

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1104

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 10-26-84
DATE FOR REVIEW 11-4-84
DATE DUE 11-9-84

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved 11-9-84 (CDS) Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 11-13-84 Revisor approved _____ disapproved _____

✓ Rule as Adopted

_____ Rule as Proposed

✓ Order Adopting 10.25.84 Date

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
9.7.84 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
9.10.84 At least 30/20 days prior to hearing/adoption

N/A Hearing Examiner's Report

_____ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

_____ Agency's Findings of Fact

_____ LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness contains small biz statement - rules not applicable.

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

MINNESOTA HOUSING FINANCE AGENCY

October 26, 1984

RECEIVED
OCT 26 1984
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Mr. Larry Starns
Special Assistant Attorney General
Room 204 Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

RE: In the Matter of the Proposed Adoption of Rules Governing Market Rate Elderly Shallow Subsidy Rental Program Without a Public Hearing

Dear Mr. Starns:

Enclosed please find for your review pursuant to Minnesota Statutes Sections 14.21 through 14.28, the adopted rules of the Minnesota Housing Finance Agency.

The following materials are submitted to you for your review pursuant to Minnesota Rules, Part 2000.0400:

Rules as Adopted;

Order Adopting;

Certificate of Board's Resolution Adopting the Rule;

Order of Notice to Adopt Rule Without a Public Hearing;

Certificate of Agency's Authorizing Resolution;

Notice of Intent to Adopt Rule Without a Public Hearing;

Affidavit of Mailing Notice of Intent to Adopt a Rule Without a Public Hearing;

Mailing List Certificate;

Rule as Proposed;

Statement of Need and Reasonableness; and

Certificate of Compliance with Rulemaking Procedures.

The Agency did not publish a Notice of Intent to Solicit Outside Opinion in connection with this rule. No requests for a hearing were received during the 30 day comment period. The Agency did not receive any comments during the 30 day comment

period, nor did it receive any requests from persons desiring notice of the date of submission of the proposed rule to the Attorney General. The Adopted rules are the same as the Proposed rules.

Sincerely,

Alan L. Hans
Deputy Director

ALH/kjj

Encs.

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: James J. Solem, Executive Director
Minnesota Housing Finance Agency

DATE: November 13, 1984

ATTN: Karl Herman
Special Assistant Attorney General

FROM: Larry D. Starns LDS
Special Assistant Attorney General

PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Adoption of Rules Governing Market Rate Elderly Shallow Subsidy Rental Program Without a Public Hearing.

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. Please 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 stamps of the Attorney General and Secretary of State;

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

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

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

LDS:slz

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

AG copy

Housing Finance Agency

Adopted Rules Governing the Market Rate Elderly Shallow Subsidy Rental Program

Rules as Adopted

4900.0351 SCOPE.

Parts 4900.0351 to 4900.0355 govern the implementation of the market rate elderly shallow subsidy rental program and the disbursement of the subsidy.

4900.0352 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4900.0351 to 4900.0355, the following terms have the meanings given them.

Subp. 2. **Agency.** "Agency" means the Minnesota Housing Finance Agency.

Subp. 3. **Market rate elderly shallow subsidy rental program, or program.** "Market rate elderly shallow subsidy rental program" or "program" means the agency's plan and procedures designed to distribute funds to assist eligible recipients in the making of tenant rental payments in eligible developments.

Subp. 4. **Eligible recipients.** "Eligible recipients" means the persons and families entitled to receive rental subsidy payments as provided in parts 4900.0351 to 4900.0355.

Subp. 5. **Eligible developments.** "Eligible developments" means those rental developments qualified to receive the benefits of the rental subsidies as provided in parts 4900.0351 to 4900.0355.

4900.0353 ELIGIBLE RECIPIENTS.

An eligible recipient of the market rate elderly shallow subsidy rental program shall:

A. be a tenant household of which at least one member is 62 years of age or older;

B. have an annual income that does not exceed 50 percent of the median income for the county in which they are to receive the subsidy, as determined by the United States

Department of Housing and Urban Development;

C. occupy a one-bedroom rental unit;

D. furnish to the agency all information reasonably required to demonstrate the recipient's eligibility; and

E. reside in an eligible development.

4900.0354 ELIGIBLE DEVELOPMENTS.

A development that is eligible to receive market rate elderly shallow rental subsidies for its tenants must:

A. receive permanent financing from the agency after August 1, 1984;

B. be designed to serve low and moderate income elderly households;

C. be either newly constructed or substantially rehabilitated; and

D. be owned by either a limited dividend or nonprofit entity as defined in part 4900.0010.

4900.0355 SUBSIDY PROGRAM.

Subpart 1. **Monthly subsidy.** The agency shall determine the amount of tenant subsidy. It must be a fixed constant amount per month per tenant household, must be the same for all tenant households selected to receive the subsidy during a fiscal year, and must be based upon the amount of funds available to the agency for the program.

Subp. 2. **Term of subsidy.** A recipient of a tenant subsidy under the market rate elderly shallow subsidy rental program may receive the subsidy for as long as the recipient occupies the eligible development in which he or she initially received the subsidy.

Subp. 3. **Selection of eligible recipients.** The agency shall select recipients of the market rate elderly shallow subsidy rental program and shall give priority to the following:

A. a household displaced by government action or private action for which it is not responsible;

B. a household that presently occupies substandard or overcrowded housing or housing with serious health or housing

code violations;

C. a household that is not receiving housing assistance under another state, county, city, or federal program;

D. a household that is in need of the assistance of family members in order to live independently, where such family members live in the immediate vicinity of the eligible development.

If more than one applicant meets these criteria for selection equally, the agency shall prefer the applicant that applied first in time.

Subp. 4. **Distribution of subsidy.** The owner or owner's agent of the eligible development in which the recipient resides shall collect from the recipient and place in the development's management accounts an amount equal to the monthly market rent for the unit in which the recipient resides, less the specified subsidy amount. The agency shall apply the subsidy amount as provided in a regulatory agreement with the owner of the eligible development.

APPROVED AS TO LEGALITY

November 9, 1984

HUBERT H. HUMPHREY, III

ATTORNEY GENERAL

BY _____

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
NOV 13 1984
Joan Anderson Growe
Secretary of State

10:24AM

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of Rules Governing Market Rate Elderly Shallow Subsidy Rental Program Without a Public Hearing

ORDER ADOPTING RULES

Notice of the Agency's intent to adopt the above-entitled rules without a public hearing was published in the State Register on September 10, 1984 and was sent by United States mail to all persons on the list maintained by the Agency pursuant to Minnesota Statutes Section 14.14 Subdivision 1 on September 7, 1984. After affording interested and affected persons an opportunity to submit comments for 30 days, receiving fewer than twenty-five written requests for a public hearing within the 30 day comment period, reviewing and considering the comments, supplying notice to all persons requesting notice of the date of submission of the proposed rules to the Attorney General for review, and determining the need for and reasonableness of the above-captioned rules.

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules of the Minnesota Housing Finance Agency Governing Market Rate Elderly Shallow Subsidy Rental Program are adopted this 25th day of October, 1984 pursuant to authority vested in the Agency by Minnesota Statutes Section 462A.06, Subdivisions 4 and 11.

James J. Solem, Executive Director

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of
Rules Relating to Market Rate Elderly
Shallow Subsidy Rental Program

NOTICE OF INTENT TO
ADOPT RULES WITHOUT
A PUBLIC HEARING

Notice is hereby given that the Minnesota Housing Finance Agency ("agency") proposes to adopt the above-entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules within the 30-day comment period. Such comments are encouraged, and should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rule may be modified as the result of comments received if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Unless twenty-five or more persons submit written requests for a public hearing on the proposed rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 14.14 et. seq. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Kathleen J. Johnson
Legal Division
Minnesota Housing Finance Agency
Suite 200
333 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9793

Authority for the adoption of these rules is contained in Minn. Stat. §462A.06, Subd. 4 and 11. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules has been prepared and is available from Kathleen J. Johnson upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be delivered to a designee of the Attorney General for review as to form and legality, including the issue of substantial change, and to determine whether the agency has the authority to adopt the rules and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rules. Persons who wish to receive notice of the date of submission of these rules to the Attorney General for review, or who wish to receive a free copy of the final rules as adopted, should make such requests to Kathleen J. Johnson.

A copy of the proposed rule is attached to this notice. Additional copies may be obtained by contacting Kathleen J. Johnson.

Please be advised that Minn. Stat. Ch. 10A.03 requires each lobbyist to register

with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, Subd. 11 as 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 $250.00, 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 $250.00, 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.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155 (612) 296-5615.

Dated: September 7, 1984

James J. Solem
Executive Director

Rules as Proposed (all new material)

4900.0351 SCOPE.

Parts 4900.0351 to 4900.0355 govern the implementation of the market rate elderly shallow subsidy rental program and the disbursement of the subsidy.

4900.0352 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4900.0351 to 4900.0355, the following terms have the meanings given them.

Subp. 2. **Agency.** "Agency" means the Minnesota Housing Finance Agency.

Subp. 3. **Market rate elderly shallow subsidy rental program, or program.** "Market rate elderly shallow subsidy rental program" or "program" means the agency's plan and procedures designed to distribute funds to assist eligible recipients in the making of tenant rental payments in eligible developments.

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Subp. 5. **Eligible developments.** "Eligible developments" means those rental developments qualified to receive the benefits of the rental subsidies as provided in parts 4900.0351 to 4900.0355.

4900.0353 ELIGIBLE RECIPIENTS.

An eligible recipient of the market rate elderly shallow subsidy rental program shall:

A. be a tenant household of which at least one member is 62 years of age or older;

B. have an annual income that does not exceed 50 percent of the median income for the county in which they are to receive the subsidy, as determined by the United States Department of Housing and Urban Development;

C. occupy a one-bedroom rental unit;

D. furnish to the agency all information reasonably required to demonstrate the recipient's eligibility; and

E. reside in an eligible development.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

MW H

4900.0354 ELIGIBLE DEVELOPMENTS.

A development that is eligible to receive market rate elderly shallow rental subsidies for its tenants must:

A. receive permanent financing from the agency after August 1, 1984;

B. be designed to serve low and moderate income elderly households;

C. be either newly constructed or substantially rehabilitated; and

D. be owned by either a limited dividend or nonprofit entity as defined in part 4900.0010.

4900.0355 SUBSIDY PROGRAM.

Subpart 1. **Monthly subsidy.** The agency shall determine the amount of tenant subsidy. It must be a fixed constant amount per month per tenant household, must be the same for all tenant households selected to receive the subsidy during a fiscal year, and must be based upon the amount of funds available to the agency for the program.

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Subp. 3. **Selection of eligible recipients.** The agency shall select recipients of the market rate elderly shallow subsidy rental program and shall give priority to the following:

A. a household displaced by government action or private action for which it is not responsible;

B. a household that presently occupies substandard or overcrowded housing or housing with serious health or housing code violations;

C. a household that is not receiving housing assistance under another state, county, city, or federal program;

D. a household that is in need of the assistance of family members in order to live independently, where such family

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

members live in the immediate vicinity of the eligible development.

If more than one applicant meets these criteria for selection equally, the agency shall prefer the applicant that applied first in time.

Subp. 4. **Distribution of subsidy.** The owner or owner's agent of the eligible development in which the recipient resides shall collect from the recipient and place in the development's management accounts an amount equal to the monthly market rent for the unit in which the recipient resides, less the specified subsidy amount. The agency shall apply the subsidy amount as provided in a regulatory agreement with the owner of the eligible development.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD610

Agency: Minnesota Housing Finance Agency

Division:

Agency Contact: Kathy Johnson 296-9793

Minnesota Rules: Parts 4900.0351 to 4900.0355

Title: Proposed Rules Governing the Market Rate Elderly Shallow Subsidy Rental Program

Type of Rules: Permanent

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

Maryanne V. Hruby
Assistant Revisor
Phone: 297-2948
Date: August 20, 1984

APPROVED AS TO LEGALITY

_____ 19____

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY_____
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of Rules Governing Market Rate Elderly Shallow Subsidy Rental Program

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

It is ordered this 23rd day of August, 1984 that a Notice of Intent to Adopt Rules without a Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Minnesota Housing Finance Agency for that purpose and be published in the State Register.

MINNESOTA HOUSING FINANCE AGENCY

James J. Solem, Executive Director

CERTIFICATE OF AGENCY'S

AUTHORIZING RESOLUTION

I, Robert A. Worthington, do hereby certify that I am Chairman of the Minnesota Housing Finance Agency, an Agency 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 Agency and properly called and held on the 23rd day of August, 1984, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "RESOLVED, that James J. Solem, Executive Director of the Minnesota Housing Finance Agency, be and he hereby is authorized and directed to give public notice for the purpose of promulgating rules of the Minnesota Housing Finance Agency without a public hearing, said rules relating to Governing Market Rate Elderly Shallow Subsidy Rental Program, as well as to perform any and all acts incidental thereto, including the signing of a notice of intent to adopt rules without a public hearing."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 23rd day of August, 1984.

Robert A. Worthington

Chairman

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed Adoption of Rules Governing Market Rate Elderly Shallow Subsidy Rental Program Without a Public Hearing

AFFIDAVIT OF MAILING

Kathleen J. Johnson, being first duly sworn, deposes and says:

That on the 7th day of September, 1984, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the United States mail at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid to all persons and associations who have requested that their names be placed on file with the Minnesota Housing Finance Agency for the purpose of receiving notice of the proposed adoption of rules by this Agency.

Kathleen J. Johnson

Subscribed and sworn to before me this 7th day of September, 1984.

Faye Louise Smiles
Notary Public

FAYE LOUISE SMILES
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES JUNE 29, 1991

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

MAILING LIST CERTIFICATE

In the Matter of the Proposed Adoption
of Rules Governing Market Rate Elderly
Shallow Subsidy Rental Program Without
a Public Hearing

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minnesota Statutes Section 14.14 Subdivision 1, that their names be placed on file with and maintained by the Minnesota Housing Finance Agency for the purpose of receiving notice of the proposed adoption of rules by this Agency is accurate and complete this 7th day of September, 1984.

Kathleen J. Johnson

(1) requires the temporary closing of all or part of the nursing home or boarding care home; or

(2) upon completion of the construction project, will result in the permanent closing as a nursing home or boarding care home of the entire facility or that part of the facility in which the beds to be replaced are located.

B. The nursing home or boarding care home has completed the construction or remodeling project and the Department of Health has verified that the facility is in compliance with the applicable licensing and certification laws.

C. The number and certification level of the replacement beds does not exceed the number and certification level of the beds decertified by the department.

Proposed Temporary Rules Governing Medical Assistance Certification Status of Nursing Homes

Temporary Rules as Proposed (all new material)

4655.0530 [Temporary] PURPOSE.

Parts 4655.0530 to 4655.0550 [Temporary] govern the procedures for obtaining changes in the medical assistance certification status of nursing homes under Minnesota Statutes, section 144A.071, subdivision 3, paragraph (d).

4655.0540 [Temporary] LIMITATION.

Minnesota Statutes, section 144A.071, subdivision 3, paragraph (d) shall apply only to nursing home beds certified for participation in the medical assistance program as skilled nursing facility beds under Code of Federal Regulations, title 42, sections 405.1120-405.1137 (1983).

4655.0550 [Temporary] CONDITIONS FOR APPROVAL.

The Department of Health may approve a nursing home's request for a change in the certification status of existing beds under Minnesota Statutes, section 144A.071, subdivision 3, paragraph (d) only if the following conditions are met:

A. The nursing home is requesting a change in certification status from the skilled nursing facility level to the intermediate care facility level.

B. The beds for which the change in certification status is requested are certified for participation in the medical assistance program.

C. The requested certification change will result in a decrease in the medical assistance reimbursement provided to the facility. The Department of Health shall obtain verification from the Department of Public Welfare of the decrease in the reimbursement money prior to approving the requested change.

D. The nursing home is in compliance with the licensure and certification law applicable to the certification level requested.

Housing Finance Agency

Proposed Rules Governing the Market Rate Elderly Shallow Subsidy Rental Program

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Housing Finance Agency (''agency'') proposes to adopt the above-entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules within the 30-day comment period. Such comments are encouraged, and should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rule may be modified as the result of comments received if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Unless twenty-five or more persons submit written requests for a public

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated ''all new material.'' ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

hearing on the proposed rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 14.14 *et. seq.* Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to:

Kathleen J. Johnson
Legal Division
Minnesota Housing Finance Agency
Suite 200
333 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9793

Authority for the adoption of these rules is contained in Minn. Stat. § 462A.06, Subd. 4 and 11. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules has been prepared and is available from Kathleen J. Johnson upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be delivered to a designee of the Attorney General for review as to form and legality, including the issue of substantial change, and to determine whether the agency has the authority to adopt the rules and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rules. Person who wish to receive notice of the date of submission of these rules to the Attorney General for review, or who wish to receive a free copy of the final rules as adopted, should make such requests to Kathleen J. Johnson.

A copy of the proposed rule is attached to this notice. Additional copies may be obtained by contacting Kathleen J. Johnson.

Please be advised that Minn. Stat. Ch. 10A.03 requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, Subd. 11 as 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 $250.00, 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

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The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155 (612) 296-5615.

September 7, 1984

James J. Solem
Executive Director

Rules as Proposed (all new material)

4900.0351 SCOPE.

Parts 4900.0351 to 4900.0355 govern the implementation of the market rate elderly shallow subsidy rental program and the disbursement of the subsidy.

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B. have an annual income that does not exceed 50 percent of the median income for the county in which they are to receive the subsidy, as determined by the United States Department of Housing and Urban Development;

C. occupy a one-bedroom rental unit;

D. furnish to the agency all information reasonably required to demonstrate the recipient's eligibility; and

E. reside in an eligible development.

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A development that is eligible to receive market rate elderly shallow rental subsidies for its tenants must:

A. receive permanent financing from the agency after August 1, 1984;

B. be designed to serve low and moderate income elderly households;

C. be either newly constructed or substantially rehabilitated; and

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4900.0355 SUBSIDY PROGRAM.

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B. a household that presently occupies substandard or overcrowded housing or housing with serious health or housing code violations;

C. a household that is not receiving housing assistance under another state, county, city, or federal program;

D. a household that is in need of the assistance of family members in order to live independently, where such family members live in the immediate vicinity of the eligible development.

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KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of Rules Governing Market Rate Elderly Shallow Subsidy Rental Program Without a Public Hearing

CERTIFICATE OF BOARD'S RESOLUTION ADOPTING RULES

I, Robert A. Worthington, do hereby certify that I am Chairman of the Minnesota Housing Finance Agency, an agency 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 Agency, duly and properly called and held on the 25th day of October, 1984, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "RESOLVED, that the rules relating to Market Rate Elderly Shallow Subsidy Rental Program attached hereto as Exhibit A be and they hereby are approved and adopted pursuant to authority vested in us by Minnesota Statutes Section 462A.06, Subdivisions 4 and 11 and that James J. Solem, Executive Director of the Agency, be and hereby is authorized to sign an order adopting these rules and further is authorized to perform the necessary acts to provide that these rules shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 25th day of October, 1984.

Robert A. Worthington

Chairman

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of
Rules of the Minnesota Housing Finance
Agency Governing the Market Rate Elderly
Shallow Subsidy Rental Program

Statement of Need and Reasonableness

4900.0351

This part describes the scope of parts 4900.0351 to 4900.0355 as they apply to the Minnesota Housing Finance Agency's Market Rate Elderly Shallow Subsidy Rental Program.

4900.0352

This part sets forth definitions for the purpose of parts 4900.0351 to 4900.0355.

Subpart 2. A single word reference to the Minnesota Housing Finance Agency is incorporated for brevity of presentation.

Subpart 3. The Market Rate Elderly Shallow Subsidy Rental Program is defined as the Agency's plan and procedure for the distribution of shallow subsidy funds to assist eligible recipients in making their monthly rental payments in Eligible Developments.

Subpart 4. Eligible Recipients are defined as tenants eligible to receive the benefit of rent subsidy funds under the Program. The reasonableness and necessity of the requirements for Eligible Recipients are discussed below in reference to part 4900.0353.

Subpart 5. Eligible Developments are defined as rental developments where tenants may reside and receive the benefit of rent subsidy funds under the Program. The reasonableness and necessity of the requirements for Eligible Developments are set forth in reference to part 4900.0354, below.

4900.0353

This part establishes eligibility criteria for tenants to receive the benefit of rent subsidy funds under the Program.

Paragraph A specifies that at least one tenant in the household must be 62 years of age or older. This definition of "elderly" is reasonable, since it is the same standard as applied in U.S. Department of Housing and Urban Development ("HUD") and Federal Social Security programs relating to the elderly.

Paragraph B specifies that the tenant must not have an income which exceeds 50 percent of the Median Income for the county in which he is to reside, as established by HUD. This requirement is necessary to ensure that the recipient is in need of assistance in order to afford the rental housing to be provided in the Eligible Development. The income limit is reasonable

since HUD applies the same test in providing Section 8 housing assistance to very low income households.

Paragraph C requires occupancy of one bedroom units. This provision is necessary and reasonable to insure that the subsidy funds provided are applied for the benefit of tenants in need of housing, and not for recipients who could afford the housing and instead use the funds to rent a larger or more expensive dwelling unit.

Paragraph D specifies that recipients must provide to the Agency all information required to demonstrate their eligibility. This is necessary to provide the Agency with adequate information to allocate the available subsidy funds. It is reasonable that the funds be applied only for the benefit of those most in need.

Paragraph E specifies the recipient must reside in an Eligible Development, as outlined in part 4900.0354. This is reasonable since the primary purpose of the Program is to expand the lower income range of households served in Agency-financed rental housing.

4900.0354

This part establishes eligibility criteria for developments whose tenants are to be eligible for rental subsidies under the Program. The purpose of the Program is to make elderly rental housing financed by the Agency affordable to a wider range of lower income households than are presently served.

Paragraph A provides a commencement date of August 1, 1984, relating to the Agency's permanent financing, because, in view of the limited funds available, it is necessary and reasonable to limit the Program to future Agency-financed developments and not include developments within the Agency's existing portfolio, which developments already serve the elderly and lower income tenants.

Paragraph B requires that the development be designed to serve low and moderate income elderly households, in accordance with the Agency's lending requirements, and Paragraph C further meets the objectives outlined in the statement relating to Paragraph A of this part, set forth above.

Paragraph C requires that the development be owned by either a limited dividend or non-profit entity, to enable the lowest and most affordable rents possible to be charged to the tenants.

4900.0355

Subpart 1. This subpart requires that the Agency determine the amount of monthly tenant subsidy based on funds available, and allocate the same amount to all recipients selected during a fiscal year. This is necessary to ensure that the Agency does not allocate more funds than are available, and is reasonable in that it obtains the maximum disbursement of funds to tenants, while affording the tenants equal treatment.

Subpart 2. This subpart allows the recipients to continue receiving subsidy funds for as long as they continue to occupy the Eligible Development. This is reasonable since the tenant would be forced to involuntarily move from his living unit through financial necessity, rather than individual choice, if the subsidy which made his dwelling unit affordable was subsequently withdrawn.

Subpart 3. This subpart provides a priority basis for the selection of tenants which the Agency believes will be required, since it is anticipated that there will be more tenant applicants than available funds.

Paragraphs A, B and C are currently used for other Agency multi-family rental programs, and it is, therefore, reasonable to provide for consistent treatment.

Paragraph D provides a priority for persons who can live independently, with family help, and whose family members are located in the immediate vicinity. The provisions of Paragraph D are reasonable, since one of the objectives of the Agency's elderly programs is to keep the elderly independent for as long as is possible, and thereby help to reduce public expenditures for nursing home costs. The last paragraph provides that if all of the stated criteria are equally met, the Agency will give preference to the first persons to apply. This is reasonable in that it provides all applicants with the same opportunity to obtain the benefits of the rental subsidy.

Subpart 4. This subpart provides how the subsidy funds will be disbursed, and is in conformity with the procedures for disbursement of subsidy funds in other Agency Multi-Family Rental Programs, which procedures have proven both necessary and reasonable.

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

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STATEMENT OF COMPLIANCE WITH THE RULEMAKING PROCEDURES

I, Special Assistant Attorney General, Karl J. Herman do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Dated: 10/26/84

Karl J. Herman
Special Assistant Attorney General