

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: October 25, 1990

TO: SUSAN K. NOREN
Minnesota Housing Finance Agency

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

PHONE: 296-9422

SUBJECT: In the Matter of the Adopted Rule Relating to Publicly-Owned Transitional Housing

The above-referenced rule has been approved as to its legality by the Attorney General on November 22, 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 tne 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:sc
Enclosures
cc: William Brown, Chief Judge
MaryAnn Hruby
Karl Herman

Minnesota Housing Finance Agency

Adopted Permanent Rules Relating to Publicly-Owned Transitional Housing

Rules as Adopted

PUBLICLY-OWNED TRANSITIONAL HOUSING

4900.3100 SCOPE.

Parts 4900.3100 to 4900.3130 govern the implementation of the publicly-owned transitional housing program.

4900.3110 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 4900.3100 to 4900.3130 have the meaning given them in this part.

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

Subp. 3. **Applicant.** "Applicant" means one or more entities that submit an application for a transitional housing program grant.

Subp. 4. **Application.** "Application" means a submittal requesting a transitional housing program grant to pay the cost of the acquisition, improvement, or rehabilitation of a structure to provide transitional housing for low and moderate income persons.

Subp. 5. **Local government unit.** "Local government unit" means a city as defined in Minnesota Statutes, section 462C.02, subdivision 6.

Subp. 6. **Persons and families of low and moderate income.** "Persons and families of low and moderate income" means those persons and families whose income does not exceed 50 percent of the statewide median household income as estimated by the United States Department of Housing and Urban Development.

Subp. 7. **Resolution Trust Corporation.** "Resolution Trust Corporation" means the corporation created pursuant to United States Code, title 12, section 1811 et seq., or its subsidiaries or assignees.

Subp. 8. **Structure.** "Structure" means a building to be acquired, improved, or rehabilitated for use as transitional housing.

Subp. 9. **Support services.** "Support services" means services that identify the needs of individuals for independent living, develop individualized plans to achieve independent living, and arrange or provide for appropriate educational, social, legal, advocacy, child care, employment, financial, or information and referral services to meet these needs.

Subp. 10. **Transitional housing.** "Transitional housing" means housing provided for a limited duration not exceeding 24 months and available for occupancy on a continuous 24-hour basis.

Subp. 11. **Transitional housing program grant.** "Transitional housing program grant" means an appropriation of money to an eligible applicant under the authority granted in Minnesota Statutes, section 462A.202, subdivision 2.

4900.3120 ELIGIBILITY.

Subpart 1. **Applicants.** To be eligible for selection for a grant, an applicant shall satisfy the requirements in items A to E.

A. The applicant must be a local government unit.

B. The applicant must provide a comprehensive plan for meeting the existing need for transitional housing and for the placement of persons in independent housing. At a minimum, this plan must include:

(1) documentation of a need for transitional housing by the population to be served by the structure;

(2) a description of the applicant's goals and objectives for meeting the special needs of the population to be served;

(3) documentation of an ability to provide support services to assist persons in moving into independent or appropriate supportive living situations;

(4) a detailed budget for the operation of the transitional housing program for the first year and projected

budgets for future years; and

(5) a detailed budget for the acquisition and rehabilitation of the structure.

C. The applicant shall document fiscal responsibility and the ability to complete the construction, acquisition, or modification of the structure and to maintain the structure in accordance with its funded use for a specific period of time.

D. The applicant must agree to retain ownership of the property for at least 20 years. After 20 years, the sale of a property before the expiration of its useful life must be at its fair market value, and the net proceeds of the sale must be used for the same purpose or repaid to the agency for deposit in the local government unit housing account. The applicant may contract with a nonprofit or for-profit organization to manage the property, including the improvement or rehabilitation of the property, and to operate a transitional housing program on the property on behalf of the applicant.

E. Where the applicant intends to contract with a nonprofit or for-profit organization to develop or manage the property or to operate the transitional housing program, the nonprofit or for-profit organization may provide any or all of the information required under items B and C.

Subp. 2. **Structures.** To be eligible for selection for a grant, a proposed transitional housing structure must satisfy the requirements in items A to D.

A. The structure must provide transitional housing for persons and families of low and moderate income.

B. The structure must provide a physical environment that is responsive to the needs of the population to be served.

C. The structure must comply with applicable state and local codes, zoning ordinances, land use provisions, and laws.

D. The structure must be located in Minnesota.

4900.3130 SELECTION CRITERIA FOR GRANTS.

Preference shall be given to local units of government that

propose to acquire properties being sold by the Resolution Trust Corporation or the Department of Housing and Urban Development.

In addition, the agency shall take the following criteria into consideration when determining which applications will be funded:

A. the extent to which the grant is combined with funds or in-kind contributions from other public and private sources;

B. the availability and source of funds to pay the cost of acquisition, construction, or rehabilitation of the structure not funded by the grant;

C. the availability and source of funds to pay the ongoing costs of the support services;

D. the distribution of funds to service a variety of populations including, but not limited to, families with children, couples, single persons, and persons leaving a shelter for family abuse;

E. the geographic distribution of the funded applications within the state;

F. the immediacy of the need documented for temporary housing in the area in which the structure is located;

G. if the applicant requests funding for a structure in which a transitional housing program is currently operating:

(1) the need for additional transitional housing in the area and the extent to which additional transitional housing will be produced if the application is funded; or

(2) the extent to which funding for ongoing operating costs is declining and government ownership of the structure will ensure continued operation of the program;

H. the capacity of the applicant to proceed promptly with the acquisition, improvement, or rehabilitation of the structure;

I. the amount of the grant requested as compared to the total resources available for these grants;

J. the extent to which the application receives the support and participation of the local community;

K. the geographic location of the structure in relation to support services, retail facilities, recreational facilities, medical facilities, and transportation;

L. the reasonableness of the acquisition, improvement, or rehabilitation cost with preference given to applications that minimize the cost per transitional housing units produced;

M. the extent to which the application uses innovative cost-effective support services that are appropriate to the needs of the population served; and

N. the experience of the applicant, or if the applicant proposes to contract with a nonprofit or for-profit organization, then the experience of the nonprofit or for-profit organization in developing or managing housing, providing support services, and servicing the specific target population of homeless persons.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 2 1990
Secretary of State

APPROVED AS TO LEGALITY

October 22, 1990

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Charlene H. Hatcher
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 24 1990

Joan Anderson Growe
Secretary of State

3:36 P.M.

CH

RULE REVIEW CHECKLIST

File No. 1746
DATE RECEIVED 10-8-90
REVIEW DATE 10-17-90
DUE DATE 10-22-90
(DIS)APPROVED 10-22-90
WITHDRAWN _____

Docket No. 05 0009 0450
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 10-12-90
REVISOR (DIS)APPROVED _____
FILED W/SEC. OF STATE _____
RETURNED TO AGENCY _____

✓ 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

✓ Board's Authorizing Resolution
June 28, 1990 Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
462A.06 and 04 and 11 Statutory Authority
_____ Small Business Statement
_____ Expenditure of public money statement
August 10, 1990 Signature

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

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
August 10, 1990 Dated (30)/25 days before adoption
✓ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
August 13, 1990 Date (30)/25 days before adoption

✓ 180-day deadline from:
N/A Effective date of law requiring rule (14.12) (both rules) ~~amendments don't apply~~ not mandatory
✓ end of comment period (§ 14.26) (rules without hearing)
_____ effective date of statutory authority (§ 14.29) (emergency rules)

✓ Resolution Adopting
Sept 27, 1990 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
Sept 27, 1990 Date

✓ Written Requests, Submissions or Comments

✓ Declaration of Attorney
Karl Herman Name of SAAG representing agency

_____ Notice of Submission to Attorney General (if applicable)

_____ Affidavit of Mailing Notice to Attorney General (if applicable)

MINNESOTA
HOUSING
FINANCE
AGENCY

Celebrate
MINNESOTA 1990

October 4, 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 Publicly-Owned Transitional 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 (four copies);

Agency's Board Resolution Adopting the Rule;

Certificate of the Minnesota Housing Finance Agency 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, no comments on the rule, and no requests from persons desiring notice of the date of submission of the proposed rule to the Attorney General were received during the 30-day comment period. 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.

Stat Authority

462A.06 subd 4 and 11

subd 4 ... The agency shall have the general powers granted in this section. It may make, and from time to time, amend and repeal rules not inconsistant with the provisions of sections 462A.01 to 462A.24

subd 11 It may make and publish rules pursant to chapter 14 respecting its mortgage lending construct . . .

SOLAR

What about the justification for 4900.3120 subpart 1, A. B, C and E

What about justifying the criteria stated in 4900.3130 - I think this is a poor SOLAR

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of the Rule of the Minnesota Housing the Minnesota Housing Finance Agency Governing the Publicly-Owned Transitional 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 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 portin 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 withint 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 St., Suite 300
St. Paul, MN 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 an 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 rs 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: August 10, 1990

James J. Solem
Commissioner

Minnesota Housing Finance Agency

Proposed Permanent Rules Relating to Publicly-Owned Transitional Housing

Rules as Proposed (all new material)

PUBLICLY-OWNED TRANSITIONAL HOUSING

4900.3100 SCOPE.

Parts 4900.3100 to 4900.3130 govern the implementation of the publicly-owned transitional housing program.

4900.3110 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 4900.3100 to 4900.3130 have the meaning given them in this part.

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Subp. 5. **Local government unit.** "Local government unit" means a city as defined in Minnesota Statutes, section 462C.02, subdivision 6.

Subp. 6. **Persons and families of low and moderate income.** "Persons and families of low and moderate income" means those persons and families whose income does not exceed 50 percent of the statewide median household income as estimated by the United States Department of Housing and Urban Development.

Subp. 7. **Resolution Trust Corporation.** "Resolution Trust Corporation" means the corporation created pursuant to United States Code, title 12, section 1811 et seq., or its subsidiaries or assignees.

Approved by Revisor

Subp. 8. **Structure.** "Structure" means a building to be acquired, improved, or rehabilitated for use as transitional housing.

Subp. 9. **Support services.** "Support services" means services that identify the needs of individuals for independent living, develop individualized plans to achieve independent living, and arrange or provide for appropriate educational, social, legal, advocacy, child care, employment, financial, or information and referral services to meet these needs.

Subp. 10. **Transitional housing.** "Transitional housing" means housing provided for a limited duration not exceeding 24 months and available for occupancy on a continuous 24-hour basis.

Subp. 11. **Transitional housing program grant.** "Transitional housing program grant" means an appropriation of money to an eligible applicant under the authority granted in Minnesota Statutes, section 462A.202, subdivision 2.

4900.3120 ELIGIBILITY.

Subpart 1. **Applicants.** To be eligible for selection for a grant, an applicant shall satisfy the requirements in items A to E.

A. The applicant must be a local government unit.

B. The applicant must provide a comprehensive plan for meeting the existing need for transitional housing and for the placement of persons in independent housing. At a minimum, this plan must include:

(1) documentation of a need for transitional housing by the population to be served by the structure;

(2) a description of the applicant's goals and objectives for meeting the special needs of the population to be served;

(3) documentation of an ability to provide support services to assist persons in moving into independent or appropriate supportive living situations;

(4) a detailed budget for the operation of the transitional housing program for the first year and projected

Approved
by Revisor _____

budgets for future years; and

(5) a detailed budget for the acquisition and rehabilitation of the structure.

C. The applicant shall document fiscal responsibility and the ability to complete the construction, acquisition, or modification of the structure and to maintain the structure in accordance with its funded use for a specific period of time.

D. The applicant must agree to retain ownership of the property for at least 20 years. After 20 years, the sale of a property before the expiration of its useful life must be at its fair market value, and the net proceeds of the sale must be used for the same purpose or repaid to the agency for deposit in the local government unit housing account. The applicant may contract with a nonprofit or for-profit organization to manage the property, including the improvement or rehabilitation of the property, and to operate a transitional housing program on the property on behalf of the applicant.

E. Where the applicant intends to contract with a nonprofit or for-profit organization to develop or manage the property or to operate the transitional housing program, the nonprofit or for-profit organization may provide any or all of the information required under items B and C.

Subp. 2. **Structures.** To be eligible for selection for a grant, a proposed transitional housing structure must satisfy the requirements in items A to D.

A. The structure must provide transitional housing for persons and families of low and moderate income.

B. The structure must provide a physical environment that is responsive to the needs of the population to be served.

C. The structure must comply with applicable state and local codes, zoning ordinances, land use provisions, and laws.

D. The structure must be located in Minnesota.

4900.3130 SELECTION CRITERIA FOR GRANTS.

Preference shall be given to local units of government that

Approved
by Revisor _____

propose to acquire properties being sold by the Resolution Trust Corporation or the Department of Housing and Urban Development.

In addition, the agency shall take the following criteria into consideration when determining which applications will be funded:

A. the extent to which the grant is combined with funds or in-kind contributions from other public and private sources;

B. the availability and source of funds to pay the cost of acquisition, construction, or rehabilitation of the structure not funded by the grant;

C. the availability and source of funds to pay the ongoing costs of the support services;

D. the distribution of funds to service a variety of populations including, but not limited to, families with children, couples, single persons, and persons leaving a shelter for family abuse;

E. the geographic distribution of the funded applications within the state;

F. the immediacy of the need documented for temporary housing in the area in which the structure is located;

G. if the applicant requests funding for a structure in which a transitional housing program is currently operating:

(1) the need for additional transitional housing in the area and the extent to which additional transitional housing will be produced if the application is funded; or

(2) the extent to which funding for ongoing operating costs is declining and government ownership of the structure will ensure continued operation of the program;

H. the capacity of the applicant to proceed promptly with the acquisition, improvement, or rehabilitation of the structure;

I. the amount of the grant requested as compared to the total resources available for these grants;

J. the extent to which the application receives the support and participation of the local community;

Approved by Revisor _____

K. the geographic location of the structure in relation to support services, retail facilities, recreational facilities, medical facilities, and transportation;

L. the reasonableness of the acquisition, improvement, or rehabilitation cost with preference given to applications that minimize the cost per transitional housing units produced;

M. the extent to which the application uses innovative cost-effective support services that are appropriate to the needs of the population served; and

N. the experience of the applicant, or if the applicant proposes to contract with a nonprofit or for-profit organization, then the experience of the nonprofit or for-profit organization in developing or managing housing, providing support services, and servicing the specific target population of homeless persons.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Publicly-Owned Transitional Housing

AGENCY: Minnesota Housing Finance Agency

MINNESOTA RULES: Chapter 4900

The attached rules are approved for publication in the State Register

Carla M. Riehle

Carla M. Riehle
Assistant Revisor

PUBLICLY-OWNED TRANSITIONAL HOUSING PROGRAM
STATEMENT OF NEED AND REASONABLENESS

Minnesota Statutes 1989, Section 462A.202, provides, *inter alia*, that the Minnesota Housing Finance Agency (hereinafter Agency) may make loans or grants to local government units to finance the acquisition, improvement, and rehabilitation of existing housing properties for the purpose of providing transitional housing. The 1990 legislature appropriated $1.5 million to fund the transitional housing program under section 462A.202. The proposed rule has been developed pursuant to section 462A.202.

Proposed Minnesota Rules Part 4900.3100 (Scope) describes the scope of parts 4900.3100 to 4900.3130 as they relate to the Agency's Publicly-Owned Transitional Housing Program.

Proposed Minnesota Rules Part 4900.3110 (Definitions) provides definitions under these rules.

Proposed Minnesota Rules Part 4900.3120 (Eligibility) describes in subpart 1 those applicants that are eligible to receive grant funds and what information, at a minimum, will be required as part of an applicant's request for grant funds. The statute specifically requires the provisions of subpart 1D regarding public ownership of the property for at least 20 years. In subpart 2, the requirements for eligible structures are set forth. The information required under this part is the information which is reasonable and necessary for the Agency to determine the applicant's need for the grant funds and to assess the applicant's ability to successfully administer the project.

Proposed Minnesota Rules Part 4900.3130 (Selection Criteria for Grants) lists the criteria that will be used by the Agency when awarding grant funds. These criteria are reasonable and necessary to ensure that the limited funds provided under this program are used effectively and efficiently to meet the transitional housing needs of families and individuals. The statute specifically requires that preference be given to applicants which propose to acquire properties being sold by the Resolution Trust Corporation or the Department of Housing and Urban Development.

The Agency recognizes the provisions Minnesota Statutes Section 14.115, "Small Business Considerations in Rulemaking," but since a recipients of a grant under the proposed rule must be a local unit of government, the regulation does not affect small business directly. Section 14.155, by its terms, is inapplicable to the proposed rule. Further, to the extent that the grants which are the subject of this rule may have an ultimate and indirect effect on small businesses, the effect is to make persons without a permanent home able to achieve independent living. As a result the proposed rule has no negative effect on small businesses.

In the Matter of the Proposed Adoption of the Rule of the Minnesota Housing Finance Agency Governing the Publicly-Owned Transitional Housing

ADOPTION 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, subd. 1a and 14.22 or 14.30, that their names be placed on the Minnesota Housing Finance Agency rule making mailing list is accurate, complete, and current as of this 10th day of August, 1990.

That on the 10th day of August, 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, Legal Secretary

Subscribed and sworn to before me
this 10th day of August, 1990.

Notary Public

RENEE J. DICKINSON
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES MARCH 26, 1996

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 28th day of June, 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 Publicly-Owned Transitional 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 28th day of June, 1990.

Chairman

Attest by one other Board Member

MINNESOTA HOUSING FINANCE AGENCY
400 Sibley Street
St. Paul, Minnesota 55101-1998

RESOLUTION NO. MHFA 90- 141

RESOLUTION AUTHORIZING ADOPTION OF RULES RELATING TO PUBLICLY-OWNED TRANSITIONAL HOUSING WITHOUT A PUBLIC HEARING

BE IT RESOLVED BY THE MINNESOTA HOUSING FINANCE AGENCY:

That the rule relating to Publicly-Owned Transitional Housing is approved and adopted, pursuant to authority vested in the Agency by Minnesota Statutes 462A.06, Subd. 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 27th day of September, 1990.

Chairman

Minnesota Housing Finance Agency

Adopted Permanent Rules Relating to Publicly-Owned Transitional Housing

Rules as Adopted

PUBLICLY-OWNED TRANSITIONAL HOUSING

4900.3100 SCOPE.

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(4) a detailed budget for the operation of the transitional housing program for the first year and projected

budgets for future years; and

(5) a detailed budget for the acquisition and rehabilitation of the structure.

C. The applicant shall document fiscal responsibility and the ability to complete the construction, acquisition, or modification of the structure and to maintain the structure in accordance with its funded use for a specific period of time.

D. The applicant must agree to retain ownership of the property for at least 20 years. After 20 years, the sale of a property before the expiration of its useful life must be at its fair market value, and the net proceeds of the sale must be used for the same purpose or repaid to the agency for deposit in the local government unit housing account. The applicant may contract with a nonprofit or for-profit organization to manage the property, including the improvement or rehabilitation of the property, and to operate a transitional housing program on the property on behalf of the applicant.

E. Where the applicant intends to contract with a nonprofit or for-profit organization to develop or manage the property or to operate the transitional housing program, the nonprofit or for-profit organization may provide any or all of the information required under items B and C.

Subp. 2. **Structures.** To be eligible for selection for a grant, a proposed transitional housing structure must satisfy the requirements in items A to D.

A. The structure must provide transitional housing for persons and families of low and moderate income.

B. The structure must provide a physical environment that is responsive to the needs of the population to be served.

C. The structure must comply with applicable state and local codes, zoning ordinances, land use provisions, and laws.

D. The structure must be located in Minnesota.

4900.3130 SELECTION CRITERIA FOR GRANTS.

Preference shall be given to local units of government that

propose to acquire properties being sold by the Resolution Trust Corporation or the Department of Housing and Urban Development.

In addition, the agency shall take the following criteria into consideration when determining which applications will be funded:

A. the extent to which the grant is combined with funds or in-kind contributions from other public and private sources;

B. the availability and source of funds to pay the cost of acquisition, construction, or rehabilitation of the structure not funded by the grant;

C. the availability and source of funds to pay the ongoing costs of the support services;

D. the distribution of funds to service a variety of populations including, but not limited to, families with children, couples, single persons, and persons leaving a shelter for family abuse;

E. the geographic distribution of the funded applications within the state;

F. the immediacy of the need documented for temporary housing in the area in which the structure is located;

G. if the applicant requests funding for a structure in which a transitional housing program is currently operating:

(1) the need for additional transitional housing in the area and the extent to which additional transitional housing will be produced if the application is funded; or

(2) the extent to which funding for ongoing operating costs is declining and government ownership of the structure will ensure continued operation of the program;

H. the capacity of the applicant to proceed promptly with the acquisition, improvement, or rehabilitation of the structure;

I. the amount of the grant requested as compared to the total resources available for these grants;

J. the extent to which the application receives the support and participation of the local community;

K. the geographic location of the structure in relation to support services, retail facilities, recreational facilities, medical facilities, and transportation;

L. the reasonableness of the acquisition, improvement, or rehabilitation cost with preference given to applications that minimize the cost per transitional housing units produced;

M. the extent to which the application uses innovative cost-effective support services that are appropriate to the needs of the population served; and

N. the experience of the applicant, or if the applicant proposes to contract with a nonprofit or for-profit organization, then the experience of the nonprofit or for-profit organization in developing or managing housing, providing support services, and servicing the specific target population of homeless persons.

Minnesota Housing Finance Agency

Proposed Permanent Rules Relating to Publicly-Owned Transitional Housing

Rules as Proposed (all new material)

PUBLICLY-OWNED TRANSITIONAL HOUSING

4900.3100 SCOPE.

Parts 4900.3100 to 4900.3130 govern the implementation of the publicly-owned transitional housing program.

4900.3110 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 4900.3100 to 4900.3130 have the meaning given them in this part.

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

Subp. 3. **Applicant.** "Applicant" means one or more entities that submit an application for a transitional housing program grant.

Subp. 4. **Application.** "Application" means a submittal requesting a transitional housing program grant to pay the cost of the acquisition, improvement, or rehabilitation of a structure to provide transitional housing for low and moderate income persons.

Subp. 5. **Local government unit.** "Local government unit" means a city as defined in Minnesota Statutes, section 462C.02, subdivision 6.

Subp. 6. **Persons and families of low and moderate income.** "Persons and families of low and moderate income" means those persons and families whose income does not exceed 50 percent of the statewide median household income as estimated by the United States Department of Housing and Urban Development.

Subp. 7. **Resolution Trust Corporation.** "Resolution Trust Corporation" means the corporation created pursuant to United States Code, title 12, section 1811 et seq., or its subsidiaries or assignees.

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Subp. 8. **Structure.** "Structure" means a building to be acquired, improved, or rehabilitated for use as transitional housing.

Subp. 9. **Support services.** "Support services" means services that identify the needs of individuals for independent living, develop individualized plans to achieve independent living, and arrange or provide for appropriate educational, social, legal, advocacy, child care, employment, financial, or information and referral services to meet these needs.

Subp. 10. **Transitional housing.** "Transitional housing" means housing provided for a limited duration not exceeding 24 months and available for occupancy on a continuous 24-hour basis.

Subp. 11. **Transitional housing program grant.** "Transitional housing program grant" means an appropriation of money to an eligible applicant under the authority granted in Minnesota Statutes, section 462A.202, subdivision 2.

4900.3120 ELIGIBILITY.

Subpart 1. **Applicants.** To be eligible for selection for a grant, an applicant shall satisfy the requirements in items A to E.

A. The applicant must be a local government unit.

B. The applicant must provide a comprehensive plan for meeting the existing need for transitional housing and for the placement of persons in independent housing. At a minimum, this plan must include:

(1) documentation of a need for transitional housing by the population to be served by the structure;

(2) a description of the applicant's goals and objectives for meeting the special needs of the population to be served;

(3) documentation of an ability to provide support services to assist persons in moving into independent or appropriate supportive living situations;

(4) a detailed budget for the operation of the transitional housing program for the first year and projected

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budgets for future years; and

(5) a detailed budget for the acquisition and rehabilitation of the structure.

C. The applicant shall document fiscal responsibility and the ability to complete the construction, acquisition, or modification of the structure and to maintain the structure in accordance with its funded use for a specific period of time.

D. The applicant must agree to retain ownership of the property for at least 20 years. After 20 years, the sale of a property before the expiration of its useful life must be at its fair market value, and the net proceeds of the sale must be used for the same purpose or repaid to the agency for deposit in the local government unit housing account. The applicant may contract with a nonprofit or for-profit organization to manage the property, including the improvement or rehabilitation of the property, and to operate a transitional housing program on the property on behalf of the applicant.

E. Where the applicant intends to contract with a nonprofit or for-profit organization to develop or manage the property or to operate the transitional housing program, the nonprofit or for-profit organization may provide any or all of the information required under items B and C.

Subp. 2. **Structures.** To be eligible for selection for a grant, a proposed transitional housing structure must satisfy the requirements in items A to D.

A. The structure must provide transitional housing for persons and families of low and moderate income.

B. The structure must provide a physical environment that is responsive to the needs of the population to be served.

C. The structure must comply with applicable state and local codes, zoning ordinances, land use provisions, and laws.

D. The structure must be located in Minnesota.

4900.3130 SELECTION CRITERIA FOR GRANTS.

Preference shall be given to local units of government that

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propose to acquire properties being sold by the Resolution Trust Corporation or the Department of Housing and Urban Development.

In addition, the agency shall take the following criteria into consideration when determining which applications will be funded:

A. the extent to which the grant is combined with funds or in-kind contributions from other public and private sources;

B. the availability and source of funds to pay the cost of acquisition, construction, or rehabilitation of the structure not funded by the grant;

C. the availability and source of funds to pay the ongoing costs of the support services;

D. the distribution of funds to service a variety of populations including, but not limited to, families with children, couples, single persons, and persons leaving a shelter for family abuse;

E. the geographic distribution of the funded applications within the state;

F. the immediacy of the need documented for temporary housing in the area in which the structure is located;

G. if the applicant requests funding for a structure in which a transitional housing program is currently operating:

(1) the need for additional transitional housing in the area and the extent to which additional transitional housing will be produced if the application is funded; or

(2) the extent to which funding for ongoing operating costs is declining and government ownership of the structure will ensure continued operation of the program;

H. the capacity of the applicant to proceed promptly with the acquisition, improvement, or rehabilitation of the structure;

I. the amount of the grant requested as compared to the total resources available for these grants;

J. the extent to which the application receives the support and participation of the local community;

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by Revisor _____

K. the geographic location of the structure in relation to support services, retail facilities, recreational facilities, medical facilities, and transportation;

L. the reasonableness of the acquisition, improvement, or rehabilitation cost with preference given to applications that minimize the cost per transitional housing units produced;

M. the extent to which the application uses innovative cost-effective support services that are appropriate to the needs of the population served; and

N. the experience of the applicant, or if the applicant proposes to contract with a nonprofit or for-profit organization, then the experience of the nonprofit or for-profit organization in developing or managing housing, providing support services, and servicing the specific target population of homeless persons.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Publicly-Owned Transitional Housing

AGENCY: Minnesota Housing Finance Agency

MINNESOTA RULES: Chapter 4900

The attached rules are approved for publication in the State Register

Carla M. Riehle

Carla M. Riehle
Assistant Revisor

1405.1800 HEARING RECORD.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Recorder or reporter.** Unless the chief administrative law judge determines that the use of a court reporter is more appropriate, an audiomagnetic recording device shall be used to keep a record at any hearing which takes place under parts 1405.0200 to 1405.2800.

The audiomagnetic recordings shall be retained by the office for five years from the date that the record is returned to the agency. Unless an agency requests a longer retention period for a specific case, the recordings may be erased or otherwise destroyed at the end of the five-year period.

[For text of subp 4, see M.R.]

Subp. 5. **Environmental documents.** ~~Any draft environmental impact statement (in the case of routes) or any draft environmental report (in the case of sites) required to be prepared by rules of the board~~ The environmental impact assessment prepared pursuant to parts 4400.1210 and 4400.3210 shall be entered into the record at a point during the hearing process which will allow all persons an opportunity to review and comment on the material. In addition, all comments and responses to comments which the board desires to consider shall be entered into the record promptly after they are received.

REPEALER. *Minnesota Rules*, parts 1400.1300; 1400.5100, subparts 4 and 5; 1400.8402; 1400.8613; and 1405.2800 are repealed.

Minnesota Housing Finance Agency

Proposed Permanent Rules Relating to Publicly-Owned Transitional 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 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 St., Suite 300
St. Paul, MN 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: 10 August 1990

James J. Solem
Commissioner

Rules as Proposed (all new material)

PUBLICLY-OWNED TRANSITIONAL HOUSING

4900.3100 SCOPE.

Parts 4900.3100 to 4900.3130 govern the implementation of the publicly-owned transitional housing program.

4900.3110 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 4900.3100 to 4900.3130 have the meaning given them in this part.

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(3) documentation of an ability to provide support services to assist persons in moving into independent or appropriate supportive living situations;

(4) a detailed budget for the operation of the transitional housing program for the first year and projected budgets for future years; and

(5) a detailed budget for the acquisition and rehabilitation of the structure.

C. The applicant shall document fiscal responsibility and the ability to complete the construction, acquisition, or modification of the structure and to maintain the structure in accordance with its funded use for a specific period of time.

D. The applicant must agree to retain ownership of the property for at least 20 years. After 20 years, the sale of a property before the expiration of its useful life must be at its fair market value, and the net proceeds of the sale must be used for the same purpose or repaid to the agency for deposit in the local government unit housing account. The applicant may contract with a nonprofit

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.

or for-profit organization to manage the property, including the improvement or rehabilitation of the property, and to operate a transitional housing program on the property on behalf of the applicant.

E. Where the applicant intends to contract with a nonprofit or for-profit organization to develop or manage the property or to operate the transitional housing program, the nonprofit or for-profit organization may provide any or all of the information required under items B and C.

Subp. 2. **Structures.** To be eligible for selection for a grant, a proposed transitional housing structure must satisfy the requirements in items A to D.

A. The structure must provide transitional housing for persons and families of low and moderate income.

B. The structure must provide a physical environment that is responsive to the needs of the population to be served.

C. The structure must comply with applicable state and local codes, zoning ordinances, land use provisions, and laws.

D. The structure must be located in Minnesota.

4900.3130 SELECTION CRITERIA FOR GRANTS.

Preference shall be given to local units of government that propose to acquire properties being sold by the Resolution Trust Corporation or the Department of Housing and Urban Development.

In addition, the agency shall take the following criteria into consideration when determining which applications will be funded:

A. the extent to which the grant is combined with funds or in-kind contributions from other public and private sources;

B. the availability and source of funds to pay the cost of acquisition, construction, or rehabilitation of the structure not funded by the grant;

C. the availability and source of funds to pay the ongoing costs of the support services;

D. the distribution of funds to service a variety of populations including, but not limited to, families with children, couples, single persons, and persons leaving a shelter for family abuse;

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H. the capacity of the applicant to proceed promptly with the acquisition, improvement, or rehabilitation of the structure;

I. the amount of the grant requested as compared to the total resources available for these grants;

J. the extent to which the application receives the support and participation of the local community;

K. the geographic location of the structure in relation to support services, retail facilities, recreational facilities, medical facilities, and transportation;

L. the reasonableness of the acquisition, improvement, or rehabilitation cost with preference given to applications that minimize the cost per transitional housing units produced;

M. the extent to which the application uses innovative cost-effective support services that are appropriate to the needs of the population served; and

N. the experience of the applicant, or if the applicant proposes to contract with a nonprofit or for-profit organization, then the experience of the nonprofit or for-profit organization in developing or managing housing, providing support services, and servicing the specific target population of homeless persons.

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 Publicly-Owned Transitional 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 August 13, 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 August 10, 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 4900.3100 to 4900.3130 is adopted this 27th day of September, 1990, pursuant to authority vested in the agency by Minnesota Statutes, sections 462A.06, subd. 4 and 11.

James J. Solem, Commissioner

In the Matter of the Adoption
of the Rule of the Minnesota
Housing Finance Agency
Governing the Publicly-Owned
Transitional 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: September 27, 1990