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New Markets Tax Credit World Hopes for Extension

PAGE 10

Apartment Sector Poised for Recovery

PAGE 8

Motels on Old Route 66 Get New Life

PAGE 22

Finding the Sweet Spot in Historic

PAGE 36

Court Square Center
New Markets Tax Credit Project
Memphis, Tennessee
Photo: Courtesy of Enterprise

Montana Agrees to Review of QAP and Consider Changes

The Montana Board of Housing (MBOH) has agreed to take certain steps and to consider changes to its qualified allocation plan for its low-income housing tax credit (LIHTC) program, under a settlement agreement with a consulting firm.

Travois, Inc., of Kansas City, Mo., sued MBOH in July 2008, contending that aspects of Montana's QAP and scoring system had a discriminatory and disparate impact on Native American tribes applying for housing credit allocations.

The firm, which represents American Indian and Native Alaskan tribes in applying for housing credits and structuring transactions, argued that many criteria and scoring elements were excessively subjective or unclear, fostering arbitrary decisions by MBOH in awarding housing credits.

In the settlement agreement with Travois, outlined in a federal judge's order, MBOH has agreed to:

- A review of Montana's QAP by a third party with development of recommendations for improvements, with particular attention paid to tribal interests. The eventual report and recommendations are to be put out by MBOH for comments and submitted to MBOH's Board of Directors for consideration. MBOH has asked Jeanne Peterson of Reznick Group to conduct the study.
- Recommend to the agency's Board two amendments to MBOH's adopted 2011 QAP. One would delete a provision barring sponsors from applying for housing credits for a second project until after their first tax credit project is completed and placed in service. The proposed amendment would allow a second application after the applicant's first project has been fully leased and has had a compliance audit revealing no significant problems. The second proposed amendment would eliminate the scoring of community support, and require letters of support to be submitted to MBOH's Board with other relevant application materials.

- Educational workshops for MBOH Board members and staff about soft debt sources commonly used for tribal projects. In addition, MBOH will offer to conduct LIHTC workshops for the Montana Tribal Housing Authority Coalition.

"We are pleased that the state is re-examining the Qualified Allocation Plan and the process of awarding these tax credits in Montana," said Travois Chairman David Bland. "This agreement will give Montana tribes a more level playing field for their housing projects."



David Bland

Photo by Mervin Coleman

He noted, "I think [the settlement agreement] got us what we wanted. The proof will be in the pudding; whether they do indeed adopt the changes to the QAP that are needed, and whether or not they score Indian applicants fairly....But I'm pretty hopeful."

Bland hoped that at least the two recommended changes will be made to the 2011 QAP before Montana's next LIHTC application round in January 2011.

Commenting on the settlement agreement, MBOH Executive Director Bruce Brensdal said, "There were some issues that we came to agreement on that we felt were solid recommendations that would make our allocations better in the future. We have begun a process of bringing some of those allocations forward."

MBOH's Board has subsequently approved a public hearing and the release of the two recommended amendments for public comment until November 15, when the Board will meet and decide what if any action to take on them.

Brensdal anticipated getting the QAP study recommendations by next spring, prior to the start of Montana's formal allocation plan approval process for its 2012 QAP.

MBOH has made credit allocations for LIHTC projects on most of Montana's seven Indian reservations, said Brensdal. "We've awarded quite a number of tax credit deals on reservations. In fact, we feel that we've done quite well at it, doing a lot of those projects." **TCA**