

MINUTES OF THE SPECIAL MEETING
OF THE

ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of meeting: A special meeting of the Administrative Rules Review Committee (ARRC) was held over the ICN Thursday, September 30, 1999. The origination site was Room 975, Federal Building, 210 Walnut Street, Des Moines, Iowa. Other sites included Algona, Iowa City, Waterloo, Clinton and Sioux City.

Members present: Representative Janet Metcalf, temporary chair; Senators Merlin E. Bartz, Patricia M. Harper, John P. Kibbie, and Sheldon Rittmer; Representatives Clyde Bradley, Danny Carroll, Minnette Doderer and Geri Huser. Senator H. Kay Hedge was excused.

Also present: Joseph A. Royce, Legal Counsel; Brian Gentry, Administrative Rules Coordinator; Kathleen K. Bates, Administrative Code Editor, and Teresa Vander Linden, Assistant; Darlene Jeris, Executive Director of the Iowa Finance Authority; Margaret Collison, chair of the Iowa Finance Authority Board; Libby Nelson, Attorney General's office; caucus staff and other interested persons, including Roxanne Conlin, Mark McCormick, Larry Tuel, and Charles Krogmeier who voiced their concerns.

Convened Chair Metcalf convened the meeting at 9:15 a.m. All parties present were asked to identify themselves. Metcalf summarized the purpose of the meeting: At the September 15 ARRC meeting, the committee felt that the low-income housing tax credit rules proposed by the Iowa Finance Authority (IFA) in ARC 9271A did not give due consideration to applicants that had been awarded tax credit reservations in March; IFA agreed to present revised rules for committee review prior to the anticipated emergency filing.

Jeris stated that IFA's revised rules for this year's awards, which include procedures for settlements and breaking of ties, treat all applicants fairly; but the rules do not guarantee the outcome of the evaluations. Nelson added that the tie-breaking procedures reflect a preference for housing that serves the lowest income tenants the longest and favor counties that have never received or have not recently received tax credit projects. Settlement procedures would allow parties that have filed contested cases to propose settlements to the board. IFA does not believe that rules written to guarantee the outcome the committee requested would be legally defensible.

Jeris and Nelson responded to questions raised by Carroll concerning amendment of applications and by Huser concerning why forward funding was not included as a settlement option, the make-up of the evaluators, the treatment of projects that receive other public funding sources, negotiation of settlements by the executive director, and the eligibility of the Iowa Housing Corporation.

Gentry addressed the scope of the committee's authority in the rule-making process and stated that because an objection would place the burden of proof in any judicial action on the agency, possibly resulting in assessment of court costs and attorney fees, an objection would prevent IFA from proceeding with awards this year. Gentry responded to Metcalf that the Governor's office does not regard forward funding as an appropriate tool to settle potential litigation, but believes all credits awarded should be based on the merits of the applications.

Kibbie asked Royce to outline committee options. Royce explained that the committee can object and noted that while an objection to proposed rules has no legal effect, it sends a message to the agency.

Motion to object Bartz moved an objection to IFA's proposed chapter 12.

In response to Carroll, Jeris stated that if the committee objects to the rules, IFA will not proceed with awards this year. Carroll suggested that it would be in the best interest of the public and most developers to award credits this year.

Motion carried Through a roll-call vote, the committee voted 6 to 3 to object to IFA's proposed chapter 12. Metcalf urged interested parties to continue to work toward resolution of the issues so that work can begin on projects this year.

Adjourn The meeting was adjourned at 11:50 a.m.

Respectfully submitted,

Kathleen K. Bates
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APPROVED:

Janet Metcalf
Chair Janet Metcalf