MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

2010 INTERIM

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MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

2010 Interim

TABLE OF CONTENTS

MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE

Section 1

2010

Annual Summary

2010 Interim

MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE
Representative Jose A. Campos, Chair

2010 INTERIM SUMMARY

The Mortgage Finance Authority (MFA) Act Oversight Committee held six meetings during the 2010 interim. The June and July meetings, as well as the two September meetings, were held in Albuquerque at the MFA office. The August meeting was held in Las Cruces, and the November meeting was held in Albuquerque at the Hotel Albuquerque, which, at the time, was also hosting the Governor's Housing Summit.

At the first meeting, the committee was asked to help the work of the interim Government Restructuring Task Force by examining ways to improve the efficiency of, and possibly restructure, the MFA. The current budget crisis and efficiency measures were repeatedly raised as important issues throughout the interim. At the fifth meeting, the MFA staff presented on this topic, including a discussion of the MFA's internal cost-saving measures, the MFA's current budget and a comparison of the MFA's internal organization as compared to other states' housing authorities. The MFA also discussed the use of federal American Recovery and Reinvestment Act of 2009 (ARRA) funding. The ARRA money was used to help fund the MFA's weatherization, homeless prevention and tax credit assistance programs. Committee members were pleased with the MFA's bonding capacity, financial status and use of federal ARRA funding, but they expressed the need for more comparison of programs to those of other states to ensure that the MFA is running as efficiently as possible.

The meeting in Las Cruces allowed the committee to tour housing projects in which the MFA is a partner or for which the MFA administers funding. The committee toured three different projects: the Alvarado project, a single-family rehabilitation project; Paseo del Oro, a single-family new construction project; and Stone Mountain, a multi-family new construction project. The Alvarado project was funded through an MFA forgivable loan, an MFA grant from the MFA's lead-based paint program and a grant from the United States Department of Agriculture's 2008 rural development program. The Paseo del Oro project is in a subdivision that was purchased with the aid of $1.4 million from the New Mexico Housing Trust Fund, which is administered by the MFA. A local bank, the City of Las Cruces' federal block grant program and the HUD SHOP program also partnered with the MFA to make the development possible. The Stone Mountain project consists of multiple apartment buildings, some of which are rented at market rate while others receive low-income tax credits. The MFA partnered with the City of Las Cruces Housing Authority and several other partners to fund construction of the project. The tour allowed the committee to see the MFA projects and to learn about how the MFA partners with other governmental and private entities to fund such projects.

At several meetings, the committee addressed the MFA's conflict-of-interest procedures with MFA staff. Based on these discussions, at the November meeting, MFA staff presented several changes to the MFA's internal conflict-of-interest procedures. The committee was pleased with the suggested changes.

No MFA regulations were reviewed, but the committee endorsed two bills proposed by the MFA. The first bill would transfer oversight of the regional housing authorities from the MFA to the Department of Finance and Administration. The MFA proposed this bill because it is currently receiving no state funds to exercise its statutorily mandated duties related to oversight of the housing authorities. The second bill asks for an appropriation of $250,000 to fund the MFA's oversight of the regional housing authorities.

MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE

Section 2

2010

Work Plan

Schedule

2010 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

Members

Rep. Jose A. Campos, Chair
Sen. Nancy Rodriguez, Vice Chair
Rep. Janice E. Arnold-Jones
Sen. Mark Boitano
Rep. Ernest H. Chavez
Sen. Eric G. Griego
Rep. Joni Marie Gutierrez
Sen. Cisco McSorley

Advisory Members

Sen. Rod Adair
Rep. Thomas A. Anderson
Rep. Andrew J. Barreras
Rep. Roberto "Bobby" J. Gonzales
Rep. Sandra D. Jeff
Rep. James Roger Madalena
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino
Rep. Dennis J. Roch
Rep. Benjamin H. Rodefer
Sen. Sander Rue

Work Plan

The Mortgage Finance Authority (MFA) Act Oversight Committee was created pursuant to the provisions of Section 58-18-5 NMSA 1978, which provides in part:

> The [mortgage finance] authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Mortgage Finance Authority Act, including but without limiting the generality of the foregoing, the power:
>
> * * *
>
> W. subject to any agreement with bondholders and noteholders, to make, alter or repeal, **subject to prior approval by the Mortgage Finance Authority Act oversight committee, hereby created, to be composed of four members appointed by the president pro tempore of the senate and four members appointed by the speaker of the house of representatives**, such rules and regulations with respect to its operations, properties and facilities as are necessary to carry out its functions and duties in the administration of the Mortgage Finance Authority Act; . . .

Pursuant to the provisions of Section 2-12-5 NMSA 1978, the committee is further authorized to:

A. determine and monitor the actual distribution of funds derived by the [New Mexico mortgage finance] authority from bond issues and other activities of the authority under the provisions of the Mortgage Finance Authority Act, both on a geographical basis and on the basis of the actual distribution to participants in its programs;

B. monitor the authority in its control of the issuance of mortgage commitments;

C. meet on a regular basis to receive and evaluate periodic reports from the authority as to its enforcement of the provisions of the Mortgage Finance Authority Act and the regulations adopted pursuant thereto; and

D. require the authority to document the need to the oversight committee regarding the issuance of any bonds.

In addition to carrying out its statutory responsibilities, the committee proposes to focus on the following areas of legislative concern during the 2010 interim:

(1) regional housing update;

(2) existing and proposed rules promulgated by the MFA;

(3) use of federal American Recovery and Reinvestment Act of 2009 funding;

(4) neighborhood stabilization efforts;

(5) update on the New Mexico homebuilding, real estate and manufactured housing industries;

(6) MFA funding source and program overview;

(7) federal policy trends;

(8) travel to Las Cruces for the purpose of:

(a) examining housing and community development activities in areas outside of Santa Fe and Albuquerque, including the colonias areas of southern New Mexico; and

(b) allowing committee members to participate in a MFA Housing Town Hall Meeting to be held in Las Cruces, which presents a valuable opportunity for committee members to hear directly from MFA housing partners, local elected and administrative officials and advocates about housing issues impacting their communities;

(9) a review of MFA budget and administrative organization; and

(10) legislation for the 2011 session.

The committee will coordinate, as needed, with other committees regarding presentations of subject matter of common concern.

2010 Approved Meeting Schedule

Date	**Location**
June 22	Albuquerque
July 8	Albuquerque
August 6	Las Cruces
September 3	Albuquerque
September 30	Albuquerque
November 3	Albuquerque

MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE

Section 3

June 22, 2010

Agenda

Minutes

Revised: June 18, 2010

TENTATIVE AGENDA
for the
FIRST MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

June 22, 2010
New Mexico Mortgage Finance Authority Office
344 Fourth Street SW
Albuquerque, New Mexico

Tuesday, June 22

10:00 a.m. **Call to Order**
—Representative Jose A. Campos, Chair

Improving Efficiency and Possible Restructuring: Working with the Government Restructuring Task Force
—Kim Bannerman, Staff Attorney, Legislative Council Service (LCS)

Welcome and Introduction of the New Mexico Mortgage Finance Authority (MFA) Staff
—Jay Czar, Executive Director, MFA

MFA 2010 Reference Guide — Overview
—Erin Quinn, Senior Policy and Program Advisor, MFA

Review of 2010 Legislative Session
—Joseph Montoya, Deputy Director of Programs, MFA

2010 Interim Work Plan and Meeting Schedule Development
—Jay Czar, Executive Director, MFA
—Kim Bannerman

Adjourn

MINUTES
of the
FIRST MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE

June 22, 2010
Mortgage Finance Authority Office
Albuquerque, New Mexico

The first meeting of the Mortgage Finance Authority (MFA) Act Oversight Committee was called to order by Representative José A. Campos, chair, at 10:15 a.m. on Tuesday, June 22, 2010, at the office of the MFA in Albuquerque, New Mexico.

Present	**Absent**
Rep. José A. Campos, Chair	Sen. Eric G. Griego
Sen. Nancy Rodriguez, Vice Chair	Rep. Joni Marie Gutierrez
Rep. Janice E. Arnold-Jones	
Sen. Mark Boitano	
Rep. Ernest H. Chavez	
Sen. Cisco McSorley	

Advisory Members

Sen. Rod Adair	Rep. Andrew J. Barreras
Rep. Thomas A. Anderson	Rep. Sandra D. Jeff
Sen. Richard C. Martinez	Rep. James Roger Madalena
Sen. Gerald Ortiz y Pino	
Rep. Dennis J. Roch	
Rep. Benjamin H. Rodefer	
Sen. Sander Rue	

Guest Legislators
Rep. Roberto "Bobby" J. Gonzales
Rep. James P. White

Staff
Kim Bannerman, Staff Attorney, Legislative Council Service (LCS)
Pam Ray, Staff Attorney, LCS
Claudia Armijo, LCS

Guests
The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

<u>Tuesday, June 22</u>

Welcome

Representative Campos welcomed the committee members and guests to the meeting, and the members introduced themselves.

Improving Efficiency and Possible Restructuring: Working with the Government Restructuring Task Force

Ms. Bannerman addressed the members on behalf of the LCS director, Raúl E. Burciaga. Ms. Bannerman advised the members that the legislature's Government Restructuring Task Force had met and was tasked with the duty of looking at New Mexico's governance structure and determining ways to streamline state government. In an effort to assist with that objective, the New Mexico Legislative Council has asked that all legislative committees also look for ways of streamlining the agencies for which they have oversight duties. According to Ms. Bannerman, the council specifically instructed the MFA Act Oversight Committee to look at any areas where it might be possible to save the state money.

Ms. Bannerman also advised the members that the New Mexico Legislative Council has asked all committees to limit their meeting locations to Santa Fe, or in the case of the MFA, Albuquerque. This travel restriction is a cost-savings measure put in place due to the budget constraints faced by the state this fiscal year. She noted that any travel for meetings would have to be justified in writing and presented to the legislative council. Ms. Bannerman closed by telling committee members and the MFA staff that she looks forward to working with them during the 2010 interim.

MFA Update

Jay Czar, executive director for the MFA, greeted the members of the committee and the guests, thanked them for their attendance and updated them on the operations of the MFA. Mr. Czar recapped much of the work the MFA had accomplished over the past year, highlighting the amendments to the Affordable Housing Tax Credit Act that: 1) permit the MFA to issue tax credits to individuals who have invested in materials for an approved affordable housing project; and 2) remove the prohibition against allocating tax credits for affordable rental housing development in counties with populations greater than 100,000. According to Mr. Czar, these amendments have proven very helpful to the work of the MFA.

Mr. Czar noted that the United States Department of Energy congratulated the State of New Mexico for its weatherization efforts of residential properties throughout the state. He added that New Mexico has been recognized nationally for various green initiatives and achievements and that green initiatives are an important part of every program that the MFA administers. He told the committee that the MFA has been involved in homelessness prevention and, in some cases, funding shelters. Most recently the MFA has focused on preventing homelessness by helping with programs that address the issue before an individual is actually foreclosed upon or the individual is otherwise without a home. He also spoke about the neighborhood stabilization program, which acquires foreclosed properties, renovates them and then resells those homes at affordable prices.

Mr. Czar spoke briefly regarding the MFA first-time homebuyers tax credit program that piggybacks on the federal first-time homebuyer tax credit program. He noted that New Mexico was the third state in the nation to offer it, and it has been hugely successful. This program allows the first-time homebuyer to use a federal tax credit as money toward the down payment on a home purchase. Mr. Czar also noted that by using tax-exempt single-family mortgage bonds, the MFA financed 1,427 first-time homebuyer loans in excess of $175 million. In addition, the MFA provided more than $300,000 for rehabilitation and reconstruction efforts in colonias.

Mr. Czar advised the members that last week the MFA held a town hall meeting in Taos and has plans to hold similar meetings in Clovis, Las Cruces and other cities in the state. He expressed his belief that the meeting was very beneficial and offered a unique opportunity to meet with both local officials and citizens to talk and learn of concerns and needs in the community. He spoke about other similar future and past events throughout the state. Additionally, regarding affordable housing, Mr. Czar advised the members that when in Santa Fe, they might want to visit the MFA's current affordable housing project in progress that is replacing the 144-unit Villa Allegra public housing project. He noted that the project is providing 150 local jobs in Santa Fe.

There was a brief discussion about the weatherization program and whether there is adequate funding for the program. Members expressed concerns about funding levels being sufficient to meet the needs of the citizens throughout the state, particularly those in rural areas. Members relayed accounts of constituents being well-served by the weatherization program, especially during the colder months. The members congratulated the MFA and acknowledged the success of the program. It was generally agreed that the program serves a critical purpose and meets a significant need for citizens of New Mexico.

MFA 2010 Reference Guide

The MFA senior policy and program advisor, Erin Quinn, addressed the members and provided an overview of the MFA's 2010 reference guide that was handed out to each member for review. Among the topics covered were the MFA rules and regulations. Ms. Quinn advised the committee that the MFA examines the rules and regulations each year, and she does not anticipate any changes this year. Members of the committee asked if any rules or regulations are being considered for change and requested a written report regarding any changes.

There was a discussion about the recent replacement of an MFA board member. The committee was advised that the newest board member is Daniel C. Burrell, CEO of Rosemont Realty, LLC. This led to a broader discussion regarding the MFA board composition and the organizational structure of the MFA.

One of the topics in the reference guide includes a summary of various audits conducted for the MFA. The members had questions regarding the types of audits performed, and the MFA staff agreed to provide information regarding audits to members upon request. When members asked about the MFA's funding sources, Joseph Montoya, deputy director of programs for the MFA, explained that its primary funding source is its investment earnings. At that point, members asked if the MFA could provide copies of its budget for a two- to three-year period. That topic was followed by a request that the MFA provide the committee with an analysis that would compare the MFA with like or similar agencies operating in other states, the goal being to get an idea of how the MFA operates compared to similar agencies regarding full-time employees, programs, structure, policies and funding. Additionally, there was a request for the MFA to provide historical information regarding the agency's structure over the past eight to 16 years, including the number of employees and its organizational chart. MFA staff said they would compile the information. Mr. Czar noted that within the United States there are approximately 55 similar housing authority agencies and that the MFA works closely with many of them and with member organizations.

There was a brief discussion regarding foreclosures in New Mexico. Mr. Czar and Ms. Quinn explained that the MFA has $200,000 in federal funding to perform counseling to help prevent foreclosure. Individuals are counseled on budgeting, loan modification and possibilities for financial improvements. Ms. Quinn noted that in the past six months, there has been an increase in borrowers benefiting from loan modifications.

There was a discussion about the recent property tax increases and whether the local assessors have been taking steps to make changes. According to Mr. Montoya, there is enabling language in statute that would allow county assessors to lower property taxes on affordable housing. He added that the MFA offers training for assessors.

The MFA's strategic plan was included in the reference guide provided to the members. The committee had a number of comments and questions regarding the strategic plan. The members appreciated seeing the goals of the MFA in a concise and accessible format. Mr. Czar advised the members that the MFA has a strategic management committee that oversees the strategic plan, goal setting and evaluation. He said that the management committee works with the board to determine if, taking various factors into consideration, including market conditions, the goals and the plan need modification.

Review of 2010 Legislative Session

Mr. Montoya told the members that SB 69 provided $250,000 to cover the cost associated with administering the duties of the Regional Housing Law and that the MFA received only $30,000 appropriated in HB 2.

There was a discussion regarding the status of the Affordable Housing Trust Fund. Mr. Montoya noted that there had been no additional funds added for two years. He said that the long-term goal regarding the fund is to acquire constant sources of revenue. He added that the MFA looks to the legislature for guidance on that issue. This topic led to a discussion among the members regarding the MFA's practices relating to fees, costs, bonds and related practices. Members asked to be kept informed regarding the MFA's practices in these specific areas. Mr. Montoya agreed and noted that the MFA uses the request for proposals (RFP) process to hire bond counsel using professional service agreements adopted by the board and does not use variable rate bonds. Committee members asked for any and all information regarding the limitations on MFA board members regarding what they can receive while serving on the board. In a general conflict of interest and disclosure discussion, the members wanted information regarding disclosure and conflict of interest policies in place and in practice. Mr. Montoya noted that full disclosure is required. Finally, the committee requested that it be provided with a list of all payments and disclosures to board members made in any RFP. MFA staff agreed to provide the requested information.

2010 Interim Work Plan and Meeting Schedule Development

Ms. Bannerman led the members in a discussion involving the proposed work plan and meeting schedule for the committee's 2010 interim work. There was a discussion about adding an update on the topic of modular or manufactured homes and also the topic of rural communities. Mr. Czar advised that the MFA would be happy to cover those topics if added to the work plan. The members expressed a desire to ask the legislative council if travel to at least one city outside of the Albuquerque area for a meeting could be considered. It was proposed that the meeting could be combined with an MFA town hall meeting and perhaps a tour of one of the MFA program projects in the Las Cruces area. A motion was offered to adopt the work plan and proposed meeting dates, adding that one meeting be held jointly with the MFA town hall meeting in Las Cruces. The motion was seconded and then passed by the members. Ms. Bannerman advised the committee that she would present the proposed amended work plan and meeting schedule to the legislative council at its meeting on June 29, 2010.

With no further business, the chair thanked the members, staff and guests and adjourned the meeting at 12:20 p.m.

MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE

Section 4

July 8, 2010

Agenda

Minutes

TENTATIVE AGENDA
for the
SECOND MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

July 8, 2010
New Mexico Mortgage Finance Authority Office
344 Fourth Street SW
Albuquerque

Thursday, July 8

10:00 a.m. **Call to Order**

10:05 a.m. **Approval of the Minutes**

10:10 a.m. **New Mexico Mortgage Finance Authority (MFA) Funding Source and Program Overview**
—Jay Czar, Executive Director, MFA
—Erin Quinn, Senior Policy and Program Advisor, MFA

11:00 a.m. **Use of Federal American Recovery and Reinvestment Act of 2009 Funding**
- **Weatherization Assistance Program/New Mexico Energy$mart**

—Andrew Rael, Director of Community Development, MFA
—Gina Martinez, Program Specialist, MFA
—Michael Furze, Program Specialist, MFA
- **Homelessness Prevention and Rapid Re-Housing Program**

—Andrew Rael, Director of Community Development, MFA
—Catherine Hummel, Program Specialist, MFA
- **Tax Credit Assistance Program and Tax Credit Exchange Program**

—Linda Bridge, Director of Housing Development, MFA
—Dan Foster, Housing Tax Credit Program Manager, MFA

11:45 a.m. **Neighborhood Stabilization Program**
—Andrew Rael, Director of Community Development, MFA
—Debbie Davis, Programs and Initiative Manager, MFA

12:00 noon **Other Business**

12:15 p.m. **Adjourn**

MINUTES
of the
SECOND MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE

July 8, 2010
Mortgage Finance Authority Office
Albuquerque, New Mexico

The second meeting of the Mortgage Finance Authority (MFA) Act Oversight Committee was called to order by Senator Nancy Rodriguez, vice chair, at 10:15 a.m. on Thursday, July 8, 2010, at the office of the MFA in Albuquerque, New Mexico.

Present	**Absent**
Sen. Nancy Rodriguez, Vice Chair	Rep. José A. Campos, Chair
Rep. Ernest H. Chavez	Rep. Janice E. Arnold-Jones
Rep. Joni Marie Gutierrez	Sen. Mark Boitano
Sen. Cisco McSorley	Sen. Eric G. Griego

Advisory Members

Sen. Rod Adair	Rep. Sandra D. Jeff
Rep. Thomas A. Anderson	Sen. Gerald Ortiz y Pino
Rep. Andrew J. Barreras	Rep. Dennis J. Roch
Rep. Roberto "Bobby" J. Gonzales	
Rep. James Roger Madalena	
Sen. Richard C. Martinez	
Rep. Benjamin H. Rodefer	
Sen. Sander Rue	

Staff
Kim Bannerman, Staff Attorney, Legislative Council Service (LCS)
Claudia Armijo, LCS

Guests
The guest list is in the meeting file.

Handouts
Copies of all handouts and written testimony are in the meeting file.

Thursday, July 8

Welcome

Senator Rodriguez welcomed committee members. She notified them that the meeting was being webcast and explained how the webcast feature works. She additionally advised the members that they were acting as a subcommittee.

Jay Czar, executive director, MFA, greeted the members of the committee. He noted that the committee had approved its work plan and meeting schedule, and he said that the MFA staff would be addressing work plan items throughout the meeting. Mr. Czar asked Senator Rodriguez for permission to show some of the MFA commercials that have been aired on television throughout the state. He then introduced Leanne Holt, MFA communications manager. She explained the MFA's concerted efforts to advertise and target the first-time homebuyer, who can best benefit from the services of the MFA. It was noted that the MFA uses both English and Spanish in the commercials and targets all areas within the state, including rural areas. After the members were shown the commercials, Senator Rodriguez noted that they carried an inspiring theme for the first-time homebuyer and a positive message regarding the services of the MFA. Mr. Czar added that the commercials were produced locally. Some committee members made recommendations for minor improvements to the commercials relating to information that the MFA can provide and how potential homebuyers can contact the MFA.

Before moving on to the agenda items, Mr. Czar advised the members that copies of the MFA's strategic plan and budget, as well as board members' disclosure information, were provided to all the members. This information had been requested at last month's meeting.

Erin Quinn, the MFA's senior policy and program advisor, next addressed the committee. She directed the members' attention to the MFA Housing New Mexico handout. Ms. Quinn began by addressing some common misconceptions and myths concerning the MFA. She pointed out that the MFA does not build homes; rather, it provides financing for homes. She added that the MFA has very little grant funding available. Because the MFA borrows most of its funding, it must in turn make that funding available as loans, not grants. She continued the discussion by highlighting other significant misconceptions regarding the MFA. In particular, she pointed out that the MFA is not a state agency; it is an instrumentality of the state. She added that the MFA is similar to a state agency, was chartered by the legislature in 1975 and serves a public purpose. Additionally, the MFA's board of directors is a public body, and the MFA reports to the MFA Act Oversight Committee. However, the MFA is unlike a state agency in that it does not receive state funding to support its operations. She noted that the MFA's liabilities are not the state's liabilities, its employees are not state employees and the MFA does not participate in the Public Employees Retirement Association.

Next, Ms. Quinn directed the members to a diagram in the handout that illustrates the MFA's role in New Mexico's housing delivery system. She noted that the diagram depicts the various sources of funding that the MFA receives and also illustrates how the MFA can and does distribute those funds within New Mexico, all for quality affordable housing. Ms. Quinn elaborated briefly concerning the various sources of the MFA's funding, including federal funding. She noted that the bulk of the federal funds are from the federal Department of Housing and Urban Development, but the MFA also receives funds from other federal sources. Ms. Quinn pointed to the chart in the handout depicting the estimated funding sources for 2010. She explained that the MFA has the authority to issue all of the funds as depicted, but usually the MFA does not issue the entire amount.

Senator Rodriguez thanked Ms. Quinn for her explanation regarding the myths and misconceptions surrounding the MFA. She asked for clarity regarding the funding and whether the MFA provides the funding directly to developers. Ms. Quinn confirmed that the MFA does loan funds directly to developers. She also explained that certain programs require special underwriting terms regarding payment. She added that the terms of single-family housing loans and low-income housing loans can vary significantly.

Use of Federal American Recovery and Reinvestment Act of 2009 Funding

Weatherization Assistance Program/New Mexico Energy $mart

Mr. Czar introduced Andrew Rael, director of community development for the MFA. Mr. Rael explained to the members that more than $70 million in federal dollars is on its way to New Mexico for affordable housing opportunities and energy efficiency upgrades for families across the state. About $48 million of that money, which is part of the ARRA, will be administered by the MFA for homelessness prevention and weatherization services and to build affordable housing in New Mexico.

Mr. Rael continued the discussion by noting that the MFA has been responsible for administering the weatherization program since 1997. The members asked questions regarding the unit costs for the weatherization program. Mr. Czar advised that there is a tremendous amount of high-tech equipment and capital involved, as well as other overhead in the weatherization program. He told the members that the average weatherization cost per home is $6,500. However, he noted that the energy audit occurs before the weatherization and it is an integral part of the project included in the cost. In response to members' questions about capacity, Mr. Czar noted that New Mexico is meeting its goals and has been recognized by the federal government for meeting and exceeding the goals related to the weatherization program. He also noted that this is the second year of the federal program and that next year will be the final year, so the program will begin to wind down. He added that after the federal money is gone, the MFA may need to come to the legislature for any future funding.

Homelessness Prevention and Rapid Re-Housing Program

Catherine Hummel, program specialist for the MFA, presented to the committee concerning the Homelessness Prevention and Rapid Re-Housing Program. Ms. Hummel noted that the MFA works with several agencies within the state, and she highlighted a few, including the Life Link of Santa Fe, the Gallup Housing Authority and the Las Cruces Housing Authority. She pointed out that documentation is required to validate that an individual is homeless. She explained that the program can help with rent or utilities assistance for up to 18 months. Additionally, the program offers individuals assistance in developing a stability plan for the future. Additional services that can be provided include legal services to prevent landlord-tenant issues, assistance with past-due rent and utilities and security and utility deposits and moving costs, as well as temporary motel and hotel vouchers and credit repair assistance.

To date, 1,180 people in 470 households have been served by the program. As of June 30, 2010, $1,137,487 has been spent of the available funds. According to Ms. Hummel, the MFA and its providers have used the funds to provide assistance where it is most needed, specifically, for those who are extremely vulnerable due to the current economy. In particular, the funds are used to serve people who are currently experiencing homelessness or are at imminent risk of homelessness. She continued by citing some examples of the families and individuals that have been assisted, including a woman who wrote the governor requesting help to prevent the eviction of her and her husband. They were struggling as a result of extensive medical bills that they had incurred when her husband had emergency surgery. The MFA contacted the provider, Life Link of Santa Fe, within a day of receiving the woman's request. The couple went in for an interview, and they left with the necessary funds to pay their landlord and keep their housing. They also received rent for the next three months. Ms. Hummel cited cases of individuals who had received assistance through the program, including a veteran who had been living in his car in the Las Cruces area.

While referring to the handout, Ms. Hummel noted that the MFA has received $6.8 million for the Homelessness Prevention and Rapid Re-Housing Program, adding that all of the funds must be used by July 2012. There are six lead agencies that cover every county in New Mexico. Additionally, there are more than 25 subcontractors and referral partners also involved in the program. She clarified that eligible participants include very low-income individuals and families.

Tax Credit Assistance Program and Tax Credit Exchange Program

Linda Bridge, director of housing development for the MFA, spoke generally about the federal Tax Credit Assistance Program (TCAP). As background for the topic, Ms. Bridge advised the members of the tax credit initiatives that the ARRA provided in 2009. She noted that the act provided grant funding for capital investment in low-income housing tax credit projects through the TCAP. The intent of the program is to aid affordable housing rental projects that have stalled due to prohibitive financial gaps created by the decline in tax credit equity markets. The portion of the funding that is administered by the MFA is just under $14 million. She said that the Low-Income Housing Tax Credit (LIHTC) Program was created in 1987 and is statutorily located in the federal Internal Revenue Service Code. She noted that there has been a great deal of interest in the program, stating that there have been large participants of the tax credits. However, as a consequence of the 2008 economic downturn, there was no longer a need for the tax credit from the large participants. She explained that there were a number of large projects that lost their equity investments, and the market stalled. The TCAP is a gap filler to help the projects that had already come into the process and had been counting on $.85 on the dollar in their equity only to find out that they would only receive closer to $.60

on the dollar. The MFA distributed the funds using a competitive process. She noted that the key to an award of the funds is that the project must be completed by February 2012. She added that the MFA awarded the funds to 12 projects, all of which are currently underway.

Ms. Bridge highlighted the federally mandated terms and deadlines associated with the TCAP. She noted that the MFA had committed 100% of the funds by the February 2010 federally designated deadline. She added that the MFA expects that 90% of the funds will be expended by the February 2011 deadline. She referred the members to the handout, noting that the TCAP awards are listed there.

Dan Foster, housing tax credit program manager for the MFA, spoke to the members regarding the Tax Credit Exchange Program. He reminded the members that the ARRA authorized a LIHTC exchange program permitting housing credit agencies to exchange a portion of their LIHTCs for grant funds from the United States Treasury Department; in turn, those funds would be awarded as grants to projects that were previously awarded tax credits. Exchangeable credits include unallocated 2008 credits, credits returned in 2009 and up to 40% of the state's 2009 population-based credits. The grant is equal to 85% of the amount of credits exchanged, multiplied by 10. After exchanging credits, the MFA made several awards to finance construction, acquisition or rehabilitation of qualified low-income buildings. Mr. Foster noted that this program was intended to fill funding gaps in otherwise ready-to-go developments that had previously gone through the tax credit award process and were unable to obtain investment for their credits due to the decline in the tax credit equity markets. Recipients were required to demonstrate good faith efforts to obtain investment commitments for their credits before the MFA would make an award pursuant to the exchange program. The MFA received initial guidance for the program in May 2009, approved a notice of funding availability in June 2009 and made the first awards in July 2009. The MFA has exchanged $5,628,844 in credits for $47,777,169 in funding that was awarded to six projects. Mr. Foster further noted that the MFA committed 100% of the funds by December 31, 2009 and expects that 65% of the funds will be expended by December 2010, which will exceed the federally mandated requirement. A list of the tax credit exchange program awards is in the handout.

The Neighborhood Stabilization Program

Mr. Rael, along with Debbie Davis, program and initiative manager for the MFA, presented to the members regarding the Neighborhood Stabilization Program. Mr. Rael noted that it had been a very successful program, and he then asked Ms. Davis to share the program information with the members. She said that program was part of the federal Housing and Economic Recovery Act of 2008. The MFA administers $8.7 million of the $19.6 million allocated to New Mexico. She added that the purpose of the funds is to buy and rehabilitate foreclosed properties within the state, excluding the cities of Albuquerque, Santa Fe and Las Cruces. According to Ms. Davis, priority areas for the Neighborhood Stabilization Program funds were areas with the greatest percentage of foreclosures, areas with the highest percentage of homes financed by subprime mortgage loans, areas with the highest percentage of vacant properties and areas identified as likely to face a significant rise in the rate of foreclosures. She highlighted some of the counties considered priority areas, including Sandoval, Valencia, parts of Bernalillo, Chaves, Luna, Eddy, Curry, Dona Ana and San Juan.

Ms. Davis advised the members that in order to receive the funds, the properties must be purchased for at least 1% below their appraised value. Additionally, rehabilitation of the property must include energy efficiency ratings. Once rehabilitated, the homes will be sold to families with incomes at or below 120% of the area median income, which would be up to $71,400 for a family of four in the Albuquerque area. The rehabilitation expense limit is $50,000. To date, nine rehabilitated homes have been sold, and all were financed with Federal Housing Administration mortgages.

Lastly, Ms. Davis noted that both for-profit and nonprofit organizations have contracted with the MFA to buy foreclosed homes. A list of the current purchases and sales statistics can be found in the handout.

There was a general discussion about foreclosure and assistance to homeowners. It was noted that pre-foreclosure counseling is offered through the MFA. The bulk of the counseling involves working with a loan servicer to get a loan modification. There is also credit counseling, but there are no federal dollars to assist homeowners in making their payments.

Next, Mr. Czar talked about the upcoming meeting in Las Cruces and the possibility of the members touring a colonias area. The MFA is inviting the members to join the MFA in its town hall meeting in Las Cruces in August.

Adjournment

There being no further business before the committee, the second meeting of the MFA Act Oversight Committee for the 2010 interim was adjourned at 12:01 p.m.

MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE

Section 5

August 6, 2010

Agenda

Minutes

TENTATIVE AGENDA
for the
THIRD MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

August 6, 2010
Las Cruces City Hall
700 North Main Street
Las Cruces, New Mexico

Friday, August 6

9:00 a.m. **Call to Order**

9:05 a.m. **Approval of the Minutes**

9:10 a.m. **Tour of San Miguel Colonia and Visit to the Alvarado Single Family Rehabilitation Project**
—Sonia Jones, Intake Housing Rehab Specialist, Tierra del Sol Housing Corporation
—Silvia Alvarado, Homeowner

Tour of Paseo del Oro — Single Family New Construction Project
—Rose Garcia, Executive Director, Tierra del Sol Housing Corporation
—Robert and Jeannette Azure, Homeowners

Tour of Stone Mountain — Multi-Family New Construction Project
—Thomas G. Hassell, Executive Director, Housing Authority of the City of Las Cruces and Doña Ana County

12:00 noon **Adjourn**

MINUTES
of the
THIRD MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE

August 6, 2010
Las Cruces City Hall
Las Cruces, New Mexico

The third meeting of the Mortgage Finance Authority (MFA) Act Oversight Committee was called to order by Representative Jose A. Campos, chair, at 9:15 a.m. on Friday, August 6, 2010, at the Las Cruces City Hall in Las Cruces, New Mexico.

Present	**Absent**
Rep. Jose A. Campos, Chair	Rep. Janice E. Arnold-Jones
Sen. Nancy Rodriguez, Vice Chair	Sen. Eric G. Griego
Sen. Mark Boitano	
Rep. Ernest H. Chavez	
Rep. Joni Marie Gutierrez	
Sen. Cisco McSorley	

Advisory members

Rep. Thomas A. Anderson	Sen. Rod Adair
Rep. Andrew J. Barreras	Rep. Sandra D. Jeff
Rep. Roberto "Bobby" J. Gonzales	Rep. James Roger Madalena
Rep. Dennis J. Roch	Sen. Richard C. Martinez
	Sen. Gerald Ortiz y Pino
	Rep. Benjamin H. Rodefer
	Sen. Sander Rue

Guest Legislator
Rep. Richard D. Vigil

Staff
Kim Bannerman, Staff Attorney, Legislative Council Service (LCS)
Claudia Armijo, LCS

Guests
The guest list is in the meeting file.

Handouts
Copies of all handouts and written testimony are in the meeting file.

Friday, August 6

Welcome and Approval of the Minutes

Representative Campos welcomed committee members and guests to the meeting, and the members introduced themselves. A motion was made by Senator Rodriguez to approve the minutes for both the June 22, 2010 and July 8, 2010 committee meetings. The motion was seconded by Senator McSorley, and the minutes were unanimously approved without changes.

Jay Czar, executive director for the MFA, greeted the members of the committee and guests, thanked them for their attendance and provided an overview of the properties the members would be touring that morning. He then introduced Rose Garcia, executive director of the Tierra del Sol Housing Corporation. Ms. Garcia began by thanking the legislators for their support and legislative initiatives. She noted that Tierra del Sol works primarily in the rural areas of New Mexico, adding that Las Cruces is a major market for the housing corporation's work.

Ms. Garcia told the members that they would be visiting Paseo del Oro, a subdivision on the edge of Dona Ana Village on the north end of the city of Las Cruces. She advised the members that Tierra del Sol had collaborated with the Metropolitan Planning Organization on the project to ensure compatibility for the future and development consistency. She noted that the project contains 103 units of single-family detached homes. Ms. Garcia explained that the New Mexico Housing Trust Fund, administered by the MFA, had contributed $1.4 million, with an additional nearly $1 million contributed by a local bank. She added that half of the lots were designated for low-income families.

Staff from the City of Las Cruces Housing Authority welcomed the members to the new city hall and told them it is always available in the event that the legislators want to hold meetings there. They also discussed the Stone Mountain Place Apartments, which the members would also be touring that morning. The apartment community is a mixed-income, multifamily apartment complex consisting of 84 residences, a playground and a community center with offices and laundry facilities. The location was previously a motor home and mobile home park. The housing authority provided city home funds from the federal Department of Housing and Urban Development (HUD) to relocate the former residents. The location was originally half an infill lot in a flood zone and half mobile homes. Prior to development, the land was filled in so it is no longer in a flood zone.

Tour of San Miguel Colonia and Visit to the Alvarado Single-Family Rehabilitation Project

After the introduction of the MFA housing partner representatives, the committee members boarded several vans and toured the various home sites. The first home visited was a rehabilitation home project located on Highway 28 in San Miguel, New Mexico. The home owner is Sylvia Alvarado, a retiree and grandmother. The home is an adobe originally constructed in the 1930s. The funding sources for the rehabilitation project were the MFA, which provided a forgivable loan in the amount of $54,692.66, the United States Department of Agriculture Rural Development 2008 Program, which provided grant money in the amount of $14,400, and MFA Lead-Based Paint Grant money in the amount of $785. The final project cost was $69,877.66. Local contractors provided the work on the rehabilitation of the home. Major highlights of the rehabilitation included transforming the flat roof system into a pitched roof system, updating the electrical system and installing low-energy windows, low-flow plumbing fixtures, an evaporative cooler, a new gas line and a new water heater. The members were provided a brochure with photos illustrating the project before, during and after the rehabilitation took place.

The committee members were pleased to be able to meet the homeowner in person. She expressed her thanks and appreciation for the work done in the rehabilitation of her home. The members were impressed with the dramatic difference the rehabilitation had made in improvements to the property, noting that the work was significant in transforming the home from substandard housing to a like-new, safe living environment. The work on the home was completed in March 2010, and it was completed while the owner still occupied the house. Prior to the rehabilitation, the house had no heat, no working shower or bath and minimal air conditioning.

Tour of Paseo del Oro — Single-Family New Construction Project

Next, the members were taken to the Paseo del Oro Subdivision in Las Cruces. They were taken to a single-family home on Hatfield, which is now owned by Jeanette and Robert Azure. The construction on this home was completed in May 2010 by the Tierra Del Sol Housing Corporation, which acted as the licensed general contractor. The mortgage loan amount on the home is $109,076, with an appraisal value of $132,000. Consequently, the homeowners have $22,924 of equity in their new home. The owners have a 30-year mortgage at a fixed rate of 4.75% with a monthly payment of $747. The total grant funds used for the project were $23,568.02. The members were provided with before-, during- and after-construction photographs of the home. It was a two-story frame-and-stucco home in an attractive small subdivision. Ms. Azure was present during the members' tour. She expressed her appreciation for the home and for the program making the home's construction possible. The members enjoyed speaking to the homeowner and were impressed with the construction and the pleasant environment of the subdivision. They were pleased to learn that the subdivision offers a mixed-income residency, with some homes being offered at the market rate while others, like the one they toured, sold as affordable housing. The members seemed to agree unanimously that combining the low-income housing with the market-rate housing provides a stable community environment for all of the residents.

Construction began in the Paseo del Oro Subdivision in June 2007, with the infrastructure completed in July 2008, and the project subdivision completion will be in the spring of 2012. There will be 103 single-family homes built when the project is complete, with at least 48 of those designated for families earning at or below 80% of the area median income. The average price of a subsidized home in Paseo del Oro is $92,000, while the average price of a nonsubsidized home is $125,000. So far, 32 homes in the subdivision have been sold, and there are five currently under construction. The funding for the project has come from the New Mexico Housing Trust Fund, Pioneer Bank, the City of Las Cruces' federal block grant program called the HOME Investment Partnerships Program (HOME) and the HUD SHOP Program.

The HOME is the largest federal block grant to state and metropolitan local governments designed exclusively to create affordable housing for low-income households. A block grant is a federal grant made by formula every year, so that grantees are given discretion to undertake specific activities. For areas outside of Albuquerque and Las Cruces, the HUD provides HOME block grant funds to the MFA. The state, in turn, makes these funds available to rural New Mexico applicants on a competitive basis.

The HOME funding is determined by a formula based on need as determined by U.S. census data released every 10 years. In 2002, rural New Mexico received $7 million.

HOME funding can be used for homeowner and rental housing development, as well as owner-occupied housing rehabilitation. The state also combines its HOME funds with state funding to provide additional resources to applicants on a competitive basis. Rural local and county governments, nonprofit organizations, for-profit agencies and tribal entities can apply to the state for funding. By federal law, 15% of the HOME funding is set aside for community housing development organizations, which are nonprofits created especially to undertake housing development.

Tour of Stone Mountain — Multifamily New Construction Project

The last housing project the members toured was the Stone Mountain Place Apartments in the city of Las Cruces. The complex replaced a nonconforming trailer park. All of the residents of the trailer park were relocated to other, more suitable housing situations as required pursuant to the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

The Stone Mountain Place Apartments complex consists of several buildings with 12 apartments in each building. There are 71 low-income tax credit units for families at or below 50% of the median area income, and there are 13 market-rate units. The City of Las Cruces Housing Authority, along with the MFA and several other partners, all joined in the funding and construction of the project.

The committee members toured a three-bedroom apartment that is a designated low-income tax credit unit. It was upstairs and appeared new and modern with up-to-date features, appliances and fixtures. Some members of the family living in the unit were present during the tour and spoke with a number of legislators as they viewed the home. The members were pleased with the overall feel and family-friendly atmosphere of the apartment complex. The construction was new, modern and attractive, and members were impressed by the dramatic improvements and difference in the location illustrated in the before-and-after photos they were shown after their tour.

After touring the three MFA-sponsored projects, the committee members returned to the Las Cruces City Hall, where the MFA held a town hall meeting later that afternoon. With no further business, the chair adjourned the MFA Act Oversight Committee meeting at 12:30 p.m. However, members were invited to stay and attend the town hall meeting.

MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE

Section 6

September 3, 2010

Agenda

Minutes

Revised: September 1, 2010

TENTATIVE AGENDA
for the
FOURTH MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

September 3, 2010
New Mexico Mortgage Finance Authority (MFA) Office
344 Fourth Street SW
Albuquerque, New Mexico

Friday, September 3

10:00 a.m. **Call to Order**

10:05 a.m. **Approval of the Minutes**

10:10 a.m. **Update on the New Mexico Homebuilding, Real Estate and Manufactured Housing Industries**
—Homebuilding
—Michael Sivage, Chief Executive Officer, Sivage Community Development; Vice Chair, MFA Board of Directors
—Real Estate
—Wayne Ciddio, Executive Secretary, New Mexico Real Estate Commission
—Diane Moehlenbrink, Deputy Director of Operations and Communications, REALTORS Association of New Mexico
—Manufactured Housing
—Cathy Vickers, Chair, New Mexico Manufactured Housing Task Force
—Mary Martinek, Government Affairs Director, Realtors Association of New Mexico

11:15 a.m. **Conflict-of-Interest Issues — MFA's Bylaws and Code of Conduct and the MFA Act Conflict-of-Interest Provisions**
—Marjorie Martin, General Counsel, MFA

11:45 a.m. **Regional Housing Authority Update — Questions from the Committee**
—Joseph Montoya, Deputy Director of Programs, MFA

12:00 noon **Other Business**

12:15 p.m. **Adjourn**

MINUTES
of the
FOURTH MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE

September 3, 2010
Mortgage Finance Authority Office
Albuquerque, New Mexico

The fourth meeting of the Mortgage Finance Authority (MFA) Act Oversight Committee was called to order by Representative Jose A. Campos, chair, at 10:15 a.m. on Friday, September 3, 2010, at the office of the MFA in Albuquerque, New Mexico.

Present
Rep. Jose A. Campos, Chair
Sen. Nancy Rodriguez, Vice Chair
Rep. Janice E. Arnold-Jones
Sen. Mark Boitano
Rep. Ernest H. Chavez
Sen. Eric G. Griego
Rep. Joni Marie Gutierrez
Sen. Cisco McSorley

Absent
Sen. Rod Adair
Rep. Sandra D. Jeff

Advisory Members
Rep. Thomas A. Anderson
Rep. Andrew J. Barreras
Rep. Roberto "Bobby" J. Gonzales
Rep. James Roger Madalena
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino
Rep. Dennis J. Roch
Rep. Benjamin H. Rodefer
Sen. Sander Rue

Guest Legislator
Rep. Miguel P. Garcia

Staff
Kim Bannerman, Staff Attorney, Legislative Council Service (LCS)
Claudia Armijo, LCS

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Welcome

Representative Campos welcomed committee members and guests to the meeting, and the members introduced themselves. He advised the members that the meeting was being webcast. Consequently, he asked that side conversations be kept to a minimum.

Update on the New Mexico Homebuilding, Real Estate and Manufactured Housing Industries

Homebuilding Industry

Michael Sivage, chief executive officer for Sivage Community Development and vice chair of the MFA board of directors, advised the committee on the current state of the homebuilding industry in New Mexico. He told the members that in the new home market, prices are going down. However, he explained, new home sales are totaled in the aggregate, so they include all new home sales, including the smallest new homes. Because of this and the fact that smaller homes cost less, new home sale prices in the aggregate indicate a lower price. To the contrary, sales figures for resale homes reflect the reality of the actual numbers of homes sold and sales amounts. He also explained that new home starts versus new home permits are different. Permits are on record and new home starts figures are taken from data collected by the United States Census Bureau. Consequently, some permit levels are higher than new home starts levels because often a permit is issued, but the home for which the permit is issued is never built.

Rather than relying on permit level, Mr. Sivage opined that the most reliable new home sales information is reflected in the housing trends, which is based on housing starts. Nationally, homebuilding starts continued to decline for single-family and multifamily homes. Additionally, sales of new homes since June 30, 2010 have fallen dramatically. Mr. Sivage noted that in New Mexico, 50% of all new home permits are being issued to two major homebuilders that are large companies. This indicates that small New Mexico construction and homebuilding businesses are suffering. Also, the first-time homebuyers tax credit, which expired earlier this year, was a success at creating demand. Once the tax credit ended, the demand abruptly stopped. The move-up market (consumer's moving from a smaller house to a larger house) is struggling because there is an oversupply of inventory. These move-up buyers typically have a home to sell before they can buy their move-up home.

Mr. Sivage advised the members that there is a close correlation between jobs and housing. The relationship is one-to-one, meaning one job created for one new housing start. As New Mexico is currently losing jobs, housing starts are down. He further noted that New Mexico led the country for most job losses from June 2009 to June 2010. Until the unemployment numbers drop and New Mexico can attract new jobs, Mr. Sivage thinks new housing starts will remain low.

Another major problem in the new housing market is the high foreclosure rate. This creates a flood of existing homes to sell, so new homes are not necessary. He told the members that, nationally, over 50% of the homes falling into foreclosure are not subprime loans. In fact, one of the biggest foreclosure problems involves non-occupant investors who speculate in housing. There is a huge problem with homeowners who are "underwater" in their properties, and many are simply making decisions to walk away from their properties. This results in more bank-owned properties.

The financial crisis is leading to fewer quality homes being built. According to Mr. Sivage, a lot of homebuilders are currently selling their inventories at a loss, which gives them less money to start new projects. Also, while homebuilders can actually build a new home now for less than at this time last year, regulations and requirements are becoming more stringent, which leads to the new home not offering the same value and features as a home built a few years ago.

Mr. Sivage said that one of the most significant issues faced by new home builders, sellers and buyers is New Mexico's appraisal system. Since an appraisal is required to get a mortgage on a home, the appraisal value is everything. He noted that homebuilders are building model homes, getting them appraised and then finding that the appraisals are coming in for a lower amount than the actual cost of building the home. Since New Mexico is a non-disclosure state, it is sometimes difficult, if not impossible, for appraisers to get comparables (information on comparable sales). Comparables are required to get an accurate appraisal of a property, so this lack of information results in a big problem, leading to inaccurate appraised values. On the other hand, Mr. Sivage gave an example of a lot that he paid $200,000 for that recently appraised for $50,000. However, the assessor valued the lot at $100,000 for property tax purposes. Mr. Sivage objected to the assessed value because it does not make sense to pay taxes on property at a rate reflecting twice the value of the property. He continued, explaining that when a homebuilder sells a new home, if the appraisal comes in $20,000 below the sale price, the seller must decide whether to take a loss on the sale because the bank will not approve a mortgage for an amount higher than the appraised value. Again, the appraised values are simply not accurate, and a lot of that is due to a lack of comparables.

Another major problem facing homebuilders is acquisition, development and construction financing. This type of financing is not available, and large banks are not lending to the small businesses. A number of small homebuilding businesses are simply going out of business. Mr. Sivage proposed some possible solutions to the housing problems. He suggested the need to look at rent-to-own programs. He also indicated that the MFA could consider lending programs for underfunded segments of the homebuilding community. He cautioned the committee members about the potential negative impact of any proposed legislation that would impose higher impact fees and more stringent regulations. He noted that New Mexico has some of the most stringent building regulations in the nation.

Next, Mr. Sivage suggested that perhaps the legislature should consider instituting zoning regulations that allow rental units to be located on the same lot as a single-family home, as well as providing tax credits for out-of-state buyers as incentives for purchasing homes in New Mexico.

Mr. Sivage relayed to the committee members that he expects new home prices to stabilize and for the price per square foot to increase. He added that he believes foreclosure rates will continue to rise. He noted that the demand for home equity lines of credit is down as a result of many homeowners losing value in their homes and lenders imposing tighter borrowing restrictions. Fannie Mae and Freddie Mac are currently being reorganized, and this is affecting lenders. He noted that for the first time ever, some policymakers are questioning whether home ownership is always a good thing. Lastly, Mr. Sivage noted that many young people graduate from college in New Mexico and then leave the state to find employment. He suggested that New Mexico needs to find a way to keep those college graduates in the state.

There was a discussion about new housing permits and whether they had expiration dates. Mr. Sivage said that there is an expiration date with each permit, but the date varies. Typically, he said, a permit is good for one year. When asked by committee members which of New Mexico's building codes are excessive, Mr. Sivage noted that New Mexico adopted the 2009 Model Energy Code. He added that he would need to report back to the members on the specifics of New Mexico's building codes.

As a result of questions by committee members regarding pricing and appraisals, Mr. Sivage explained that, in an ideal world, builders would determine costs and then add a markup for land prices, with the cost of the land ranging from 16% to 30% of the final sale price of a new home. When the builder buys the land at a lower price, the new homeowner gets more value in the actual home purchase. He further explained that in southwest Albuquerque, a finished lot may average a cost of $35,000 plus $12,000 for impact fees, whereas a similar lot in northeast Albuquerque would likely cost $200,000. In reference to the approaches that appraisers use for appraising homes, Mr. Sivage noted that they have three sources of information: (1) the cost of the home, which they do not use but, in his opinion, they should use; (2) income, which is not used in appraising residential homes; and (3) comparable sales. Again, since comparable sales information is difficult to come by, appraised values are often inaccurate. When asked again by the members what legislators might do to positively affect the appraisal situation, Mr. Sivage recommended a forum with the county assessors and others in the industry, including appraisers. He said that a huge issue continues to be the difference between a property's appraised value and its assessed value. In his opinion, the assessor should either accept the appraised value or challenge it on the homeowner's behalf. He said a forum involving all of the players in the housing industry could be useful to discuss the entire valuation methodology. Regardless, he emphasized, cost should be considered in each home's appraised value. He also noted that on a national level, there is a new Home Value Evaluation Code of Conduct. This code requires that a seller or buyer cannot arrange to use the services of a specific appraiser. Rather, an appraisal is requested, and the parties do not know which appraiser will be selected. Mr. Sivage noted that perhaps the legislature should reevaluate whether New Mexico should become a disclosure state. He also noted that the closing of the sale of an existing home is a recorded document, whereas when a new home sells, there is no recorded document involved.

Mr. Sivage explained to the committee members that new homebuilders evaluate what homes sell for in certain communities and what amenities a typical home in that community has. The builder then structures its product and pricing along with features per square foot. Then, the homebuilder backs out the cost to build, the sales commission and closing costs. What is left to consider is the cost of the land.

Next, there was a discussion about the issue of "tax lightning". Members noted that about seven New Mexico counties are experiencing problems as a result of tax lightning. It was noted that new homes built since 2001 did not get property tax rollbacks. Additionally, property taxes are 35% higher on newly constructed homes.

Committee members also discussed the ramifications of appraisals for properties coming in lower than expected. Although refinancing at today's lower mortgage interest rates could help many New Mexico homeowners, appraised values are typically coming in low, so the homeowners are not able to take advantage of the savings that would coincide with a lower interest rate. It was noted that there was a bill introduced in the 2010 session that would require appraisers to provide proof regarding their appraisal determinations and to carry liability insurance. An appraisal is an estimate of value, and it was noted that there is no appeal process when an appraised value is issued. Once the appraisal is determined, it is a final determination. Many members indicated their desire to see homebuilders, realtors and the government reevaluate the home appraisal process and look at the possibility of an appeal process for appraisals.

Some members inquired about the correlation between jobs and housing starts. They asked if the income or salary paid for a job had an impact on the job-to-home-starts ratio. Mr. Sivage responded by saying that the employment and permit rate included multifamily homes. He added that 30% of a homeowner's income could support the home cost, adding that an individual making $45,000 a year could probably afford a home with a $145,000 sale price. He indicated that all jobs are good jobs and contribute to the job to home ratio.

<u>Committee Business</u>

After Mr. Sivage finished his presentation, a motion was made and seconded to approve the minutes from the committee's August 6, 2010 meeting held in Las Cruces, New Mexico. The motion passed unanimously.

<u>Real Estate Industry</u>

After approval of the minutes, the members were addressed by Diane Moehlenbrink, deputy director of operations and communications, Realtors Association of New Mexico, and Wayne Ciddio, executive secretary, New Mexico Real Estate Commission. Ms. Moehlenbrink began by concurring with Mr. Sivage's premise that the most important housing information for

New Mexico is information regarding housing trends. She noted that after a strong showing of home sales in New Mexico during June 2010, the pace of sales dropped off sharply in July. This was due to the expiration of the federal tax credit. She added that 1,100 single-family home sales were reported to the Realtors Association of New Mexico during July 2010. That number reflects nearly 24% fewer sales than the June 2010 total of 1,455 and was lower then the activity for both July 2008 and July 2009. The median price of New Mexico homes sold during July 2010 was $181,000. This was a slight increase from June 2010, when the median price was $179,000, and from July 2009, when the median price was $177,700. These numbers reflect a national trend in rising home prices.

Ms. Moehlenbrink noted that New Mexico's median home prices are being influenced by foreclosure activity and distressed sales. According to Realty Trac's second quarter U.S. foreclosure market report, New Mexico ranks near the middle of the 50 states in foreclosure activity. Sandoval and Bernalillo counties lead the state in foreclosures. She added that real estate is local, saying that most of the Santa Fe city residents cannot afford to buy a home in the city. Contrasting that fact, she noted that most of the citizens of Los Alamos can afford a median-priced home in that city. The ability to buy a home is based on income and affordability. But she noted that if buyers do not have the 20% down payment, they can face problems getting a mortgage. She continued by saying that, overall, the data do not indicate that affordability is a problem in New Mexico, but defaults on loans in certain communities, coupled with buyers' lack of down payments, can be an issue.

Mr. Ciddio began by noting that New Mexico Real Estate Commission is the state agency responsible for licensing real estate brokers in New Mexico. He presented the committee with information regarding the effect of the housing market on licensing and, accordingly, oversight of real estate brokers. He told the members that in the past year, 1,400 licensed brokers in the state did not renew their licenses due to a lack of business. As a consequence, the commission has had to adjust its budget down 11%. The commission now operates with fewer staff to investigate complaints or handle disciplinary hearings. Unfortunately, the commission still receives a high number of complaints.

One reason for more complaints against brokers is that foreclosures and short sales have flooded New Mexico's housing market. There has been a problem with realtors holding themselves out as experts on short sales, when in many instances they are not. This situation causes owners of distressed property to look for ways to sell their homes at high risk. Another problem has been the onslaught of drive-by appraisals. This is when banks ask appraisers to issue appraisals at a flat fee, putting the appraiser in jeopardy of violating the code of conduct for appraisers. Mr. Ciddio also noted that there has been an increased level of unlicensed activity because many realtors cannot afford to renew their licenses. Conducting business without a license is a petty misdemeanor.

This was followed by a general discussion among the committee members concerning the various types of complaints the commission is receiving. Mr. Ciddio noted that the majority of complaints involve errors and omissions on behalf of the realtor or broker. Additionally, there are complaints about brokers rendering opinions on issues outside their area of expertise.

<u>Manufactured Housing Industry</u>

Cathy Vickers, the chair of the New Mexico Manufactured Housing Task Force explained that the task force was formed two years ago because of problems in the manufactured homes market relating to sellers, buyers, lenders and realtors. She told the members that zoning regulations passed in 1987 allow manufactured housing to be located next to regular housing in all counties in New Mexico. However, covenants can keep manufactured houses out of a community if those covenants have never been broken. Homeowners of manufactured housing can get their homes assessed as real property. Most assessors do not identify the manufactured home as a manufactured home. There is still only one insurance company in New Mexico that will insure these manufactured homes assessed as real property.

Ms. Vickers noted that the task force has worked on developing a process to get troubled manufactured home properties sold. She said there have been a lot of problems, citing the fact that the Regulation and Licensing Department (RLD) has determined that realtors cannot sell manufactured homes, even if a home is attached to land. According to the RLD, anyone, including realtors who sell more than one manufactured home per year as chattel (personal property), must be licensed by the Manufactured Housing Division of the RLD. She said that the task force's priority this year is to work on getting lenders comfortable with providing loans for manufactured housing.

Mary Martinek, the government affairs director for the Realtors Association of New Mexico, directed the members' attention to the information in her handout. The first item was a copy of a procedural memo, dated January 15, 2009, from the Motor Vehicle Division (MVD) of the Taxation and Revenue Department. The memo provides that if certain conditions are met, the vehicle services unit can now deactivate the title to a manufactured home and issue a new interactive title, even though the home is currently assessed as real property. The handout also provided the pertinent section of the MVD vehicle procedures manual, Chapter 16, for the deactivation of title for a manufactured home. This section outlines the basic steps required to deactivate the title. Also included in the handout was a letter from Kelly O'Donnell, superintendent, RLD. The letter, addressed to real estate brokers, advised that a review by the legal department of the RLD determined that the inspection of manufactured homes prior to listing for sale, while advisable, is no longer required. The superintendent noted that installation inspections are required when a new manufactured home is first installed or when an existing home is moved to a new location. A pre-owned home that remains in its original location is assumed to have been inspected when it was first installed and, therefore, no additional inspections are necessary. In the letter, Mr. O'Donnell encouraged real estate brokers to obtain proof that an installation inspection occurred when a manufactured home was originally installed, noting that for homes installed after January 2004, the Manufactured Housing Division of the RLD should have a record of the inspection through the Kiva Online Permit Tracking System.

Next, Ms. Martinek advised the members that loans made on manufactured homes are portfolio loans, meaning they cannot be sold on the secondary market like mortgages on real property. She further noted that interest rates for loans on manufactured homes are significantly higher. She told the members that the foreclosure rates on manufactured housing in New Mexico are the lowest in the country. Lastly, she clarified that there is not a limit to the number of manufactured homes a licensed realtor may sell in New Mexico, as long as each home is already attached to land.

Conflict-of-Interest Issues — MFA's Bylaws and Code of Conduct and the MFA Act's Conflict-of-Interest Provisions

Marjorie Martin, general counsel for the MFA, spoke to the members regarding the conflict-of-interest provisions in the MFA's bylaws and the pertinent code of conduct and statutory provisions. She directed the members attention to a handout that contained the relevant sections of the MFA Act, Section 58-18-25 NMSA 1978, and she read the statutory provisions aloud to the members. She said that all new MFA employees are required to sign a disclosure statement. She also provided a handout outlining examples of conflict-of-interest provisions included in the MFA program contracts. There are provisions forbidding such things as: the improper influence of an officer or employee of any state, federal or local agency, a member of Congress, an officer or employee of any agency or an employee of a member of Congress in connection with the awarding of a federal loan; the entering into of any cooperative agreement; or the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement. There are restrictions on funds paid to lobbyists and members of Congress, and MFA commissioners shall not benefit from any agreements. Lastly, Ms. Martin provided the committee with copies of the Disclosure Statement provisions used in the MFA's request for proposals (RFPs). The RFPs require a statement from would-be providers disclosing:

1) any political contribution or gift required to be reported under the Lobbyist Regulation Act made by an offerer or any member of the offerer's firm to any elected official of the state of New Mexico in the last three years;

2) any current or proposed business transaction between offerer and any MFA member, offerer, or employee; and

3) any other conflict or potential conflict that may give rise to a claim of conflict of interest.

Ms. Martin concluded by offering her personal opinion that all potential conflicts of interest and any appearances of conflicts of interest should be eliminated. Committee members thanked her for her presentation and noted that they appreciate the information.

A motion was made to require the MFA to report by the September 30, 2010 meeting as to the cost of an independent audit of the bylaws, rules of ethics and code of conduct, including the policies and procedures contained in the MFA manual. The committee members want to know how much it will cost to provide a report and also how the MFA could finance such a report. The motion also requires a determination of best practices regarding the use of an outside audit. The motion was seconded and passed unanimously. When asked by members if there are best practices that she is aware of, Ms. Martin replied no. Lastly, it was noted and recommended that perhaps one of the New Mexico state business schools could perform the requested audit.

Regional Housing Authority Update

Joseph Montoya, deputy director of programs for the MFA, spoke to the committee regarding the recent consolidation of the regional housing authorities. He explained that two authorities were consolidated, and he directed the committee members' attention to a handout containing a diagram illustrating the changes. Included in the handout is a copy of Senate Bill 20, which became law in 2009. The new law amends regional reporting requirements as outlined in the handout.

There being no further business, the meeting was adjourned at 12:40 p.m.

MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE

Section 7

September 30, 2010

Agenda

Minutes

Revised: September 27, 2010

TENTATIVE AGENDA
for the
FIFTH MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

September 30, 2010
New Mexico Mortgage Finance Authority (MFA) Office
344 Fourth Street SW
Albuquerque, New Mexico

Thursday, September 30

10:00 a.m.	**Call to Order**
10:05 a.m.	**Approval of the Minutes**
10:10 a.m.	**MFA Internal Cost-Saving Measures** —Joseph Montoya, Deputy Director of Programs, MFA —Gina Hickman, Deputy Director of Finance and Administration, MFA
10:30 a.m.	**MFA Budget Overview** —Yvonne Segovia, Controller, MFA
11:00 a.m.	**MFA Organizational Review and Update — Comparison to Other States** —Jay Czar, Executive Director, MFA —Erin Quinn, Senior Policy and Program Advisor, MFA
11:30 a.m.	**Proposals for Audit or Review of Conflict-of-Interest Procedures** —Gina Hickman, Deputy Director of Finance and Administration, MFA —Marjorie Martin, General Counsel, MFA
12:00 noon	**Other Business**
12:15 p.m.	**Adjourn**

MINUTES
of the
FIFTH MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE

September 30, 2010
Mortgage Finance Authority
Albuquerque, New Mexico

The fifth meeting of the Mortgage Finance Authority (MFA) Act Oversight Committee was called to order by Senator Nancy Rodriguez, vice chair, at 10:15 a.m. on Thursday, September 30, 2010, at the office of the MFA in Albuquerque, New Mexico.

Present
Sen. Nancy Rodriguez, Vice Chair
Sen. Mark Boitano
Rep. Ernest H. Chavez
Sen. Eric G. Griego
Rep. Joni Marie Gutierrez

Absent
Rep. Jose A. Campos, Chair
Rep. Janice E. Arnold-Jones
Sen. Cisco McSorley

Advisory Members
Sen. Rod Adair
Rep. Thomas A. Anderson
Rep. Andrew J. Barreras
Rep. Roberto "Bobby" J. Gonzales
Rep. Sandra D. Jeff
Rep. James Roger Madalena
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino
Rep. Dennis J. Roch
Rep. Benjamin H. Rodefer
Sen. Sander Rue

Staff
Kim Bannerman, Staff Attorney, Legislative Council Service (LCS)
Claudia Armijo, LCS

Guests
The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

<u>Thursday, September 30</u>

Senator Rodriguez welcomed committee members and guests to the meeting, and the members introduced themselves. She advised the members that the meeting was being webcast. Consequently, she asked that they keep side conversations to a minimum.

MFA Internal Cost-Saving Measures

Joseph Montoya, deputy director of programs for the MFA, spoke to the members regarding cost-saving measures implemented by the MFA. He explained that the MFA has been hit hard by the housing crisis. He said that in the spring of 2009, the MFA management began looking at organization-wide cost-saving initiatives. He specified that the work was conducted not only by senior management and the strategic management team, but by every MFA employee. Suggestions were compiled, reviewed and implemented if appropriate. He advised the committee that the MFA continues work in this area, and he shared a list of some of the cost savings that have been implemented during the last 18 months. The cost-saving measures include the following:

1) implementation of videoconferencing technology; the use of videoconferencing resulted in savings not only to the MFA travel budget, but in the budgets of the subgrantees as well;

2) switching to a state cell phone contract, which resulted in the MFA benefiting from state negotiated savings;

3) using free public meeting rooms when such rooms meet the needs of any particular MFA activity;

4) implementing an organization-wide double-sided printing preference on appropriate documents;

5) implementing policies to reduce energy costs, including changing out inefficient light bulbs, installing motion detector lighting in the restrooms and workrooms and replacing older appliances with Energy Star-rated models;

6) reducing the costs associated with the security guard by making a 50% reduction in security guard hours (having the guard work two days instead of four);

7) eliminating plant care and maintenance services;

8) recycling supplies;

9) developing and implementing a new monitoring plan between asset management and community development that provides for shared resources resulting in travel savings;

10) reducing internal audit hours by 10%;

11) reducing outside mailings by using email lists and the web site for communication;

12) solidifying tax-exempt status with the health care provider, which eliminates gross receipts taxes on related services; and

13) identifying a new, less expensive vendor for paper products.

The MFA estimates that the cost-savings initiatives will save approximately $60,000 annually.

Gina Hickman, deputy director of finance and administration for the MFA, continued the discussion about the MFA's internal cost-saving measures by addressing the new issue bond program (NIBP). She advised the members that the U.S. Treasury is providing assistance to housing finance authorities (HFAs) across the country for single and multifamily bond issuance in the form of purchasing bonds at below-market rates. The MFA requested and received a single-family allocation of $1.5 million. Through the program, the MFA was able to escrow the allocation with no negative carry and will be rolling out the program over the next 12 to 15 months. For each rollout, the U.S. Treasury will purchase a maximum of 60% of each bond issue, with the remaining 40% sold to the public. The U.S. Treasury portion rate will be set at the 10-year treasury +60 basis points. The MFA is currently locked in at a rate of 3.07%. This low rate is allowing the MFA to offer below-market mortgage rates in its first-time home buyers program. Ms. Hickman explained that this improves the economics related to the MFA's first-time home buyers program and has a positive impact on the state's general fund revenues and expenses as well. The NIBP grant will continue through December 31, 2011. Ms. Hickman directed the members to a summary of the NIBP expenses.

Ms. Hickman also discussed the MFA's general fund expense budget versus its actual expenses for fiscal years 2006 through 2011. She noted that the MFA instills a culture to continually find ways to conserve and save, which has resulted in actual expenses consistently being less than the expense budget projections.

Some committee members asked for clarification regarding the dates through which the first-time home buyers program is valid. There was a general discussion involving whether the first-time home buyers program is valid for single-family units as well as multiunits. Ms. Hickman explained that any allocations from the program for multiunits have already been allocated.

MFA Budget Overview

Yvonne Segovia, MFA controller, along with Ms. Hickman, discussed the MFA's budget with the committee. Ms. Segovia began by explaining that the MFA's general fund budget for fiscal year 2010-2011 is around $14 million, which is an increase of approximately $1.5 million from the previous fiscal year. She noted that all of the MFA's revenues are derived from self-sustaining activities, such as administration of bonds and federal housing programs and interest income from loans and investments. She noted that the MFA's expenses for fiscal year 2010-2011 are projected to be around $12.6 million, an increase of $3.7 million, or 41%, over fiscal year 2010's projected expenses.

She continued by explaining that the revenue increase this fiscal year was primarily a result of an increase in the federal American Recovery and Reinvestment Act of 2009 (ARRA) grant funds for the weatherization assistance program, which was used for training and technical assistance. She explained that the MFA's budget increase reflects staffing increases that include: (1) a part-time (75%) program manager position to support tribal housing initiatives; (2) a program specialist to support ARRA programs; (3) a lending coordinator; and (4) a database programmer. Ms. Segovia noted that the staffing increases in the budget are substantially offset by the elimination of the director of program administration position and the elimination of the regional housing coordinator position.

Ms. Segovia told the members that the MFA has budgeted for an increase in payroll taxes and employee benefits. She attributes the increase primarily as a result of increased health care and dental insurance costs. She noted that the health insurance premiums did not increase; the increased costs are due to additional MFA staff and in the selected health care options made by employees. Ms. Segovia highlighted various other aspects of the MFA budget and referred the members to the handout for more in-depth and detailed information.

When asked if the MFA administers any state funds, Ms. Segovia explained that the MFA administers the state trust fund dollars. However, she specified that although the funds are administered by the MFA, the money does not flow through the MFA budget. Some members inquired about MFA funds that are managed by the State Investment Council (SIC). Ms. Hickman stated that the MFA board supports investing with the SIC because the board members like the SIC's allocations for long-term investments. She clarified that the MFA's short-term and indexed investments are not handled through the SIC. Lastly, Ms. Segovia reminded the members that the MFA is not a state agency; therefore, its employees are not part of the Public Employees Retirement Association. Rather, MFA employees participate in a 401(k) program, whereby the MFA contributes 5% of an employee's salary with matches that could be as high as 11%.

MFA Organizational Review and Update — Comparison to Similar Entities in Other States

Jay Czar, the MFA's executive director, and Erin Quinn, senior policy and program advisor for the MFA, spoke to the members about the MFA as it compares to similar agencies in other states. Ms. Quinn reminded the members that the information is being provided as a result of a request made by some of the committee members at the previous MFA meeting held earlier in September. Next, she directed the members' attention to the handout and a graph depicting the "Year-Over-Year Growth Rate" of all HFAs and the MFA. She explained that she developed the graph using information compiled from a nationwide HFAs survey. She cautioned that the information does not compare "apples to apples" because HFAs differ greatly in size, programs and statutory duties and responsibilities. Ms. Quinn explained that most HFAs experienced growth in their respective budgets of about 69.99% per employee, while the MFA's growth rate was negative 1.88%.

There was a discussion regarding the overall value of the information provided by the graph. Members noted that the information is not specific enough to truly ascertain how the MFA compares to similar HFAs. Ms. Quinn told the members that additional administrative and budget information was provided in the handout in the pages immediately following the graph. She advised them that the data included was the raw data she used when developing the graph. She additionally advised the members that some of the HFAs included in the information are actual state agencies, unlike the MFA, that, although statutorily created, is not a state agency. Lastly, Ms. Quinn explained the difficulties she experienced when trying to compare the MFA to other HFAs. She told the members that there was so much information that it could take months to compile it in a useful, meaningful manner.

Ms. Quinn next directed the members' attention to the MFA organizational chart included in the handout. She explained that HFAs can vary significantly in their characteristics, including their age, size, relationship to state government, program authority and administration. HFAs administer a range of federal affordable housing programs. They also run a variety of community and economic development programs, including job training, weatherization and low-income heating cost assistance. HFAs often contribute to the supply of affordable housing by providing technical assistance, capacity building and other program support to nonprofit housing providers in their respective states. Most HFAs play a lead role in developing their states' consolidated plans, which is a requirement for participation in federal housing programs. Many HFAs also administer state funds provided through annual appropriations, dedicated revenues and other sources.

Ms. Quinn provided a brief history of the inceptions of HFAs, telling the members that the State of New York was the first to establish a statewide housing agency in 1939. Other states soon followed, and by 1987, 47 more states, Puerto Rico, the U.S. Virgin Islands and the District of Columbia had all established HFAs.

Most HFAs are governed by a board of directors consisting of five to 19 members who are usually appointed by the state's governor or serve ex officio by virtue of occupying a position in state government. Some state legislatures appoint board members. In 2008, HFAs' operating budgets ranged from $2.9 million to more than $115 million. The vast differences in the size of the HFAs' budgets reflect, in part, differences in state size, population, programs administered and the extent to which the HFAs use outside contractors to perform some of their work. The average annual budget for HFAs in 2008 was $25.6 million.

Ms. Quinn told the members that the HFAs staff sizes range from 25 to 940 full-time employees. The average staff size has grown from 72 in 1987 to 159 in 2008, reflecting an increase in HFAs' responsibilities. She added that there are significant differences in the volume of program activity among HFAs. Those differences are reflected in the amount of the outstanding bonds issued, ranging from $15 million to $9.2 billion. Outstanding HFA bonds totaled $120 billion in 2008, an $11 billion increase above total HFA bond debt in 2007. Referring to Table 12 of the handout, Ms. Quinn stated that HFAs administered $10.6 billion of the $15.4 billion in combined bond proceeds and state appropriations dedicated for affordable housing in 2008. HFAs administered 28 of the 41 state trust funds operating in 2008 to support affordable housing.

Proposals for Audit Review of Conflict-of-Interest Procedures

Marjorie Martin, general counsel for the MFA, and Ms. Hickman addressed the members regarding the possibility of the MFA contracting services for an outside audit of its conflict-of-interest procedures. Committee members requested this information at a previous meeting. Ms. Hickman explained that she had contacted the law firm of Sheehan & Sheehan P.A. and had received from the firm a letter containing an estimate of $3,880 to $5,160 in fees to perform the audit. A copy of the letter was provided in the handout. Also included in the members' handouts is a copy of a letter from Wayne Brown, partner in the firm of Moss Adams LLP, the firm that currently performs internal audits for the MFA. The letter contained an estimate of between $20,000 and $25,000 in fees associated with the Moss Adams firm performing an audit of the MFA's bylaws, rules and regulations, code of conduct and policies and procedures. Ms. Hickman noted that she had contacted the University of New Mexico (UNM) regarding a student-conducted study of the issue, but she was informed that it is not possible at this time.

There was a discussion about the possibility of contracting for services for the external audit. The members decided to hold over the topic for the next meeting and to consider contacting both UNM and New Mexico State University if the audit is revisited.

Prior to adjournment, it was noted that the November 3, 2010 meeting will begin at 9:00 a.m. and will be held at the Hotel Albuquerque.

Adjournment

There being no further business before the committee, the fifth meeting of the MFA Act Oversight Committee for the 2010 interim adjourned at 12:20 p.m.

MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE

Section 8

November 3, 2010

Agenda

Minutes

Revised: October 29, 2010

TENTATIVE AGENDA
for the
SIXTH MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

November 3, 2010
Hotel Albuquerque
800 Rio Grande Boulevard NW
Albuquerque, New Mexico

<u>Wednesday, November 3</u>

9:00 a.m. **Call to Order**

9:05 a.m. **Approval of the Minutes**

9:10 a.m. **Proposals for Audit or Review of Conflict-of-Interest Procedures**
—Gina Hickman, Deputy Director of Finance and Administration, New Mexico Mortgage Finance Authority (MFA)
—Marjorie Martin, General Counsel, MFA

9:30 a.m. **Removing Low-Income Housing Tax Credits for Property Taxation Valuation Purposes — Proposed Legislation**
—Rick Silva, Director, Property Tax Division, Taxation and Revenue Department
—Stephen Natelson, Attorney

10:00 a.m. **Regional Housing Authority Oversight Expenses — Proposed Legislation**
—Joseph Montoya, Deputy Director of Programs, MFA

10:45 a.m. **Governor's Housing Summit — Content Highlights and Keynotes**
—Jay Czar, Executive Director, MFA
—Erin Quinn, Senior Policy and Program Advisor, MFA

11:00 a.m. **Adjourn**

MINUTES
of the
SIXTH MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE

November 3, 2010
Hotel Albuquerque
800 Rio Grande Boulevard NW
Albuquerque, New Mexico

The sixth meeting of the Mortgage Finance Authority Act Oversight Committee was called to order by Representative Jose A. Campos, chair, on November 3, 2010 at 9:15 a.m. at the Hotel Albuquerque in Albuquerque, New Mexico.

Present
Rep. Jose A. Campos, Chair
Sen. Nancy Rodriguez, Vice Chair
Rep. Janice E. Arnold-Jones
Sen. Mark Boitano
Rep. Ernest H. Chavez
Sen. Cisco McSorley

Absent
Sen. Eric G. Griego
Rep. Joni Marie Gutierrez

Advisory Members
Sen. Rod Adair
Rep. Roberto "Bobby" J. Gonzales
Rep. Sandra D. Jeff
Rep. James Roger Madalena
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino

Rep. Thomas A. Anderson
Rep. Andrew J. Barreras
Rep. Dennis J. Roch
Rep. Benjamin H. Rodefer
Sen. Sander Rue

Staff
Kim Bannerman, Legislative Council Service (LCS)
Claudia Armijo, LCS

Guests
The guest list is in the meeting file.

Handouts
Handouts and written testimony are in the meeting file.

Wednesday, November 3

Representative Campos welcomed committee members and guests to the meeting, and the members introduced themselves. He then asked Jay Czar, executive director of the Mortgage Finance Authority (MFA), to speak to the members and guests.

Governor's Housing Summit — Content Highlights and Keynote Speakers

Erin Quinn, senior policy and program adviser for the MFA, joined with Mr. Czar in welcoming the members and guests to the meeting, which was being held during the Governor's Housing Summit. Mr. Czar explained that the summit is a biennial event held in the hopes that attendees will gain knowledge, make valuable connections and renew their commitment to providing high-quality affordable housing opportunities for the residents of New Mexico.

Ms. Quinn told the members that some of the most knowledgeable individuals and experts in the housing industry would be sharing their ideas and knowledge with the attendees. She added that the topics for the various housing summit breakout sessions would range from deal structuring to demographics. She advised the members that they were all registered and were welcome to attend any of the sessions that might be of interest to them.

Ms. Quinn identified the keynote speaker for the first day of the summit as Nicolas P. Retsinas, a senior lecturer in real estate at the Harvard Business School. She added that Mr. Retsinas teaches courses in housing finance and real estate in emerging markets. She said the keynote speaker for the following day would be Will Bowen, leader of Christ Church Unity in Kansas City, Missouri. She noted that prior to his leadership in the church, Mr. Bowen worked in radio and that he is an award-winning sales and marketing lecturer.

Before concluding their opening remarks, both Mr. Czar and Ms. Quinn again invited and encouraged the committee members to attend any sessions or other activities offered during the housing summit.

Proposed Audit review of Conflict-of-Interest Procedures

Gina Hickman, deputy director of finance and administration for the MFA, and Marjorie Martin, MFA general counsel, addressed committee members regarding the proposed audit or review of the MFA conflict-of-interest procedures. Ms. Hickman began with a brief background summarizing the discussions at previous MFA meetings that led to the proposed review. She also reminded the members of the details included in the proposals the MFA received from the law firm and accounting firms that presented proposals for audit and review services of the MFA's conflict-of-interest procedures.

Ms. Hickman told the members that the MFA has already begun its annual in-depth review of its conflict-of-interest policies. She added that the MFA Oversight Committee had expressed specific concerns regarding the current conflict-of-interest policies, and the MFA would be moving forward to address those concerns. Ms. Martin, referring to the memorandum behind Tab 1 of the handout, said that the MFA staff has determined that, as a result both of the legislators' concerns and the recommendations of the committee, perceived gaps in the MFA's conflict-of-interest policies should be identified and resolved. She noted that in a 2009 external audit, the auditors recommended that the MFA "amend or enforce the existing policy regarding disclosure of the equity value of equity interest on the Annual Disclosure Form". Auditors further recommended that the MFA could remove all requirements to disclose ownership percentage and value and, instead, indicate that any investment is assumed to be significant, and employees and board members seeking special consideration might be allowed to present evidence that their investment is inconsequential. The auditors also recommended that if the existing MFA policy is retained, employees and board members should be required to provide complete information.

Ms. Martin said that as a result of the 2009 auditors' recommendations and the recent concerns raised by the MFA Oversight Committee, the MFA staff has drafted a set of proposed policy changes to address inconsistencies in the audit and gaps in the MFA's conflict-of-interest policies. The proposed changes are included in the handout, and Ms. Martin noted that the changes were reviewed by the Sheehan and Sheehan law firm. Major changes are included in the definitions section of the MFA Policy and Procedures Manual, Section 1.2C. The amended language includes adding "domestic partner" in the definition of "Family Member". Additionally, the definition of "Official Act" would be changed to mean "any action taken by an MFA Board Member, Management or Employee that is within her/his capacity to take by virtue [of] her/his position and which constitutes a decision, resolution determination, recommendation, approval, disapproval, or other action that involves the exercise of discretionary authority".

There was a brief discussion by members regarding the proposed changes. The chair and other committee members thanked MFA staff members for their diligence and hard work in addressing the concerns of the individual legislators and the oversight committee as a whole.

Removing Low-Income Housing Tax Credits for Property Taxation Valuation Purposes — Proposed Legislation

Attorney Stephen Natelson, Rick Silva, director, Property Tax Division (PTD), Taxation and Revenue Department (TRD), and Michael O'Melia, deputy director, PTD, discussed proposed legislation that would clarify the treatment of low-income housing tax credits for purposes of property tax valuation of low-income housing property.

On behalf of his client, the developer and owner of El Cerrito Housing LP, a Taos County low-income housing development, Mr. Natelson said the Taos County assessor improperly assessed the El Cerrito low-income housing project by incorrectly considering in his valuation the value of the project's low-income housing tax credits. He noted that current laws and regulations, if interpreted correctly, should prevent an error in assessors' valuations. He argued that because the Taos County assessor improperly assessed his client's property, the legislature should adopt new statutory language for clarification of the existing law or require more stringent enforcement of the current statute. Mr. Natelson further predicted that if nothing is done to reverse the Taos County assessor's opinion regarding the valuation of the property, future low-income housing projects will be in jeopardy because developers will not want to risk developing such projects only to get hit with inflated property tax assessments.

Mr. Natelson asserted that the Taos County assessor failed to apply the provisions of Section 7-36-15 NMSA 1978, which provides that an assessor shall consider "any decrease in the value that would be realized by the owner in a sale of the property because of the effects of any affordable housing subsidy, covenant or encumbrance, imposed pursuant to the federal, state or local affordable housing program that restricts the future of the property or the resale price of the property".

Mr. Natelson claimed that the Taos County assessor incorrectly included federal low-income property tax credits in the El Cerrito low-income housing project's property valuation. Therefore, the assessor determined an inflated taxable valuation. The assessor submitted an amended assessed value of the project of $3,182,148 for the 2009 tax year. The property owner asserts the amended value should be $2,167,314. The property owner was unsuccessful in his protest before the Taos County Valuation Protests Board regarding the assessed value of the property by the Taos County assessor. On October 29, 2009, that board found that the property owner "failed to overcome the statutory presumption that the Assessor's valuation of the property is correct".

Mr. Natelson, referring to an October 28, 2010 letter to the MFA Oversight Committee members, labeled Attachment C in the handout, reminded members that he has been working with Representative Gonzales and Senator Rodriguez to draft legislation that specifies the manner in which properties with low-income housing tax credits are calculated for taxation purposes. The proposed legislative changes are located in the handout behind Tab 2, Attachment C.

Committee members asked several questions regarding the valuation process, the current statutory language and the need for amended language. Mr. Silva told the members that he was made aware of this controversy last year. He said the assessor valued the property using the income the property was producing for the basis of the valuation. Mr. Silva opined that the legislature and the TRD do not need to take any steps in the matter until the court that is hearing the case issues an order in the matter. He argued that, because the current statute clearly requires that the valuation should not include the tax credits, no statutory changes are necessary.

Representative Gonzales told the members that he was proposing legislation containing a specific provision that federal income tax credits awarded pursuant to Section 42 of the Internal Revenue Code shall not be taken into account when determining the market value of property for property taxation purposes.

Mr. Natelson informed the members of Regulation 3.6.5.41, adopted in 2008, which provides that low-income tax credits shall not be used in the valuation of the low-income housing properties like that of his client. However, he said, he did not discover the regulation until after the Taos County assessor had determined the value of the El Cerrito property. He also noted that he forwarded the regulation information to the Taos County attorney, who was unfamiliar with the regulation. By that time, the valuation had been completed, and the case was being appealed by the property owner. According to Mr. Natelson, the greatest expense for a developer is the cost of property taxes. Consequently, if an assessor overvalues a property, the tax burden can cause the project to become insolvent.

Joseph Montoya, deputy director of programs for the MFA, advised the members that the TRD looked at the statute in its current form and determined it did not need to be amended. He also offered his personal opinion that the statute was clear and did not need amendment.

Mr. O'Melia advised that the issue is quite complicated. He said that most people seem to agree that the property assessments should be calculated based on market value. He further said that he thinks the Taos County assessor used the information that was available for the valuation. He opined that the county assessor and the property owner need to communicate, and the county assessor needs to be supplied with qualified, audited information. He also noted that property owners need to provide total disclosure to assessors to eliminate tax valuation problems.

Committee members expressed concern over the lack of uniformity in the application of New Mexico's laws concerning property taxes and property tax valuations. Mr. Silva said there should be some type of repercussion for not properly applying the tax laws. Members then asked Mr. Silva if the TRD could do more to provide clarity and guidance to assessors regarding the application of New Mexico's taxation statutes. He responded that the statute is clear and unambiguous. He noted that the TRD manages 33 county assessor offices statewide and does so with a limited staff. He reiterated that punitive measures are needed for not following the tax code. Committee members responded with concern over penalizing elected officials. Mr. Silva agreed that control of elected officials is difficult and noted that until one of the elected officials who fails to follow the tax code properly is removed from office, nothing will likely change. He added that when representatives from the TRD question local assessors, the department "catches heat". In his opinion, when the property tax system in its current statutory form is followed, it works.

Mr. Natelson suggested that the TRD could send an advisory opinion regarding the use of low-income tax credits in the valuation of low-income properties to all 33 county assessors. When asked if the department would consider such a letter, Mr. Silva replied that, to the best of his knowledge, it had already been done. He noted that such an advisory letter should be sanctioned by the attorney general prior to being sent by the TRD.

After determining that more information and another discussion on the issue were needed, the committee declined to support the proposed legislation to amend the statute.

Regional Housing Authority Oversight Expenses — Proposed Legislation

Mr. Montoya spoke briefly regarding the MFA's proposed legislation that would transfer the oversight of the regional housing authorities to the Department of Finance and Administration (DFA). When asked the reason for the proposed legislation, Mr. Montoya explained that the MFA simply does not have the budgetary funds to exercise the duties related to oversight of the authorities. He added that although the duties were given to the MFA, funding has never been received to carry out those duties. He estimated that the MFA needs

$250,000 to carry out the oversight duties. He said that the MFA is also proposing an appropriation to the MFA in the amount needed to exercise its oversight responsibilities. Members approved a motion to endorse the appropriation legislation and the legislation proposing to move the oversight authority from the MFA to the DFA.

The committee voted unanimously to approve the minutes from the fifth meeting of the oversight committee held on September 30, 2010.

Adjournment

There being no further business before the committee, the sixth meeting of the MFA Act Oversight Committee for the 2010 interim adjourned at 11:00 a.m.

MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE

Section 9

2010

Legislation Endorsed

BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

DISCUSSION DRAFT

ENDORSED BY THE MORTGAGE FINANCE AUTHORITY

ACT OVERSIGHT COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO FUND THE OVERSIGHT OF THE REGIONAL HOUSING AUTHORITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. APPROPRIATION.--Two hundred fifty thousand dollars ($250,000) is appropriated from the general fund to the department of finance and administration for expenditure in fiscal years 2011 and 2012 for the purpose of funding the oversight of the regional housing authorities by the New Mexico mortgage finance authority. Any unexpended or unencumbered balance remaining at the end of fiscal year 2012 shall revert to the general fund.

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BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

DISCUSSION DRAFT

ENDORSED BY THE MORTGAGE FINANCE AUTHORITY

ACT OVERSIGHT COMMITTEE

AN ACT

RELATING TO HOUSING; TRANSFERRING OVERSIGHT OF THE REGIONAL HOUSING AUTHORITIES TO THE DEPARTMENT OF FINANCE AND ADMINISTRATION; AMENDING SECTIONS OF THE REGIONAL HOUSING LAW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 11-3A-6 NMSA 1978 (being Laws 1994, Chapter 132, Section 6, as amended) is amended to read:

"11-3A-6. POWERS OF REGIONAL HOUSING AUTHORITY IN BOARD OF COMMISSIONERS--APPOINTMENT OF BOARD OF REGIONAL HOUSING AUTHORITIES--TERMS.--

A. The powers of each regional housing authority shall be vested in its board of commissioners as the board may be constituted, from time to time. The board of commissioners of the regional housing authority for each of the three regions shall consist of one person from each county within the designated area of the regional housing authority, which person shall be a resident of that county and shall be appointed by the governor. Appointments shall be for terms of four years and shall be made so that the terms of not more than four commissioners on each board of commissioners expire on July 1 of each year. Vacancies shall be filled for the unexpired term. Commissioners shall serve until their successors have been appointed.

B. Members of [~~a~~] the board of commissioners of a regional housing authority shall elect an executive committee consisting of a chair, vice chair, treasurer, secretary and one other member of the board to function and meet on a monthly basis as an executive committee. The executive committee shall have the authority to act on behalf of the board of commissioners of the regional housing authority as needed. The executive committee shall submit a report of actions to the full board of commissioners, which shall meet on a quarterly basis.

C. [~~The~~] Members of the [~~boards~~] board of commissioners of a regional housing authority may receive per diem and mileage as provided in the Per Diem and Mileage Act but shall receive no other compensation, perquisite or allowance. A majority of the appointed commissioners of a board of commissioners shall constitute a quorum of [~~a~~] the board [~~of commissioners~~] for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by a regional housing authority upon a vote of a majority of the commissioners present. Each board of commissioners shall organize itself at its annual meeting each year. A board of commissioners may employ an executive director, subject to approval by the [~~New Mexico mortgage finance authority~~] department of finance and administration. With delegated authority from the board of commissioners, the executive director may hire or terminate, according to the procurement and personnel policies and procedures of the regional housing authority, any technical experts, officers, attorneys, agents or employees, permanent or temporary, as the regional housing authority may require.

D. The threshold requirements for commissioners of boards of regional housing authorities are that commissioners have expertise and experience in housing construction, real estate, architecture, law, banking, housing finance, business, property management, accounting, residential development, public housing programs, community development, social services or health care. The requirements set forth in this section shall not apply to commissioners serving pursuant to requirements of the federal department of housing and urban development.

E. Commissioners are expected to attend all meetings of the board of commissioners of the regional housing

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authority, and more than three unexcused absences may be grounds for dismissal from the board. All recommendations for [~~appointment as~~] appointments of commissioners shall be forwarded to and reviewed by the [~~New Mexico mortgage finance authority~~] department of finance and administration prior to recommendation to the governor."

SECTION 2. Section 11-3A-9 NMSA 1978 (being Laws 1994, Chapter 132, Section 9, as amended) is amended to read:

"11-3A-9. NONPROFIT CORPORATIONS.--Every regional housing authority, in addition to other powers conferred by the Regional Housing Law, shall have, if authorized by resolution of its board of commissioners and approved by the state board of finance, the power to create nonprofit corporations to carry out the powers and duties set forth in Section 11-3A-7 NMSA 1978. The articles of incorporation and bylaws, and any subsequent changes, shall be recommended for approval by the state board of finance and the [~~New Mexico mortgage finance authority~~] department of finance and administration. Such nonprofit corporations shall be subject to all of the duties and limitations imposed on the regional housing authority and its board of commissioners."

SECTION 3. Section 11-3A-30 NMSA 1978 (being Laws 2007, Chapter 50, Section 6, as amended) is amended to read:

"11-3A-30. FINANCIAL AND OPERATIONAL OVERSIGHT.--

A. Without the prior approval of the [~~New Mexico~~

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~~mortgage finance authority~~] department of finance and administration, no regional housing authority shall:

(1) enter into any contract, memorandum of understanding or other agreement with a value greater than one hundred thousand dollars ($100,000); or

(2) transfer, sell or liquidate any real or personal property with a value greater than one hundred thousand dollars ($100,000).

B. Not less than thirty days prior to the beginning of its fiscal year, each regional housing authority and each nonprofit corporation established pursuant to Section 11-3A-9 NMSA 1978 shall submit a final operating budget for the subsequent fiscal year to the [~~New Mexico mortgage finance authority~~] department of finance and administration for review.

C. The financial affairs of every regional housing authority and any nonprofit corporation created by a regional housing authority shall be thoroughly examined and audited annually by the state auditor, by personnel of the state auditor's office designated by the state auditor or by auditors approved by the state auditor. The audits shall be conducted in accordance with generally accepted auditing standards. Each regional housing authority shall submit to the state auditor, the department of finance and administration [~~the New Mexico mortgage finance authority, the Mortgage Finance Authority Act oversight committee~~] and the legislative finance committee,

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within thirty days following the receipt of the annual audit of the regional housing authority, a copy of that audit.

D. Every regional housing authority shall submit an annual report of its financial and operational activities to the [~~New Mexico mortgage finance authority~~] department of finance and administration for review and analysis and for dissemination to the [~~department of finance and administration, the Mortgage Finance Authority Act oversight committee and the~~] legislative finance committee. Each report shall set forth a complete operating and financial statement covering its operations since the previous report was presented.

E. Failure on the part of a regional housing authority to correct any qualified audit within one year of the release of the audit shall result in the abatement of any state funds until such corrective actions are taken. If a regional housing authority should receive a qualified audit opinion for more than two consecutive years, the oversight agency shall recommend corrective action to be taken."

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