

State of Minnesota

Minnesota Housing Finance Agency

In the Matter of the Proposed Rules
Relating to Rural and Urban
Homesteading Program

Statement of Need
and Reasonableness

4900.2400 through 4900.2600:

Minnesota Statutes Section 462A.057, Subdivisions 1 through 10 provides that the Minnesota Housing Finance Agency (Agency) shall develop and implement the Minnesota Rural and Urban Homesteading Program (Program). Under Laws of Minnesota for 1989, Chapter 328, Article 1, Section 20, the Agency may award up to two pilot project grants under the Program, but may not award more than one pilot project grant in a county. Finally, under Laws of Minnesota for 1989, Chapter 335, Article 1, Section 27, Subdivision 2, the Agency has been appropriated \$375,000 for the Program for the current biennium. The proposed Rules have been developed under the above-referenced statutes.

Under the Minnesota Rural and Urban Homesteading Program, the Agency may award grants to eligible organizations which those organizations may use to acquire and rehabilitate eligible single family residences and then sell them by way of contract for deed to first time homebuyers who are defined as "at risk." The Program is designed to arrest or prevent the spread of blight and preserve the existing housing stock by providing a financing mechanism through which properties may be purchased and rehabilitated and then sold to homebuyers who will stabilize the neighborhood by following a "good neighbor" policy.

Proposed Minnesota Rules 4900.2420, Subparts 1 through 13 provide definitions under these Rules. Particular note should be taken of definitions provided in Subparts 5,6,7, and 9. Under these definitions, appropriate flexibility has been provided to potentially eligible organizations to develop proposals under the Program that meet the specific needs of their areas, given Program statutory constraints. Such flexibility is necessary to provide for the diversity of proposals that was intended under the statute. For example, the criteria for an "at risk homebuyer" or a "good neighbor policy," or the nature of a "local neighborhood advisory board" may be considerably different in an inner city urban neighborhood than a rural community. Definitions provided in Subparts 10 and 13 should also be noted, and will be further explained in the applicable paragraphs of this Statement of Need and Reasonableness.

Proposed Minnesota Rules 4900.2440 summarize the Program pursuant to provisions within the statute. It provides basic requirements pertaining to an allocation plan for the Program as well as maximum allowable administrative costs. Under the Rule, the Agency retains flexibility as to allocating grant funds similar to what is done for other Agency programs. In this program, the statute provides for not more than one pilot project grant in a county, but the name of the program implies that an effort should be

made to provide for both an urban and a rural project/grant. The Agency intends to do this, but needs more flexibility to allocate funds if it should become apparent that both an urban and a rural grant is not forthcoming. Similarly, while the Rule pertaining to administrative costs limits the Agency in one aspect pertaining to this issue, it also allows the Agency to accommodate unique proposals pertaining to administrative costs that may be requested by eligible organizations and may be necessary to facilitate their proposals.

Proposed Minnesota Rules 4900.2460 specifies the requirements that an eligible organization must meet to be selected under the Program. The Rule reflects requirements within the statute and provides that potentially eligible organizations must specify what they intend to accomplish under the more flexible aspects of the Program. Given that the Program provides for both purchase and rehabilitation of residences, the Rule provides that the potentially eligible organization reveal its experience in such activities and provides the extent or standard to which it intends to acquire and rehabilitate properties under the Program. Finally, the Rule provides for typical requirements developed for other similar programs of the Agency pertaining to both the budgeting and administration of the Program.

Proposed Minnesota Rules 4900.2480 specifies the criteria by which potentially eligible organizations shall be selected. Under Subpart 1, prior experience of the eligible organization in programs for low and moderate income households and in purchasing and rehabilitating residential property are critical given the nature of the Program. Availability of resources to deliver the Program is also noted. Finally, both the nature of the specific Program proposed by the eligible organization and the capacity of the organization to deliver the Program on an ongoing basis are specified. The selection criteria corresponds to the standards for potentially eligible organizations specified in Minnesota Rules 4900.2460, and are deemed necessary given both the nature and the complexity of the Program.

Given that it is anticipated that relatively few organizations may be interested in this Program given its complexity, Minnesota Rule 4900.2480, Subpart 2, allows the Agency to conduct outreach to encourage potentially eligible organizations to apply for funds under the Program.

Proposed Minnesota Rules 4900.2500 specifies that local neighborhood advisory boards must be established by each eligible organization selected for the Program in accordance with the statute. As above, eligible organizations are granted flexibility under these Rules to determine the structure and specific duties of the advisory board when possible. Minnesota Rules 4900.2500, Subpart 2 reflects statutory requirements pertaining to the racial composition of each advisory board. However, the Rule provides that if such racial composition cannot be achieved, the eligible organization is not specifically excluded from participating in the Program if it can demonstrate to the satisfaction of the Agency that a reasonable outreach effort was undertaken. This is deemed especially necessary for rural and urban communities in which it may be appropriate to deliver the Program but in which relatively few racial minorities reside.

Proposed Minnesota Rules 4900.2520, Subpart 1, reflects basic statutory requirements pertaining to eligible properties. Mobile homes are not eligible under the Rules as prudent lenders typically do not consider them to be adequate security for long-term real estate financing. Furthermore, townhomes and condominium units are

ineligible as constraints pertaining to purchase and rehabilitation programs may commonly be found in homeowners association documents pertaining to such projects.

Proposed Minnesota Rules 4900.2520, Subpart 2, specifies that eligible properties are to be rehabilitated, at a minimum, to the Housing Quality Standards as established and changed from time-to-time by the United States Department of Housing and Urban Development (HUD), although flexibility is provided for eligible organizations to rehabilitate properties beyond such standards where it is feasible. The Agency has chosen the HUD standards as they are commonly accepted and used by nonprofit and governmental housing providers -- the organizations from which applications are expected. This subpart also specifies types of improvements, the fact that each improvement must be a permanent improvement, and that all improvements must be made in compliance with local standards or codes. This language was developed to be consistent with the Administrative Rules governing other Agency rehabilitation programs.

Proposed Minnesota Rules 4900.2520, Subpart 3 provides that eligible properties must be appraised prior to the beginning of rehabilitation work and that the purchase price for the eligible property must be less than or equal to 125% of the appraised value of the eligible property after rehabilitation. Appraisals are required so that it can be determined that the eligible properties provide reasonable security for the financing being provided. The purchase price requirement was established since in many neighborhoods the cost of the property after rehabilitation significantly exceeds its value. However, the 125% requirement was imposed in the interest of providing reasonable protection to the applicant. The fact that the cost of the property may exceed its value to this extent is not deemed to be a significant burden for the homebuyer as the principal is being reduced under the contract for deed on an interest free basis.

Proposed Minnesota Rules 4900.2520, Subpart 4 specifies that the total initial acquisition cost of the property as defined under this Rule may generally not exceed \$50,000 as prescribed by statute. The concept of "total initial acquisition cost" allows for the donation of resources to make the Program work. The concept of "sale cost" of the property allows for imputed value of donated material to be considered in establishing the purchase price at which rehabilitated property will be sold to homebuyers. The legislation did not intend for homebuyers to receive "free" housing and this concept will enable the eligible organization to sell properties at a reasonable cost and replenish the revolving fund to provide more housing opportunities.

Proposed Minnesota Rules 4900.2540 covers eligible homebuyers. Beyond statutory requirements, this Rule establish a maximum income limit for the Program based upon data available from the United States Department of Housing and Urban Development, but provides that the eligible organization may establish limits for their particular application at a lower level. This section also specifies that homebuyers must inform eligible organizations of significant changes in their gross income so that their payments may be adjusted appropriately.

Proposed Minnesota Rule 4900.2560 establishes requirements for the contracts for deed through which eligible organizations will sell properties to homebuyers under the Program. The contracts for deed are to reflect requirements pertaining to the statute

and these Administrative Rules as well as the requirements of the proposal submitted by the eligible organization.

Proposed Minnesota Rules 4900.2580 describes the revolving fund that may be established under the Program. Under standard Agency revolving fund agreements, eligible organizations are required to repay grant proceeds to the Agency unless the eligible organization continues the Program through the revolving fund in accordance with the agreements it executes with the Agency. The requirement of repayment acts as a check on the eligible organization so that compliance with the provisions of the Program agreements may be assured.

Finally, proposed Minnesota Rule 4900.2600 provides for recordkeeping and reporting requirements under the Program. This Rule was included so that the Agency and/or Legislative Auditor may receive periodic reports as to activity under the Program and may have access to information if it is deemed to audit the grant recipient.

The Agency is cognizant of the provisions of Section 14.115 of the Minnesota Statutes, entitled Small Business Considerations in Rulemaking. The proposed Rules do not establish any compliance or reporting requirements, or design or operational standards that directly affect the way any business must operate. Therefore, the provisions contained in Minnesota Statutes 14.115 (1986) do not apply to the proposed Rules discussed herein.