

STATE OF MINNESOTA
MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption
of Rules of the Minnesota Housing Finance
Agency Relating to the Apartment Renovation
Mortgage Program

State of Need
and Reasonableness

4900.0356

This part sets forth the characteristics of eligible applications for participation in the Apartment Renovation Mortgage Program (the "Program").

Subp. 1

Paragraphs A, B and C of this subpart specify the property interest which an applicant must possess to apply for a loan under the Program, and are both reasonable and necessary to ensure that the applicant has the legal capability of acquiring the status of title required to secure the Agency's loan, as well as the initial investment in the property evidencing the capacity and inclination to proceed with the underwriting process and close the loan.

Subp. 2

This subpart is intended to clarify that loans may be made to natural persons as well as all varieties of borrowing entities, and is not a limitation on the Agency's lending powers under the Program.

Subp. 3

The requirement that a loan applicant be a reasonable credit risk is necessary to ensure the financial viability of the Program and thereby secure the Agency's bondholders.

Subp. 4

Paragraph A of this subpart is necessary to meet the requirements of Subd. 21 of Section 462A.05 of Minnesota Statutes, the legislative basis for the Program; and Paragraph B thereof is a reasonable Program rental unit limitation for eligible loans, to restrict applications to a number which the Agency can effectively process within its administrative capabilities, consistent with its other public responsibilities.

Subp. 5

The requirement for compliance with zoning ordinances is both reasonable and necessary to obtain the required building permits, to ensure the security of the Agency's loans, and to meet the Agency's public purposes.

Subp. 6

This subpart requires the property to be improved to be used primarily for residential purposes. This requirement is reasonable because the Program is intended to improve the housing conditions of low and moderate income persons who will reside in the property. In order to achieve this goal the property should be primarily residential in nature.

Subp. 7

This subpart authorizes the use of Program loan proceeds to refinance existing indebtedness secured by the property in conjunction with the funding of improvements contemplated by part 4900.0357. This provision is necessary to conform to the statutory basis for the Program.

Subp. 8

This subpart requires that at the time of application, conventional financing not be available from private lenders upon equivalent terms and conditions. This requirement is based on the Agency's statute and is reasonable because the financing made available through the Agency's Program is not intended to compete with private financing, but is intended to provide lower than market interest rate loans for the public purpose of benefitting low and moderate income tenants.

Subp. 9

This subpart requires that at the time of loan closing or initial occupancy, at least 75% of the rental units in the structure to be improved must be occupied by persons and families of low and moderate income. Because the statutory mission of the Agency is to benefit low and moderate income persons and families through the various Agency programs, it is reasonable to ensure that this Program assist low and moderate income persons and families by so restricting initial occupancy. In order to make continuing occupancy affordable to such persons and families, it is both reasonable and necessary to further provide that the Agency, by contract with the borrowers, may set rent levels for the improved properties in amounts which will be within the means of low and moderate income tenants.

4900.0357

This part establishes eligibility requirements for the entitlement to loan proceeds under the Program.

Subp. 1

In order to conform to the Agency's statutory basis for the Program, it is necessary to limit the uses of loan proceeds in accordance with subparts 2 to 7.

Subps. 2, 3 and 4

Subparts 2 through 4 specify the types of improvements which are eligible for funding and the age of the structures upon which these improvements may be made. These requirements are both reasonable and necessary in that they ensure compliance with the statutory authority under which the Program is permitted to operate.

Subp. 5

This subpart requires improvements funded pursuant to the Program to be permanent general improvements. The Agency will lend funds for a term of 20 to 30 years. It is reasonable to expect the improvements for which the funds are devoted will have a duration which will enhance the life of the building and in turn provide a reasonable real estate security for the loan.

Subp. 6

This subpart requires that improvements be made in compliance with applicable health, fire prevention, building, and housing codes and standards. In order to achieve its public purposes, it is both reasonable and necessary to expect that funds received from a public agency be used in conformance with the applicable laws and regulations of the municipality and/or the state in which the property is located.

Subp. 7

This subpart prohibits the use of loan proceeds for the payment of public improvement assessments. It is reasonable to restrict the use of loan proceeds to improvements to the structure which will benefit its occupants.

4900.0358

This part sets forth the selection criteria for applicants for Apartment Renovation Mortgage Program loans.

Paragraph A. This paragraph requires that the location of the structure to be improved be in an area which will enhance the successful marketing of the leases in the building at the proposed rents. This criteria is reasonable because the marketability of the development affects its cash flow, which in turn affects the borrower's ability to repay the Agency loan.

Paragraph B. This paragraph emphasizes the proximity of the development to schools, shopping, health care, recreation and social facilities, and centers of employment. It is reasonable to prioritize funding to favor those proposals which are accessible to such services, which will thereby enhance the living environment for the occupants of the development as well as improve the security for the Agency's loans.

Paragraph C. This paragraph emphasizes the availability of access to public transportation. This criteria is reasonable in that many tenants rely on public conveyances as their sole means of transport, and this proximity consequently enhances both the value of the building and the environment of such occupants.

Paragraph D. This criteria prioritizes the availability and proximity of adequate sewer and water facilities, public utilities and paved roads. This priority is both necessary and reasonable in that the structure must have access to such facilities in order to be habitable.

Paragraph E. This paragraph prohibits funding of those developments which are impacted by adverse environmental and site conditions. This criteria is reasonable because the Agency must secure its loan funds by the real estate mortgaged, and the extent to which the site negatively impacts the Agency's security must be considered in selecting eligible buildings.

Paragraph F. This criteria emphasizes the minimization of tenant displacement. This requirement is reasonable because the Program is intended to improve the living conditions of low and moderate income tenants by physically improving the property in which they reside. Minimization of displacement ensures that the occupants of the pre-rehabilitated building benefit from the rehabilitation.

Paragraph G. This paragraph prioritizes the rental management qualifications and financial strength of the owner-borrower. It is reasonable to emphasize the building owner's financial strength and management capabilities in selecting proposals, to ensure that funds expended on a property are loaned to an individual or entity with the financial capability and expertise to maintain the property over the term of the Agency's loan.

Paragraph H. This criteria emphasizes the reasonableness of property and property related costs in selecting proposals. This criteria is reasonable because it ensures that loan funds are effectively used and are provided to as many applicants as possible.

The Agency is cognizant of the provisions of Section 14.115 of Minnesota Statutes, entitled "Small Business Considerations in Rule-making"; however, since the recipients of the funds under the Apartment Renovation Mortgage Program must be individuals or entities owning rental properties who will use the funds to finance improvements or repairs mandated by state law for energy conservation purposes, the proposed rules do not affect small businesses directly, and the said

law, by its terms, is inapplicable to these proposed rules. In addition, 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 indirect effect on small businesses, the effect is to make such funds more readily available and, as a result, the proposed rules have no negative effect on small businesses. Therefore, the provisions contained in Minnesota Statutes §14.115 (1986) do not apply to the proposed rules discussed herein.