Bringing Housing Front and Center: A Review of the Maine State Housing Authority

Executive Summary

Primary responsibility for developing housing policy and programs in Maine rests with one independent, state-chartered agency, the quasi-governmental Maine State Housing Authority ("MSHA"). Political attention to the need for affordable housing waxes and wanes as demand increases or decreases, but the availability of affordable housing is a core economic issue for the state. The task of ensuring an adequate supply of decent, safe and affordable housing is complex and multifaceted, closely linked with land use, tax policy and economic development strategies.

Given the consolidation of the state's housing resources at MSHA, its extraordinary independence from state government, and increasing awareness of affordable housing as a core economic issue in Maine, a review of the agency's performance and governance structure is both timely and appropriate.

This review focuses on MSHA's responsibilities and performance in comparison to its peers in the national community of state housing finance agencies ("HFAs"), and makes a more detailed comparison with HFAs in six states in terms of governance structure, annual operating budget and staff size, housing production, and program responsibility.

The review concludes that a true "apples-to-apples" comparison of one state HFA with another is not possible, given the number and variety of housing programs, and the resources allocated by each HFA to associated activities. While the findings are not conclusive regarding the effectiveness of MSHA's programs, it is clear that MSHA is neither exceptionally productive nor exceptionally unproductive in the national arena.

However, the review does show that MSHA's governance structure differs significantly from all other HFAs. Since MSHA was created, both housing programs and MSHA's role and responsibility in administering them have changed dramatically. Despite this significant growth in responsibility, MSHA's governance structure, established in enabling legislation 35 years ago, remains unchanged.

Purpose and Methodology

This report is the result of a review commissioned by the Southern Maine Affordable Rental Housing Coalition ("SMARHC"), an ad hoc group formed in 2000 for the purpose of increasing the supply of affordable rental housing in southern Maine. The summary and conclusions of that review are recreated here. Copies of the full review are available from SMARHC by calling John Gallagher at (207) 854-9779.

The impetus for the review were concerns expressed both by SMARHC's membership and by other interested parties—including real estate professionals and non-profit and for-profit housing developers—about the way in which MSHA makes and administers housing policy.

Recognizing the anecdotal nature of these concerns, the study was an attempt to provide a factual framework for analysis of MSHA's a) program performance and b) governance and oversight structure in comparison to its peers. Much of the information used in the study was drawn from an industry reference work published by the National Council of State Housing Agencies ("NCSHA"), a non-profit trade organization which gathers its information directly from the HFAs. This information was supplemented by data published by each HFA, including financial statements and annual reports, data published by rating agencies, and from interviews.

MSHA Programs and Staffing

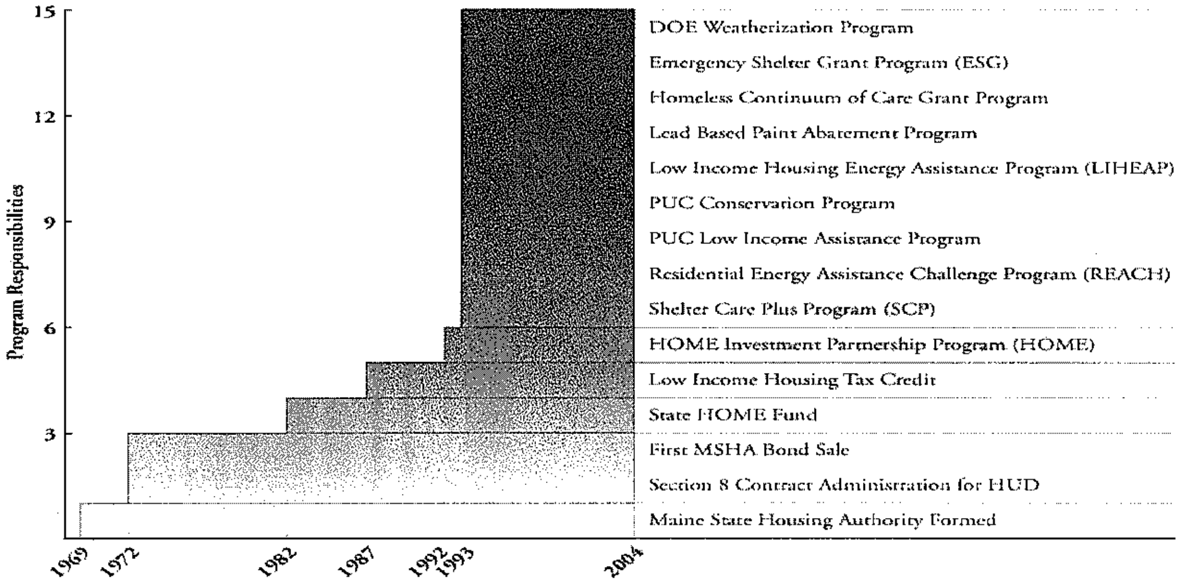
The Maine State Housing Authority was created in 1969 by the Maine Housing Authorities Act, Title 30-A, Chapter 201, of the Maine Revised Statutes, as amended, as a public corporation and a government instrumentality of the State of Maine. MSHA was established to assist in the financing, development, and rehabilitation of housing in Maine for people with low and moderate incomes.

In the 35 years since MSHA was created, both housing programs and MSHA's role and responsibility in administering them have changed dramatically. Beginning in the 1970s, the federal government began transferring responsibility for housing programs to the state level. Today, MSHA has broad responsibility for state and federal housing programs, administering nearly all of the state and federal funds allocated to affordable housing in Maine. This role is much expanded from MSHA's initial, relatively narrow, charge to create homeownership opportunities for low- and moderate-income residents by issuing Mortgage Revenue Bonds.

In 1993, when Maine's State Division of Community Services was dissolved during a state budget crisis, the state transferred responsibility for administering nine state and federal programs to MSHA, and the agency inherited 12 staff members. Acting as agent for the state in administering federal pass-through funds was a new and different role for MSHA, requiring of the staff a very different skill set, and incorporating into the agency a non-financial culture. These are heavily regulated subsidy programs involving voluminous paperwork, and value social purpose over investor concerns. In addition, administration of these programs significantly broadened the agency's constituency from low-income, first-time homebuyers and low-income renters, to people living with disabilities, people who are homeless or in danger of becoming homeless, victims of domestic violence, refugee families, and others.

MSHA has the largest overall responsibility for state and federal housing programs among the HFAs reviewed. Only one other state HFA, New Mexico's, has as much responsibility and—as an independent agency, as much autonomy—as MSHA. Like MSHA, the New Mexico HFA was first established as a quasi-governmental financial institution, and only later took over responsibility for state and federal housing programs, suddenly inheriting a myriad of federal programs, new activities, regulations, compliance responsibilities, and stakeholders.

Table 1: Year MSHA Acquired Program Responsibility



Source: Maine State Housing Authority

In 2001 (the most recent year for which data is available), HFA annual operating budgets ranged from \$1.4 million to \$81 million, with an average size of \$15 million. That same year, HFA staff sizes ranged from 17 to 512, with an average of 162. MSHA's operating budget was little more half that of the \$15 million average of all HFAs in 2001, but its budget was larger than that of 25 other state HFAs. In terms of staff size, MSHA's staff was also smaller than the average of 162, but larger than that of 29 other HFAs.

Table 2: Operating Budget and Staff Size

FT Staff	Operating Budget	Agency	Budget Approved
33	$ 3,411,447	Vermont Housing Finance Agency	Board
44	$ 4,424,155	New Mexico Mortgage Finance Auth.	Board
112	**$ 8,900,000**	**Maine State Housing Authority**	**Board**
105	$ 10,800,000	New Hampshire Housing Finance Auth.	Board
136	$ 16,363,682	Colorado Housing and Finance Agency	Board
189	$ 17,053,000	Minnesota Housing Finance Agency	Dept. Finance
288	$ 53,004,052	Virginia Housing Development Auth.	Board

Source: National Council of State Housing Agencies.

Although the HFAs in New Hampshire and Vermont face many of the same housing challenges as MSHA — old housing stock, cold climate, largely rural communities, per capita incomes lower than national averages — and would seem to be the most useful agencies with which to compare MSHA's performance, differences in responsibilities and resources diminish the value of such comparisons.

For example, the Vermont HFA has less than one-third the staff and budget that MSHA does, but it administers only a fraction of the programs administered by MSHA—these are divided among the Vermont Housing Finance Agency, the Vermont State Housing Authority, the Housing Division of the Vermont Department of Housing and Community Affairs, the Vermont State Office of Economic Opportunity, Agency of Human Services, and the Vermont Housing and Conservation Board. New Hampshire's HFA has fewer responsibilities than MSHA and 90 percent of MSHA's staff, but its 2001 budget was 20 percent bigger than MSHA's budget.

On the other hand, MSHA has double the staff and budget of the New Mexico HFA, which is the one other state HFA in the study that has the same wide-ranging responsibilities as MSHA and faces many of the same housing challenges.

Table 3: Staffing and Program Efficiency

	Staffing Efficiency		Program		Other Major
Agency	Pop. Per Staff	Expenditure Per Staff	Per Capita Expenditure	Pop. Per LIHTC Unit	State Housing Agencies
New Hampshire Housing Finance Authority	17,714	$ 102,857	$ 5.81	11,481	N
Maine State Housing Authority	**11,241**	**$ 79,464**	**$ 7.07**	**7,820**	**N**
Vermont Housing Finance Agency	18,697	$ 103,377	$ 5.53	2,742	Y
Virginia Housing Development Authority	24,578	$ 184,042	$ 7.49	2,688	Y
Minnesota Housing Finance Agency	25,556	$ 90,228	$ 3.53	4,132	N
Colorado Housing and Finance Agency	30,647	$ 120,321	$ 3.93	3,647	Y
New Mexico Mortgage Finance Authority	42,273	$ 100,549	$ 2.38	3,924	N

Source: National Council of State Housing Agencies and U.S. Census 2000.

The ratio of the state's population to the number of HFA staff members is one of several possible measures of program efficiency. MSHA serves 11,241 people per staff member, the lowest ratio of all the HFAs studied, and roughly one quarter of New Mexico's 42,273, the highest ratio of all the HFAs in the study. In terms of budget expenditure per staff person, MSHA has the lowest figure of the HFAs in the study, whereas, in terms of budget expenditure per capita, MSHA has one of the highest figures of the HFAs in the study.

In 2001, MSHA created 162 new Low Income Housing Tax Credit units with its allocation of credit. As a function of the state's population, MSHA produced one new LIHTC unit per 7,820 people that year. If material and production costs were equal nationwide, that would suggest that MSHA was the least efficient of all the HFAs in the study in producing tax credit units that year. However, construction costs have historically been higher in the Northeast than elsewhere in the country, and Maine's population is widely disbursed in many small cities and towns, dictating the delivery of housing in smaller, less economically efficient development projects.

MSHA Bond Allocation and Issuance

Its authority to issue bonds is arguably MSHA's most powerful tool for creating affordable housing. Generally, bonding authority is allocated to the HFA from the state's Private Activity Bond Cap. Private Activity Bonds are tax-exempt bonds that provide a public benefit, such as the creation of affordable housing, but allow use by private persons, such as low-income homebuyers and renters. The federal government sets an annual volume cap, also known as a bond cap, for each state, based upon population. In 2001, the bond cap was $62.50 per capita or a minimum of $187.5 million.

HFAs compete with other state and local tax-exempt bond issuers for a share of the bond cap. The percentage of state cap allocated to HFAs in 2001 ranged from 0 to 88 percent, with an unweighted average of 42 percent. Only the Connecticut HFA, at 88 percent, got a higher allocation than MSHA that year.

Table 4: HFA Private Activity Bond Cap Allocation 2001

State Population	Private Activity Bond Cap	State	Amount of 2001 HFA Allocation	Percent of HFA Alloc.	Same Each Year?
4,375,099	$307,500,000	Minnesota	$ 62,339,000	27%	N
562,758	$187,500,000	Vermont	$ 77,750,000	42%	N
1,109,252	$187,500,000	New Hampshire	$ 93,750,000	50%	Y
3,294,394	$268,800,000	Colorado	$114,982,224	34%	N
1,515,069	$187,500,000	New Mexico	$116,790,421	62%	N
6,187,358	$442,400,000	Virginia	$119,449,890	27%	Y
1,227,928	**$187,500,000**	**Maine**	**$137,500,000**	**84%**	**N**

Source: National Council of State Housing Agencies, U.S. Census 2000.

MRBs are just one of several types of tax-exempt bonds that MSHA can issue under its allocation of the state's annual bond volume cap. Many HFAs, including MSHA, finance the acquisition and rehabilitation, or the construction of multifamily housing by issuing tax-exempt and (to a much lesser extent) taxable bonds.

Table 5: HFA Bond Issuance

State	Year Created	State Population	Bonds (000) Outstanding	Volume Per Capita	Loans (000) Outstanding	Volume Per Capita
Maine	**1969**	**1,227,928**	**$1,437,280**	**$ 1,170**	**$1,276,123**	**$1,039**
Minnesota	1971	4,375,099	$ 1,953,520	$ 447	$1,681,340	$384
Virginia	1972	6,187,358	$ 6,093,901	$ 985	$5,921,143	$957
Colorado	1973	3,294,394	$ 2,181,646	$ 662	$1,583,872	$481
Vermont	1974	562,758	$ 753,971	$ 1,340	$506,763	$900
New Mexico	1975	1,515,069	$ 1,213,980	$ 801	$1,087,849	$718
New Hampshire	1981	1,109,252	$ 935,347	$ 843	$813,180	$733

Source: National Council of State Housing Agencies, U.S. Census 2000, Moody's Investors Service Industry Outlook July 2003.

MSHA is one of the oldest housing authorities in the country (only eight others were established prior to 1969) and the oldest of the HFAs examined in this study. As such, MSHA has had more years to build a bond portfolio, finance home loans and construction and rehabilitation of rental units, build reserves, and develop a management track record that is attractive to rating agencies. Therefore, it is reasonable to expect that if MSHA is doing a good job, it will have issued more bonds overall and have a better bond rating than other HFAs with comparable housing challenges and similar responsibilities and resources.

What Table 5, above, could illustrate is that per capita, MSHA has issued more bonds during its tenure than any other state HFA in the study except Vermont to finance more loans than any other state HFA in the study. Since the numerator in the equation is the volume of bonds and loans *outstanding,* this assumes that all the HFAs in the study have experienced the same rate of repayment on loans made from bond issues, and that the bonds have been retired at the same rate. If these assumptions are true, MSHA has indeed issued more bonds overall than other HFAs with comparable housing challenges and similar responsibilities and resources.

Table 6: Issuer Bond Ratings and Total Asset Volume

State	Rating	Ranking	State	(000) Volume	Volume Per Capita
Virginia	Aa1(stable)	2	Virginia	37,574,042	$ 1,224
Minnesota	Aa1(stable)	12	Minnesota	2,874,084	$ 657
Colorado	A1(positive)	16	Colorado	2,429,509	$ 737
Maine	**A2(positive)**	**26**	**Maine**	**1,722,748**	**$ 1,403**
New Mexico	A2(stable)	35	New Mexico	1,340,179	$ 885
New Hampshire	A2(stable)	42	New Hampshire	1,032,242	$ 931
Vermont	A2(stable)	43	Vermont	826,153	$ 1,468

Source: Moody's Investors Service Industry Outlook July 2003, U.S. Census 2000.

Table 6, above, shows issuer ratings assigned by Moody's Investor Services to the HFAs as of July 2003. These figures reflect the rating agency's opinion of the HFA's overall ability to honor long-term, unsecured financial obligations. Moody's uses the same Aaa through C rating scale traditionally applied to bond issues. The lowest issuer rating assigned to any of the 34 HFAs that have been rated by Moody's is A2 (stable), slightly lower than MSHA's rating of A2 (positive), and the highest rating assigned is Aaa (stable). MSHA's rating affects the agency's ability to sell bonds and the amount it can raise by selling those bonds. Decisions about bond rating inform MSHA's risk profile, which in turn affects decisions about reserve levels, resource allocation, and lending program size and design,.

MSHA Governance and Oversight

MSHA is an independent agency, not a part of state government, not subject to civil service laws or other external employment limits, and not under the Governor's direct supervision or a part of the Governor's budget. Thirty-seven HFAs are independent, quasi-governmental agencies like MSHA, and the rest are a part of state government.

HFAs such as MSHA that operate as independent agencies generally do not receive any public operating money and therefore are not a part of the state budget, nor subject to annual appropriations. Operating funds for these agencies are usually generated through interest paid on loans and fees collected for administration of state and federal housing programs. Historically, the only appropriations that MSHA has received from the state legislature have been for the state HOME program, which is used to make grants or loans under specified housing and related programs, but not to fund operations.

Table 7: Board of Directors

State	No. Board Members	Ex Officio	Governor Appoints	Legislature Approves	Term (yrs)
Maine	**7**	**2**	**6**	**7**	**4**
Minnesota	7	2	5	5	4
New Mexico	7	3	4	4	4
Vermont	7	3	4	0	4
New Hampshire	9	0	9	0	5
Virginia	10	2	7	7	4
Colorado	11	1	9	9	4

Source: National Council of State Housing Agencies.

With two exceptions, every state HFA is governed by a board of directors, known in Maine as the Board of Commissioners. In 48 states, the Governor appoints the directors, with or without the approval and/or confirmation of the legislature. In 36 states, those boards include one or more ex officio voting members who serve by virtue of their office. Some states include specific requirements for representation on the board in the enabling legislation. Such provisions, when they appear, are usually necessary to ensure representation from the specified population because of conflicts of interest and/or other considerations. Some states also specify a balance of political party affiliation on the board of directors.

Title 30-A, Chapter 201, Section 4723(2)(B) of the Maine Revised Statutes requires that MSHA's Board of Commissioners be comprised of seven members, five appointed by the Governor, subject to review by the joint standing Committee on Business, Research and Economic Development, and to confirmation by the legislature, and two ex officio voting members (Treasurer of State, Director of MSHA). The statute reads, in part, "The 7th commissioner is the director of the Maine State Housing Authority who shall serve ex officio, and who is chairman of the commissioners." The statute further specifies that the gubernatorial appointments must include (but are not limited to) representatives of bankers and of low-income or elderly people.

MSHA's board is among the smaller HFA boards; only 7 other HFAs have smaller boards, and 33 have larger boards, according to NCSHA. MSHA's board members serve 4-year, staggered terms, the same as the majority of other HFA board members.

MSHA's Board of Commissioners is authorized to establish policies relating to eight specific things, 1) standards of issuing, servicing and redeeming bonds, 2) purchase and sale of mortgages and notes, 3) initiating construction and accepting completed facilities, 4) selection and evaluation standards for purchase and sale of loans, 5) loan servicing procedures, 6) collection procedures, 7) liquidation and disposition procedures, 8) maintaining reserves.

Table 8: HFA Executive Director

State	Appointed by Governor	Appointed By Board	Approved by Legislature	Employment Contract	Term (yrs)
Colorado	N	Y	N	N	N
Maine	**Y**	**N**	**Y**	**N**	**4**
Minnesota	Y	N	Y	N	N
New Hampshire	N	Y	N	N	N
New Mexico	N	Y	N	Y	1
Vermont	N	Y	N	N	N
Virginia	N	Y	N	Y	3

Source: National Council of State Housing Agencies.

Maine is one of 11 states in which the executive director of the HFA is appointed by the Governor, and one of the 7 states in which that appointment is approved or confirmed by the legislature. In 38 states, the Board of Directors appoints the executive director, and in 3 of those states, the legislature approves and/or confirms the appointment.

In Maine, the Director is appointed for a four-year term, and the Governor determines his or her compensation. The four-year term is not co-terminus with that of the Governor, which means that the Director is not always serving the Governor who appointed him or her. Maine state law gives all the powers and duties of the agency to the Director, except those specifically reserved for the Board of Commissioners. State law assigns to MSHA 24 specific powers, only 8 of which are reserved to the board, as detailed above. All remaining powers, including adopting bylaws and delegating agency authority to others, are specifically reserved to the Director. Because the Director is both the Chairman of the Board of Commissioners and retains all the agency powers not reserved to the board, he or she de facto has all the powers and duties of the agency. In addition, state law also specifies that MSHA's Director may only be removed for "inefficiency, neglect of duty or misconduct in office...after a hearing by the Governor."

Maine is the only state in which the Director serves as the Chairman of the agency's board of directors. MSHA's governance structure is distinct from all other HFAs in this one important respect. As Chairman, MSHA's Director sets the agenda and runs the board meetings, which cannot therefore be used as a forum for appealing decisions made by the Director. Combined with the fact that MSHA administers almost all of Maine's state and federal housing resources and its Director can this only be removed for negligence or misconduct in office, this gives MSHA's Director almost total control over housing policy in the state with little accountability to others for the effectiveness of that policy.

MSHA enjoys extraordinary independence from state government because of its financial self-sufficiency and its singular governance structure. On the one hand, this independence helps to insulate the agency from political winds and to protect the production of affordable housing from the tug-o-war of the budgeting process. On the other hand, it isolates both the agency and the issue of affordable housing from its place in the larger policy dialog, from budget discussions, and from economic development considerations. Similarly, MSHA's governance structure isolates its executive director from the full and unqualified support of the agency's Board of Commissioners and diminishes his or her accountability to others.

Conclusion

Theoretically, consolidation of housing resources into one agency like MSHA should make it simpler and more efficient to create affordable housing in Maine. The data does not clearly and definitively support this theory. Following are conclusions that can be drawn from this review of the performance and responsibilities of the Maine State Housing Authority.

(1) While no true comparison of one state HFA with another can be made, given the number and variety of housing programs, and the resources allocated by each HFA to associated activities, it is clear that MSHA is neither exceptionally productive nor exceptionally unproductive in the national arena.

(2) MSHA has the largest overall responsibility for state and federal housing programs among the seven HFAs reviewed in detail. MSHA was first established as a quasi-governmental financial institution and only later took over responsibility for state and federal housing subsidy programs, inheriting a myriad of new activities, regulations, compliance responsibilities, and stakeholders. Today, MSHA has responsibility for 14 different state and federal housing programs, in addition to single family and multi-family lending activities, asset management, outreach and education, and other functions.

(3) MSHA is one of the oldest housing authorities in the country (only eight others were established prior to 1969) and the oldest of the HFAs examined in this study. As such, MSHA has had more years to build a bond portfolio, finance home loans and construction and rehabilitation of rental units, build reserves, and develop a track record that is attractive to rating agencies.

(4) Of the 34 rated HFAs, the issuer rating of A2 (positive) assigned to MSHA by Moody's Investor Services as of July 2003 is only slightly higher than the lowest issuer rating of A2 (stable) assigned to any HFA. The highest issuer rating assigned as of July 2003 was Aaa.

(5) MSHA is a not a part of the state budget, so both the agency and the issue of affordable housing are absent from budget discussions, economic development considerations, and the larger policy dialog. Historically, MSHA has only received appropriations from the state legislature for the state HOME program, which can be used to make grants or loans under specific housing and related programs, but cannot be used to fund operations. For the current biennium, no state funding has been made available for the HOME program.

(6) MSHA's Director is appointed by the Governor to a four-year term, which is not co-terminus with that of the Governor. Therefore the Director is not always serving the Governor who appointed him or her to office. This can be problematic if the Director and the Governor do not agree on housing policy. Furthermore, the operations of the agency are complex, and appointment of a new Director every four years prevents stability in leadership and continuity in housing policy. Only one Director has been reappointed for a second term in the 35-year history of the agency.

(7) Maine is the only state in which the Director serves as the Chairman of the agency's board of directors. MSHA's governance structure is distinct from all other HFAs in this one respect. Because the Director is both the Chairman of the Board of Commissioners and retains all the agency powers not reserved to the board, he or she de facto has all the powers and duties of the agency.

(8) Maine is one of 48 states in which the Governor appoints the members of the Board of Commissioners, but one of only 11 states in which the executive director of the HFA is also appointed by the Governor. In 38 other states the executive director is appointed by the Board. Because the Board of Commissioners is chaired by the Director, does not have the power to hire and fire the Director, and because the powers of the Board are limited to those specifically spelled out in the enabling legislation, the Board does not exercise authority over the agency. Among other things, this results in a lack of agency oversight and the absence of a forum for appeal of agency decisions.