

UNAPPROVED MINUTES
of the
FIFTH MEETING OF THE 2016 INTERIM
of the
MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

November 10, 2016
New Mexico Mortgage Finance Authority Office
344 Fourth St. SW
Albuquerque

The fifth and final meeting of the 2016 interim of the Mortgage Finance Authority Act Oversight Committee was called to order by Senator Nancy Rodriguez, chair, on Thursday, November 10, 2016, at 10:16 a.m. in the New Mexico Mortgage Finance Authority (MFA) office in Albuquerque.

Present

Sen. Nancy Rodriguez, Chair
Rep. Alonzo Baldonado, Vice Chair
Sen. Lee S. Cotter
Rep. Kelly K. Fajardo
Rep. Roberto "Bobby" J. Gonzales
Sen. Stuart Ingle
Rep. James Roger Madalena
Sen. Cisco McSorley

Absent

Advisory Members

Rep. Bealquin Bill Gomez
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino
Sen. Michael Padilla

Rep. George Dodge, Jr.
Rep. Jimmie C. Hall
Sen. Bill B. O'Neill
Sen. Sander Rue

Staff

Mark Edwards, Drafter, Legislative Council Service (LCS)
Sharon Ball, Senior Researcher, LCS

Minutes Approval

Because the committee will not meet again this year, the minutes for this meeting have not been officially approved by the committee.

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Thursday, November 10

After calling the meeting to order, Senator Rodriguez welcomed members, staff and guests and asked committee members to introduce themselves.

Approval of Minutes

Upon a motion duly made and seconded, the minutes of the October 16, 2016 meeting were approved as submitted.

Welcome

Jay Czar, executive director, MFA, welcomed members, staff and guests. He reminded committee members that the meeting was being streamed live and that the microphones were extremely sensitive and to be careful about side conversations while the microphones were on.

MFA 2017 Legislative Agenda: Special Presentations

Regional Housing Authorities (RHAs)

Monica Abeita, senior policy and programs advisor, MFA, introduced Isidoro "Izzy" Hernandez, deputy director of programs, MFA, and Chris Herbert, executive director, Eastern RHA, to provide the committee with information about the RHAs. Mr. Hernandez directed committee members' attention to the maps on page 2 of the handouts accompanying the presentation. He pointed out that, currently, New Mexico has three RHAs, including the northern region, which covers San Juan, Rio Arriba, Taos, Colfax, Mora, San Miguel, McKinley, Cibola, Sandoval and Los Alamos counties; the eastern region, which includes Union, Harding, Quay, Curry, Roosevelt, Lea, Chaves, Otero, Eddy, Lincoln, DeBaca and Guadalupe counties; and the western region, which includes Catron, Grant, Hidalgo, Luna, Sierra, Socorro, Valencia and Torrance counties. He explained that Santa Fe, Bernalillo and Doña Ana counties, all with highly populated urban areas, have their own RHAs.

Mr. Hernandez explained the MFA's oversight responsibilities according to the Mortgage Finance Authority Act, Section 58-18-1 NMSA 1978, et seq., related to RHAs include the following:

- reviewing annual authority audits;
- reviewing both operational and financial authorities' annual reports;
- approving contracts of more than \$100,000;
- approving all transfers, sales or liquidation of assets of more than \$100,000; and
- approving RHA boards of commissioners, executive directors and bylaws.

Mr. Hernandez also noted that the MFA provides RHAs with substantial training, technical assistance and capacity building, including:

- assisting with transfers;
- conducting peer exchange meetings;

- conducting on-site monitoring visits;
- providing access to the biennial MFA Housing Summit in Albuquerque;
- providing and helping to fund training; and
- assisting with product development.

Mr. Herbert explained to the committee the importance of RHAs, noting that they help fill gaps in housing services in rural areas. He said that RHAs also traditionally administer public housing programs, as well as Section 8 vouchers. He noted that RHAs are currently expanding their activities to offer other affordable housing programs, many in conjunction with the MFA. In addition, RHAs are able to achieve economies of scale by actively consolidating with small public housing authorities that may be experiencing decreased funding or troubled or substandard status.

Mr. Herbert provided the committee with some summary data and recent accomplishments relating to the three New Mexico RHAs and local public housing authorities. Regarding the Eastern RHA, he noted that the authority includes a consolidation of the former Eunice, Vaughn and Covington authorities and the public housing authorities in Alamogordo, Artesia, Clayton, Clovis, Fort Sumner and Tucumcari, and it administers low-rent units and Section 8 vouchers. He noted that the Eastern RHA reports no public housing authorities that are labeled "troubled" or "substandard". The Eastern RHA's accomplishments include a commitment for the Eunice 16 Governor's Innovation in Housing Revolving Loan Fund. He also noted that the region has been cited for high performance in its Section 8 management system and its "Linkages" program.

Mr. Herbert noted that the Western RHA includes Bayard, El Camino Real, Lordsburg, Santa Clara and Truth or Consequences. In terms of accomplishments, he noted the execution of a memorandum of understanding between the Western RHA and the El Camino Real authority on skill-sharing. The Western RHA has also been recognized as a high performer in its Section 8 management system and its Linkages and rental assistance programs. The Western RHA has had no consolidations to date.

The Northern RHA includes the public housing authorities of Chama, Gallup, Las Vegas, Maxwell, Pecos, Raton, San Juan, San Miguel, Springer and Wagon Mound. The Northern RHA has recently consolidated with Cimarron and is negotiating with three troubled housing authorities in the region: Cuba, Grants and Rio Arriba. The Northern RHA has recently hired an executive director and other new staff, established new procedures and effected the successful transfer of the Cimarron housing authority to the Northern RHA.

Affordable Housing Act

Mr. Hernandez explained that Constitutional Amendment 4, approved by voters in 2006, amended Article 2, Section 20 of the Constitution of New Mexico to exempt affordable housing from the Anti-Donation Clause of the constitution. After passage of this amendment, the legislature enacted the Affordable Housing Act (Chapter 6, Article 27 NMSA 1978). The act requires that the MFA oversee the program and makes the State of New Mexico and New Mexico

counties, municipalities and school districts eligible donors. Eligible donations include the following:

- land for affordable housing construction;
- an existing building or conversion or renovation into affordable housing;
- the costs of infrastructure necessary to support affordable housing projects; and
- the cost of acquisition, development, construction, financing, operating or owning affordable housing.

Directing members' attention to the tables behind Tab 1 in the meeting booklets, Mr. Hernandez pointed out that as of June 2016, a total of 38 eligible entities (municipalities and counties) have established 32 ordinances and 37 plans to meet requirements of the Affordable Housing Act. He also pointed out that 11 communities have provided more than \$43 million in contributions.

Mr. Hernandez introduced Debi Lee, village manager, Village of Ruidoso, to provide information on the establishment of an affordable housing program in the Ruidoso community. Ms. Lee stressed the importance of leadership in establishing and implementing any type of community program. Ruidoso community leaders recognized a need for affordable housing in the village because Ruidoso is a resort. With 89 percent of persons employed in the village unable to afford housing, she said, a group of community leaders recognized the need for affordable housing for people such as teachers, principals, police, firefighters, village employees and retail workers.

Ms. Lee said that the group's first step was to get in touch with the MFA to identify procedures for participation in affordable housing programs. She explained that both the Mortgage Finance Authority Act and the Affordable Housing Act identify procedures required for local government participation, including development of an affordable housing plan. The MFA provided a \$20,000 grant, matched by \$20,000 in village general fund dollars to pay for development of the housing plan. Using a request-for-proposals process, the village hired Sites Southwest, a community planning firm, to develop the plan, which the village council approved in July 2015 after eight months of collaboration with the village internal housing review team. Ms. Lee noted that the community is grateful to the MFA for providing technical assistance, for participating in the planning meetings and for providing a review of the draft version of the plan.

Ms. Lee explained that the 10-year goals of the approved affordable housing plan include 220 units owned by individual residents, 305 rental units, 25 units for senior independent living, 15 units for senior assisted living, 20 to 50 housing rehabilitation units, 25 transitional housing units and emergency services for 20 families annually. She said that some policy and program recommendations for implementing the affordable housing program include:

- amending existing village ordinances, for example, to reduce minimum lot sizes for family houses and allow accessory units on single-family lots;

- making code enforcement more flexible by adopting a building maintenance code to improve long-term rental conditions and revising the short-term rental ordinance;
- streamlining certain processes by allowing administrative approval of small projects and shortening the time between planning and zoning approval and hearings for council approval;
- providing village support for development projects that meet affordable housing goals, such as providing village assistance with infrastructure costs, reducing certain fees or providing waivers and acquiring a land bank of attractively priced lots for scattered site housing; and
- leveraging resource opportunities through the MFA and the U.S. Department of Agriculture.

Ms. Lee said that the village has faced and continues to face a number of challenges in establishing and implementing its affordable housing plan. She noted that because Ruidoso is a resort community, 69 percent of existing housing is not occupied full time, and affordable housing is used for vacation housing, making available housing and apartments scarce. She said the village allows property owners to have short-term rentals in residential districts, which, she added, is "great for tourism and great for the property owner but not so great for people trying to find long-term rental housing". In addition, she noted, because of the steep topography, land is difficult and expensive to develop, making site-development costs out of the range for affordable housing.

She explained that the village has established a housing trust fund to make funds available for affordable housing. She explained that the trust was established with the proceeds from the sale of a large, village-owned tract of land to a housing developer that has agreed to build a certain number of affordable houses with a price tag of \$200,000 or less. She also noted the benefits of collaboration among local Realtors and contractors, the village council, the local school district, the chamber of commerce and the Lincoln County Medical Center.

Ms. Lee summed up her presentation by explaining that affordable housing makes economic sense. Among the benefits, she said, is that affordable housing:

- strengthens local workforce availability;
- supports teachers, nurses, law enforcement and firefighters;
- increases receipts from property taxes and gross receipts taxes;
- stimulates the residential construction industry;
- uses and leverages available federal and state grants and programs;
- helps increase enrollment in public schools; and
- improves the community's quality of life.

She concluded by thanking committee members for their continued legislative funding of the MFA.

Senator Rodriguez and committee members complimented Ms. Lee and the other presenters and expressed concern about the lack of funding for the upcoming session, the budget and appropriations for fiscal year 2018.

Final Review of Bills

Senator Rodriguez called on Mr. Czar and Mr. Edwards to present bill drafts for potential committee endorsement for the 2017 legislative session. Mr. Czar explained that because of the state's dire financial straits, the agency was asking for only two appropriations to provide funding for statutorily required oversight.

The first, a \$300,000 General Fund, nonreverting appropriation, would provide funding for the MFA's oversight of the RHAs. He noted that in 2009, the MFA was statutorily mandated to restructure and oversee the state's RHAs because of evidence of fraud and waste within seven RHAs. After enactment of the legislation, the MFA consolidated the seven RHAs into three and began providing training, technical assistance and auditing on a consistent, sustained basis. Committee members discussed that the RHAs are the primary housing service providers in rural areas and will become increasingly important as smaller local authorities close because of budget cuts.

Mr. Czar explained that as a self-supporting entity, the MFA is requesting that funding for oversight of RHAs be recurring. He said that if funding is not approved, the MFA will propose amending the Regional Housing Authority Act so that these responsibilities are transferred to the Department of Finance and Administration (DFA) because the DFA receives annual operating funds in the general appropriation act. On a motion by Representative Gonzales, seconded by Representative Fajardo, the committee agreed to endorse this appropriation bill without objection. Also without objection, the committee agreed that Senate President Pro Tempore Mary Kay Papen will sponsor the bill.

The second bill, a \$250,000 General Fund, nonreverting appropriation, would provide funding for the MFA's oversight of Affordable Housing Act implementation. Mr. Czar noted that the Affordable Housing Act, enacted in 2004, charged the MFA with adopting rules to oversee the act, as well as overseeing implementation of the act.

Committee members discussed the fact that the previous presentation on the Ruidoso affordable housing program was a good example of the importance of the act. Mr. Czar added that the MFA has never received an appropriation to accomplish its oversight duties, and he is requesting that an appropriation become a recurring appropriation. Again, he noted that he would request that the DFA be tasked with Affordable Housing Act oversight. On a motion by Representative Baldonado, seconded by Representative Fajardo, the committee agreed to endorse this bill without objection. Also without objection, the committee designated Senator Ingle as the bill's sponsor.

Statewide Housing Needs

Ms. Abeita directed committee members' attention to information behind Tab 3 in the meeting notebooks. She reminded members that the MFA and its partners, including Realtors, lenders, developers, property owners and various service providers, provide financing for affordable housing for low-to-moderate-income people. She explained that the federal Department of Housing and Urban Development (HUD) sets income limits for the use of its funding based on the area median income (AMI). She said that HUD income limits can vary by program, county and family size. Using data from Bernalillo County, she noted that at 100 percent, the county's residents would have an AMI of \$48,390. She explained that households with AMIs of 30 percent to 60 percent would be considered "extremely to very low income" households, and those with AMIs of 70 percent to 120 percent would be considered "market rate" renters, first-time homebuyers or step-up homebuyers. She said that HUD defines housing as affordable if a household pays 30 percent or less of its income for rent and utilities.

Ms. Abeita explained that the MFA is beginning a new three-year strategic planning process in 2017 that will cover fiscal years 2018 through 2020. To guide the strategic plan, she said that the MFA is working to synthesize various data types and sources into a meaningful set of indicators for the state and each of the state's 33 counties.

In response to committee members' comments and questions, Ms. Abeita explained that relevant data for affordable housing would include demographics, income, employment, economic trends, homeownership rates, growth rates, building permits, home sales and home sales prices, rents, foreclosures, age and type of housing stock, housing vacancy rates and social services. In terms of existing data sources, she said that national studies estimate affordable housing needs in states or metropolitan areas and include such examples as the "2016 Gap Report" from the National Low-Income Housing Coalition, which indicates that New Mexico needs nearly 45,000 units priced under 30 percent AMI, and a 2016 Center for Supportive Housing analysis, which indicates that New Mexico needs nearly 10,000 supportive housing units for various populations. Also, she said, a number of local governments have affordable housing plans that quantify their respective housing needs, as well as market studies for specific housing projects.

Specifically, Ms. Abeita said that New Mexico's urban centers, including Albuquerque, Rio Rancho, Las Cruces, Santa Fe, the Farmington area and Valencia County, need to and can absorb new housing to deal with low employment and low vacancy rates. She said that regional hubs, such as Hobbs, Roswell, Carlsbad, Clovis, Gallup and Alamogordo, are mostly growing cities that serve as the economic base for a large region. She said that these regional hubs need affordable housing to address growth and to repair and replace older housing stock.

Ms. Abeita said that rural hubs, such as Los Alamos, Española, Deming, Taos, Las Vegas, Grants, Socorro, Ruidoso and Silver City, are growing slowly or losing population but provide an economic base to stabilize and revitalize rural areas. As a result, they have varying degrees of new housing and rehabilitation needs. Rural communities, such as the Truth or Consequences-

Elephant Butte area, are also losing population but are generally well-located along the state's two interstate highways. She said their primary needs include aging housing rehabilitation and housing for aging seniors. She said that extremely rural counties, such as Mora, Union, Hidalgo, Catron, DeBaca and Harding, have populations under 5,000, and they are losing population and have limited potential for growth. She said that the housing stock in these areas is really old and needs the most assistance. These rural counties need funding for rehabilitation of housing stock and seniors.

In addition to population growth, she explained, old and poor housing stock, growing senior needs, affordability issues and unique market conditions create demand for new affordable housing. She said that the MFA will include gap analyses in its next three-year strategic plan. The MFA has already identified gaps in resources for transitional housing for families earning less than 30 percent of the AMI; rental financing that is geared toward small, mixed-income and mixed-use developments, rehabilitation funding for service providers in some parts of the state and down-payment assistance for single-family housing starts.

Committee members discussed the importance and economic impact of 2015 MFA affordable housing production, including an economic impact of \$33.5 million through nearly 1,500 single-family mortgages; 112 jobs generating \$7.5 million in local income and \$706,543 in government revenue as a result of the direct and indirect impact of construction activity for 100 affordable housing units; 678 jobs, with \$45 million in local income and \$4.3 million in governmental revenue as a result of the direct and indirect impact of construction activity for 100 multifamily units; and 30 jobs as a result of \$10 million spent on residential remodeling for rehabilitation and weatherization, resulting in \$3.3 million in local income and \$206,000 in government revenue.

Housing Persons with Criminal Histories

Mr. Hernandez introduced Jacobo Martinez, director of asset management, MFA, to discuss the ability of people with criminal histories to use available affordable housing. Mr. Martinez reminded committee members that the federal Fair Housing Act established protection against discrimination in housing based on race, color, religion, sex, national origin, disability or family status (42 U.S.C. 3631). While persons with criminal records are not a protected class under that act, the HUD determined that criminal history-based barriers to housing have a statistically disproportionate impact on minorities, which are a protected class under the act. As such, creating arbitrary or blanket criminal history-based policies or restrictions could violate the act's provisions. In other words, the HUD's guidance does not preclude housing providers from crafting criminal history-based policies or practices, but it does make evident that housing providers should create thoughtful policies regarding, for example, resident safety or protection of property.

Mr. Martinez directed committee members' attention to information behind Tab 3 in the meeting notebooks that provides a listing of "dos" and "dont's" relating to establishing criteria for screening potential renters or buyers of properties. In terms of tenant selection for Section 8

programs, he said, owners may establish tenant selection plans that prohibit admission if the owner determines that any household member is currently engaging in, or has engaged in, drug-related criminal activity, violent criminal activity or other criminal activity that threatens the health, safety and right to peaceful enjoyment of the property by other residents or that threatens the health and safety of the owners, employees, contractors, subcontractors or agents of the owners.

Adjournment

There being no further business, the committee adjourned at 12:02 p.m.