each proposal. The Advisory Council on Urban Indians shall review all proposals. Upon request of the Advisory Council, the organization submitting a proposal shall present the proposal before the Advisory Council.

E. The Request For Proposals shall provide that an organization submitting a proposal which meets the objectives of the urban Indian housing loan program and which the organization determines is not best presented in the form of proposal required by the Request For Proposals may submit the proposal in any form desired, provided that the organization also submits a proposal meeting the requirements of the Request For Proposals.

12 MCAR § 3.154 Additional requirements. Each program must provide for loans for the construction, purchase, or rehabilitation of residential housing. Except as otherwise provided herein and by 12 MCAR § 3.034, each person or family initially occupying a dwelling unit financed pursuant to the act, program and these rules shall be an American Indian as defined by Minn. Stat. § 254A.02, subd. 11 or an American Indian family as defined by 12 MCAR § 3.092, and of low and moderate income, as defined by 12 MCAR § 3.002; provided that developers of multifamily housing developments need not be American Indians or low and moderate income. In obtaining assistance under this program, Indian persons and families

shall not be discriminated against on the basis of tribal affiliation or tribal enrollment.

12 MCAR § 3.155 Application of other rules. 12 MCAR § § 3.093 to 3.098, 3,101 and 3.105 shall apply to programs under this chapter, except that loans may be made with appropriated funds without interest.

wording changed per HE rpt. #11

12 MCAR § 3.156 Selection of proposals. The Agency may approve a program of an administrator in whole or in part, and may approve a program for a limited geographic area. In determining whether or not to approve applications to administer programs under the urban Indian program, the members shall examine the following facts and make their determinations thereon:

A. Any written comments received by the Agency from the Advisory Council regarding the applications for the proposed programs. The Agency shall consider the conclusions of the Advisory Council and the reasons given in support of the conclusions, including the Council's evaluation of the applications under the criteria listed in paragraphs B and C;

B. The extent to which the program will assist in serving the housing needs of the urban Indian community. Factors to be considered include:

1. the extent to which the program duplicates or is in conflict with other programs which provide housing for urban Indians and the extent to which the program will demonstrate the feasibility of alternative methods for providing housing for urban Indians.

2. the geographic location of the proposed program and the percentage of the Minnesota urban Indian community residing in the geographic area or areas to be served, as determined by the Agency according to population data.

3. the method of program administration, the time required to implement the program, and the capacity of the administrator to carry out the program.

4. the extent to which American Indians are involved in the administration of the program, and in the ownership, management, and labor force of any contractors and subcontractors intended to be employed in the program.

C. The extent to which the use of appropriated funds reduces housing costs to American Indian persons or families and the extent to which the program combines the proceeds of appropriated funds with proceeds of bonds of the Agency, or of other issues of bonds, or otherwise uses available money to leverage the appropriated funds.

12 MCAR § 3.157 Agreements. Any decision by the Agency to select a proposal to administer funds pursuant to these rules shall be contingent upon the execution of an agreement, satisfactory to the Agency, between the Agency and the administrator. The agreement shall include a detailed description of the program to be administered and shall provide:

A. The conditions for repayment, without interest of all funds advanced by the Agency;

B. The circumstances under which the Agency shall provide technical assistance to the administrator and the amount of remuneration to be received by the Agency from the administrator for its assistance and monitoring;

C. That, except for loans made under programs administered by the Agency under other programs, the final decision on applications for loans to eligible borrowers shall be made by the administrator and that the duties of the originator and rights of the Agency shall be the same as those provided for the Tribe, Band, and Communities and the Agency pursuant to 12 MCAR § § 3.104, 3.107, and 3.108; and

D. Any other provision deemed necessary by MHFA in its reasonable discretion to assure that the program will be carried out. wording changed per HE rpt.

HFA #5

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STATE OF MINNESOTA
COUNTY OF RAMSEY

AFFIDAVIT
OF MAILING

In the matter of the Proposed Adoption of Rules of Minnesota Housing Finance Agency Governing Proposed Rules Covering the Home Improvement Grant Program; the Definition of Developmentally Disabled; and American Indian Housing Programs.

Mike Kuschke, being first duly sworn, deposes and says:

That on the 21st day of February, 1980, 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 as well as to all persons listed on the attached sheet as presently being members of the Minnesota Legislature.

Mike Kuschke

Subscribed and sworn to before me
this 21st day of February, 1980.

Judy Gerber

JUDY GERBER
NOTARY PUBLIC—MINNESOTA
WASHINGTON COUNTY
My Commission Expires Oct. 24, 1985

HFA #4

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STATE OF MINNESOTA
COUNTY OF RAMSEY

CERTIFICATE

In the matter of the Proposed Adoption of Rules of Minnesota Housing Finance Agency Governing Proposed Rules Covering the Home Improvement Grant Program; the Definition of Developmentally Disabled; and American Indian Housing Programs.

I hereby certify that the attached 338 labels & 2 sheets constitute the complete list of persons, associations, and other interested groups who as of 10:00 o'clock A.M., this 19th day of Feb., 1980, have requested pursuant to M.S. 1978, 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 Kathy Hjelm

ADDITIONAL NAMES FOR GENERAL MAILING LIST

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Public Law Research Center, 1536 Hewitt Avenue, St. Paul 55104

Woodstrom, Susan 2211 Colfax Ave. So., #311, Mpls 55405

The following names on the [illegible]
can be sent through Interoffice Mail

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Heckt, Paul 720 American Center Bldg., St. Paul, Mn. 55101

Hiniker, James Commissioner of Admin. 200 Admin Bldg., St. Paul, Mn.

Leg.Ref.Lib Z. Dewitt, Room 111 State Capitol, St. Paul, Mn.

Met. Waste Control Comm. 350 Metro Sq. Bldg., St. Paul, Mn.

Minn. Pollution Control , Water Quality, 1935 W. Co. Rd. B2, Roseville, Mn.

Minn. Pollution Control Agency, 1935 W. Co. Rd. B2, Roseville, Mn.

Minnesota Water Resources Bd., Rm. 206 555 Wabasha St., St. Paul, Mn.

Minn. State Council for the Handicapped, Metro Sqr. Bldg. 7th & Robert, St. Pau

Office of the Governor, 130 State Capitol, St. Paul, Mn.

Peterson, H. Commissioner of Labor & Industry, 444 Lafayette Rd., St. Paul

Schultz, Linda, Room 328 Capitol Bldg., St. Paul, Mn.

Wehrwein, Judith 625 Admin. Bldg., St. Paul, Mn. 55155

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Bye, Larry L., 1575 Ames Avenue, St Paul 55106

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FRISON FRANK NECA
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STE 115 NALPAK BLDG
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HUTCHISON R.M. ANOKA CO.C
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MINN NEWSPAPER ASSN
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MINN RETAIL FEDERATION
180 METRO SQUARE BLDG
ST PAUL MN
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ST PAUL MN
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ST MARYS HOSP
ROCHESTER MN
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7204 W 27TH ST
MPLS MN
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MINN LP GAS ASSN
7515 WAYZATA BLVD 106
MPLS MN
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MINN PCA WATER QUALITY
1935 W CO RD B 2
ROSEVILLE MN
55113

MINN RETAIL HARDWARE ASSN
3033 EXCELSIOR BLVD 313
MPLS MN
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MINN STATE MEDICAL ASSOC
STE 900 AM NATL BK BLDG
STPAUL MN
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MINN WATER RESOURCES BD
RM 206 555 WABASHA ST
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ST PAUL MN
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MINN DEPT HEALTH J C MCKASY
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MINN GOV ENG COUNCIL
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MINN PETROLEUM COUNCIL
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MINN POLLUTION CONTROL AG
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MINN RURAL ELECTRIC ASSN
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MINN. SERV. STA. ASSN.
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MINN TEAMSTERS CREDIT UNION
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MINN. TBR. PRODUCERS ASSN
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PETERSON DOUG AM RED CROSS
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RED OWL STORES INC
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SAX DOVE & STENSON
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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 Home Improvement Grant Program, the Definition of Developmentally Disabled, the American Indian Housing Programs

STATEMENT OF NEED AND REASONABLENESS

The above captioned rules contain both new rules and amendments to existing rules of the Minnesota Housing Finance Agency. The rules are (1) a proposed amendment to 12 MCAR § 3.002 O(3) increasing the adjusted income limit for the Agency Home Improvement Grant Program, (2) a proposed amendment to 12 MCAR § 3.002(P) revising the definition of "Developmentally Disabled", (3) a proposed amendment to 12 MCAR § 3.061 clarifying the process for Regional Development Commission Review, (4) a proposed amendment to 12 MCAR § 3.096 increasing the term of home improvement loans for the American Indian Housing Program and (5) proposed new rules (12 MCAR §§ 3.150 to 3.157) implementing the Urban Indian Housing Loan Program.

The need to amend this rule and the reasonableness of these amendments are as follows:

MINNESOTA HOUSING FINANCE AGENCY

By: James J. Solem, Executive Director

Dated: February 29, 1980

State of Minnesota
Minnesota Housing Finance Agency

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In the matter of the Proposed Adoption of Rules of Minnesota Housing Finance Agency Governing the Home Improvement Grant Program; the Definition of Developmentally Disabled; and American Indian Housing Programs.

Statement of Need and Reasonableness

12 MCAR § 3.002(0)(3)

Minnesota Statutes, Section 462A.03, Subdivision 10, requires that the Minnesota Housing Finance Agency establish in its rules income limits for the purpose of defining persons and families of low and moderate income. This is accomplished in two Agency rules. 12 MCAR § 3.002(0) establishes maximum limits for adjusted income. Adjusted income is, in turn, determined pursuant to a formula set forth in the definition in 12 MCAR § 3.002(N). The adjusted income limits for the Agency Home Improvement Grant Program have remained at $5,000 since the program was first implemented in 1976. Some modifications to the formula in 12 MCAR § 3.002(N) were made in 1977.

The proposed rule increases the adjusted income limits for the Agency Home Improvement Grant Program to $6,000. It is necessary to increase the income limits for the Home Improvement Grant Program because of increases in incomes due to inflation, and because these increases in incomes have significantly reduced the pool of eligible applicants since the income limit was first established in 1976.

There are four criteria specified in Minnesota Statutes § 462A.03, Subdivision 10, for determination of persons and families of low and moderate income. They are: (a) the amount of total income of such persons and families available for housing needs; (b) the size of the family; (c) the cost and condition of housing facilities available; and (d) the eligibility of such persons and families to compete successfully in the normal housing market and to pay the amount at which private enterprise is providing sanitary, decent and safe housing. These criteria will be reviewed in more detail below.

The Minnesota Housing Finance Agency Home Improvement Grant Program provides grants of up to $5,000 for home improvements for eligible persons and families. The grants are made with appropriations from the Minnesota Legislature. Since the beginning of the program in 1976, the Legislature has appropriated approximately $50,000,000 for this program. The Agency also administers other programs which finance loans for the purchase of new and existing homes and for home improvements, as well as loans to finance the construction and rehabilitation of multi-family housing. The income limit for the Home Improvement Grant Program is the lowest for any Agency program. The Agency has targeted the money appropriated by the Legislature to persons and families at the lower end of the income scale.

The first criterion listed in Section 462A.03, Subdivision 10, is "the amount of total income of such persons and families available for housing needs". Because this program serves low income families, it is very difficult to separate out those resources available for housing needs. For low income persons, there is competition among various needs for the use of each limited dollar. The Agency made a determination regarding this question when the income limit was set in 1976. The Agency is attempting to consider the effects of inflation on incomes and to continue to serve approximately the same population which it served in 1976. The increases in the consumer price index for all items, for housing, and for housing maintenance are shown in Table I. The increase over the period from 1976 through 1979 is about 27% for each of these indexes. Increasing the $5,000 income limit based solely upon the consumer price index would result in a new adjusted income of approximately $6,350.

TABLE I

CONSUMER PRICE INDEX FOR HOUSING, HOUSING MAINTENANCE, AND ALL ITEMS BY YEAR

Year	Consumer Price Index - Housing	Consumer Price Index - Housing Maintenance	Consumer Price Index - All Items
1976	177.22	199.6	170.5
1977	186.6	214.7	181.5
1978	202.0	231.6	195.3
1979	223.0	253.9	216.5
% increase 1976-1979	26%	27%	27%

For the most recent program year of the Home Improvement Grant Program, the average age of grant recipients was 63. Roughly two-thirds of the grant recipients (66.9%) were over 61 years of age. One of the factors which led to the consideration of an increase in income limits was the complaint to Grant Program staff that a person on social security could become ineligible for the Program solely on the basis of cost of living increases in their benefits. Based upon the formula for adjusting social security benefits, a grant recipient earning $5,000 in social security benefits in 1976 would be receiving $6,179 in benefits at the close of 1979. Thus, increasing the adjusted income limit based upon the Social Security index would yield an adjusted income of $6,179.

Another approach to determining the available housing funds for persons and families of low and moderate income is to look at actual data generated by analyzing Circuit Breaker returns from the Minnesota Department of Revenue. An analysis of the most recently available returns (1978 taxes returned in 1979) showed a median family income (gross income) in Minnesota of $14,800. Further analysis shows that the bottom one-fourth of the income distribution (generally viewed as the dividing line between low and moderate income) had a gross income of approximately $7,500 (25.75% of all circuit breaker filers had household income of under $8,000). It should be noted, however, that circuit breaker returns represent approximately 50% of the homeowners in the State. Under the Home Improvement Grant Program, the typical grant recipient has $1,500 in deductions under the formula for adjusted gross income (12 MCAR § 3.002(N). This equals an adjusted gross income of $6,000. The Agency believes that this $6,000 figure is a reasonable adjusted gross income. In addition to the above data, the Agency considered the fact that the number of income eligible households under the $5,000 limit declined from $126,000 households in 1976 to approximately $80,000 in 1979. The increase in adjusted income to $6,000 will increase the pool of eligible households based upon 1979 data to approximately the same level as in 1976.

The second criterion listed 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 adjusted income under 12 MCAR § 3.002(N), which is not the subject of amendment of this rule hearing. The Agency Board did, however, take the income adjustments in 12 MCAR § 3.002(N) into account in the analysis leading to a determination that the rule establishing income levels needed to be amended as discussed above. The typical household receiving a home improvement grant under the existing MHFA program consists of two adults. Under 12 MCAR § 3.002(N), such a household receives a $750 deduction from gross income for each adult ($1,500).

The third factor specified in the statute is the cost and condition of housing facilities available. This criterion is primarily applicable to MHFA programs which finance the purchase of dwelling units. This factor was considered in the Agency analysis when the Consumer Price Index, housing and housing maintenance indexes were discussed above.

The fourth factor, "the eligibility of the persons and families to compete successfully in the normal housing market and to pay the amount at which private enterprise is providing sanitary, decent and safe housing" is also primarily applicable to Agency loan programs. There is no private market for home improvement grants. The Home Improvement Grant Program serves low income families who cannot afford the interest rates charged in the conventional home improvement loan market (12-14%) and who, in addition, cannot afford to repay the principal amount of the loan, regardless of the interest rate.

12 MCAR § 3.002 P

The definition of "Developmentally Disabled" is included in the Agency rules because the Agency Multi Family Division provides long term financing for group homes for the developmentally disabled. The loans are financially feasible because the owner of the group home receives a subsidy under a Federal program administered by the Minnesota Department of Public Welfare. The definition in the Federal law has been amended since the rule was first adopted. It is necessary to amend the definition to make it consistent with the definition in Public Law 95-602, the Developmental Disabilities Assistance and Bill of Rights Act, the Federal law under which the subsidy provided.

12 MCAR § 3.061

This amendment eliminates the existing 12 MCAR § 3.061 C and includes the subject matter of that rule in the relettered 12 MCAR § 3.061 D. It is necessary because some confusion has occurred over the precise nature of the review process by the Regional Development Commissions (RDCs). The confusion has occurred because the word "plan" has different meanings in the various paragraphs of 12 MCAR § 3.061.

At the beginning of each phase of the Home Improvement Grant Program, the Agency must allocate funds among the regions of the State and select grant administrators. The process which the Agency uses, and which it believes to be reasonable, is to involve the RDCs early in the process by submitting to them the proposed Agency allocation of Home Improvement Grant Funds. The comments of the RDC generally include their recommendation for how the funds should be allocated within their region, a recommendation which the Agency has followed in the past. The review of the actual application from the Administrative Entity is not submitted to the RDCs, since the regional needs have been addressed in the grant fund allocation process.

12 MCAR § 3.096

The MHFA administers a program under which the Minnesota Legislature appropriates funds to be used by the Minnesota Chippewa Tribe, the Red Lake Band of Chippewa Indians, and the Sioux Communities to make loans for housing both on and off reservations in the state. The Tribe, Band and Communities make loans both to finance the purchase of homes and to finance home improvements. The amendment to this rule is necessary because the existing rule limits home improvement loans to a term of 12 years. The 12 year term in the rule was based upon the maximum term for FHA insured home improvement loans. Since that time, FHA has increased its maximum term to 15 years. This is also the maximum term permitted by MHFA for its Home Improvement Loan Program. The Agency believes that it is both fair and reasonable to permit the Tribe, Band and Communities to make loans with the same term as MHFA and conventional FHA home improvement loans.

In Laws 1978, Chapter 670, the Minnesota Legislature authorized the Agency to administer an Urban Indian Housing Loan Program, and appropriated $1,500,000 for that purpose. The enabling language, codified as Minnesota Statutes, Section 462A.07, Subdivision 15, authorized the Agency to adopt temporary rules to implement the program. In Laws 1979, Chapter 327, the Legislature appropriated additional funds to the program and amended Section 462A.07, Subdivision 15 to clarify the statute, to continue the rules in effect until July 1, 1980, and to permit the Agency to amend the temporary rules.

It is necessary to adopt these rules because the temporary rules under which the program has been operating are effective only until July 1, 1980, and the program will need rules in effect to continue to operate beyond that date.

The rules proposed are identical to the amended temporary rules now in effect. Minnesota Statutes Section 462A.07, Subdivision 15, directs the Agency to "...consult with the Advisory Council on urban Indians created pursuant to Section 3.922, Subdivision 8, in the development of programs pursuant to this subdivision". The Agency worked closely with the Advisory Council in the development of the temporary rules and the amended temporary rules. The Agency has administered a Tribal-based American Indian Loan Program since 1976. The program is authorized by Minnesots Statutes Section 462A.07, Subdivision 14. It is implemented under 12 MCAR §§ 3.090-3.108. The Agency has attempted to reduce duplication in its rules by listing in appropriate places in the proposed rules certain sections of the rules for the Tribal program which will apply to the Urban Indian Home Loan Program. The rules which have been listed apply to specific program details which would be identical in programs such as the two American Indian Programs.

The substantive language of the enabling Act as codified in Section 462A.07, Subdivision 15 is brief, and reads as follows:

> "It may engage in housing programs for low and moderate income American Indians as that term is defined in Section 254A.02, Subdivision 11, residing in the metropolitan area defined in Section 473.121, Subdivision 2, and cities with a population greater than 50,000 persons. The programs shall demonstrate innovative methods of providing housing for urban Indians, may involve the construction, purchase and rehabilitation of residential housing, and may be administered through any other provisions of this chapter. To the extent possible, the programs shall combine appropriated money with other money from both public and private sources." "Minnesota Statutes 1979 Supplement, Section 462A.07, Subdivision 15."

The proposed rules were developed by the Agency Board following their expericence in administering the first year's appropriation.

The Agency believes that the proposed rules (12 MCAR § 3.150-3.157) provide a reasonable administrative process for the implementation of the Urban Indian Housing Loan Program. The following discussion describes the proposed rules and, where appropriate, the rationale for the selection of particular procedures. The Agency believes that the primary argument for the reasonableness of the rules is that, taken as a whole, they provide a fair, comprehensible, and reasonable framework for the administration of the program.

The basic format of the administrative process is for the Agency to send out a Request For Proposals to interested parties and then to select program Administrators who will implement their proposed programs in the eligible areas of the State.

12 MCAR § 3.150

This rule states the scope of Section 3.150 to 3.157.

12 MCAR § 3.151

The rule defines who is an eligible "Administrator" to implement the program. There are three categories of eligible entities:

1. Non-profit entities, which are defined in 12 MCAR § 3.002(G).

2. Local communities, which are defined in 12 MCAR § 3.002(L).

3. An Indian tribal organization eligible under the MHFA Tribal loan program, which includes the Minnesota Chippewa Tribe, the Red Lake Bank of Chippewa Indians and the Sioux Communities (Minnesota Statutes § 462A.07, Subdivision 14).

The Agency believes that it is reasonable to preclude profit making enterprises from being program administrators since the Administrator is performing a quasi-governmental function. Any eligible Administrator may work with profit oriented organizations in implementing its program.

12 MCAR § 3.152

This rule provides a general description of the Urban Indian Loan Program. The description of eligible areas follows the language of the Statute.

12 MCAR § 3.152

The principal difficulty which the Agency encountered in implementing the Urban Indian Housing Loan Program under the initial set of temporary rules was the communication to the eligible entities of the scope of the program and the criteria for selecting administrators. This was in part because of the different levels of housing experience found among the various applicants. After the first round of proposal selection, the Agency Board reviewed the selection procedures and determined that the use of a Request for Proposals would be the most effective method of soliciting proposals from potential administrators and communicating the program requirements to all applicants. This rule describes the content of the Request for Proposals (RFP).

Paragraphs A, B, C and E describe the process by which the availability of funds will be announced and the basic content of the RFP. The 60 day period in paragraph A is the minimum period in which the Agency believes proposals can be developed. The remainder of these paragraphs are self explanatory.

Paragraph D is necessary because of the statutory requirement that the Agency consult with the Advisory Council on Urban Indians (Advisory Council) in the development of program The Agency will provide the Advisory Council with copies of all proposals and additional written material regarding the proposals. Proposed Administrators may be asked by the Advisory Council to present their proposals to the Council.

12 MCAR § 3.154

This rule provides additional miscellaneous requirements which must be met. The first sentence follows the statutory language. The second sentence states that except to the extent necessary to encourage economic integration or to avoid economic loss from inability

to achieve full occupancy (Section 12 MCAR S 3.034) each occupant of a dwelling unit financed by the program must be an American Indian of low and moderate income as defined by the Agency rules. Qualified American Indians may not be discriminated against on the basis of tribal affiliation or tribal enrollment.

12 MCAR § 3.155

This rule lists several rules from the Tribal-based program which apply to the Urban Indian Housing Program. The referenced rules govern administrative details for the program.

12 MCAR § 3.556

In any program involving the selection of Administrators from competing proposals it is necessary to establish some criteria for the Agency decision. The Agency determined that it would be reasonable to use three major criteria:

1. The legislation requires consultation with the Advisory Council or Urban Indians. Therefore, the first criterion is the written comments received by the Advisory Council following their review of the proposed program.

2. The second criterion is the analysis of the program itself including the innovative nature of the program (B(1)), the areas to be served (B(2)), the program administrator (B(3)) and the extent to which American Indians are involved in the program (B(4)).

3. The legislation encourages the leveraging of appropriated funds with other sources of funding. The third factor is the extent of this leveraging and the extent to which housing costs are reduced through the use of appropriated funds.

12 MCAR § 3.157

In order to carry out its responsibility to ensure that program funds are used as proposed by the Administrator, the Agency needs to enter into a contract with the Administrator governing the terms and conditions under which the funds are to be disbursed to the Administrator. This rule sets forth the basic requirements of the agreement.

Since the appropriations are limited by Minnesota Statutes, Section 462A.21, Subdivision 4d to loans as opposed to grants, paragraph A requires the agreement to specify the terms of repayment of the funds to the Agency.

If the Administrator wishes to have ongoing assistance from the Agency paragraph B provides for specifying the services and the remuneration to the Agency for the services.

Paragraph C of this rule incorporates several requirements which are found in the rules for the Tribal loan programs and which have been found to be necessary and reasonable in implementing that program. Except for loans made under MHFA programs (if MHFA program funds are used to leverage the Urban Indian appropriations) the final decision on loans must be made by the program administrator.

The rules incorporated by reference to eliminate duplication of language for the two American Indian programs administered by the Agency apply to the Administrators duties as originator of the loans (12 MCAR § 3.104), the fees to be charged to borrowers receiving loans (12 MCAR § 3.107) and the right of the Agency to inspect the relevant books and records of the Administrator (12 MCAR § 3.108).

Because of the wide range of possible programs which could be submitted by Administrators under these rules, it is not possible to establish a complete list of items to be included in the agreement between the Agency and the Administrator. Paragraph D allows the inclusion of any other items which the Agency in the reasonable exercise of its discretion may require. This permits flexibility in the process, and sets a standard by which to judge the additional Agency requirements.

HFA #6

Housing Finance Agency

Notice of Intent to Solicit Outside Opinion Regarding the Adoption of Permanent Rules Governing the Urban Indian Housing Program

Notice is hereby given that the Minnesota Housing Finance Agency is seeking information or opinions from sources outside the Agency in preparing permanent rules governing the operation of the Urban Indian Housing Program established pursuant to Minn. Stat. § 462A.07, subd. 14A.

The Agency invites interested persons or groups to submit written data, information or comments on the subject. All written materials should be directed to:

Ms. May Mutchinson
Minnesota Housing Finance Agency
Suite 200 — Nalpak Building
333 Sibley Street
St. Paul, Minnesota 55101
(612) 296-8840

Any written material received by the Agency shall become a part of the hearing record in the event rules governing this subject are promulgated.

Department of Human Rights

Settlements for the Period of October 1, 1978 through January 22, 1979

Settlement Agreements

In addition to specific remedies, standard agreements reached prior to a hearing contain the following stipulations:

1. The agreement does not constitute an admission by the respondent of a violation of Minn. Stat. ch. 363.

2. The respondent agrees to abide by the provisions of Minn. Stat. ch. 363.

Settlement agreements were reached between the department, charging parties, and the following respondents:

Bell Cold Storage, Inc., E2749, E2751
Blue Cross and Blue Shield of Minnesota, E3369, E3367
Coca Cola Bottling Company, E5085
County of Wabasha, Minnesota, E2921
Dakota County Vocational Technical Institute, E4497
FMC Corporation, Northern Ordinance Division, E2619
Foursome Clothing Store, PA190
Grain Terminal Association, E5137
Group Health Plan, Inc., a Minnesota non-profit corporation, E2792
Hennepin County Medical Examiner's Office, E3468
Independent School District #94, E5215
Independent School District #573, ED50
Jacob Schmidt Brewing Company, E3711
Miles Homes, Division of Insilco Corporation, E5308
Minneapolis Area Painting and Taping Joint Apprenticeship and Training Committee, E2452
Robert V. Shannon, H837
S. R. Harris Industries, E4067
White Motor Corporation and White Farm Equipment Company, E2374

Pre-determination Agreement

A pre-determination agreement is an agreement reached before the Commissioner has determined whether or not there is reason to believe that a discriminatory practice occurred. It is signed by the charging party, the respondent, and the Commissioner. By entering into a pre-determination agreement, a respondent makes no admission that a discriminatory practice has occurred. Pre-determination agreements were reached between the department, charging parties, and the following respondents:

American Heart Association, E5227
American Life & Casualty Insurance Company, A16
Applebaum Food Market of Highland Village, E3758
Blackbourne, Inc., E5307
Black Swan Pub, E5397
Boise Cascade — Insulite Division, E3517
Catholic Welfare Services of Minneapolis, E5157
Commonwealth Terrace Co-op, Inc. E5268
Cooperative Power Association, E5405
Dalco Concrete & Masonry, E5262
Disabled American Veterans, PA346
Donaldson Company, E5229, E5303
Elvien Martinson, H1010
Erv's Cafe, PA352
Fingerhut Corporation, E5328, E4134
Franklin Manufacturing Co., E5174, E5344
Hanna Mining Company, E5162
Hotlicks Record Store, E5297
Independent School District #197, E5315
Independent School District #709, E5148
Independent School District #833, E5132
Jim Christy Pontiac, GMC, E5223
Jo R. Semplot Company, E4840

#FA #1

MINNESOTA HOUSING FINANCE AGENCY
333 Sibley
St. Paul, Minnesota 55101

RECEIVED
MAR 3 1980
OFFICE OF HEARING
EXAMINERS

RESOLUTION NO. MHFA 80-1

RESOLUTION AUTHORIZING PUBLIC HEARING ON
PROPOSED RULES

BE IT RESOLVED BY THE MINNESOTA HOUSING FINANCE AGENCY:

That James J. Solem, 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 Home Improvement Grant Program, the Definition of Developmentally Disabled, and American Indian Housing Programs; (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 24th day of January, 1980.

By Demetrius G. Jelatis
Chairman

Attest: Arthur E. Sedmak
Vice Chairman

RECEIVED
MAR 3 1980
OFFICE OF HEARING
EXAMINERS

CERTIFICATE OF BOARD'S AUTHORIZING RESOLUTION

I, Arthur Sidner, do hereby certify that I am Vice Chairman of the Minnesota Housing Finance Agency, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Housing Finance Agency Board duly and properly called and held on the _____ day of _____, 19____; that a quorum was present at said meeting; that a majority of those present voted for the resolution; that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

BE IT RESOLVED BY THE MINNESOTA HOUSING FINANCE AGENCY:

That James J. Solem, 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 Home Improvement Grant Program, the Definition of Developmentally Disabled, the American Indian Housing Programs; (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 24th day of January, 1980.

Arthur E. Sidner
Vice Chairman

Attest by one other officer

HFA #2

STATE OF MINNESOTA
MINNESOTA HOUSING FINANCE AGENCY

RECEIVED
MAR 3 1980
OFFICE OF HEARING
EXAMINERS

ORDER FOR HEARING

IN THE MATTER OF: The Proposed Adoption of Rules of the Minnesota Housing Finance Agency Relating to the Home Improvement Grant Program, the Definition of Developmentally Disabled, the American Indian Housing Programs

IT IS HEREBY ORDERED that a public hearing on the above-captioned rules be held in the Capitol Square Building, Conference Room A, 550 Cedar Street, St. Paul, Minnesota on Friday, March 28, 1980, commencing at 9:00 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.

STATE OF MINNESOTA
MINNESOTA HOUSING FINANCE AGENCY

Executive Director

Date: February 6, 1980

MINNESOTA HOUSING FINANCE AGENCY

HFA #3

RECEIVED
MAR 3 1980
OFFICE OF HEARING EXAMINERS

In the Matter of the Proposed Adoption of Rules of the Minnesota Housing Finance Agency Relating to the Home Improvement Grant Program, the Definition of Developmentally Disabled, and American Indian Housing Programs

NOTICE OF HEARING

NOTICE is hereby given that a public hearing will be held in the above entitled matter in the Capitol Square Building, Conference Room A. 550 Cedar Street, St. Paul, Minnesota, 55101, on Friday, March 28, 1980, commencing at 9:00 a.m. and continuing until all interested or affected persons have had an opportunity to participate.

All representatives of associations or other interested groups and all interested or affected persons will have an opportunity to be heard concerning the adoption of the proposed rules captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted by mail without personally appearing at the hearing to Natalie Gaull, Hearing Examiner, at Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8114 . For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested to save time and avoid duplication, that those persons, organizations or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement on behalf of such interests. All such statements will be entered into and become part of the record. The conduct of the hearing will be governed by the rules of the Office of Hearing Examiners.

Notice is hereby given that 25 days prior to the hearing a statement of need and reasonableness will be available for review at the Agency and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the Agency at the hearing, justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

After the public hearing, written material may be submitted to the Hearing Examiner and recorded in the hearing record for five working days, or for a longer period not to exceed 20 calendar days if so ordered by the hearing examiner.

NOTICE: Any person may request notification of the date on which the Hearing Examiner's report will be available, after which date the Agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Agency. If you desire to be so

notified, you may so indicate at the hearing. After the hearing you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's report) or to the Agency (in the case of the Agency's submission or resubmission to the Attorney General).

The Agency proposes to adopt rules of the Minnesota Housing Finance Agency Relating to the Home Improvement Grant Program, the Definition of Developmentally Disabled, and American Indian Housing Programs. NOTICE: The proposed rules are subject to change as a result of the rule hearing process. The Agency, therefore, strongly urges those who are potentially affected in any manner by the substance of the proposed rules to participate in the rule hearing process.

A copy of the proposed rules is attached hereto. One free copy may be obtained by writing to the Executive Director, Minnesota Housing Finance Agency, 333 Sibley Street, St. Paul, Minnesota, 55101. Additional copies will be available at the door on the date of the hearing.

The Agency's statutory authority to promulgate the proposed rules is contained in Minnesota Stat. §§ 462A.03, Subdivision 10, 462A.06, Subdivisions 4 and 11, and 462A.07, Subdivision 14.

Under Minnesota Statutes, § 10A.01, Subdivision 11 a lobbyist must register with the State Ethical Practices Board within five (5) days after he commences lobbying. According to the statute:

"Lobbyist" means any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

"Lobbyist" does not include any:

(a) Public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity;

(b) Party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action;

(c) Individual while engaged in selling goods or services to be paid for by public funds;

(d) News media or their employees or agents while engaged in the publishing or broadcasting of news items, editorial comments or paid advertisements which directly or indirectly urge official action;

(e) Paid expert witness whose testimony is requested by the body before which he is appearing, but only to the extent of preparing or delivering testimony; or

(f) Stockholder of a family farm corporation as defined in section 500.24, subdivision 1, who does not spend over $250, excluding his own travel expenses, in any year in communicating with public officials; or

(g) Party or his representative appearing to present a claim to the legislature and communicating to legislators only by the filing of a claim form and supporting documents and by appearing at public hearings on the claim.

Questions regarding only lobbying should be directed to the State Ethical Practices Board, Room 41, State Office Building, Wabasha Street, St. Paul, Minnesota, 55155; telephone (612) 296-5615.

MINNESOTA HOUSING FINANCE AGENCY

Date February 8, 1980

James J. Solem, Executive Director