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

September 4, 2013
Mortgage Finance Authority Office
344 Fourth St. SW
Albuquerque

The fourth meeting of the Mortgage Finance Authority (MFA) Act Oversight Committee of the 2013 interim was called to order by Representative Ernest H. Chavez, chair, at 10:06 a.m. on September 4, 2013 at the office of the New Mexico MFA in Albuquerque.

Present
Rep. Ernest H. Chavez, Chair
Sen. Nancy Rodriguez, Vice Chair
Rep. Alonzo Baldonado
Sen. Lee S. Cotter
Rep. Roberto "Bobby" J. Gonzales
Sen. Stuart Ingle

Absent
Rep. Thomas A. Anderson
Sen. Cisco McSorley

Advisory Members
Rep. Nathan "Nate" Cote
Sen. Richard C. Martinez
Sen. Michael Padilla
Sen. Sander Rue

Rep. Sandra D. Jeff
Rep. George Dodge, Jr.
Rep. James Roger Madalena
Sen. Bill B. O'Neill
Sen. Gerald Ortiz y Pino

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.

<u>Wednesday, September 4</u>

Welcome

Representative Chavez welcomed members of the committee, staff and guests to the meeting.

Approval of Meeting Minutes

Without objection, on a motion by Senator Rodriguez, seconded by Representative Gonzales, the minutes of the July 2 and August 7, 2013 meetings were approved as included in members' committee folders.

MFA Update

The chair recognized Jay Czar, executive director, MFA, who advised members of the video webcast of the meeting and asked them to keep sidebar conversations to a minimum to avoid noise interference with the webcast.

Mr. Czar explained that MFA staff are currently working on the MFA's biennial report and would like to include a group photo of the committee. He said that the group photo would be taken today at the close of the regular agenda and before the Casitas de Colores tour.

Speaking of the Casitas de Colores tour, Mr. Czar explained that, for safety's sake, the Casitas de Colores contractor will shut down construction at 11:30 a.m. for the committee tour, so committee members need to be on time as nearly as possible. He explained that the contractor has hard hats for all tour participants but that participants must be wearing shoes with toes covered. He also said that all participants would need to sign a liability release in order to participate in the tour.

Other issues Mr. Czar covered included the following:

- *2013-14 NM Housing Services Directory* — Mr. Czar directed committee members' attention to a document titled "2013-14 NM Housing Services Directory" at their respective places. He said that the MFA publishes an update of this directory every two years and that MFA staff and others find the directory to be the most comprehensive housing directory available. He told committee members to feel free to take the directory with them and make use of it.
- *Joint meeting with Military and Veterans' Affairs Committee* — Mr. Czar thanked committee members for the opportunity to present the report on homelessness and veterans in New Mexico.
- *MFA Open House* on October 15 — Mr. Czar reminded members about the MFA open house on October 15. He told them that they could park at the MFA building but that the meeting will be at the PNM building across the street. He also thanked Ernie C de Baca of PNM for facilitating the use of a meeting room at PNM.

MFA Legislative Agenda — Endorsement

Without objection, committee members agreed to consider legislative endorsements as the next item on the agenda in order to be sure to be on time for the Casitas de Colores construction site tour.

Joseph Montoya, deputy director of programs, MFA, directed committee members' attention to information behind Tab 2 in the MFA committee handbooks, a presentation titled "2014 Legislative Strategy and Priorities". Mr. Czar explained that MFA staff are bringing these legislative proposals earlier than usual because the MFA is scheduled to present its proposed legislation to members of the Legislative Finance Committee (LFC) on September 27, and MFA staff would like to have the weight of the oversight committee's endorsement to present to the LFC along with the policy issues and proposed legislation.

1. *Regional Housing Authority funding of $250,000*: Mr. Montoya explained that in 2007 the legislature passed and the governor signed into law a measure requiring the MFA to restructure and oversee three regional housing authorities (RHAs). As a result, the MFA provides training and technical assistance to RHAs and also conducts each RHA's audit. He noted that since the MFA has taken on oversight of the three RHAs, no fraud, waste or abuse has occurred among the three RHAs. He noted that, since being assigned oversight, the MFA has received no financial support to implement this oversight. He said that the MFA, which is entirely self-sufficient and receives no other appropriations from the legislature, has been using its own funds to provide the oversight. Noting an overall reduction in funding for the MFA, Mr. Montoya said that the MFA will not be able to continue this oversight without an appropriation to cover the costs. He said that RHAs are the primary housing service provider in rural areas and will become increasingly important as smaller agencies close due to budget cuts. He emphasized that a state appropriation of $250,000 is critical to support this statutory mandate.

2. *Affordable Housing Act oversight funding*: Mr. Montoya explained that the MFA is mandated to oversee the Affordable Housing Act, which permits state and local governments to contribute resources for affordable housing. In addition to oversight, the MFA provides technical assistance for housing plans and ordinances required by the Affordable Housing Act. Mr. Montoya emphasized that, once again, state funding to support this mandate is critical.

3. *New Mexico Housing Trust Fund*: Mr. Montoya explained that the New Mexico Housing Trust Fund was created by the legislature with an initial appropriation of $10 million and subsequent additional appropriations totaling $8.2 million. Mr. Montoya said that, using money from the fund, every state dollar leverages an additional $11.00 through other sources, loan repayments and interest income and that 2,400 affordable homes have been constructed or rehabilitated to date.

4. *New Mexico Energy$mart appropriation*: Mr. Montoya explained that New Mexico Energy$mart is an MFA program that weatherizes homes for low-income households.

He said that the MFA program has weatherized approximately 1,000 homes per year with an additional 4,000 homes weatherized with one-time funding from the federal American Recovery and Reinvestment Act of 2009 (ARRA). He said that state Energy$mart funding is leveraged at about four-to-one with federal Department of Energy weatherization assistance and low income home energy assistance funding. He explained that a 55 percent reduction in federal funding between 2011 and 2012 makes state funding critical. He explained that low-income households may spend 25 percent of their monthly budgets on utility costs, compared to five percent for those with higher incomes.

5. *Affordable Housing Act amendments*: Mr. Montoya explained that these amendments were proposed for the 2013 legislature and did not pass. He said that the amendments would (a) lift the long-term affordability restriction if a donated property is foreclosed upon so that the property can be resold; and (b) add a penalty provision to ensure that both the Affordable Housing Act and the constitutional provisions it supports can be enforced. He noted that a copy of the 2013 bill is included in members' committee notebooks.

6. *Municipal Housing Law amendments*: Mr. Montoya explained that the one amendment to the law would allow housing authorities to act separately rather than as agents of the local government, and a second amendment would add flexibility on the number of board members, changing the current requirement of five members to a range of three to seven members.

7. *Affordable Housing Tax Credit Act amendment*: Mr. Montoya explained that Habitat for Humanity would be the biggest beneficiary of enactment of this amendment, which would remove local and tribal governments from eligibility for the state affordable housing tax credit. Committee members noted that, for example, Indian lands are held in trust and, therefore, cannot be donated for a tax credit. Committee members also noted that local governments do not pay taxes anyway; if they did, for example, Albuquerque could use all available tax credits with a single project. Committee members discussed the fact that these amendments would have to be explained very carefully so as not to encourage unnecessary opposition.

Mr. Czar and Mr. Montoya reiterated the importance of committee members' support for adequate funding for the state's three RHAs, funding for administration of the Affordable Housing Act and funding for administration of the MFA Act. After discussion of several clarification questions, committee members, on a motion by Senator Rodriguez and seconded by Representative Gonzales, voted unanimously to endorse proposals one through seven for presentation to the LFC later in September.

Federal Policy Update: Federal Budget Trends, Housing Finance Reform and Other Federal Policy Issues

With permission of the chair, Mr. Czar asked Monica Abeita, senior policy and program advisor, MFA, and Erik Nore, director of homeownership, MFA, to provide the committee with updates on federal housing policy issues. Directing committee members to the information behind Tab 1, Ms. Abeita began her discussion of the effect of overall federal funding trends. She said that federal funding for housing has remained flat or has decreased over the past few years. At the same time, state funding for housing has ebbed and flowed, but the state has no obligation to fund the MFA. Meanwhile, the demand for affordable housing continues to rise, and housing finance agencies such as the MFA are looking for new and innovative ways to increase funding.

She said that, according to U.S. census data, the number of "cost-burdened" renter households is on the rise, with an increase of 41 percent (or 16,059 renter households) between 2000 and 2011, and, during the same time period, an increase of 68 percent (25,566 renter households) in what are classified as "extremely cost-burdened" renter households. During the same time period, the number of renter households not considered "cost-burdened" remained steady.

She said that the gap between the number of extremely low-income renters and the supply of affordable and available units has doubled to 5.3 million in just four years. In 2011, there were 12.1 million extremely low-income renters and 6.8 million units with affordable rents. More than one-third, however, were occupied by persons in households with higher income, and 560,000 of the units were structurally inadequate.

Ms. Abeita discussed several challenges resulting from the downward trend of federal funding. For example, some of the federal Department of Housing and Urban Development (HUD) programs that have been completely eliminated include HUD training and technical assistance programs and rural housing and economic development programs. In terms of decreases in funding for core programs, she said that between fiscal year (FY) 2011 and FY 2012, MFA HOME funds and federal Department of Energy weatherization funds have each been cut in half, while the emergency shelter grant has been cut by 42 percent. ARRA funds of $95 million and federal Housing and Economic Recovery Act of 2008 funding of $19.6 million have been completely expended. At the same time, she said, state funding has been harder to come by — the MFA received only $400,000 from the 2013 legislature — and, because of low interest rates, private funds are scarce.

Ms. Abeita discussed other challenges for MFA partners, including new and onerous HUD regulations and cuts in funding for service providers. Shrinking federal and state funding, an increase in the number of public housing authorities and a lack of capital improvement funds are challenges and constraints for government entities, such as public housing authorities. She said that owners, developers and property managers face problems with limited resources impeding the growth of nonprofit entities, difficulties in maintaining assets, increasingly complex program regulation and competition for management contracts. She also said that lenders face increasingly difficult regulatory environments.

Ms. Abeita compared the stalled FY 2014 U.S. House and Senate bills for HUD appropriations and said that consideration of H.R. 2610 has been postponed because of lack of support for deep cuts in the House Budget Committee, and consideration of S. 1243 has been postponed because it lacks the super majority required to block a filibuster. She said that President Obama's budget request of $47.6 billion for HUD is an increase of $4.2 billion, or 9.7 percent, above the 2012 level.

In response to committee discussion and questions, Ms. Abeita said that Congress will most likely pass a continuing resolution to keep the government running after October 1. She said that House Speaker John Boehner has signaled a willingness to extend post-sequester levels of about $988 billion. She noted, however, the following complicating factors: (1) post-sequester levels are already $21 billion higher than the amount proposed in the House budget; (2) the risk of a government shutdown; (3) the potential to use the continuing resolution to defund health care reform; and (4) the length of time of the continuing resolution. She noted that debt limit negotiations in the fall will, in all likelihood, create additional complicating factors.

Mr. Nore provided background on housing finance in the U.S. He noted that owning one's own home has long been the "American dream" and that the U.S. is unique among western countries in offering mortgages for as long as 30 years. He said that in the 1930s, three- to 10-year mortgages with variable interest rates that would be either refinanced or paid at term were the norm. He explained that because of the decline in housing values during the Great Depression, banks either refused to or were unable to refinance mortgages. He discussed three federal programs that were developed in response: (1) the federal Home Loan Bank system, a bank for banks, developed in 1932; (2) the Federal Housing Administration, established in the mid-1930s; and (3) the Veterans Administration (VA) loan guarantee program, established in 1944.

Mr. Nore said that the federal National Mortgage Association was partitioned in 1968 into the following three entities to expand the U.S. secondary market for mortgages:

- Government National Mortgage Association ("Ginnie Mae") is a wholly owned government corporation that provides guarantees for the secondary market, i.e., it guarantees timely payment of principal and interest payments on residential mortgage-backed securities to institutional investors worldwide.
- Federal National Mortgage Association ("Fannie Mae") is a hybrid government-sponsored entity (GSE) that has been publicly traded since 1968; however, in September 2008, Fannie Mae was placed under government conservatorship.
- Federal Home Low Mortgage Corporation ("Freddie Mac") is also a GSE that was placed under government conservatorship. It was created in 1970 to expand the secondary U.S. market for mortgages.

Mr. Nore explained that, before they were placed under government conservatorship, Fannie Mae and Freddie Mac could provide funds at a lower cost, a line of credit from the U.S. Treasury and exemptions from state and local taxes. Even though they were publicly traded, they implied a government guarantee of securities and corporate debt. Their obligations were limited to residential mortgage finance in the U.S., and they were required to support mortgage markets in all market cycles.

Mr. Nore also explained what went wrong with Fannie Mae and Freddie Mac.

- They bought a lot of sub-prime loans and were leveraged to unsustainable levels under pressure to deliver returns to shareholders and the industrywide view that housing prices would continue to rise.
- When the housing market collapsed and credit markets froze in 2008, they suffered catastrophic losses.
- By bringing them into conservatorship in 2008, the federal government assumed the credit risk for securities.
- Their public mission to support mortgages in all market cycles meant that mortgages remained available through Fannie Mae and Freddie Mac even during the crisis.
- Today, nine out of 10 mortgages are backed by Fannie Mae, Freddie Mac or Ginnie Mae, moving the U.S. very close to nationalized housing finance with the government behind almost all mortgages and with taxpayers exposed to more risk than necessary.

Mr. Nore went on to discuss briefly housing finance reform proposals in both the U.S. House and the U.S. Senate. Both versions would dissolve Fannie Mae and Freddie Mac over a five-year period. The House version would lead to full privatization in place of the current hybrid role. The Senate version would continue with a revised hybrid model.

Mr. Nore also discussed the Obama administration's principles for housing finance reform.

- Substantially limit the government's role and put the bulk of the risk and reward of mortgage financing into the hands of the private sector. However, the federal government must plan an explicit, if limited, role in the housing finance market.
- Eliminate the failed business models that allowed Fannie Mae and Freddie Mac investors to profit while leaving taxpayers to cover their losses.
- Continue to preserve access to safe and simple mortgage products, such as 30-year home mortgages.
- Ensure that housing remains affordable for first-time homebuyers. The government should continue to provide access to affordable and sustainable mortgage products for low-wealth, first-time homebuyers and borrowers in historically underserved communities.

Ms. Abeita directed committee members' attention back to information under Tab 1, labeled "Comprehensive Tax Reform". In terms of ongoing tax reform, Ms. Abeita said that the federal House Ways and Means Committee has 11 different working groups to review current law in designated issue areas to identify, research and compile feedback from various stakeholder groups. She explained that housing policy falls under the real estate and financial services working groups.

On the Senate side, Ms. Abeita said that the Senate Finance Committee (SFC) leadership is taking a "blank slate" approach to tax reform. The leadership is currently recommending the removal of special provisions unless they (1) help grow the economy; (2) make the tax code fairer; or (3) effectively promote other important policy objectives. She said the SFC leadership has requested that senators submit proposals by July 26 for tax expenditures that meet these tests and other provisions that should be added, repealed or reformed as part of tax response. In response to a committee question, Ms. Abeita said the response from senators to the request has been mixed.

Turning to housing bonds, Ms. Abeita explained that they are tax-exempt bonds, including mortgage revenue bonds and multifamily bonds, and are used for low-interest mortgages and to acquire, construct and rehabilitate multifamily housing. She said that housing finance authorities such as the MFA sell private activity bonds (PABs) to investors at low rates to finance affordable housing, thereby allowing investors to collect tax-free interest over the life of the bond. She said that the MFA can pass on the interest savings from the tax-free bonds to homebuyers and renters in reduced housing costs. In response to committee discussion and questions, Ms. Abeita said that housing bonds are important to the MFA because they finance approximately 90 percent of all MFA single-family loans, e.g., $106 million for 911 homebuyers in 2012. She added that housing bonds fund approximately 45 percent of all of the MFA down payment assistance, e.g., $1.5 million in 2012.

Ms. Abeita explained that the housing credit or low-income housing tax credit is a federal tax credit created in the Tax Reform Act of 1986. It involves a dollar-for-dollar reduction in income tax liability for long-term investment in affordable rental housing. The MFA awards housing credits to proposed projects based on selection criteria in qualified allocation plans. The amount of the tax credit is based on the depreciable cost of improvements and is collected over a 10-year period. She said that, without the housing credit, the MFA could not finance affordable rental housing in New Mexico. She said that, in 2012, the MFA provided $65 million in financing for 616 affordable rental units, and of this total, $51 million was financed by low-income housing tax credits. She said that demand for affordable rental units is actually greater and is projected to continue to increase.

Briefly, Ms. Abeita discussed the following pending federal legislation.

- S. 1442 would make permanent the temporary nine percent floor for volume cap housing credits and create a new four percent floor for volume cap housing credits used for acquisition.
- S. 1352 would add preferences to the Housing Credit Act to increase development in Native American areas.
- In the House, Congressman Steve Pearce will sponsor a bill to reauthorize the Native American Housing Assistance and Self-Determination Act of 1996.

Ms. Abeita said that federal policy options include the following.

- Convert PAB authority to tax credits — an administration proposal to give states the option to convert seven percent of their PAB into housing credits, thus increasing nine percent tax credits by an estimated 19 percent.

- America Fast Forward (AFF) bonds — an administration proposal for the federal government to make direct payments to state and local governmental issuers of taxable bonds at a 28 percent subsidy rate. Housing is an eligible activity.
- Section 811 project rental assistance demonstration grants — could provide the MFA approximately $3 million to $5 million over five years in rental assistance payments for low-income disabled households.
- Housing Trust Fund capitalization is recommended as part of the administration budget.
- Ginnie Mae securitization for risk-sharing loans — would lower interest rates, allowing the MFA to increase loan amounts and produce more multifamily units.

Adjourn

There being no further business to come before the committee, the meeting adjourned at 11:25 a.m. for the committee's group photo and tour of Casitas de Colores.