

April 15, 2024

The Honorable Michael Howard
Chair, Committee on Housing Finance and Policy
Minnesota House of Representatives
473 State Office Building
Saint Paul, MN 55155

Re: H.F. 4194, DE amendment, Article 2, Section 22, senior affordable housing rent increase limitations

Dear Chair Howard:

We thank you and your committee for your important work on and deep commitment to solving the affordable housing crisis in Minnesota. As both non-profit and for-profit developers and operators of affordable housing properties in our state, we applaud your many efforts.

However, we respectfully write to state our strong opposition to the provision which you have included in the delete-everything amendment to your omnibus housing finance bill, H.F. 4194, imposing a state limitation on rent increases for senior affordable housing units which receive federal Low-Income Housing Tax Credits (LIHTC). This is a modified version of H.F. 3350 (Stephenson), with your addition of an exemption for non-profit providers.

All of our industry experience tells us that this rent control provision would decimate Minnesota's housing ecosystem and lead to cessation of production and loss of existing senior housing.

Private financing through LIHTC accounts for nearly all Minnesota senior affordable housing production. Whether the developer/operator is a non-profit or for-profit, we all use the same program. A nationwide, multi-billion-dollar investment industry invests in this housing. Investors depend upon strict adherence to income and rent limitations adjusted annually by the U.S. Department of Housing and Urban Development. Each project has its own unique income mix. Your bill language would supersede federal rent tables, destabilizing existing properties and voiding the financial viability of new senior developments. If enacted, this provision would drive those investors away from Minnesota, just when we need them to help build 100,000 new affordable homes statewide.

If passed, it is likely that both non-profit and for-profit developers would have to abandon plans for new senior projects and prepare to convert existing senior housing to general population properties. This would be the industry-wide response, driven by investor and lender demands. And this real-world consequence of rent-control would hurt non-profit-provided affordable housing regardless of the non-profit exemption in the bill language.

We ask that you remove this detrimental provision in your omnibus bill. Those of us who do the essential work of providing Minnesota's low-income senior population with housing options would gladly work with the Legislature on practical solutions to senior housing affordability which would not decimate the underpinnings of a successful nation-wide housing program in existence for nearly 40 years.

Respectfully,

Duffy Development Company	Ecumen	Halverson and Blaiser Group
Lupe Development	MWF Properties	PAK Properties
Real Estate Equities	Reuter Walton	Roers Companies
Ron Clark Construction & Design	Sand Companies, Inc	Schafer Richardson
Sherman Associates	Trellis	Wall Companies

cc.: Representative Esther Agbaje, Vice Chair, Committee on Housing Finance and Policy
Representative Brian Johnson, Minority Lead, Committee on Housing Finance and Policy
Representative Zack Stephenson

Date: April 15, 2024

To: Representative Howard, Chair, Housing Finance and Policy
Representative Agbaje, Vice Chair, Housing Finance and Policy
Representative Johnson, Republican Lead, Housing Finance and Policy

From: Jennifer Leimaile Ho, Commissioner, Minnesota Housing



Subject: H.F. 4194 – House Omnibus Supplemental Budget Bill

Dear Chair Howard and Members of the Committee:

Thank for you the opportunity to comment on your supplemental budget bill and for all the thoughtful conversations this session. The bill includes many Governor's recommendations and includes many provisions that will help address housing challenges in the state, however, we are concerned about the \$40 million reduction to Housing Infrastructure resources from last session. This change will lead to fewer developments selected for funding this year and put federally rent-assisted developments further at risk of not having access to resources they need.

Governor's Capital Investment Recommendation

We appreciate the inclusion of the Governor's recommendation for \$50 million in new Housing Infrastructure Bonds and the inclusion of all the agency's policy and technical changes. The agency just opened the 2024 Consolidated Request for Proposal process last week and we anticipate the \$50 million in Housing Infrastructure Bonds will be committed to projects later this year. During the 2023 Consolidated RFP, the agency selected 28 rental developments from the 96 applications, awarded a historic number of single-family activities, and funded manufactured home community infrastructure projects, yet we still need more Housing Infrastructure resources to meet housing development needs across the state. The proposed \$40 million reduction to the FY 2025 appropriation in this bill will result in only \$10 million in Housing Infrastructure resources for this year's selection process.

Governor's Policy and Technical Recommendations

The Governor's policy recommendations included in the bill will help advance the work our programs do in the community to meet the on-going challenges faced by people and property owners across the state. We are thankful for the inclusion of language to end discrimination based on a renter having public assistance, including rent assistance. As we all know, the cost of rent is high, and no one should be discriminated against because they have public assistance to help pay their rent.

The other Governor's policy recommendations will help position the agency's programs to deploy federal resources to climate resiliency and energy efficiency programs in rental housing and single-family homes, simplify eligibility for agency programs, continue to meet the downpayment and first-mortgage needs for first-time and first generation homebuyers, increase access to workforce housing in smaller communities in Greater Minnesota, and provide eligibility clarity in the State Housing Tax Credit program.

Family Homeless Prevention and Assistance and Workgroup Recommendations

With a \$10 million one-time target, we appreciate that most of the increase is being put into the Family Homeless Prevention program (FHPAP) with bill language that will help expedite getting those resources into communities to help renters and property owners pay their bills. With the Fast Track resources from last session, FHPAP administrators spent more in four months than what is typically awarded for the entire biennium, helping over 6,400 households compared to 4,300 households in all of 2022. The agency is ready to work on the provisions included from the Workgroup on Emergency Rental Assistance that focus on expediting rental assistance and we appreciate the additional resources to undertake those new activities.

Preservation Needs, Task force and Housing Infrastructure Reduction

We appreciate the goal of putting more resources into preserving the state’s existing housing. The agency is spending significant time and resources working with property owners and housing funders to better understand and address the variety of financial challenges they currently face. While some of these preservation needs existed before the pandemic, some of the challenges have been exacerbated by lingering economic impacts of the pandemic, as well as significant market headwinds including high interest rates and rapidly escalating insurance costs. We’re committed to continue to lead and work alongside property owners and other housing funders. To that end, while we understand the intent of the long-term affordability task force included in the bill in Article 2, Section 42, we have some concerns that this task force would duplicate efforts already underway, and we look forward to discussing the details of this work given the scope and timing related to the taskforce.

For context, last year over 40% of the units selected through the Consolidated RFP were for preservation. The agency selected 11 preservation developments out of 31 preservation applications. To fund all 31 applications would have required an estimated \$200 million. Additionally, since 2012, over 40% of all Housing Infrastructure units selected for funding have been for preservation activities.

While additional preservation resources are needed, reducing the Housing Infrastructure appropriations by \$40 million will reduce the number of housing developments that will be selected for funding this year, including preservation developments. Additionally, as noted above, because Housing Infrastructure cash and bonds are a major source of preserving rental housing, reducing funding in this program will put critical federally rent-assisted properties at risk of loss. This includes Housing and Urban Development Section 8 and United States Department of Agriculture Rural Development properties.

We look forward to the conversations in the next several weeks about ways to meet the broad range of preservation activities included in the new Housing Affordability Preservation Investment program without redirecting resources that would otherwise be deployed for preservation developments, as well as new construction permanent supportive housing and senior housing developments in the 2024 Consolidated RFP.

We also have concerns about the changes to Housing Infrastructure Bond statute, especially considering the \$40 million reduction to the program. Adding several new uses to Housing Infrastructure when the bill results in \$10 million in net Housing Infrastructure resources puts additional strain on an already oversubscribed resource. We also have some questions regarding the activities identified under the new ‘recapitalization’ definition in Article 2, Section 4. Some of those activities are not eligible under Internal Revenue Service rules related to the issuance of tax-exempt bonds.

Federal Repositioning and Public Ownership

There are several new provisions in the bill related to the issue of public ownership and buildings that have or will be repositioned under several Housing and Urban Development programs. This is a complicated issue that we've been discussing with both stakeholders and Minnesota Management and Budget, and we recently submitted a joint letter highlighting the issues and identifying pathways that currently exist for Public Housing Authorities. We look forward to continuing this conversation over the coming weeks with this new language and we recognize the need that these properties have for additional operating and capital resources. We hope that a Capital Investment bill passed by the Legislature this year will include the Governor's recommendation for an additional \$7.5 million for the publicly owned housing program (POHP).

Limitation on Senior Rental Increases

Article 2, Section 22 limits rent increases in senior properties. We share the concerns regarding senior housing developments that have recently sought to increase their rents to the maximum allowed and the detrimental impact it has on low-income seniors on a fixed income. We are also considering the possible financial constraints the allowed increases, on average, might put on these properties. We look forward to more discussion on this topic as we head into conference committee.

Wage Theft Prevention

Article 2, Section 14 includes several changes related to addressing the issue of wage theft related to disclosures and transparency. We appreciate the on-going conversations we've had on this language with stakeholders, especially as it relates to keeping enforcement of wage theft at the Department of Labor and Industry and reducing the administrative burden on the agency.

Local Housing Aid Changes

Article 2 Sections 33-38 contains several policy and technical changes to the new local housing aids passed last session. We will have staff from the agency's Local Government Housing Programs team review these changes and would be happy to share any technical feedback as the bill progresses.

My staff and I are ready to work with you and your staff as this bill progresses and we head to conference committee.

Thanks for your commitment to going big, so more Minnesotans can go home.



April 15, 2024

The Honorable Mike Howard
Chair, Housing Finance and Policy Committee
473 State Office Building
St Paul, MN 55155

Via email

Re: Support for H.F. 4194 – Source of Income Protections

Dear Chair Howard and the Housing Finance and Policy Committee of the House:

My name is Ivory Taylor, and I am the Associate Director of Housing Justice Center. On behalf of a diverse group of Minnesotans who represent communities across the state, I submit this letter of support for HF4194, Article 3, Section 1 prohibiting discrimination against renters who use housing assistance. These protections, also called the Housing Stability Act, address a devastating gap in our current system to ensure that the safety net we provide for Minnesotans facing hardship can work as intended.

This testimony includes the signatures of nearly 130 Minnesotans, many of whom wanted to share why they support this vital protection for renters.

Genna, from Owatonna Minnesota: “It is important because policy change is needed to lower/eliminate the barriers for people to obtain housing. As a housing case manager, we cannot do this work on our own and often feels like an uphill battle. It takes everyone, working together to create true lasting change. Policy change can greatly improve how we look at affordable housing and moving towards functional zero in our communities. Working with landlords/property managers to understand that everyone deserves housing regardless of how they are paying for it. Housing is a basic life necessity.”

Sue, from Moorehead: “In order to both reduce homelessness and decrease the duration of time an individual or household is homeless, passing this legislation is critical.”

Caitlin, from Hopkins: “It is so important for lawmakers to prohibit Source of Income discrimination because no one should be discriminated against for seeking help. It takes great courage and strength to seek help and receive housing assistance. The reality is that with this current economy, we are all one financial hardship away from needing some form of housing assistance to get by. What is the point of offering housing financial assistance programs if we are denied the option to utilize them when searching for housing? I have seen too many people find so much hope after being accepted for a housing program to then hit roadblock after roadblock by landlords who say they don't accept that form of housing assistance. It's not right.”

Chris, from Edina: “We have a housing crisis. If we want to reduce homelessness, we need to be sure that people can use the funds they have available to them to pay for their housing.”

Savannah, from Hugo: “Funding can only get us so far in our housing crisis. We need systemic change to secure safe, affordable and stable housing for our most vulnerable populations.”

Amanda, from Minneapolis: “As a HCV participant, who is disabled and a single mother of two teenagers (who happen to be African American) it is difficult to find places to rent that are not ran down and/or in unsafe neighborhoods and/or with landlords that do the least amount required. Just because I get assistance to help my family have/keep a home does not mean we deserve less than others, we would like to live in a nice place and area. It can be discouraging for young people to want to get out and be part of the community or have a positive mindset about the future when they live in ran down homes and apartments with crime and suffering all around them and not feeling safe.”

Richard, from St. Louis Park: “This is a fundamental issue of equity. I am surprised and embarrassed that there is not already a law to prevent such discrimination.

Every day, we see in our work the consequences of the gap in our system. After years on waitlists, after finally receiving a hope of affordable housing, people are denied an opportunity to have a safe, stable, affordable place that they can call home.

Communities across the state rely on supportive housing assistance programs to ensure that their neighbors are housed with dignity and long-term stability, in a place that is affordable to them at any income and is convenient to jobs, schools, medical providers, family, transit, and community supports. Without prohibiting source of income discrimination based on housing assistance, we will continue to put unnecessary and discriminatory barriers in place for those who seek to meet their most foundational of needs, a secure home.

Thank you for your attention.

Sincerely,

Ivory Taylor
Associate Director, Housing Justice Center

All Elders United for Justice
The Alliance for Metropolitan Stability
The Arc Minnesota
Avenues for Youth
Catholic Charities
Center for Urban and Regional Affairs (CURA)
Churches United for the Homeless
Clay County Housing and Redevelopment Authority
CommonBond Communities, Housing for All
Community Stabilization Project
Comunidades Organizando el Poder y la Acción Latina (COPAL)
Edina Neighbors for Affordable Housing
Home Line
Hope Community, Inc.
HouseCalls
Housing Justice Center
HumanKind MN

Inquilinx Unidxs por Justicia
 ISALAH
 Jewish Community Action
 Metro Council HRA
 MICAH Speakers Bureau
 Minnesota Housing Partnership
 Minnesota Interfaith Coalition on Immigration
 Minnesota Social Service Association
 NAMI Minnesota
 National Association of Social Workers, MN Chapter
 Neighborhood House
 New American Development Center
 PRISM
 SHIP
 Somali American Social Service Association
 Somali Community Resettlement Services
 South Central Human Relations Center
 St. Louis Park Community Housing Team
 Washington County CDA
 West African Collaborative
 WileFlowers

First Name	Last Name	City	Organizational Affiliation, if applicable
Abbie	Hanson	St. Paul	
Adyson	Vilinskis	Golden Valley	
Alex	Smith	St. Paul	Community Stabilization Project (CSP)
Alicia	Mason	St. Paul Park	
Allison	Jallah	Minneapolis	
Amanda	Rode	Minneapolis	
Angela	Bonfiglio	Minneapolis	Housing Justice Center
Ariah	Fine	Minneapolis	
Barbara	Patterson	St. Louis Park	St. Louis Park Community Housing Team
Be	Hodges	Virginia	
Beth	Gendler	St. Paul	Jewish Community Action (JCA)
Bobbi	Levy	Farmington	
Brianna	Chies	Minneapolis	
Bridget	Glass	Golden Valley	PRISM
Caitlin	Heen	Hopkins	
Carla	Schweich	Hastings	SHIP
Carmel	San Juan	St. Paul	
Carolyn	Brown	St. Paul	Community Stabilization Project
Celesta	Peltier	Moorhead	
Chandra	Vang	St. Paul	

Charlie	Kelley-Pegg	Minneapolis	
Chris	Bremer	Edina	
Christie	Ernest	Waseca	
Claire	Fread	St. Paul	
Claire	Jordan	Roseville	
Courtney	Werk	Donnelly	
Cynthia	Heckler	Maple Grove	CommonBond Communities, Housing for All
D	Sergent	Minneapolis	
Dara	Lee	Dilworth	Clay County Housing & Redevelopment Authority
Dawn	Smith	Elk River	
Debra	Peterson	Minneapolis	Minnesota Housing Partnership (MHP)
Deneva	Aho	St. Paul	
Elizabeth	Reishus	Gaylord	
Ellen	LaFontaine	St. Louis Park	
Ellie	Benson	St. Paul	Housing Justice Center
Emily	McDonnell	Owatonna	South Central Human Relations Center
Emily	Itkonen	Hamel	
Emmalynn	Bauer	St. Paul	
Eric	Hauge	Bloomington	HOME Line
Eugene Jacob	Schoenborn	Roseville	
Evelyn	Vocu	Minneapolis	
Genna	Schilling	Owatonna	South Central Human Relations Center
Grete	Hanson	Roseville	
Haley	Pedersen	St. Paul	
Heidi	Storm	Maplewood	
Hunter	Wengersky	St. Paul	
Ian	Rosenthal	Minneapolis	Jewish Community Action
Isabel	Ricker	Minnesota	
Ivia	Wheeler	Coon Rapids	
Ivory	Taylor	Roseville	Housing Justice Center
Jennifer	Arnold	Minneapolis	Inquilinxs Unidxs por Justicia National Association of Social Workers, MN Chapter (NASW-MN)
Jenny	Arneson	Minneapolis	
Jessica	Fulton	Owatonna	South Central Human Relations Center
Jilian	Clearman	Eagan	
JoAnn	Leppink	Minnesota	The Arc Minnesota
Joanna	Sanyi	St. Paul	HouseCalls
Jonathan	Rose	Brooklyn Center	West African Collaborative
Jonathan	Rose	St. Paul	All Elders United for Justice
Juan Luis	Rivera-Reyes	Minneapolis	The Alliance for Metropolitan Stability

Justin	Seitz	Woodbury	
Karen	Frei	St. Paul	Tenants Association
Kate	Urmann	St. Paul	WileFlowers
Katherine	Meerse	Minneapolis	Avenues for Youth
Katherine	Banbury	Bloomington	HOME Line
Kathy	Chinn	Saint Paul	ISAIAH
Kaytlyn	Lundstrom	Minneapolis	
Krista	Steichen	Minneapolis	
Kristi	Moua	St. Paul	
L. Hope	Melton	Edina	Edina Neighbors for Affordable Housing
Lauren	Rose	St. Paul	
Lee	Guekguezian	Minneapolis	Center for Urban and Regional Affairs (CURA)
Lily	Hijazi-Sacay	Minneapolis	
Linda	Soderstrom	Winona	MICAH Speakers Bureau (We Are Your Neighbors)
Lori	Gagnon	Apple Valley	
Lucas	Iverson	Rochester	
Lugene	Flores	Spring Lake Park	
Lynn	Seim	Stillwater	
Lynn	Ellis	Saint Paul Park	
Madeleine	Hammerlund	Minneapolis	Minnesota Housing Partnership (MHP)
Maggie	Brown	Minneapolis	
Malyun	Yahye	Minneapolis	Hope Community Inc.
Martha	Hernandez M	St. Louis Park	
Mary	Winkels	Bloomington	
Melissa	Taphorn	Woodbury	Washington County CDA
Michele	Steinke	Minneapolis	Minnesota Interfaith Coalition on Immigration (ICOM)
Michele	Hammel	St. Paul	
Michelle	SanCartier	St. Paul	Minnesota Social Service Association
Mohamedkader	Mohamed	Shakopee	Somali Community Resettlement Services
Monica	Nilsson	Minneapolis	
Monique	Jefferson	St. Paul	
Nancy	Brady	St. Paul	Neighborhood House
Nansi	Brown	Minneapolis	
Omar	Nur	Rochester	Somali American Social Service Association
Peter	LaFontaine	Minneapolis	
Rachael	Ryan	Burnsville	
Rachel	James	Columbia Heights	City of Columbia Heights, Councilmember
Rafito	Thomas	Maplewood	Catholic Charities - Family Service Center
Ranee	Kohner	Minneapolis	

Richard	Patterson	St. Louis Park	
Ro	Ru	Minneapolis	
Ruth	Paradise	Golden Valley	
Ryan	Perez	Minnesota	Comunidades Organizando el Poder y la Acción Latina (COPAL)
Samantha	Behrend	St. Cloud	
Samantha	Gartamaker	Crystal	
Sara	Byler	St. Paul	
Sarah	Urmann	Shoreview	
Savannah	Mans-Vail	Hugo	HumanKind MN
Sedia	Omar	MN	New American Development Center
Shelly	Fine	St. Paul	
Sheree	Bass	Minneapolis	
Sherwood	Malamud	Golden Valley	
Sheryl	Wallace	White Bear Lake	
Sue	Abderholden	St. Paul	NAMI Minnesota
Sue	Koesterman	Moorhead	Churches United for the Homeless
Sumeya	Mohamed	St. Paul	
Tammarie	Kriegel	Spring Lake Park	
Tammy	Freeburg	Brainerd	
Tasha	Houghtelling	St. Paul	Metro Council HRA
Tasha	Houghtelling	Ramsey	
Taylor	Hagen	Shoreview	
Tenzin	Dhedan	Minneapolis	
Teresa	Belden	Golden Valley	
Theresa	Dolata	Minneapolis	Board Member of Beacon Interfaith Housing Collaborative, St Joan of Arc Catholic Community Housing Ministry, MICAH
Tina	Krauz	Duluth	
Veronica	Sharkey	Minneapolis	
Virginia	Allen	St Paul	
Will	Yetvin	Minneapolis	Jewish Community Action (JCA)



April 16, 2024

Re: Comments on HF 4194 as amended - House Housing Finance Omnibus Bill

Chair Howard and members of the House Housing Finance and Policy Committee:

The League of Minnesota Cities appreciates the opportunity to provide comments on the housing appropriations and policy provision outlined in HF 4194 as amended by the DE1 amendment. On behalf of our 838 member cities, we appreciate your attention this session on the vast scope of housing needs in cities across the state of Minnesota. While local governments are innovating with limited resources to address locally identified housing needs, an expanded state-local partnership and a continuation of state resources for housing are critical if we are to adequately address housing needs across the state.

Articles 1 and 2: Housing Appropriations and Housing Policy

The League appreciates the inclusion of additional state investment for new and existing housing programs, which will help build the state-local partnership in addressing locally identified housing needs.

Housing Infrastructure Bonds – The authorization of \$50 million in Housing Infrastructure Bonds in Article 2, Section 25 is crucial and will help construct and preserve units across the housing spectrum. Housing Infrastructure Bonds continue to be an important and flexible capital investment resource for housing utilized in communities across the state and we appreciate the inclusion of a historic level of Housing Infrastructure Bond authorization.

Local Affordable Housing Aid Policy Changes – The League appreciates the inclusion of the amended language in Article 2, Section 34 that clarifies legislative intent for the Local Affordable Housing Aid program for funds to supplement not supplant housing investment without creating undue burdens on local governments. We also appreciate the expanded eligible uses for the funds including funding for supportive services or staff as well as supporting costs for operating emergency shelter facilities.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads 'Daniel Lightfoot'. The signature is written in a cursive, flowing style.

Daniel Lightfoot
Intergovernmental Relations Representative
League of Minnesota Cities



April 10, 2024

Representative Fue Lee, Chair
House Capital Investment Committee
485 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

Senator Sandy Pappas, Chair
Senate Capital Investment Committee
Minnesota Senate Bldg., Room 2205
St. Paul, Minnesota 55155

Representative Michael Howard, Chair
House Housing Finance and Policy Committee
473 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

Senator Lindsey Port, Chair
Senate Housing and Homelessness Prevention
Committee
Minnesota Senate Bldg., Room 3213
St. Paul, Minnesota 55155

RE: HF4271/SF4254 on Public Corporations and the Rental Assistance Demonstration Program

Dear Chairs,

This letter aims to clarify the scope of MMB's and Minnesota Housing's concerns on current language in HF4271/SF4254 and highlight paths that are available under current law that comply with state bonding requirements. As you know, we recognize the need to ensure public housing authorities ("PHAs") can access needed resources for ongoing operating and maintenance needs. Our concern is that the current language in HF4271/SF4254 does not solve the underlying challenges in a way that removes uncertainty.

It is our understanding that PHAs wish to participate in the U.S. Department of Housing and Urban Development's ("HUD's") repositioning programs, including but not limited to Rental Assistance Demonstration, which may involve the transfer of ownership from the PHA to other forms of ownership. HF4271/SF4254 are attempting to create a new type of ownership for this purpose, specifically a new class of "public corporations."

Because Minnesota's constitution requires all projects funded by state general obligation ("GO") bonds must be to a publicly owned 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 HF4271/SF4254 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.

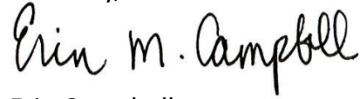
More importantly, there are pathways that are currently available to PHAs and that would be compatible with state GO bonding requirements based on our best understanding of HUD program requirements. We have included information with this letter providing additional information on requirements for state GO bond financing, as well as details on avenues currently available to PHAs.

We support the goals of identifying clearer pathways for PHAs to access both state funding opportunities and additional federal funding and we appreciate the conversations we have been part of to date on this topic. We look forward to continued discussions about the concepts shared in this letter.

Attached to this letter is additional information on the following topics:

- Foundational requirements of state GO bond financed projects
- How HUD Programs allow public housing authorities to maintain full ownership of assets
- Additional housing lending considerations
- Guidance on the interplay between state GO bonds and HUD programs, and
- FAQ Relating to the State GO Bond Funded Publicly Owned Housing Program and the U.S. Department of Housing and Urban Development's Repositioning Public Housing Programs

Sincerely,



Erin Campbell
MMB Commissioner



Jennifer Leimaile Ho
Minnesota Housing Commissioner

CC: Jen Hassemer, MMB Assistant Commissioner
Ryan Baumtrog, Minnesota Housing Assistant Commissioner
Jenny Nash, Committee Administrator, House Capital Investment
Jack Dockendorf, Committee Administrator, House Housing Finance and Policy
Rachel Carlson, Committee Administrator, Senate Capital Investment
Davin Sokup, Committee Administrator, Senate Housing and Homelessness Prevention
Shannon Guernsey, Minnesota Chapter of NAHRO

Foundational Requirements of State GO Bond Financed Projects

All projects funded with state GO bonds authorized pursuant to Article XI, Section 5(a) of the constitution are subject to a uniform set of requirements. The primary foundational requirement for these projects is that they must be publicly owned by a state agency or political subdivision of the state.

While we are not aware of a bright-line law in Minnesota to clearly establish what makes an entity a political subdivision of the state, there is a spectrum of cases involving entities that clearly are political subdivisions on one end, entities that clearly are not political subdivisions on the other end, and a grey area in the middle. Historically, MMB has considered the grey areas in consultation with the state's bond counsel to ensure there would be no legal barriers to providing state GO bond funds to those entities or approving transfers of state GO bond financed property to those entities, and have communicated the conclusion of these conversations directly back to the entity under consideration. Evaluating the cases in the middle depends on a careful, fact-specific inquiry into many factors. This case-by-case analysis is based on how much the entity in question looks and acts like the entities found to be political subdivisions in the clearest cases, such as cities, counties, and school districts. One key theme that emerges in the required analysis is whether the entity has been delegated more than an insubstantial amount of sovereign powers of the state. These sovereign powers are generally the power to tax, the power of eminent domain, and the police power.

There is no question that housing and redevelopment authorities constituted under Minn. Stat. Ch. 469 and operating as public housing authorities ("PHAs") are political subdivisions of the state. They have been granted full sovereign powers of the state. However, it is not clear whether these PHAs have the power to delegate any of these sovereign powers to an affiliated entity, such as the public corporations that HF4271/SF4254 seeks to establish.

MMB is not aware that any PHA has established a public corporation of the sort outlined in HF4271/SF4254. MMB is aware that several public housing authorities have already transferred their public housing assets to affiliated entities, like nonprofit corporations and single-purpose LLCs, as part of a RAD/repositioning conversion. However, they do not currently meet the criteria of the public corporations in the bill.

HUD Programs Allow Public Housing Authorities to Maintain Full Ownership of Assets

HUD explicitly allows PHAs to retain full ownership over their housing assets and reposition their housing programs through repositioning programs including RAD. This fact has not been highlighted in great detail during any public conversations related to this topic. Importantly, the financial benefits available through increased HUD operating income payments may be the same whether ownership is retained by the PHA or transferred to an affiliate.

Retaining full public ownership is an option for both project based rental assistance ("PBRA") and project based vouchers ("PBVs"), both of which are options under certain repositioning programs. For PBVs, the vouchers must be administered by a separate legal entity from the PHA, but ownership may still remain with the PHA.

Transfers of ownership appear to provide some additional benefit when a PHA seeks to leverage private capital through conventional loans, low-income housing tax credits, or similar private equity. However,

those sources of private capital present unique challenges when combined with state GO bonds. We offer some considerations on these additional complexities in the attached FAQ.

Additional Housing Lending Considerations

We also want to highlight that additional language that would be necessary to be able to lend to any new entity. Currently under Minnesota Statutes 462A.202 and 462C.02, Minnesota Housing can only lend to cities, counties, housing and redevelopment authorities, port authorities, or economic development authorities, so additional language is necessary to authorize POHP lending to any new entities that does not fall under the current definition.

Furthermore, Minnesota Housing also has conflict of interest concerns as it relates to serving on any new board established for the purposes of receiving state funding.

Guidance on the Interplay Between State GO Bonds and HUD Programs

The attached FAQ attempts to answer questions about how PHAs can continue to comply with the constitutional public ownership requirement for state GO bond financed projects and how state GO bonding law interacts with some of the specific HUD program requirements. This may not answer all questions, and to the extent it raises additional questions, MMB and Minnesota Housing hope those can be summarized and submitted in writing so that we may continue to build out this exhibit as guidance to PHAs wishing to consider a HUD repositioning.

**FAQ Relating to the State GO Bond Funded Publicly Owned Housing Program and
the U.S. Department of Housing and Urban Development’s Relocating Public Housing Programs**

The following questions and answers attempt to address some of the ways in which the U.S. Department of Housing and Urban Development’s (“HUD”) repositioning programs differ from the state requirements that apply to projects funded by state general obligation (“GO”) bonds authorized under Article XI, Section 5(a) of the Minnesota Constitution. Starting in 2009, state GO bonds have been periodically granted or loaned to public housing authorities (“PHAs”) through the Minnesota Housing Finance Agency’s (“MHFA”) Publicly Owned Housing Program (“POHP”).

Since at least 2017, MHFA’s instructions to PHAs seeking to apply for POHP funding has contained the following notice:

“NOTE: Since POHP loans are funded by GO Bonds, the property must remain in public ownership for a 35-year compliance period. As a result, POHP loans are incompatible with Rental Assistance Demonstration (RAD) transactions that involve a transfer of ownership to a non-public owner.”

While legislation proposed in 2024 focuses on HUD’s Rental Assistance Demonstration (“RAD”) program, MMB understands that PHAs are also interested in some additional repositioning programs. To that end, there is some information below related to the Section 18 Demolition or Disposition (“Section 18”) and Section 22 Streamlined Voluntary Conversion (“Section 22”) programs.

Q: What options are currently available to a PHA that is not interested in private equity and is only interested in a new long-term Section 8 Housing Assistance Payment (“HAP”) contract through HUD’s Rental Assistance Demonstration (“RAD”) program, that are compliant with state GO bonding restrictions?

A: A PHA that is not seeking access to private capital may retain full public ownership and convert through RAD. Many of these RAD conversions have already happened in Minnesota, including with PHAs that have previously received state GO bond funds through POHP. This holds true for both (1) Project-Based Rental Assistance (“PBRA”) administered directly by HUD and (2) Project-Based Vouchers (“PBVs”) administered by the PHA or by a partnering PHA. For PBVs, the vouchers must be administered by a separate legal entity from the PHA, but ownership may still remain with the PHA.

Q: Can a PHA transfer ownership of POHP-funded assets to an affiliate and then enter into a new long-term ground lease with the owner?

A: In general, no. If the PHA has already entered a state GO bond funded POHP agreement with MHFA, it could not change its ownership structure to a long-term ground lease. Moreover, any transfer of assets could only be to another political subdivision of the state that continues to operate the affordable housing. In this case, no ground lease would be necessary. On the other hand, if the transfer of assets was to an entity that is not a political subdivision of the state, the PHA would have to follow the rules applicable to the disposition of state GO bond financed property in Minn. Stat. § 16A.695 and repay the

state the amount of the original grant or loan. If this sale process is followed, then the PHA would be free to enter into any type of agreement with its affiliate that it has authority for.

Q: A PHA would like to retain ownership and control of state GO bond funded property and enter into a long-term ground lease with an affiliate to operate the property. Is this allowable?

A: Yes, although the allowable term may be shorter than what HUD requires. Public owners of state GO bond financed property are allowed to enter into a lease, management contract or other use agreement, subject to MMB's approval under Minn. Stat. § 16A.695, for the purpose of carrying out the governmental program authorized by the legislature. The term of the use agreement must be substantially less than the useful life of the property, and may only involve the collection of rent by the PHA at amounts needed to pay the annual operating costs of the property or to pay debt service on debt related to the property. MMB's approval of a use agreement involving state GO bond financed property is based on full compliance with the [Checklist for Use Agreements](#) available on MMB's website.

Q: A PHA is interested in a conventional loan which would require a mortgage on the property. Is this possible for properties previously improved with a state GO bond funded POHP loan?

A: It depends. Private commercial lenders that want to provide loans to PHAs may insist on a first lien mortgage on the property. However, this would not be allowable in cases where state GO bond funds have been used and where the state has an existing encumbrance on the property. POHP loans require that recipients record a GO Bond Declaration on the real property that must have priority over all other liens filed against the property. This declaration preserves the requirement that upon a future sale of the property under the terms of the POHP loan the state must be repaid first. Because of this declaration requirement, the state restrictions will be discovered during any type of title review during a loan underwriting period. Additionally, if a PHA wishes to seek state GO bond funds in the future to preserve affordable housing, then any prior mortgage on that property will likewise need to be subordinated to the state's interest.

If a lender will not agree to these terms, then the PHA should explore options to structure the HUD repositioning as a sale, even if to an affiliated entity, that complies with the terms of its POHP loan, Minn. Stat. § 16A.695 and the [Checklist for Sale of G.O. Bond Financed Property](#), with sale proceeds being used to first repay the state the amount of POHP funding.

Q: Can a PHA participate in the Section 18 Demolition/Disposition HUD Program if it has previously received state GO bond funds through POHP?

A: In many circumstances, no. Section 18 allows PHAs to demolish or dispose of public housing through a sale process. Under these transactions, the intent of the Section 18 repositioning is to generate sale proceeds for the PHA to use to develop other affordable housing. The eligible uses of these sale proceeds under Section 18 do not comply with Minn. Stat. § 16A.695 because the intent of Section 18 is to allow the PHA to retain the funds for alternate affordable housing uses. State law would require that the state be repaid first from the proceeds from any sale of state GO bond financed property.

The Section 18 program may allow the PHA to retain control of the housing asset, although this avenue will need to be explored further to evaluate compliance with the state GO bonding rules. If this option is only available when ownership of the asset is transferred to another entity, then it will still require consideration of the various ownership and lien issues outlined in this FAQ.

Q: Can a PHA participate in the Section 22 Streamlined Voluntary Conversion HUD Program if it has received state GO bond funds through POHP in the past?

A: Perhaps, in some circumstances. Section 22 appears to allow PHAs the option of retaining ownership of their housing assets. Section 22 also involves the conversion to tenant-based assistance and gives tenants the right to relocate with their voucher to other properties.

If the PHA is interested in closing out its public housing program and moving to a Housing Choice Voucher program with no continued role in the property, then this transfers federal assistance to the tenants and requires a sale of the public housing property to an unrelated third party. A PHA wishing to pursue this option would need to follow the sale process provided for in Minn. Stat. § 16A.695 and the [Checklist for Sale of G.O. Bond Financed Property](#).

There will need to be further evaluation of what happens to state GO bond financed property when tenants relocate to other properties with their vouchers and whether the housing asset continues to be eligible under MHFA's POHP program.

Q: Can a PHA combine low-income housing tax credits ("LIHTC") and state GO bond funds through POHP?

A: No. While both 4% and 9% low-income housing tax credits may be an appealing source of equity to projects with high capital needs, LIHTC also requires the tax credit investor to take a 99.99% ownership interest in the asset through a limited partnership or limited liability corporation (LLC) structure. This would result in an ownership structure that is incompatible with the state GO bonding ownership requirement. If a project was previously funded with state GO bonds, it may be possible to work with a LIHTC investor to structure the repositioning as a sale. That sale transaction would need to comply with the requirements in Minn. Stat. § 16A.695 and the [Checklist for Sale of G.O. Bond Financed Property](#), with sale proceeds being used first to repay the state the amount of POHP funding.

The Honorable Michael Howard
Chair, Committee on Housing Finance and Policy
Minnesota House of Representatives
473 State Office Building
Saint Paul, MN 55155

Dear Chair Howard:

Many thanks again to you and Representative Stephenson for meeting with us recently to hear our concerns about HF 3350 (senior LIHTC rent control). In that meeting we discussed the practical difficulties that this legislation would require for tenant compliance, the long-term negative effects of lower revenues on buildings, residents and neighborhoods, and the protections already in place for many seniors who are receiving rent subsidies. We also suggested other options to protect seniors on fixed incomes from rent burden; the most effective of which would be priority access to rent subsidy.

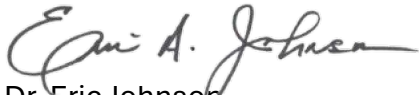
We greatly appreciated your time and frank conversation about the difficulty in balancing affordability challenges that some seniors are experiencing and ensuring the availability of high quality and financially sustainable homes in a resource-constrained environment. We share your concerns about affordability for many of our residents across the state. We hope to work with you to continue to address resident affordability without doing so at the expense of the properties that they live in and the need for those homes to be in service for subsequent elder generations.

We are aware that the House Omnibus housing finance bill HF 4194 includes language similar to HF3350 but with some exemptions for non-profit and rent subsidized units. While we appreciate the intent of this language, we remain unable to support this measure, as we believe that it would negatively impact the ability of all owners (both non-profit and for-profit) to secure competitive financing and maintain their properties and that it would greatly complicate an already overwhelming tenant compliance regime.

LIHTC is the single most important tool for Minnesota senior affordable housing production. No single state program supports the development of senior housing at scale. However, whether developed by for- or non-profit organizations, all are owned by for-profit Limited Partnerships (a requirement of the program and tax code) and subject to the same market dynamics and program requirements. Non-profits are only able to make different choices due to our mission-orientation and the relatively limited ability to fundraise from private philanthropy to help us invest in social services at some of our properties.

We are also actively advocating at the federal level for changes to the LIHTC program and for important expansion of federal rent subsidy, which we believe would be the best path to making sure that seniors are able to live in comfort.

Thank you for your consideration and look forward to continue working with you to ensure all Minnesotans have an affordable place to call home.



Dr. Eric Johnson
President and CEO, Aeon



Deidre Schmidt
President and CEO, CommonBond Communities



Paul Williams
President and CEO, Project for Pride in Living