

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

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RULE REVIEW CHECKLIST

File No. 1700 — Docket No. 05.0009.0450

DATE RECEIVED 5/23/90 — ADOPTED W/O HEARING X

REVIEW DATE 6/1/90 — EMERGENCY RULE ____

DUE DATE 6/6/90 — TO REVISOR ON 5/23/90

REVISOR APPROVED 6-4-90

APPROVED 6-4-90 — REVISOR DISAPPROVED ____

DISAPPROVED ____ — FILED W/SEC. OF STATE 6-6-90

WITHDRAWN ____ — RETURNED TO AGENCY 6-6-90

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4 Rule as adopted (4 copies)

____ Notice to Solicit Outside Information/Opinion (if applicable)
- ____ Date published in State Register
- ____ Comments

____ Petition for Adoption of a Rule (if applicable)

✓ Board's Authorizing Resolution
- 10-22-1990 Date adopted

✓ Proposed Rule
- ✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
- 462A.06 subd 4+11 Statutory Authority
- ____ Small Business Statement
- ____ Expenditure of public money statement
- march 23, 1990 Signature

✓ Statement of Need and Reasonableness (if applicable)
- NA Small Business Statement
- NA Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- march 23, 1990 Date (30)/25 days before adoption
- ✓ Notice attached indicates is attached
- ____ Copy of rule or summary attached

✓ Publication in State Register
- march 26, 1990 Date (30)/25 days before adoption

✓ 180-day deadline from:
- NA Effective date of law requiring rule (14.12) (both rules) Not mandatory
- ✓ end of comment period (§ 14.26) (rules without hearing)
- ____ effective date of statutory authority (§ 14.29) (emergency rules)

✓ Resolution Adopting
- April 26, 1990 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
- April 26, 1990 Date

____ Written requests, submissions or comments

✓ Declaration of attorney 6-9796
- Karl J. Herman Name of SAAG representing agency

____ Notice of Submission to Atty. Gen. (if applicable)

____ Aff. of Mailing Notice to Atty. Gen. (if applicable)

F

SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : June 6, 1990

TO : JAMES J. SOLEM
Commissioner
Minnesota Housing Finance Agency

FROM : CHARLENE HATCHER CH
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE : 296-9422

SUBJECT : In the Matter of the Adopted Permanent Rules Relating to Loans for Family Rental Housing

The above-referenced rule has been approved as to its legality by the Attorney General on June 4, 1990.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

CH/rlb
Enclosures
cc: William Brown, Chief Judge (memo only)
MaryAnn Hruby " "
Karl J. Herman " "

Minnesota Housing Finance Agency

Adopted Permanent Rules Relating to Loans for Family Rental Housing

Rules as Adopted

4900.2700 SCOPE.

Parts 4900.2700 to 4900.2707 govern the implementation of family rental housing loan programs authorized under Minnesota Statutes, section 462A.21, subdivision 8b.

4900.2701 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 4900.2700 to 4900.2707 have the meaning given them in this part.

Subp. 2. **Agency.** "Agency" means the Minnesota Housing Finance Agency created by Minnesota Statutes, sections 462A.01 to 462A.24.

Subp. 3. **Applicant.** "Applicant" means one or more entities that submit an application to the agency for a loan under a family rental housing program.

Subp. 4. **Application.** "Application" means a submittal requesting a loan from the agency for a family rental housing program.

Subp. 5. **Development.** "Development" means the housing to be constructed or rehabilitated by the applicant as described in the application.

Subp. 6. **Family rental housing.** "Family rental housing" means rental housing consisting of units with two or more bedrooms.

Subp. 7. **Family rental housing program.** "Family rental housing program" means a loan program authorized by Minnesota Statutes, section 462A.21, subdivision 8b, for the acquisition, rehabilitation, or new construction of family rental housing.

Subp. 8. **Loan.** "Loan" means a disbursement of funds to an eligible applicant under a family rental housing program.

4900.2702 ELIGIBLE APPLICANTS.

Subpart 1. **Property interest.** An applicant for a family rental housing program loan must, at the time of application, possess one of the following interests in the property:

A. a fee title;

B. a fee title subject to a mortgage or other lien securing a debt capable of prepayment or, at the option of the agency, subordination; or

C. a mutually binding contract or option for the purchase of fee title.

Subp. 2. **Applicant eligibility.** To be eligible for selection as a recipient of a loan from a family rental housing program, an applicant must be:

A. a Minnesota nonprofit entity as defined in part 4900.0010, subpart 21; including, but not limited to, a housing and redevelopment authority established under Minnesota Statutes, sections 469.001 to 469.047;

B. a town or home rule charter or statutory city in Minnesota;

C. a cooperative housing corporation as defined in part 4900.0010, subpart 8;

D. a limited dividend entity as defined in part 4900.0010, subpart 14;

E. a for profit entity to the extent authorized under Minnesota Statutes, section 462A.21, subdivision 8b.

4900.2703 ELIGIBLE APPLICATIONS.

The applicant must provide an application in the form prescribed by the agency. At minimum, the application shall include the following:

A. information describing the site of the proposed development including the location, present use and zoning, surrounding land uses, and physical characteristics of the site that might affect construction;

B. a description of the proposed housing development including the building type, the size and number of dwelling

units, and the characteristics of the development that make it appropriate for residency by families;

C. information with respect to the market for the proposed development including reports of market surveys or analyses, documentation of need for the development, and a proposed marketing plan;

D. a description of the construction or rehabilitation to be completed including a schedule of the proposed uses of any requested loan funds and the amounts proposed to be allocated to each use;

E. a detailed budget for the development showing all development costs, operating costs, sources of financing sought or secured, proposed rent schedule, and any other sources of income; and

F. a timetable for completion of the development.

4900.2704 REQUIRED OCCUPANCY.

The dwelling units developed with loans from a family rental housing program must be occupied by families whose adjusted income at the time of initial occupancy does not exceed 60 percent of the area median income, with the area median income defined as follows: the greater of the county median income or the Minnesota nonmetro median average as either is defined by the United States Department of Housing and Urban Development.

4900.2705 ELIGIBLE UNITS.

In new construction developments, at least 80 percent of the dwelling units constructed with loan funds from a family rental housing program must have three or more bedrooms.

4900.2706 SELECTION CRITERIA.

The agency shall take the following criteria into consideration when determining whether an application and applicant will be selected for a loan from a family rental housing program:

A. the documented need for the residential housing in

the proposed geographic area;

B. the ability of the applicant to proceed expeditiously with the development;

C. the applicant's prior experience in developing, owning, and operating residential housing;

D. the cost and quality of the proposed housing;

E. the geographic distribution of loan funds, to the extent that loan funds can be used to assist projects throughout the state;

F. the relationship of the proposed development to public facilities, sources of employment, and services, including public transportation, health, education, and recreation facilities;

G. the appropriateness of the development for occupancy by families; and

H. the extent to which the loan funds are combined with other sources of funding to make the development economically feasible and rents affordable for low-income families.

4900.2707 FUNDING PRIORITY.

The agency shall give funding priority to developments in which units are made affordable for families earning less than 50 percent of the area median, where the funds used to achieve lower rents are from sources other than the agency.

Preference must be given to families with children when selecting tenants for family rental housing.

8:30 AM

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN - 6 1990
Joan Anderson Growe
Secretary of State

APPROVED AS TO LEGALITY
June 4 19 90
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Charlene M. Hatch
SPECIAL ASSISTANT ATTORNEY GENERAL

In the Matter of the Proposed Adoption of the Rule of the Minnesota Housing Finance Agency Governing the Loans for Family Rental Housing

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Susan K. Noren, being sworn says:

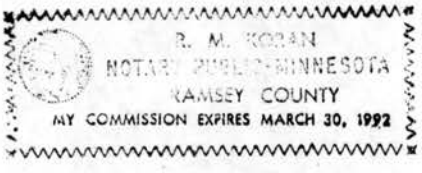
I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the Minnesota Housing Finance Agency rulemaking mailing list is accurate, complete, and current as of this 23rd day of March, 1990

That on the 23rd day of March, 1990, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule Without a Public Hearing by depositing in the United States mail, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Susan K. Noren
Office Services Supervisor

Subscribed and sworn to before me this 23rd day of March, 1990.

Notary Public



Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Minnesota Housing Finance Agency

Proposed Permanent Rules Relating to Loans for Family Rental Housing

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Housing Finance Agency intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* 462A.06, Subd. 4 and 11.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. 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. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Susan K. Noren
Legal Division
Minnesota Housing Finance Agency
400 Sibley Street, Suite 300
St. Paul, Minnesota 55101-1998
Telephone: (612) 296-9794

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Susan K. Noren upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the adopted rule, must submit the written request to Susan K. Noren.

Dated: 23 March 1990

James J. Solem
Commissioner

Rules as Proposed (all new material)

4900.2700 SCOPE.

Parts 4900.2700 to 4900.2707 govern the implementation of family rental housing loan programs authorized under *Minnesota Statutes*, section 462A.21, subdivision 8b.

4900.2701 DEFINITION.

Subpart 1. **Scope.** The terms used in parts 4900.2700 to 4900.2707 have the meaning given them in this part.

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Subp. 4. **Application.** "Application" means a submittal requesting a loan from the agency for a family rental housing program.

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Subp. 7. **Family rental housing program.** "Family rental housing program" means a loan program authorized by *Minnesota Statutes*, section 462A.21, subdivision 8b, for the acquisition, rehabilitation, or new construction of family rental housing.

Subp. 8. **Loan.** "Loan" means a disbursement of funds to an eligible applicant under a family rental housing program.

4900.2702 ELIGIBLE APPLICANTS.

Subpart 1. **Property interest.** An applicant for a family rental housing program loan must, at the time of application, possess one of the following interests in the property:

A. a fee title;

B. a fee title subject to a mortgage or other lien securing a debt capable of prepayment or, at the option of the agency, subordination; or

C. a mutually binding contract or option for the purchase of fee title.

Subp. 2. **Applicant eligibility.** To be eligible for selection as a recipient of a loan from a family rental housing program, an applicant must be:

A. a Minnesota nonprofit entity as defined in part 4900.0010, subpart 21; including, but not limited to, a housing and redevelopment authority established under *Minnesota Statutes*, sections 469.001 to 469.047;

B. a town or home rule charter or statutory city in Minnesota;

C. a cooperative housing corporation as defined in part 4900.0010, subpart 8;

D. a limited dividend entity as defined in part 4900.0010, subpart 14;

E. a for profit entity to the extent authorized under *Minnesota Statutes*, section 462A.21, subdivision 8b.

4900.2703 ELIGIBLE APPLICATIONS.

The applicant must provide an application in the form prescribed by the agency. At minimum, the application shall include the following:

A. information describing the site of the proposed development including the location, present use and zoning, surrounding land uses, and physical characteristics of the site that might affect construction;

B. a description of the proposed housing development including the building type, the size and number of dwelling units, and the characteristics of the development that make it appropriate for residency by families;

C. information with respect to the market for the proposed development including reports of market surveys or analyses, documentation of need for the development, and a proposed marketing plan;

D. a description of the construction or rehabilitation to be completed including a schedule of the proposed uses of any requested loan funds and the amounts proposed to be allocated to each use;

E. a detailed budget for the development showing all development costs, operating costs, sources of financing sought or secured, proposed rent schedule, and any other sources of income; and

F. a timetable for completion of the development.

4900.2704 REQUIRED OCCUPANCY.

The dwelling units developed with loans from a family rental housing program must be occupied by families whose adjusted income at the time of initial occupancy does not exceed 60 percent of the area median income, with the area median income defined as follows: the greater of the county median income or the Minnesota nonmetro median average as either is defined by the United States Department of Housing and Urban Development.

4900.2705 ELIGIBLE UNITS.

In new construction developments, at least 80 percent of the dwelling units constructed with loan funds from a family rental housing program must have three or more bedrooms.

4900.2706 SELECTION CRITERIA.

The agency shall take the following criteria into consideration when determining whether an application and applicant will be selected for a loan from a family rental housing program:

A. the documented need for the residential housing in the proposed geographic area;

B. the ability of the applicant to proceed expeditiously with the development;

C. the applicant's prior experience in developing, owning, and operating residential housing;

D. the cost and quality of the proposed housing;

E. the geographic distribution of loan funds, to the extent that loan funds can be used to assist projects throughout the state;

F. the relationship of the proposed development to public facilities, sources of employment, and services, including public transportation, health, education, and recreation facilities;

G. the appropriateness of the development for occupancy by families; and

H. the extent to which the loan funds are combined with other sources of funding to make the development economically feasible and rents affordable for low-income families.

4900.2707 FUNDING PRIORITY.

The agency shall give funding priority to developments in which units are made affordable for families earning less than 50 percent of the area median, where the funds used to achieve lower rents are from sources other than the agency.

Preference must be given to families with children when selecting tenants for family rental housing.

Minnesota Housing Finance Agency

Proposed Permanent Rules Relating to Rental Housing Loans for Individuals

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Housing Finance Agency intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* 462A.06, Subd. 4 and 11.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. 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. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

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 the Rule of the Minnesota Housing Finance Agency Governing the Loans for Family Rental Housing

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

(1) Notice of the Commissioner's intent to adopt the above rule was published in the State Register on March 25, 1990 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subd. 1a and 14.22 on March 25, 1990. (2) The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

(4) All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. (5) No requests for a public hearing on the rule were received by the agency.

(7) No submissions or comments on the rule were received by the agency. No requests for notice of submission to the attorney general were received by the agency.

Based on the comments and evidence in the record before the agency, I find the following:

(8) The above rule is needed and reasonable.

(9) NOW, THEREFORE, IT IS ORDERED that the rule identified as 4900.4900.2700 through 4900.2707 is adopted this 26th day of April, 1990, pursuant to authority vested in the agency by Minnesota Statutes, sections 462A.06, subd. 4 and 11.

James J. Solem, Commissioner

Findings of Fact indicate notice of intent was published in the State Register on March 25, 1990 - State Register date is March 26, 1990

Findings of Fact indicate notice was sent out on March 25, 1990 - Affidavit of mailing indicates March 23, 1990

~~weak~~

weak Statement of need and Reasonableness

LOANS FOR FAMILY RENTAL HOUSING

STATEMENT OF NEED AND REASONABLENESS

Minnesota Statutes (1989) Section 462A.21 Subdivision 8b empowered the Minnesota Housing Finance Agency (Agency) to develop and implement rental housing programs to provide loans or direct rental subsidies for families with incomes up to 60 percent of the area median income. The statute was passed recognizing the need for affordable rental dwelling units for low income families, particularly families with children. The legislature appropriated a total of $3 million for new rental housing programs. The Agency has designated $1.85 million of the appropriation for loans for family rental housing. The proposed rule has been developed under the above referenced statute.

Proposed Minnesota Rules Part 4900.2700 (Scope) describes the scope of Parts 4900.2700 to 4900.2707 as they apply to family rental housing programs established under Minnesota Statutes (1989) Section 462A.21 Subdivision 8b.

Proposed Minnesota Rules Part 4900.2701 (Definitions) provides definitions under these rules.

Proposed Minnesota Rules Part 4900.2702 (Eligible Applicants) defines what entities are eligible to apply for loan funds as specified under the statute and existing Agency regulations applicable to it.

Proposed Minnesota Rules Part 4900.2703 (Eligible Applications) outlines the information that must be provided in the application for loan funds. The information required is that which is both reasonable and necessary for the Agency to determine the scope of work to be completed, the financial viability of the proposed development, and the degree to which the proposed development addresses local housing needs. The information required in the application is directly related to the selection criteria defined in Part 4900.2706.

Proposed Minnesota Rules Part 4900.2704 (Required Occupancy) the income eligibility threshold (60 percent of area median income) is taken directly from the statute. Area median income is defined to further clarify the requirements of the statute.

Proposed Minnesota Rules Part 4900.2705 (Eligible Units) specifies that new construction developments be substantially comprised of larger units (3+ bedrooms). This part is both necessary and reasonable given the shortage of such units in the current supply of rental housing and the fact that new construction is frequently the most economical means of producing larger rental units.

Proposed Minnesota Rules 4900.2706 (Selection Criteria) provides the criteria to be used by the Agency when selecting applicants to receive loan funds under the program. These criteria are reasonable and necessary to ensure that the loan funds provided by the program are used to address the housing needs of a community, support economically feasible projects, assist projects throughout the state, and assist developments which are appropriate for housing for families.

Proposed Minnesota Rules Part 4900.2707 (Funding Priority) specifies that developments made affordable to the lowest income families are to be given highest funding priority. This in direct response to the funding priority stated in the statute. The rule also specifies that preference will be given to families with children for these larger dwelling units. This is reasonable given the critical need for children to have decent and habitable housing.

The Agency is cognizant of the provisions of Section 14.115 of Minnesota Statutes, entitled Small Business Considerations in Rulemaking, however, the proposed rules do not establish any compliance or reporting requirements, design, or operational standards, or directly affect the way any business must operate. Further, to the extent the proposed rules may have an indirect effect on small businesses, the effect is to make funds for housing for lower income Minnesota citizens more readily available, and, as a result, the proposed rule has no negative effect on small businesses. Therefore, the provisions contained in Minnesota statutes Section 14.115 (1989) do not apply to the proposed rules discussed herein.

Stat Authority

low-income families; (b) selling rehabilitated dwellings to homeless individuals and families or very low-income families; or (c) selling, leasing, or conveying to organizations that will manage the dwelling for rental to homeless individuals and families and very low-income families. These organizations may include organizations awarded grants under section 268.39. The homeless individuals or families or very low-income families that may purchase dwellings under (b) must have incomes that are equal to or less than 30 percent of the median income for the Minneapolis-St. Paul metropolitan area.

Eligible mortgagors must demonstrate that the grants awarded under this section will not exceed 50 percent of the project's total cost. A project's total cost includes, but is not limited to, acquisition costs, rehabilitation costs, and related costs. In cases where the property is donated, the acquisition costs are the prerehabilitated estimated market value as established for property tax purposes. Donated property may be used to satisfy the match requirement.

History: *1971 c 702 s 5; 1973 c 515 s 11-19; 1974 c 441 s 8-10; 1976 c 254 s 3-6; 1977 c 401 s 4-8; 1979 c 50 s 60; 1979 c 327 s 1-3; 1980 c 579 s 20; 1980 c 593 s 1-3; 1980 c 614 s 149; 1981 c 306 s 5-8; 1981 c 356 s 238,248; 1982 c 424 s 130; 1983 c 185 s 2-6; 1983 c 289 s 115 subd 1; 1983 c 301 s 204-206; 1984 c 654 art 2 s 128; 1985 c 248 s 70; 1Sp1985 c 13 s 334-338; 1986 c 444; 1987 c 312 art 1 s 26 subd 2; 1987 c 350 s 2-6; 1987 c 384 art 2 s 98; 1987 c 404 s 175; 1988 c 542 s 2,3; 1988 c 689 art 2 s 234*

462A.06 GENERAL POWERS OF THE AGENCY.

Subdivision 1. For the purpose of exercising the specific powers granted in section 462A.05 and effectuating the other purposes of sections 462A.01 to 462A.24, the agency shall have the general powers granted in this section.

Subd. 2. It may sue and be sued.

Subd. 3. It may have a seal and alter the same at will.

Subd. 4. It may make, and from time to time, amend and repeal rules not inconsistent with the provisions of sections 462A.01 to 462A.24.

Subd. 5. It may acquire, hold and dispose of personal property for its corporate purposes.

Subd. 6. It may enter into agreements or other transactions with any federal or state agency, any person and any domestic or foreign partnership, corporation, association or organization.

Subd. 7. It may, subject to the provisions of section 462A.05, subdivision 27, (1) acquire real or personal property, or an interest therein, including partnership shares in housing-related partnerships, on either a temporary or long-term basis in its own name, by purchase, exchange, gift, assignment, transfer, foreclosure, deed in lieu of foreclosure, lease, assignment of lease or otherwise, including rights or easements in real property; (2) own, hold, manage, operate, clear, improve, and rehabilitate real or personal property; and (3) sell, assign, lease, encumber, mortgage, or otherwise dispose of any real or personal property, or any interest in that property, or mortgage lien or security interest owned by it or under its control, custody, or in its possession and release or relinquish any right, title, claim, lien, interest, easement, or demand however acquired, including any equity or right of redemption in property foreclosed by it, and do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law.

Subd. 8. It may sell, at public or private sale, any note, mortgage or other instrument or obligation evidencing or securing a loan, including a certificate evidencing an interest in one or more loans. The agency may, in connection with such a sale, retain the right or obligation to collect the principal and interest on the loan, to enter into commitments for timely remittal of the principal and interest, or to provide any other services as described in the certificate.

Subd. 9. It may procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable.

Subd. 10. It may consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purpose, to the modification of the rate of interest, time of payment or any installment of principal or interest, or any other term, of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract or agreement of any kind to which the agency is a party.

Subd. 11. It may make and publish rules pursuant to chapter 14 respecting its mortgage lending, construction lending, rehabilitation lending, grants, and temporary lending, and any such other rules as are necessary to effectuate its corporate purpose, and may adopt emergency rules to implement demonstration programs for the financing of residential housing.

Subd. 12. It may borrow money to carry out and effectuate its corporate purpose and may issue its bonds or notes as evidence of any such borrowing in accordance with sections 462A.08 to 462A.17.

Subd. 13. [Repealed, 1973 c 515 s 40]

Subd. 14. [Repealed, 1973 c 515 s 40]

Subd. 15. [Repealed, 1973 c 515 s 40]

Subd. 16. [Repealed, 1973 c 515 s 40]

History: *1971 c 702 s 6; 1973 c 35 s 75; 1973 c 515 s 20,21; 1974 c 441 s 11; 1980 c 593 s 4; 1982 c 424 s 130; 1983 c 185 s 7; 1984 c 640 s 32; 1985 c 248 s 70; 1987 c 350 s 7,8*

462A.065 FINANCIAL INFORMATION.

Financial information, including but not limited to credit reports, financial statements and net worth calculations, received or prepared by the agency regarding any agency loan or grant and the name of each individual who is the recipient of an agency grant are private data on individuals, pursuant to section 13.02, subdivision 12.

History: *1977 c 401 s 9; 1981 c 311 s 39; 1982 c 545 s 24*

462A.07 ADDITIONAL POWERS AND DUTIES OF THE AGENCY.

Subdivision 1. In addition to the powers granted in sections 462A.05 and 462A.06 the agency shall have the further powers granted in this section.

Subd. 2. It may provide general technical services to assist in the planning, processing, design, construction or rehabilitation, and inspection of residential housing for occupancy by persons and families of low and moderate income.

Subd. 3. It may provide general consultative project assistance services for residential housing for occupancy by persons and families of low and moderate income and for the residents thereof with respect to management, training and social services, homeownership counseling and continuing technical home maintenance services.

Subd. 3a. It shall make available technical assistance to potential applicants to encourage applications for multifamily housing projects which afford residents participation in the ownership or management of the project.

Subd. 4. It may promote research and development in scientific methods of constructing low cost residential housing of high durability.

Subd. 5. It may enter into agreements with sponsors, mortgagors, or the issuers of securities for the purpose of regulating the planning, development, and management of housing projects financed in whole or in part by the proceeds of eligible loans or eligible securities purchased by the agency.

Subd. 5a. It may enter into agreements with housing and redevelopment authorities or other appropriate local governmental units to foster multifamily housing rehabilitation and shall act to develop the agreements. It may give advance reservations of mortgage financing and federal rent subsidies as part of the agreements, with the understanding that the agency will only approve the mortgage loans pursuant to normal procedures, and may adopt special procedures designed to meet problems inherent in a program of multifamily housing rehabilitation. The agreements may include the

MINNESOTA HOUSING FINANCE AGENCY

Celebrate MINNESOTA 1990

May ~~10~~ 15, 1990

Ms. Patricia Nolte, Legal Assistant
Public Finance Division
Attorney General
404 Capitol Office Bldg.
525 Park St.
St. Paul, MN 55155

Re: In the Matter of the Proposed Rule Relating to Loans for Family Rental Housing

Dear Ms. Nolte:

I have enclosed 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 2010:

Rule as Adopted;

Certificate of Board's Resolution Adopting the Rule;

Certificate of Agency's Authorizing Resolution;

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

Affidavit of Mailing the Notice of Intent to Adopt a Rule Without a Public Hearing and Certificate of Mailing List;

Rule as Proposed;

Rule as Published in State Register;

Findings of Fact, Conclusions and Order Adopting the Rule Without a Public Hearing;

Statement of Need and Reasonableness; and

Declaration of Counsel.

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 received no comments during the 30-day comment period, and it received no 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.

If you have any questions call Susan K. Noren at 296-9794.

Sincerely,

James J. Solem
Commissioner

JJS:skn
Encs.

MINNESOTA HOUSING FINANCE AGENCY
400 Sibley Street
St. Paul, MN 55101

RESOLUTION NO. MHFA 90-50

RESOLUTION AUTHORIZING ADOPTION OF RULES RELATING
TO LOANS FOR FAMILY RENTAL HOUSING
WITHOUT A PUBLIC HEARING

BE IT RESOLVED BY THE MINNESOTA HOUSING FINANCE AGENCY:

That the rule relating to Loans for Family Rental Housing is approved and adopted, pursuant to authority vested in the Agency by Minnnesota Statutes 462A.06, Subds. 4 and 11. James J. Solem, the Commissioner of the Minnesota Housing Finance Agency is authorized to sign the findings of fact, conclusions , and order adopting the rule and further is authorized to modify the rule if necessary to obtain the approval of the rule by the attorney general and to perform the necessary acts to provide that the rule shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 26th day of April, 1990.

Chairman

Minnesota Housing Finance Agency

Adopted Permanent Rules Relating to Loans for Family Rental Housing

Rules as Adopted

4900.2700 SCOPE.

Parts 4900.2700 to 4900.2707 govern the implementation of family rental housing loan programs authorized under Minnesota Statutes, section 462A.21, subdivision 8b.

4900.2701 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 4900.2700 to 4900.2707 have the meaning given them in this part.

Subp. 2. **Agency.** "Agency" means the Minnesota Housing Finance Agency created by Minnesota Statutes, sections 462A.01 to 462A.24.

Subp. 3. **Applicant.** "Applicant" means one or more entities that submit an application to the agency for a loan under a family rental housing program.

Subp. 4. **Application.** "Application" means a submittal requesting a loan from the agency for a family rental housing program.

Subp. 5. **Development.** "Development" means the housing to be constructed or rehabilitated by the applicant as described in the application.

Subp. 6. **Family rental housing.** "Family rental housing" means rental housing consisting of units with two or more bedrooms.

Subp. 7. **Family rental housing program.** "Family rental housing program" means a loan program authorized by Minnesota Statutes, section 462A.21, subdivision 8b, for the acquisition, rehabilitation, or new construction of family rental housing.

Subp. 8. **Loan.** "Loan" means a disbursement of funds to an eligible applicant under a family rental housing program.

units, and the characteristics of the development that make it appropriate for residency by families;

C. information with respect to the market for the proposed development including reports of market surveys or analyses, documentation of need for the development, and a proposed marketing plan;

D. a description of the construction or rehabilitation to be completed including a schedule of the proposed uses of any requested loan funds and the amounts proposed to be allocated to each use;

E. a detailed budget for the development showing all development costs, operating costs, sources of financing sought or secured, proposed rent schedule, and any other sources of income; and

F. a timetable for completion of the development.

4900.2704 REQUIRED OCCUPANCY.

The dwelling units developed with loans from a family rental housing program must be occupied by families whose adjusted income at the time of initial occupancy does not exceed 60 percent of the area median income, with the area median income defined as follows: the greater of the county median income or the Minnesota nonmetro median average as either is defined by the United States Department of Housing and Urban Development.

4900.2705 ELIGIBLE UNITS.

In new construction developments, at least 80 percent of the dwelling units constructed with loan funds from a family rental housing program must have three or more bedrooms.

4900.2706 SELECTION CRITERIA.

The agency shall take the following criteria into consideration when determining whether an application and applicant will be selected for a loan from a family rental housing program:

A. the documented need for the residential housing in

CERTIFICATE OF THE
MINNESOTA HOUSING FINANCE AGENCY
AUTHORIZING RESOLUTION

I, Robert A. Worthington, do hereby certify that I am a member and the 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 22nd day of February, 1990, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

> "RESOLVED, that James J. Solem, Commissioner of the Minnesota Housing Finance Agency, is hereby granted the authority and directed to sign and to give the Notice of the Minnesota Housing Finance Agency's Intent to Adopt a rule without a public hearing, governing the Loans for Family Rental Housing to all persons who have registered their names with the Agency for that purpose and publish the Notice and rule in the State Register, and to perform any and all acts incidental thereto."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 22nd day of February, 1990.

CHAIRMAN

ATTEST BY ONE OTHER BOARD MEMBER

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of the Rule of the Minnesota Housing Finance Agency Governing the Loans for Family Rental Housing

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

(1) Notice is hereby given that the Minnesota Housing Finance Agency intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes 462A.06, Subd. 4 and 11.

(2) All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. (3) Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. (4) If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. (6) 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. (7) If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

(5) Comments or written requests for a public hearing must be submitted to:

Susan K. Noren
Legal Division
Minnesota Housing Finance Agency
Suite 300
400 Sibley Street
St. Paul, Minnesota 55101
Telephone: (612) 296-9794

(8) The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

(11) A copy of the proposed rule is attached to this notice.

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Susan K. Noren upon request.

(9) If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the adopted rule, must submit the written request to Susan K. Noren.

Date: March 23, 1990

James J. Solem
Commissioner

Minnesota Housing Finance Agency

Proposed Permanent Rules Relating to Loans for Family Rental Housing

Rules as Proposed (all new material)

4900.2700 SCOPE.

Parts 4900.2700 to 4900.2707 govern the implementation of family rental housing loan programs authorized under Minnesota Statutes, section 462A.21, subdivision 8b.

4900.2701 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 4900.2700 to 4900.2707 have the meaning given them in this part.

Subp. 2. **Agency.** "Agency" means the Minnesota Housing Finance Agency created by Minnesota Statutes, sections 462A.01 to 462A.24.

Subp. 3. **Applicant.** "Applicant" means one or more entities that submit an application to the agency for a loan under a family rental housing program.

Subp. 4. **Application.** "Application" means a submittal requesting a loan from the agency for a family rental housing program.

Subp. 5. **Development.** "Development" means the housing to be constructed or rehabilitated by the applicant as described in the application.

Subp. 6. **Family rental housing.** "Family rental housing" means rental housing consisting of units with two or more bedrooms.

Subp. 7. **Family rental housing program.** "Family rental housing program" means a loan program authorized by Minnesota Statutes, section 462A.21, subdivision 8b, for the acquisition, rehabilitation, or new construction of family rental housing.

Subp. 8. **Loan.** "Loan" means a disbursement of funds to an eligible applicant under a family rental housing program.

Approved by Revisor

4900.2702 ELIGIBLE APPLICANTS.

Subpart 1. **Property interest.** An applicant for a family rental housing program loan must, at the time of application, possess one of the following interests in the property:

A. a fee title;

B. a fee title subject to a mortgage or other lien securing a debt capable of prepayment or, at the option of the agency, subordination; or

C. a mutually binding contract or option for the purchase of fee title.

Subp. 2. **Applicant eligibility.** To be eligible for selection as a recipient of a loan from a family rental housing program, an applicant must be:

A. a Minnesota nonprofit entity as defined in part 4900.0010, subpart 21; including, but not limited to, a housing and redevelopment authority established under Minnesota Statutes, sections 469.001 to 469.047;

B. a town or home rule charter or statutory city in Minnesota;

C. a cooperative housing corporation as defined in part 4900.0010, subpart 8;

D. a limited dividend entity as defined in part 4900.0010, subpart 14;

E. a for profit entity to the extent authorized under Minnesota Statutes, section 462A.21, subdivision 8b.

4900.2703 ELIGIBLE APPLICATIONS.

The applicant must provide an application in the form prescribed by the agency. At minimum, the application shall include the following:

A. information describing the site of the proposed development including the location, present use and zoning, surrounding land uses, and physical characteristics of the site that might affect construction;

B. a description of the proposed housing development including the building type, the size and number of dwelling

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by Revisor _____

units, and the characteristics of the development that make it appropriate for residency by families;

C. information with respect to the market for the proposed development including reports of market surveys or analyses, documentation of need for the development, and a proposed marketing plan;

D. a description of the construction or rehabilitation to be completed including a schedule of the proposed uses of any requested loan funds and the amounts proposed to be allocated to each use;

E. a detailed budget for the development showing all development costs, operating costs, sources of financing sought or secured, proposed rent schedule, and any other sources of income; and

F. a timetable for completion of the development.

4900.2704 REQUIRED OCCUPANCY.

The dwelling units developed with loans from a family rental housing program must be occupied by families whose adjusted income at the time of initial occupancy does not exceed 60 percent of the area median income, with the area median income defined as follows: the greater of the county median income or the Minnesota nonmetro median average as either is defined by the United States Department of Housing and Urban Development.

4900.2705 ELIGIBLE UNITS.

In new construction developments, at least 80 percent of the dwelling units constructed with loan funds from a family rental housing program must have three or more bedrooms.

4900.2706 SELECTION CRITERIA.

The agency shall take the following criteria into consideration when determining whether an application and applicant will be selected for a loan from a family rental housing program:

A. the documented need for the residential housing in

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the proposed geographic area;

B. the ability of the applicant to proceed expeditiously with the development;

C. the applicant's prior experience in developing, owning, and operating residential housing;

D. the cost and quality of the proposed housing;

E. the geographic distribution of loan funds, to the extent that loan funds can be used to assist projects throughout the state;

F. the relationship of the proposed development to public facilities, sources of employment, and services, including public transportation, health, education, and recreation facilities;

G. the appropriateness of the development for occupancy by families; and

H. the extent to which the loan funds are combined with other sources of funding to make the development economically feasible and rents affordable for low-income families.

4900.2707 FUNDING PRIORITY.

The agency shall give funding priority to developments in which units are made affordable for families earning less than 50 percent of the area median, where the funds used to achieve lower rents are from sources other than the agency.

Preference must be given to families with children when selecting tenants for family rental housing.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Loans for Family Rental Housing

AGENCY: Minnesota Housing Finance Agency

MINNESOTA RULES: Chapter 4900

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

In the Matter of the Adoption
of the Rule of the Minnesota
Housing Finance Agency
Governing the Loans for Family
Rental Housing

DECLARATION
OF COUNSEL

I, Karl J. Herman, Special Assistant Attorney General, do hereby declare that I have examined the above rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0450.

Karl J. Herman
Special Assistant Attorney General

Dated: April 26, 1990

CERTIFICATE OF THE
MINNESOTA HOUSING FINANCE AGENCY
RESOLUTION ADOPTING RULE

I, Robert A. Worthington, do hereby certify that I am a member and the 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 26th day of April, 1990, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

"RESOLVED, that the rule relating to Loans for Family Rental Housing is approved and adopted, pursuant to authority vested in the Agency by Minnesota Statutes 462A.06, Subds. 4 and 11. James J. Solem, the Commissioner of the Minnesota Housing Finance Agency is authorized to sign the findings of fact, conclusions, and order adopting the rule and further is authorized to modify the rule if necessary to obtain the approval of the rule by the attorney general and to perform the necessary acts to provide that the ruled shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed by name this 26th day of April, 1990.

Chairman

Attest by One Other Board Member

Minnesota Housing Finance Agency

Proposed Permanent Rules Relating to Loans for Family Rental Housing

Rules as Proposed (all new material)

4900.2700 SCOPE.

Parts 4900.2700 to 4900.2707 govern the implementation of family rental housing loan programs authorized under Minnesota Statutes, section 462A.21, subdivision 8b.

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Approved by Revisor

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B. a description of the proposed housing development including the building type, the size and number of dwelling

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units, and the characteristics of the development that make it appropriate for residency by families;

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the proposed geographic area;

B. the ability of the applicant to proceed expeditiously with the development;

C. the applicant's prior experience in developing, owning, and operating residential housing;

D. the cost and quality of the proposed housing;

E. the geographic distribution of loan funds, to the extent that loan funds can be used to assist projects throughout the state;

F. the relationship of the proposed development to public facilities, sources of employment, and services, including public transportation, health, education, and recreation facilities;

G. the appropriateness of the development for occupancy by families; and

H. the extent to which the loan funds are combined with other sources of funding to make the development economically feasible and rents affordable for low-income families.

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The agency shall give funding priority to developments in which units are made affordable for families earning less than 50 percent of the area median, where the funds used to achieve lower rents are from sources other than the agency.

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Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Loans for Family Rental Housing

AGENCY: Minnesota Housing Finance Agency

MINNESOTA RULES: Chapter 4900

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

1700

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of the Rule of the Minnesota Housing Finance Agency Governing the Loans for Family Rental Housing

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

Notice of the Commissioner's intent to adopt the above rule was published in the State Register on March 26, 1990 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subd. 1a and 14.22 on March 23, 1990. The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rule were received by the agency.

No submissions or comments on the rule were received by the agency. No requests for notice of submission to the attorney general were received by the agency.

Based on the comments and evidence in the record before the agency, I find the following:

The above rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as 4900.4900.2700 through 4900.2707 is adopted this 26th day of April, 1990, pursuant to authority vested in the agency by Minnesota Statutes, sections 462A.06, subd. 4 and 11.

James J. Solem, Commissioner