

March 7, 2024



Senator Lindsay Port, Chair  
Senator Liz Boldon, Vice Chair  
Senator Eric Lucero, Ranking Minority Member  
and members of the Senate Housing and Homelessness Prevention Committee  
Minnesota State Senate  
St. Paul, Minnesota 55155

Re: Important Concerns with SF 3964 Regarding Impact on Appraisers, Lenders and MN Consumers

Dear Chair Port, Vice Chair Boldon, Ranking Minority Member Lucero, and distinguished Committee Members:

REVAA is a national collaborative of Appraisal Management Companies (AMC) offering residential real estate valuation services including appraisal management, Broker Price Opinions (BPO), Evaluations, Automated Valuation Models (AVM) and others on behalf of national, state and local lenders. AMCs are licensed in every state, except Hawaii, in accordance with federal and state legal and regulatory requirements.

The purpose of this letter is to identify for lawmakers a very real concern with SF 3964 and offer a solution. As outlined below, without a revision to SF 3964 there will be a negative unintended consequence for appraisers, lenders, AMCs and Minnesota consumers created by the verbiage used in this proposed legislation.

**REVAA is not offering opposition or support for this legislation.** Rather, we want to work with lawmakers to identify a solution to bridge the divide between residential planning/zoning terminology and federal appraisal and lending terminology.

### **Our Concern with SF 3964**

Developing, or having the legal ability to develop or redevelop, a residential lot beyond one-to-four single-family residential (SFR) dwelling units **may negatively impact the ability of the property owner to access traditional residential real estate financing** and could **prohibit a Licensed or Certified residential real estate appraiser from completing the assignment as a result of the highest and best use (H&BU) analysis.**

### **Why This Issue Matters**

- 5+ units ineligible for loans through Government Sponsored Enterprises (GSEs), and federal agencies
- Significantly increases financing & fees to consumers, reducing affordability
- Reduces the pool of state certified appraisers to complete residential assignments
- Increased cost of appraisals due to assignment complexity, requiring more analysis by appraisers

### **The Impact on Appraisers**

Laws that “upzone” residential property or increase densities to allow for more than one-to-four single-family residential dwelling units per residential lot **may preclude residential appraisers from appraising the properties, leading to delays in obtaining appraisals and higher appraisal fees.**

- A licensed or certified residential appraiser is generally limited by federal and state laws and policies to appraising properties consisting of one-to-four single-family residential dwelling units. Residential appraisers may also appraise vacant or unimproved land that can be legally utilized for one-to-four residential units, or for which the H&BU is for one-to-four residential units. SFR dwelling units include detached single-family houses as well as properties with up to four attached (consisting of either stacked, row, or clustered) homes including duplexes, triplexes, fourplexes, and small apartment buildings. (MN = 131 licensed appraisers and 855 certified residential appraisers)
- Any residential property with five or more separate and distinct residential dwelling units is considered a multifamily property requiring an appraisal by a certified general appraiser. (MN = 763 certified general appraisers)

Our concern is that a licensed or residential appraiser will be unable to perform appraisal assignments and H&BU analysis on properties above a one-to-four single family residential dwelling unit. Therefore, **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 Twin Cities area 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 **may preclude owners and buyers from accessing traditional single-family lending products.**

**If a property were to be redeveloped with something other than one-to-four single-family residential dwelling units, the loan would be ineligible for sale to Fannie Mae, Freddie Mac, the Federal Housing Administration, the U.S. Department of Veterans Affairs and all federally related financial institutions.**

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. Mortgage loans for residential property consisting of more than four single-family residential dwelling units are defined as multifamily loans and are not eligible for many single-family lending programs.

The Office of the Comptroller of the Currency’s *Comptroller’s Handbook* states:

*“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.”*

Regulations of the Consumer Financial Protection Bureau state:

*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).”*

Because residential real estate lending is limited to properties improved with one-to-four single family residential property dwelling units, property owners and buyers seeking to purchase or refinance a mortgage loan for a single-family residence could face difficulties accessing financing. **Anything more than one-to-four single-family dwelling units is considered a multifamily transaction and subject to completely different underwriting, lending, and appraisal standards.**

Further, the [Fannie Mae Selling Guide](#) states:

*“Fannie will only purchase or securitize a mortgage that represents the highest and best use of the site as improved.” In other words, the highest and best use of the property must be the current or proposed use as an existing dwelling unit for the loan to qualify for sale to Fannie Mae. For some properties impacted by “upzoning,” the highest and best use may no longer be as improved with a single-family residence. In addition, “Fannie Mae purchases or securitizes first-lien mortgages that are secured by residential properties when the dwelling consists of one to four units.”*

### **Suggested Solutions**

At this time, there is no federal guidance or solution in place from regulators or The Appraisal Foundation (sets appraisal standards) to bridge the gap we’ve identified.

In response to the unintended consequences, the city of Spokane, WA modified their ordinance to limit the maximum number of units to 1 - 4 on a SFR parcel, once they were alerted to the potential of more expensive costs, which reduces affordability.

For SF 3964, we suggest the committee adopt one of the two following technical amendments. They preserve the state's higher density goals, preserves the ability of property owners and prospective buyers to access traditional residential real estate lending products, will allow a residential appraiser to accept an assignment and perform the H&BU analyses to then be able appraise the property.

- Limit parcels to 1–4 unit densities so homeowners can access FRT financing at affordable interest rates.
- Follow the lead of California's law passed in 2021 (SB 9). It split SFR parcels near major traffic arteries into two separate parcels each supporting up to four units; satisfying most of the density objectives mentioned in the current bill.

From a regulatory perspective, we ask the committee to request that the Minnesota Department of Commerce (appraiser regulator) provide the industry with clarification that a residential appraiser can do the H&BU analysis on a residential lot where it is legally permissible to site more than 4 SFR du, 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 (but not all) already improved residential lots. There will be some residential lots where the H&BU will be for more than 4 SFR du. Those are going to become multifamily properties with multifamily lending, underwriting and appraisal requirements – and legitimately so as a residential appraiser has no business working on a transaction with 6, 8, or 10 unit buildings.

The key is for the residential appraiser to be able to get to "As Improved" (most likely with a SFR) as the H&BU so that they can legitimately check "Yes" on the H&BU box on the 1004 and 70.

Thank you for considering our testimony. Please let me know if you have questions.

Sincerely,



Executive Director