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Regarding/Neutral on

***SF 3964: "City minimum residential densities and associated requirements establishment"***

Senate Housing and Homelessness Prevention Committee

*March 7, 2024*

Chair Port, Vice Chair Boldon and distinguished members of the Senate Housing and Homelessness Prevention Committee,

The Appraisal Institute (AI), the nation's largest organization of professional real estate appraisers supports the Minnesota legislature's efforts to bring more decent, affordable housing to Minnesotans. AI respectfully submits the following testimony **regarding SF 3964** to bring to the legislature's attention some previously unconsidered impacts that development of residential dwelling units beyond a density of four (4) units per residential lot could have on the ability of Minnesotans to access traditional forms of residential financing, and their ability to have an appraisal by a licensed or certified residential appraiser performed of the property.

**The Impact on Appraisers**

Developing, or having the legal ability to develop or redevelop, a residential lot beyond 1-to-4 single family residential dwelling units per lot may prohibit a Licensed or Certified residential real estate appraiser from being legally able to perform the highest and best use (H&BU) analyses required as part of a real property appraisal assignment. Residential appraisers are generally limited by federal and state laws and policies to appraising properties consisting of 1-to-4 SFR dwelling units. Residential appraisers may also appraise vacant or unimproved land that can be legally utilized for 1-to-4 SFR dwelling units, or for which the H&BU is for 1-to-4 SFR dwelling units. Single family residential (SFR) dwelling units include detached single-family houses, townhouses, as well as properties with up to four attached, stacked, or clustered homes including duplexes, triplexes, fourplexes, and small apartment buildings.

Our concern is that a licensed or residential appraiser will be unable to perform appraisal assignments and the H&BU use analyses on properties developed above a density of 1-to-4 SFR dwelling units. Any residential property with 5 or more separate and distinct, commonly owned residential dwelling units is considered a multifamily property requiring an appraisal by a certified general appraiser. For these transactions, a certified general appraiser would be required at a higher cost and leading to potential delays as there are far fewer certified general appraisers in the State than there are licensed or certified residential appraisers.

**The Impact on Financing**

Laws that "upzone" residential property or increase densities to allow for more than one-to-four single-family dwelling units per residential lot also may preclude owners and buyers from being able to access traditional single-family lending products.

Federal and state banking and lending laws, regulations, policies, and guidance establish that residential real estate lending consists of making loans on properties designed to house one-to-four families. If a property were to be (re)developed with something other than 1-to-4 SFR dwelling units, the mortgage loan would be ineligible for sale to Fannie Mae, Freddie Mac, the Federal Housing Administration, U.S. Department of Veterans Affairs, the U.S. Department of Agriculture, and all federally related financial institutions. Anything more than 1-to-4 SFR dwelling units is considered a multifamily transaction and subject to completely different underwriting, lending, and appraisal standards.

The Office of the Comptroller of the Currency's *Comptroller's Handbook* states that:

*"Residential real estate (RRE) lending comprises loans for purchasing RRE (properties designed to house one-to-four families), refinancing loans used to purchase RRE, and extending closed-end loans or open-end lines of credit secured by the borrower's equity in RRE."*

Further, regulations of the Consumer Financial Protection Bureau state that a:

*"Federally related mortgage loan" is "Any loan...that is secured by a first or subordinate lien on residential property...upon which there is...a structure or structures designed principally for occupancy of from one to four families (including individual units of condominium and cooperatives)".*

Lastly, the [Fannie Mae Selling Guide](#) states that "Fannie Mae purchases or securitizes first-lien mortgages that are secured by residential properties when the dwelling consists of one to four units."

### **Possible Solutions**

When faced with a similar situation regarding the potential appraisal and financing impacts of developing at densities greater than 1-to-4 SFR dwelling units, the City of Spokane modified their law to limit the maximum number of residential dwelling units on a lot zoned for residential use to no more than 4.

We suggest that the Minnesota legislature do similarly and limit development of residential lots to no more than 4 dwelling units per lot. This would preserve the state's higher density goals, while also preserving the ability of property owners and prospective buyers to access traditional residential real estate lending products. A limit of four SFR dwelling units per lot will also allow a residential appraiser to accept an assignment and perform the H&BU analyses necessary to complete an appraisal report.

In the alternative, we ask the legislature to include a provision in SF 3964 (HF 4009) directing the Minnesota Department of Commerce - the state's appraiser regulatory agency - to provide the industry with clarification that a residential appraiser can perform the H&BU analysis on a residential lot where it is legally permissible to site more than 4 dwelling units, so long as the ultimate H&BU conclusion is: 1) as improved; or 2) no higher than 1-4 SFR du/lot. We believe the Department of Commerce's guidance could solve the lending and appraisal issues for many already improved residential lots where development at higher densities is not contemplated. There will be some residential lots where the H&BU will be for more than 4 SFR dwelling units. Those are going to become multifamily properties with multifamily lending, underwriting and appraisal requirements, and legitimately so as a residential appraiser is likely not qualified nor competent to be working on appraisals of properties with 6, 8, or 10 commonly owned dwelling units.

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AI appreciates the opportunity to provide this written testimony regarding SF 3964 and we look forward to working with the legislature to achieve the goal of providing for decent and affordable housing for all Minnesotans. If you have any questions or need additional information, please contact Scott W. DiBiasio at (202) 298-5593 or [sdibiasio@appraisalinstitute.org](mailto:sdibiasio@appraisalinstitute.org)

Regards,

Appraisal Institute