



**HOUSING DIVISION – MONTANA BOARD OF HOUSING**

**MONTANA BOARD OF HOUSING**

Homewood – 1535 Liberty Lane, #116A – Missoula, MT

October 15, 2012

**ROLL CALL OF BOARD**

**MEMBERS:** J.P. Crowley, Chairman (Present)  
Betsy Scanlin, Vice Chairman (Present)  
Jeff Rupp, Secretary (Present)  
Audrey Black Eagle (Excused)  
Bob Gauthier (Present)  
Jeanette McKee (Present)  
Sheila Rice (Present)

**STAFF:** Bruce Brensdal, Executive Director  
Chuck Nemecek, Accounting  
Mary Bair, Multifamily Program  
Vicki Bauer, Homeownership Program  
Penny Cope, Marketing & Web Specialist  
Paula Loving, Administrative Assistant

**COUNSEL:** Greg Gould, Luxan and Murfitt (Present)

**UNDERWRITERS:** Mina Choo, RBC Capital

**OTHERS:** Greg Dunfield, GMD Development  
Kelly Gill, BlueLine Development  
Patrick Klier,  
Lori Davidson, Missoula Housing Authority  
Heather McMilin, Homewood  
Alex Burkhalter, Housing Solutions  
Wiley Barker, Crowley Fleck

**CALL MEETING TO ORDER**

Chairman JP Crowley called the Montana Board of Housing (MBOH) Board meeting to Order at 8:30 a.m. The Chairman suspended the meeting to proceed into Executive session. After resuming the Board meeting, Chairman Crowley suspended the meeting to hold the 2013 Qualified Allocation Plan Public Hearing. Upon resuming the meeting at 10:45 a.m., introductions were made.

Bruce Brensdal reviewed the process for the Conference call participation. The Chairman asked for any items not listed on the agenda. Heather McMilin, Homeward, presented the Board with an appreciation plaque for the funding

### APPROVAL OF MINUTES

Bob Gauthier moved to approve the August 16, 2012 Board meeting minutes and Jeff Rupp seconded the motion. Chairman Crowley asked for comments. The August 16, 2012 Board meeting minutes were approved unanimously.

### MULTIFAMILY PROGRAM

Mary Bair provided the Board with the Multifamily Program update. There have been several Reverse Annuity Mortgage (RAM) loans that have paid off. Bob Gauthier stated the private sector RAM process appears to be expensive and recommended MBOH to continue advertising in Senior Community Centers and publications.

Mary Bair provided the Board with a request from the Charlo Apartments improvement project. The developer is Lake County Community Housing. This is a four unit project at 50% Area Medium Income. The project has \$611,000 in NSP funds and is requesting a loan from MBOH of \$60,000. Sheila Rice moved to approve the loan of \$60,000 for the Charlo Apartments. Jeff Rupp seconded the motion. The Chairman asked for comments. It was clarified the funds for these types of loans are from the Housing Montana Fund. The Charlo Apartments improvement loan was approved unanimously.

Mary Bair presented the Board with 2013 Qualified Allocation Plan, including summary of public comment period. Bruce Brensdal reviewed the process of the approval process of the Qualified Allocation Plan.

Betsy reviewed the public comments

Under Section 7/Small Rural Projects, Jeff Rupp moved to reduce the rural projects from 25% to 20%. Betsy Scanlin seconded the motion. Chairman Crowley asked for comments. Jeff explained that historically, the need for the additional 5% has not been met. It was clarified the 2012 QAP had 20% set aside for small projects. Sheila Rice called for question. The reduction of total set aside for Small Rural Projects to 20% was approved unanimously.

Under Section 8/Project Characteristics – Discretionary Scoring, Sheila Rice moved to insert “outside of residential buildings” to the end of item: *Smoke-free policy that would apply to all projects units, common spaces and buildings, with the exception of specifically designated smoking areas* “outside of residential buildings”, and under Section 11 – Recordkeeping to insert “unit qualifications” in the first sentence: *The owner of a low-income housing project must keep records for each building in the project that show “unit qualifications” for each year throughout the term of the Declaration of Restricted Covenants (Extended Use Agreement) in effect for each project.* Jeanette McKee seconded the motion.

Chairman Crowley asked for comments. The insertions were approved unanimously.

Under Section 4/Application Cycle – first paragraph after Allocation Round application submission, Betsy Scanlin moved to insert “and shall have opportunity to respond to negative comments” at the end of the last sentence: *After scoring and formulation of recommendations by staff, applicants will not be permitted to make additional presentations to the Board but should be available to the Board to answer questions regarding their respective applications* “and shall have opportunity to respond to negative comments”. Jeff Rupp seconded the motion. Chairman Crowley asked for comments. The insertion was approved unanimously

Under Section 5/Fee Schedule, Betsy Scanlin moved to change the word “may” to “will” in the sentence: *The application fee is 1.5% of the amount of credits requested in your application, payable with your application and “will” not be refundable.* Jeanette McKee seconded the motion. The Chairman asked for comments. Jeff Rupp asked for clarification on the fee. Bruce Brensdaal stated if the application has gone through the review process, the application does not receive any refund. The change was approved unanimously.

Under Section 8/Application Process – Demonstration of Montana Presence, Betsy Scanlin moved to insert “unless prohibited by Federal Law” within the Montana Presence requirement. Bob Gauthier seconded the motion. The Chairman asked for comments. Betsy stated that the discussion of the pending lawsuit is rationale for this motion. Jeanette McKee referred to Board Legal Counsel for clarification in regards to the QAP and its relationship to Federal law. Greg Gould, Luxan & Murfitt, stated according to Federal law, MBOH must have a QAP and allocate your credits according to the QAP. The pending litigation is stating this provision is in violation of the Constitution. MBOH does not agree with this issue. Greg further stated that should the Board decide that it no longer wants to continue with the Montana presence; then the Board can choose to change the QAP, however, at this point no decision has been made in regards to the litigation issue. Jeanette McKee stated that she is inclined to let the lawsuit go its course before eliminating the Montana presence provision.

Bob Gauthier inquired if there is any evidence that shows that Montana presence does in fact result in a better product. Greg further stated that other characteristics within the QAP that speak to the quality of the product. Sheila Rice stated she believes the result is a better product and, in addition, the development of better communities. The motion failed.

Under Section 8/Developer Knowledge and Responsiveness, Betsy Scanlin moved to read: *Has requested income “targeting”/rent changes* “that are not supported by unanticipated hardship;” Jeanette McKee seconded the motion. The Chairman asked for comments. Approved, Sheila abstained.

Under Section 8/Developer Knowledge and Responsiveness, Bob Gauthier moved to eliminate the bullet: *Has repeatedly requested additional credits; and/or* and Betsy Scanlin seconded the motion. Chairman Crowley asked for comments. Sheila Rice stated that she supports the bullet point; however, clarification needs to be done. Sheila made a substitute motion to amend the bullet to read: *Has “more than once requested additional credits; and/or.* Jeff Rupp seconded the motion. The Chairman asked for comments. The motion was approved.

Under Section 8/Tenant Populations with Special Housing Needs, Jeff Rupp moved to delete all words after disabilities on bullet: *Units targeted specifically for persons with disabilities to receive points for this target category, the application must include a written agreement with a service provider or advocacy for the specifically targeted group.* Bob Gauthier seconded the motion. Discussion followed on the singling out of one type of disability being required to have a written agreement when others are not required to provide services. Jeanette McKee called for question. The deletion was approved unanimously.

Under Section 3/130% Basis Boost – For Non-QCT/DDA Projects, Jeff Rupp moved to delete bullet: *LEED certification, Enterprise Green certification or other similar nationally recognized certification as approved by the MBOH;.* Bob Gauthier seconded the motion. Chairman Crowley asked for comments. Mary Bair stated in order to qualify for the 130% Basis Boost, you must meet at least one of the characteristics and that the Boost is not automatically given but it is based on the feasibility of the project. The motion passed with Jeanette McKee and Sheila Rice opposing; Sheila stating that more characteristics should be encouraged.

Under Section 3/130% Basis Boost – For Non-QCT/DDA Projects, Sheila Rice moved to add a bullet point to read: “The project is located within a community where unusual market conditions produce higher than normal labor and material costs, unusually high land cost and/or rent and income limits which are too low to support the required cash flows required by the project’s financial structure.” Jeff Rupp seconded the motion. Chairman Crowley asked for comments. The motion passed with Jeanette McKee opposing due to the vagueness of language.

Under Section 7/Set Asides – after Non-profit, Betsy Scanlin moved to insert the following “Corrective Award” subsection:

Corrective Award: Such portion of the state’s available annual credit allocation is reserved and set-aside as is necessary for award of credits to:

- Any project for which an application was submitted in a prior round or year, if:
  - a final order of a court of competent jurisdiction determines or declares that such applicant was entitled to an award in such prior round or year or requires the Board to make an award or allocation of tax credits to such project;
  - a final order of a court of competent jurisdiction invalidates or sets aside an award of credits to an approved project from such prior round or year and a reservation agreement was executed by the Board and such applicant prior to issuance of such court order,

- unless such court order determines that such project was not eligible or qualified under the applicable QAP to receive an award of tax credits; or
- the Board, upon further consideration of any award determination as required by and in accordance with the order of a court of competent jurisdiction, determines that such project was entitled to an award in such prior round or year.

All requirements and conditions of this Corrective Award set aside provision must be met to receive an award under this set aside provision. The amount of any award under the Corrective Award set aside shall be the amount specified by the court, or if no award amount is specified by the court, an amount determined by the Board in accordance with this QAP. The Corrective Award set aside shall be funded first from returned or unreserved tax credits from a prior year. Awards may be “future allocated” under this Corrective Action set aside, i.e., such awards may be made from returned or unreserved tax credits from a prior year and/or the current year’s credits at any Board meeting after the final court order has been issued and presented to the Board. Such award need not await the annual application and award cycle.

**Jeanette McKee seconded the motion. Chairman Crowley asked for comments. Jeff Rupp stated that this amendment is being inserted for one reason and doesn’t agree with this reason. One of the reasons he serves on the Board is because he is allowed to bring his views to the needs of Montana. Jeff stated that while he was the one that brought motion for the Freedoms Path project Tax Credits award. The Board and the Public had the opportunity to voice their opinion. After the discussion, the motion did not pass. The only reason this context is being proposed is due to the four successful applicants are struggling due to the litigation of one unsuccessful applicant. Jeff stated he is willing to leave the QAP as is and the litigation go through the courts and only after change the QAP. To change this QAP process is not right.**

**Betsy Scanlin does not like the proposed action as well. The QAP point system has been set up to provide the threshold for the Board to act upon. Betsy stated she appreciates the litigant’s views and it has brought several questions for the Board and the discussions are welcomed. However, due to the litigation’s effect on the successful applicants’ project standings and the potential of these projects failing due to the litigation, it is necessary for the Board to act on this motion. Betsy stated that while she believes this will invite more litigation from unsuccessful applicants in the future, but this provides a solution and she will vote in favor.**

**Jeanette McKee stated that the developers within the Public Hearing stated that they are aware that this proposed change out of the scope of QAP and will more likely create more lawsuits. Before the meeting Jeanette believed there would be no way she would vote for this motion, after hearing from the developers that the Board had the discretion and selected as the most successful projects, she will support this motion because this litigation is not right. The motion passes with Jeff Rupp voting against.**

**Bob Gauthier moved to approve the 2013 Qualified Allocation Plan as amended with the approved changes. Sheila Rice seconded the motion. Chairman Crowley asked for comments. Betsy Scanlin stated that for due process to happen a public comment period should be allowed for people to comment. Jeanette**

McKee does not believe a public comment is necessary but wanted to Legal Counsel's advice. Greg Gould stated the QAP does not need to be placed out for Public Comment because it has been posted publically and comments have been heard. Jeff stated this QAP has been vetted plenty. The 2013 Qualified Allocation Plan as amended was approved unanimously.

### **FINANCE PROGRAM**

Chuck Nemecek presented the Finance update. The 10-year US Treasury was trading at 1.66%. Chuck stated the MBOH audit is continuing and a final report will be given to the Board upon completion of the audit.

Chuck introduced Mina Choo, RBC Capital Markets, who reviewed Housing: Perception vs. Reality (RBC Report) that presented the following analysis: Mortgage activity continues to be weak and is not strong enough to be considered as a recovery; Federal Reserve Quantitative Easing 3 is holding mortgage interest rates level and is not further reducing mortgage rates.

Sheila Rice inquired about the possibility of Mortgage Backed Securities (MBS). Mina explained how other Housing Finance Authorities are doing MBS. Bruce stated that MBOH continues to look at ways to access MBS market for financing loans with the least amount of risk to MBOH.

### **HOMEOWNERSHIP PROGRAM**

Vicki Bauer provided the Homeownership Program update. There have been 54 new loan reservations since August 2012 meeting. The Servicing program is currently servicing 32 BOI Veterans loans. MBOH has entered an agreement with Streeter Brothers Home Mortgage to take over servicing of the MBOH servicing. In addition to this volume, First Interstate Bank continues to sub-service the MBOH loans and these loans will start being serviced in-house in 2013.

Vicki Bauer brought to the Board Bond Resolution No. 12-1015-S3: approving the issuance and delivery of, and authorizing the determination of certain terms of, a maximum of \$50,000,000 of Single Family Homeownership bonds 2012 Series B to make funds available to refund outstanding bonds and to purchase loans and approving the sale thereof pursuant to purchase contract; approving the release of proceeds of, and the conversion of the interest rate on, a portion of Single Family Homeownership Bonds to be designated as 2009 Series E in an aggregate principal amount not to exceed \$25,000,000; approving the form of the related supplemental trust indentures, preliminary official statement and final official statement, continuing disclosure agreement and other documents, and authorizing the execution thereof; and providing for other matters properly relating thereto.

Bob Gauthier moved to approve Bond Resolution No. 12-1015-S3. Jeanette McKee seconded the motion. Chairman Crowley asked for comments. Bond Resolution No. 12-1015-S3 was approved unanimously.

Vicki Bauer brought to the Board the Servicing Guide requirements for Hazard Insurance. Currently, borrowers are having difficult time meeting the servicing guide requirement of \$1,000 deductible. Jeff Rupp moved to change the Hazard Insurance deductible requirement within the Servicing Guide to be \$1,000 or 1%, whichever is greater. Bob Gauthier seconded the motion. Chairman Crowley asked for comments. The motion was approved unanimously.

**EXECUTIVE DIRECTOR**

Bruce Brensdaal stated that there will not be a meeting in November or December unless needed.

Meeting adjourned at 1:25 p.m.

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JP Crowley, President

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Date