

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

**November 20, 2012  
Mortgage Finance Authority Office  
344 Fourth St. SW  
Albuquerque, New Mexico**

The fifth meeting of the Mortgage Finance Authority (MFA) Act Oversight Committee for the 2012 interim was called to order by Senator Nancy Rodriguez, chair, at 10:08 a.m. on November 20, 2012 at the office of the MFA in Albuquerque, New Mexico.

**Present**

Sen. Nancy Rodriguez, Chair  
Rep. Alonzo Baldonado  
Rep. Ernest H. Chavez  
Sen. Cisco McSorley  
Sen. Gerald Ortiz y Pino

**Absent**

Rep. Joni Marie Gutierrez, Vice Chair  
Sen. Mark Boitano  
Rep. Nate Gentry

**Advisory Members**

Sen. Rod Adair  
Rep. Roberto "Bobby" J. Gonzales  
Rep. Rick Little  
Sen. Lynda M. Lovejoy  
Rep. James Roger Madalena  
Sen. Richard C. Martinez  
Sen. Sander Rue

**Absent**

Rep. Thomas A. Anderson  
Rep. Sandra D. Jeff  
Rep. Dennis J. Roch  
Sen. David Ulibarri

**Staff**

Claudia Armijo, Staff Attorney, Legislative Council Service (LCS)  
Sharon Ball, Senior Researcher, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

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

**Tuesday, November 20**

**Call to Order**

Senator Rodriguez welcomed members of the committee, staff and guests to the meeting.

## **Approval of the August 10 and October 2, 2012 Minutes**

On a motion by Senator Ortiz y Pino, seconded by Representative Chavez, the minutes of the August 10 and October 2, 2012 meetings were approved without objection.

## **MFA Update**

Senator Rodriguez recognized Jay Czar, executive director, MFA, who welcomed committee members, staff and guests. He advised committee members that the meeting was being video webcast and reminded them to try to keep sidebar conversations to a minimum to avoid noise interference with the webcast.

Mr. Czar told the committee that the MFA is a member of the National Council of State Housing Agencies (NCSHA), an organization of agencies that provides housing for low-income families in states throughout the country. He noted that the video that he was about to show had been produced by the NCSHA and had been shown at a recent national conference attended by more than 800 individuals. He explained that the video, entitled "Because Home Means Everything", features vignettes of affordable housing projects located in Connecticut, Texas and New Mexico and includes interviews with individuals and families who benefit from an affordable housing program in each of their respective states. The New Mexico vignette featured a project called "Downtown @ 700-2nd", a 72-single-room occupancy (SRO) facility located on the corner of Second Street and Lomas Boulevard NW in downtown Albuquerque. He noted that the developer, the Supportive Housing Coalition of New Mexico, used New Mexico's low income housing tax credit program to build the complex. Filmmakers interviewed one of the residents, known as the "Mayor of 'Downtown @ 700-2nd'", who had been homeless for 17 years before moving into the complex. Mr. Czar reminded committee members that they had toured this facility during the July 2012 meeting.

Senator Rodriguez thanked Mr. Czar for providing the video and noted that its message puts into perspective the difference that having a home can make in people's lives. Committee members agreed.

Mr. Czar gave a brief presentation and recognition for six members of the MFA Oversight Committee who would be leaving the legislature at the end of the 2012 interim: Representative Gutierrez, Senator Adair, Senator Boitano, Representative Little, Senator Lovejoy and Senator Ulibarri. He presented all departing members a Plexiglass plaque to thank them for their service on the MFA Oversight Committee.

## **Final Review and Endorsement of Proposed Legislation — 2013**

Joseph Montoya, deputy director of programs, MFA, directed committee members' attention to the information behind Tab 1 in the meeting notebook, which included discussion drafts of MFA-proposed legislation for the committee's consideration for possible endorsement for the 2013 legislature.

*New Mexico Housing Trust Fund Appropriation (.190638.ISA):* The first bill, Mr. Montoya noted, is a request for a \$5 million general fund appropriation to the New Mexico Housing Trust

Fund for expenditure in fiscal year 2014 and subsequent fiscal years to provide funding to carry out provisions of the New Mexico Housing Trust Fund Act. Mr. Montoya explained that the New Mexico Housing Trust Fund was created in 2005 and capitalized with an initial appropriation of \$10 million. He said that the fund has received an additional \$5 million since 2006, including \$1 million from the 2006 legislature, \$2 million from the 2007 legislature and \$5 million from the 2008 legislature. He noted that an additional \$3 million, which was appropriated by the 2012 legislature, has not been made available yet from the Department of Finance and Administration (DFA) but should be available soon.

Mr. Montoya went on to explain that the MFA serves as the fund's trustee and has awarded approximately \$25 million for affordable housing development. He said that this amount has leveraged approximately \$231 million in other housing funding and will result in the new construction and preservation of 1,503 affordable homes throughout New Mexico.

Mr. Montoya explained that in light of the mortgage market credit crunch and dwindling federal resources available for housing and economic development initiatives, the MFA is requesting a \$5 million appropriation to the New Mexico Housing Trust Fund to create homes and hundreds of construction jobs throughout the state.

Committee members expressed concern that the DFA is taking so long to carry out the distribution of appropriations that had been approved by the 2012 legislature and the governor and asked Mr. Montoya to keep them apprised about when the appropriation becomes available.

The committee agreed to *endorse the proposed legislation*, and *Senator Rodriguez* agreed to carry the bill.

*New Mexico Energy\$mart Appropriation (.190641.ISA)*: Addressing the second bill, Mr. Montoya explained that, in 2009, the MFA had received \$27 million for the weatherization assistance program under the federal American Recovery and Reinvestment Act of 2009 (ARRA), and since then, the MFA's partners have successfully weatherized more than 4,000 homes. He noted that this ramped-up production has saved New Mexicans millions of dollars and put hundreds of contractors back to work. He noted, however, that the MFA estimates that more than 85,000 homes are eligible for weatherization services through the New Mexico Energy\$mart program even as the stimulus program has ended, and all funds have been expended.

Mr. Montoya explained that the MFA leverages state funds with federal Department of Energy weatherization assistance program funding and low income home energy assistance program (LIHEAP) funding. The state's financial participation supplements the program and increases the number of assisted households. He explained that the state has consistently provided financial support to this program in the past.

Mr. Montoya explained that New Mexico Energy\$mart plays a crucial role in reducing energy costs for low- to moderate-income families. He noted that low-income homeowners can

spend up to 25% of their monthly budgets on utility costs compared to about 5% of higher-income homeowners.

The committee agreed to *endorse the proposed legislation*, and *Senator Martinez* agreed to carry the bill.

*Regional Housing Authority Funding (.190639.ISA)*: Mr. Montoya explained that New Mexico's regional housing authorities have undergone substantial changes in the past five years. As part of the regional housing authority reform process, the state appropriated funds for regional housing authority board members to travel to board meetings, training expenses for regional housing authority staff members and other essential organizational governance and capacity-building expenses. He noted that the state has also appropriated funds to pay for oversight expenses in order to ensure appropriate oversight and continued success in the authority's transition. He said that the MFA requests an appropriation of \$250,000 to offset these costs. Some committee members expressed concern that without these funds, the housing authority system would not have sufficient funding to offset the administrative costs of responsible oversight, governance and capacity building for the regional housing authority system as the legislature has intended.

The committee agreed to *endorse the proposed legislation*, and *Senator Rodriguez* indicated that *Senator Papen* has requested to carry the bill.

*Transfer Regional Housing Authority Oversight to the DFA (.190640.ISA)*: Mr. Montoya explained that the MFA and DFA were designated as oversight agencies when the regional housing authority system was overhauled in 2007. The state also appropriated funds to pay for oversight and other expenses, but because regional housing authority funding has not been incorporated into the regular budget process, appropriations have been inconsistent and inadequate. As a result, Mr. Montoya explained, regional housing authorities struggle to pay for audits and other essential organizational governance and capacity-building expenses, and the MFA can no longer carry out its assigned oversight duties. Therefore, he said, the MFA proposes amending the Regional Housing Law so that all oversight responsibilities are transferred to the DFA, which receives its annual operating budget through the regular state budget appropriation process.

The committee agreed to *endorse the potential legislation (.190640.1)*, and *Senator Rodriguez* agreed to sponsor it.

*Affordable Housing Act Oversight Appropriation (.190642.2SA)*: Mr. Montoya explained that in 2004, the Affordable Housing Act was passed and signed into law and then amended in 2007 to ensure consistency with constitutional language, as well as to clarify some additional items related to oversight and enforcement. He noted that the act specifically states that the MFA has oversight responsibilities in order to ensure provisions of the act. In addition to the oversight responsibility statutorily outlined in the act, the MFA has also undertaken technical assistance training to assist local governments in their affordable housing endeavors. He said that to date,

the MFA has used its own funds to provide oversight of the statutes and rules related to the act. The MFA is requesting \$100,000 to offset costs associated with state-mandated oversight of the Affordable Housing Act.

Committee members agreed to *endorse the proposed legislation*, and *Senator Ortiz y Pino* agreed to carry the bill.

*Affordable Housing Act Changes (.190643.ISA)*: Mr. Montoya explained that the Affordable Housing Act, Section 6-27-1 NMSA 1978 et seq., allows state and local governments to contribute public funds, buildings or other resources to create or preserve affordable housing. In exchange for the donation of public funds for affordable housing, the act imposes the long-term affordability requirement on publicly subsidized properties. No exception from the long-term affordability requirement is made for those foreclosed properties that might not be marketable with a long-term affordability provision. He said that the inability to sell such properties after foreclosure results in a loss of public funds, as well as the loss of those properties from the affordable housing stock. He said that the MFA is therefore proposing that the act be amended to exempt foreclosed properties from the long-term affordability requirement in those cases.

Mr. Montoya also pointed out that another problem the MFA faces in its oversight of the act is that it does not include any specific penalties for violation of the act's provisions. He said that the Attorney General's Office (AGO), which is charged with enforcement of the act, has requested the inclusion of penalties to enable enforcement. The MFA is also proposing that a penalty provision be added to the act prescribing appropriate civil fines for violation of the Affordable Housing Act and its rules, and, where applicable, criminal fines under current criminal statutes for fraud, theft, forgery, embezzlement and similar crimes likely to occur in violation of that act.

The committee agreed to *endorse the proposed bill*, and *Representative Gonzales* agreed to carry it.

*Rapid Rehousing Services (.190644.2SA)*: Mr. Montoya said that the MFA is requesting a \$500,000 general fund appropriation that would largely serve people living in poverty who experience homelessness because of a crisis (such as job loss, illness or domestic violence) and who do not need access to long-term, intensive services to remain housed. In response to a committee question, Mr. Montoya said that this funding could also go to people with or without children, people who are employed or seeking employment and those who are unable to work because of a disability.

He said that these funds would also provide short- to medium-term services and rental assistance to help homeless individuals and families quickly obtain permanent housing. He said that activities would include rental subsidies to help a household pay its rent; funding to pay for back rent and utilities; funding for basic case management services; financial literacy; life skills classes; and one-on-one assistance. In response to a committee question, Hank Hughes of the New Mexico Coalition to End Homelessness indicated that "rapid" in this case can mean

anything between being able to keep people in their homes and a matter of weeks. Lisa Huval, also representing the New Mexico Coalition to End Homelessness, explained that 89% of the people the coalition works with have been successful in getting housing in three months or less. Mr. Hughes noted that this program was funded through the ARRA, but since that funding is gone, he indicated his belief that given their current track record and evidence in both quantitative and qualitative data, the legislature and the governor will find that this is a worthwhile project.

The committee agreed to *endorse the proposed bill*, and *Senator Rue* agreed to sponsor it.

*Permanent Supportive Housing Services (.190645.2SA)*: Mr. Montoya explained that this appropriation would primarily serve homeless people with disabilities who need long-term access

to supportive services in order to stay housed, including people with mental health disabilities, substance abuse issues and physical disabilities. He explained that it would fund case management services for people living in permanent supportive housing and would not be used to pay for any rental assistance. He said that this funding would be used to overcome obstacles to obtaining housing and help clients find and move into affordable, permanent housing. The funding would also help them remain successfully in housing by learning the skills needed to successfully fulfill responsibilities of tenancy, to proactively resolve threats to permanent housing stability and to connect to support networks that increase housing stability and defuse a crisis.

The committee agreed to *endorse the proposed bill*, and *Senator Martinez* agreed to sponsor it.

### **Changes to MFA Rules and Regulations**

Marjorie Martin, attorney, MFA, directed committee members' attention to a memorandum she sent to the committee that provides a summary of the proposed changes to MFA rules and regulations.

The changes (available in the permanent file) involve changes to definitions, including the addition of a sentence to Section 3, General Definitions, Paragraph Z: "For loans to persons and families on Indian reservations, MFA will use the income basis determined under the federal Department of Housing and Urban Development's (HUD's) American Housing and Self Determination Act.". In response to a committee question about the similarity to the current definition, Eric Schmieder, tribal land specialist, MFA, indicated that the additional definition is slightly different in that the addition of this sentence provides some flexibility with the HUD criterion.

In a change to Section 7, Housing Opportunity Fund, Subsection 1, the MFA proposes adding the following language in Paragraph B: ". . . provide financing for families earning more than 50% of county or median income as published by the U.S. Department of Housing and Urban Development at the time of initial family qualification by participants and MFA. This

income limitation will be increased to a maximum of 60% of county or area median for areas that exhibit a combination of high housing costs and low median incomes which will be determined by the MFA on an annual basis and published in the Notice of Funds Availability (NOFA)."

**D** Committee members indicated their appreciation for the clear, concise presentation of what could have been a complicated subject. On a motion by Senator Ortiz y Pino, seconded by Representative Chavez, the committee agreed to endorse the changes without objection.

### **Indian Housing Initiatives**

In response to a request from the committee, Mr. Schmieder provided members with a copy of a spreadsheet entitled "Indian Housing Initiatives". Mr. Schmieder indicated that he has worked hard to build relationships with the state's 19 pueblos and three tribes. The listing (which is available in the permanent file) shows a total of \$53,910,575 in grants for 1,230 units since 1992 for all tribes and pueblos. Mr. Schmieder indicated that the majority of the funding from the grants went to weatherization and rehabilitation by homeowners. Committee members thanked Mr. Schmieder for his prompt and detailed response.

### **Regional Housing Authority Updates**

By way of background, Mr. Montoya explained that the 2009 legislature amended the Regional Housing Law (Section 11-3A-20 et seq. NMSA 1978) to redefine the activities of the regional housing authorities and to mandate that the MFA provide oversight of certain activities, including submission of an annual report on operations and fiscal elements to the DFA, the MFA Oversight Committee, the Legislative Finance Committee and the HUD.

Western Regional Housing Authority (WRHA): Mr. Montoya noted that the WRHA's financial statement and audits for the period ending June 30, 2011 indicate no findings, concerns or comments. He said the WRHA's public housing assessment system (PHAS) score was 90% and the Section Eight Management Assessment Program (SEMAP) rates this agency as a "high performer", with a maximum score of 130 out of a possible 130 points. He said that, overall, this agency is performing well. Additionally, Mr. Montoya noted the following:

- the annual percentage of units leased versus units budgeted is at 93%;
- throughout the region, the WRHA has 148 people on the waiting list with a three- to five-month waiting period;
- the vacancy rate is 2%;
- fraud recovery collections amounted to \$18,868;
- the agency has a five-year capital improvement plan for public housing units for the years 2012 through 2016;
- fixed assets are reported through an electronic spreadsheet that includes verifiable documentation;
- development activities include the Montana Vista affordable housing project, for which the MFA approved funding commitments of \$800,000; \$600,000 in New Mexico Housing Trust Fund dollars; and \$125,000 in a Primero supportive housing pre-development grant. The WRHA is also waiting for notification for approval of \$578,000

in a colonias grant. When the MFA receives notification of approval for the colonias funds and the project-based vouchers, the WRHA will move forward with the construction; and

- the WRHA also provides, as needed, homeownership counseling for clients in Silver City.

**D**  
Eastern Regional Housing Authority (ERHA): Mr. Montoya explained that, because of operational issues throughout the past year, the MFA has contracted with the rural community assistance corporation to conduct both an operational assessment and a strategic plan implementation. He said that results are pending until final reports are completed, and the MFA will continue to provide training and technical assistance to the agency. Mr. Montoya noted the following:

- annual SEMAP scores rate this agency as a "high performer" with a maximum score of 135 points out of a possible 140 points;
- the PHAS score report rates the ERHA with 92 points out of a possible 100;
- the annual percentage of units leased versus units budgeted is at 98%;
- throughout the region, the ERHA has 447 people on a waiting list with a one-year waiting time;
- fraud recovery collections from January 11 through October 11 were \$7,942;
- the ERHA has a five-year capital improvement plan for public housing units for years 2012 through 2016;
- no further development efforts are underway at this time; and
- the agency has a pending sale of the Colonial Hillcrest and La Posada properties in Carlsbad, New Mexico.

Northern Regional Housing Authority: Mr. Montoya said that the MFA is exploring options in the continued formation of a northern regional housing authority.

### **University of New Mexico (UNM) Institute for Applied Research Services — Mortgage Foreclosure Mitigation**

Senator Rodriguez recognized Senator Ortiz y Pino, who introduced the next presentation. Senator Ortiz y Pino indicated that a few weeks ago, he had been at a meeting at which the two presenters, Nomalanga Nefertari and Srini Vasan, researchers at the UNM Institute for Applied Research Services, made a presentation on the services available to legislators and legislative staff at the institute.

Ms. Nefertari made a presentation using software available at the institute to address the issue of mitigating mortgage foreclosure using the "legislative database clearinghouse", which she said can provide legislators with the best current information on critical topics. She explained how the institute's model of best research practices, using the most current information and without taking a position, offers legislators nonbiased information to help make policy decisions.

Ms. Nefertari explained that staff at the institute identify quality information from

economic and business experts, law, policy and institute and journal research; review and summarize articles, reports, data, analyses and best practice solutions; and interview local and national experts to understand important issues and organize the results in an easy-to-use format. She said that using the institute's services can save legislators hours, weeks and months of time, and legislators can contact institute staff for further information or request staff to work with legislative staff or consultants. She also said that staff could be available to provide presentations to legislative committees or other state stakeholders and can generate reports, graphs and maps on demand.

As an example, she said that on the topic of "mitigating mortgage foreclosure", the institute has 339 files in 21 topic areas, 62 summaries and 100 reports, articles and sources. She also provided information on the national scene, as well as possible questions and debate topics and what the research says works in mitigating mortgage foreclosure.

Dr. Vasan's presentation, "The Use of Geographical Information Systems (GIS) to Analyze Foreclosures in the Albuquerque Metro Area", included maps showing foreclosures by zip code in the Albuquerque area, pre-foreclosures, median household income by zip code and an overlay of total foreclosed homes and property-crime density. She said that, having researched this topic, her conclusions were that the high incidence of foreclosures is strongly associated with high property-crime-density neighborhoods and that intervention may be necessary in these areas because resale of homes in these "hot spot" property-crime neighborhoods would be difficult. She also noted that using these data can help dispel myths or beliefs about specific neighborhoods. For example, she said, the "international district" of Albuquerque is not the location of high property-crime density; however, the area near Paseo del Norte and Ventura NE has high total property foreclosure (617 for the zip code), high property-crime density and high median household income (about \$107,000).

Committee members thanked Ms. Nefertari and Dr. Vasan for their presentations and strongly recommended that staff at the institute work with LCS staff to make the best use of this valuable resource.

### **Homeownership Preservation Program**

Senator Rodriguez recognized Erik Nore, director, Homeownership Department, MFA, and Kenneth Casares Owens, assistant attorney general, program manager, AGO, to provide the committee with a presentation on the attorney general's homeownership preservation program.

By way of background, Mr. Nore explained that New Mexico's attorney general, along with 48 other states' attorneys general, the U.S. Department of Justice and the HUD brought a lawsuit against five of the nation's largest mortgage lenders — Bank of America, Chase, General Motors Acceptance Corporation (GMAC)/Ally and Wells Fargo — to address egregious violations of the law in the way in which these services handled foreclosure proceedings. He reported that the result was a \$25 billion national settlement that requires significant changes in the way in which these banks service mortgage loans, provides some financial relief for homeowners who already lost their homes and offers new modification and refinance

opportunities for those who are still in their homes.

Mr. Owens explained that the settlement addresses 304 particular servicing standards and works to ensure that those homeowners who have the ability to stay in their homes through a modification are allowed to do so. One of the most significant changes, he noted, is in regard to the banks' practice of "dual-tracking", in which one arm of the bank tells homeowners that the bank is willing to work with them through modification while another arm of the bank is working to foreclose on the homes. Now these five banks are restricted to a time when they can move forward on a foreclosure if the banks are in the process of making a determination that the bank would actually make more money by modifying the terms of the loan than by foreclosing on the property.

Mr. Owens explained that for New Mexico homeowners, there is a potential of more than \$80 million in monetary relief through direct payments for some who lost their homes to foreclosure, as well as to refinance or modify their loans or have some loan principal forgiveness for some "underwater" borrowers.

Mr. Owens said that the AGO's homeownership preservation program is an effort to assist homeowners who face mortgage delinquency or foreclosures. He said that the AGO will utilize approximately \$11.1 million over the next three years to coordinate and fund a statewide collaboration among the AGO, the MFA and eight nonprofit organizations to provide a comprehensive "housing safety net" for the state's homeowners. He said that this coordinated effort will provide a single toll-free number entry point for homeowners, who will be screened and directed to the proper housing counseling or foreclosure legal help. He said that the AGO is currently in contract negotiations with these eight contractors.

Some committee members expressed concern that perhaps the AGO is attempting to accomplish too much on its own. Committee members discussed possible changes in law to allow this project to go forward successfully and requested that the AGO contact Ms. Armijo if it is necessary to draft legislation. Committee members expressed their thanks to the AGO and MFA staff for their hard work on this project.

There being no further business to come before the committee, the committee adjourned at 1:45 p.m.