

March 24, 2025

Dear Chair Howard and Housing Committee Members,

This letter provides feedback on our continued concerns related to the proposal re-introduced this session in HF 2480 / SF 2659. We recognize the need to ensure public housing authorities (“PHAs”) can access needed resources for ongoing operating and maintenance needs and are pleased with the progress we made last spring in better clarifying these pathways in our April 10, 2024 letter on this matter.

PHAs have occasionally benefitted from appropriations from state general obligation (“GO”) bonds authorized pursuant to Article XI, Section 5(a) of the Constitution and funded through MHFA’s Publicly Owned Housing Program (“POHP”). The housing properties that were improved with this funding source are state bond financed property subject to the constitutional requirement of public ownership by a state agency or political subdivision of the state.

It additionally became clear in last session’s conversations with PHAs is that they have always had tools at their disposal to blend state GO bonds with a Housing and Urban Development (“HUD”) Rental Assistance Demonstration (“RAD”) repositioning and a HUD streamlined voluntary conversion (“SVC”). For both RAD and SVC, PHAs are permitted to retain full public ownership of the housing asset under HUD rules, which would be fully compliant with the constitutional ownership requirement for bonded projects and which would not require any special legislation. However, ownership transfers to a related entity only appear beneficial in cases where the PHA seeks other private equity, including conventional loans and tax credits, which are generally incompatible with state bonding requirements. The PHAs have had tools already at their disposal under current law, pathways to which MMB helped document in the April 2024 letter.

**General principles why changes to Minnesota Statutes are the wrong venue to address the remaining issues PHAs face on this issue:**

The key barriers that remain unresolved following many hours of work last session are still not suited for a state legislative solution because the barriers stem from higher order legal authority. As we have attempted to communicate, these factors leave legislation updating Minnesota Statutes an unhelpful venue to attempt to find a solution. As we understand it the remaining barriers on this matter are a combination of:

- United States Housing and Urban Development requirements related to the need for a PHA to “sell” an asset before accessing the more lucrative Section 18 Demolition & Disposition program. MMB and Minnesota Housing staff remain committed to additional engagement on this issue at the PHAs’ request but the underlying program requirements were created by the federal government through HUD and are unlikely to be modified by Minnesota law.

- Federal tax regulations of tax-exempt bonds which require that following the sale of a bond-financed property that the sale proceeds be returned to pay off state debt and not retained for other use by the recipient. HUD's Section 18 rules would mandate a different treatment of those sale proceeds. Again, this is a federal issue outside the authority of Minnesota law.
- The requirement in the Minnesota Constitution that GO bond proceeds may only be used by state agencies or political subdivisions of the state. Again, given the subordinate position of Minnesota laws to the constitution, attempts to artificially construct new political subdivisions of the state by statute face considerable uncertainty.

**Key HUD Section 18 sales barrier remains not addressed in the bill as again introduced:**

Our current understanding is that for PHAs the remaining barrier is access to the more lucrative HUD Section 18 Demolition & Disposition program. Under this program HUD requires that the PHA "sell" an asset to access the program. Without additional solutions from HUD, the current Section 18 program requirements appear incompatible with state GO bonds. As noted above, federal tax regulations following the sale of a bond-financed property that the sale proceeds be returned to pay off state debt and not retained for other use by the recipient. The bill language in HF 2480 / SF 2659 does not address this barrier and it is unlikely that updates to Minnesota laws are a productive venue for its resolution.

**Continued concerns on uncertainty:**

Our feedback on this proposal from the 2024 session remains consistent, especially regarding the uncertainty this bill would introduce if enacted and the lack of resolution it offers to PHAs based on the mutual understanding MMB, Minnesota Housing and the PHAs reached last year. Because Minnesota's constitution requires all projects funded by state general obligation ("GO") bonds to be publicly owned by a state agency or political subdivision of the state, it is not clear that the State would be able to fund the types of "public corporations" created under the proposed legislation with state GO bond funds or approve transfers of ownership of state GO bond financed property to these public corporations. Each "public corporation" established under the bill would need to be reviewed individually to determine whether that particular "public corporation" can be considered a political subdivision of the state. It is not certain this case-by-case review would result in a positive determination, based on conversations with the state's bond counsel. In the event negative determinations are disputed it will have the potential to slow the distribution of desperately needed resources.

We look forward to continued work with you and PHAs on this issue.

Sincerely,

A handwritten signature in black ink that reads "Erin M. Campbell". The signature is written in a cursive, flowing style.

Erin Campbell  
Commissioner

CC:

Jennifer Ho, Commissioner, Minnesota Housing Finance Agency

Senator Port, Senate Housing Committee, Chair

Senator Pappas, Senate Capital Investment, Chair

Senator Housley, Senate Capital Investment, Lead

Representative Franson, House Capital Investment, Co-Chair

Representative Lee, House Capital Investment, Co-Chair