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To: Minnesota House Division on Local Government

Date: Wednesday, February 23, 2022

Subject: Written Testimony on HF 3256 - Legalizing Affordable Housing Act

Chair Masin, Vice Chair Elkins, and members of the Minnesota House Division on Local Government, thank you for the opportunity to provide written comments on HF 3256. HF 3256 is a major first step toward addressing Minnesota's housing challenge through modernizing the state's housing policies by strengthening the housing market, lifting unnecessary roadblocks, increasing housing affordability, and addressing racial inequities in housing.

On behalf of Zillow, we would like to express our appreciation to Representative Elkins for considering the important issues of housing affordability and racial equity by bringing this legislation forward. Zillow is committed to reducing barriers to housing by expanding access and addressing the critical shortage of inventory throughout the state of Minnesota.

As part of this commitment, our team of research economists examine housing market data and economic trends, and we share this research and data to help inform policymakers as they work to address the urgent housing issues facing our communities. 2021 was an unprecedented year for housing demand, coupled with a historic inventory shortage.¹

According to the Zillow Home Value Index, home values in the Minneapolis-St. Paul metro area have appreciated by 43% in the last five years, and 12% in the last year alone.² This has made homeownership increasingly unattainable as potential homebuyers face a combination of price increases and a shrinking supply of homes, and we expect home values will continue to climb in 2022, increasing by 16.4% by the end of the year when compared to 2021.³

This housing affordability crisis also perpetuates extreme economic and racial inequities in Minnesota's largest communities. Specifically, in the Minneapolis-St. Paul region, the Black homeownership rate is currently just 26%, compared to the white homeownership rate of 76%. This is the lowest Black homeownership rate and the largest gap between Black and white homeownership rates in the entire nation out of all 59 metropolitan areas studied in Zillow's research.

¹ <https://www.zillow.com/research/december-2021-market-report-30530/>

² <https://www.zillow.com/research/january-2022-market-report-30669/>

³ <https://www.zillow.com/research/december-2021-market-report-30530/>

The creation of new, “missing middle” housing options offers opportunities to ease these challenges and unlock homeownership for more Minnesota residents. According to our research, reforming residential zoning rules - even modestly - to allow for more housing construction and density , would be the most effective way to increase housing supply.

Unfortunately, Minnesota has experienced a massive shortfall in housing construction over the last decade-plus since 2008. Escalating housing prices across the country (including in the state of Minnesota) are closely tied to an ongoing inventory shortage, which is a function of both very high demand and not enough supply to meet that demand.

Over the last decade-plus, home builders simply are not building as many new housing units as they used to. If building permits had been issued at historic rates between 2008 and 2020, there would have been over 40,000 additional new housing units constructed in the Minneapolis-St. Paul region.⁴

Zillow's 2021 Home Price Expectations Survey polled housing experts and found that relaxing zoning rules to allow for more-efficient new home construction would be the most effective way to increase supply in a housing market facing historic inventory constraints.⁵ Reforming zoning rules to allow for even a modest amount of new density in overwhelmingly single-family dominant zoned communities could lead to millions of new housing units being built nationwide.

What’s more: there is broad public support for measures to create more housing inventory. A 2019 report issued by our research economists found that 57% of respondents in Minneapolis support constructing additional housing units in their communities.⁶

Single-family zoned neighborhoods account for the lion’s share of land in metropolitan America and, over the years these neighborhoods have generally become insulated from denser development by a thickening tangle of regulations. Thankfully, modest and straightforward zoning updates can be achieved without drastically changing neighborhoods.

According to Zillow’s research, out of 17 major metropolitan areas studied, the Minneapolis-St. Paul region has the fifth-highest proportion of housing units that were zoned for single-family use at 74% of the total housing units in the region. Minneapolis-St. Paul also had the lowest number of housing units located in two to 49 unit structures at only 16% of total housing units.⁷

Neighborhoods that are made up of mostly single-family detached homes are whiter and more racially segregated.⁸ In Minneapolis-St. Paul, while 76% of the population of the metropolitan area is white, the average neighborhood of single-family detached homes is almost 87% white.

⁴ <https://www.zillow.com/research/housing-permits-shortfall-2021-30373/>

⁵ <https://www.zillow.com/research/zhpe-zoning-housing-supply-q22021-29600/>

⁶ <https://www.zillow.com/research/missing-middle-housing-adu-26617/>

⁷ <https://www.zillow.com/research/modest-densification-new-homes-25881/>

⁸ <https://www.zillow.com/research/diverse-housing-racial-integration-27555/>

Under the status quo, Zillow estimates that the Minneapolis-St. Paul region is expected to add a little more than 380,000 housing units over the next two decades by 2040. The Metropolitan Council projects that the region's population will grow by roughly 563,000 between 2020 and 2040, so these housing units won't address the needs of future population growth, let alone begin to chip away at the current shortage of housing units for the region's current population.

Even by making relatively small changes to local zoning rules, such as allowing two housing units to be built on only one out of every ten lots zoned for single-family use, the region could add over 115,000 additional new housing units to this total - a 30% improvement over the status quo. Increasing density to allow four housing units to be constructed on the same number of single-family zoned lots could add over 345,000 additional new housing units by 2040 - a 91% improvement.

In addition to adding more housing units, allowing for some measure of modest densification is also likely to expand the range of homes available to would-be residents. While the status quo is likely to produce mostly single-family homes and units in large apartment buildings, modest densification would enrich the mix by creating more so-called "missing middle" housing in two to four unit buildings, and therefore unlock life's next chapter to persons of color - who have for too long faced barriers to home ownership.

Homes in duplexes, triplexes and small to medium-sized multi-family buildings are often more affordable - and therefore likely more accessible - for groups that may likely be able to afford less, have less savings or do not have access to the intergenerational wealth that would allow them to more readily afford a detached single-family home.

Reforming zoning laws to allow for more multi-family housing would be a major step forward in addressing housing inequities. As a result, HF 3256 is a major first step toward addressing Minnesota's housing challenge through modernizing the state's housing policies by strengthening the housing market, lifting unnecessary roadblocks, increasing housing affordability, and addressing racial inequities in housing.

Thank you for the opportunity to provide comments on this very important legislation and please feel free to reach out to us with any questions.



February 23, 2022

Re: City comments on HF 3256 (“Legalizing Affordable Housing Act”)

Dear Members of the House Local Government Division:

The League of Minnesota Cities, Coalition of Greater Minnesota Cities, Metro Cities, and Municipal Legislative Commission generally oppose HF 3256, but appreciate the attention in the bill to street improvement districts and street impact fees. Cities are concerned with the bill’s broad preemption of city land use and zoning authorities, particularly as they are unlikely to address important housing issues across Minnesota. Additionally, as some provisions only impact Metro-area cities, our comments focus on provisions with statewide implications for cities.

Housing is a statewide issue, and the best way to ensure that housing issues in the Metro area and greater Minnesota are adequately addressed is to approach statewide solutions to housing in a comprehensive way that: (1) address the full housing spectrum, (2) support local innovation, (3) provide incentives instead of mandates, and (4) provide community-specific solutions throughout Minnesota.

HF 3256 unfortunately falls short of a comprehensive approach, and does not guarantee housing affordability or more affordable housing. Instead, it preempts city zoning and land use authority. As you may know, zoning is an important planning tool that benefits communities economically and socially, improves health and wellness, and helps conserve the environment ([Zoning: Why It’s Important](#)). This bill would limit this beneficial tool by:

- Requiring any housing proposal contemplated by a comprehensive plan in the future be accepted now, even if needed infrastructure isn’t available to support this new development (it would also prohibit the opportunity to study impacts of such residential development)
- Capping land dedication and park dedication fees
- Requiring land dedication for streets to be no larger than 32 feet while limiting the ability for cities to require adequate off-street parking
- Requiring all cities to allow duplexes and accessory dwelling units (ADUs) in single-family zoned areas
- And more

Thank you for consideration of our concerns. We look forward to continuing to work with Rep. Elkins and other legislators to address housing challenges in cities across the state.

Sincerely,

Irene Kao
League of Minnesota Cities

Cap O’Rourke
Minnesota Association of Small Cities

Elizabeth Wefel
Coalition of Greater Minnesota Cities

Daniel Lightfoot
League of Minnesota Cities

Tom Poul
Municipal Legislative Commission

Patricia Nauman
Metro Cities

Charlie Vander Aarde
Metro Cities

RIGHTS, RESPONSIBILITIES, AND PREEMPTION IN MINNESOTA

SALIM FURTH

Senior Fellow, Urbanity Project, Mercatus Center at George Mason University

Minnesota House of Representatives, Local Government Division

February 23, 2022

Chair Masin, Vice Chair Elkins, and members of the Local Government Division, thank you for inviting me to comment on residential zoning. I study land use regulation and housing markets as codirector of the Urbanity Project at the Mercatus Center at George Mason University. The Mercatus Center is a research center dedicated to applying market-oriented academic ideas to real-world problems.

Local governments have power over land use, and they bear the final responsibility in using these powers justly. But the exercise of local land use authority relies on institutions designed by the state. Thus, the state legislature has the responsibility of adjusting institutions that are working poorly for citizens, markets, or local governments.

The bill before you, HF 3256, touches several aspects of the state's role in setting the framework for the exercise of local power over land use. It would limit the use of some fiscal tools and newly allow the use of others, preempt some zoning controls, and adjust the planning process.

LAND OF 10,000 PLANNED UNIT DEVELOPMENTS (PUDS)

Mounting evidence suggests that the institutions of development in suburban Minnesota are broken. An increasing number of suburbs are abandoning traditional zoning in favor of PUDs. PUDs are appropriate for unique or innovative projects, but they are an invitation to opaque policymaking and favoritism. In addition, the creation of a PUD agreement involves up-front administrative costs, making it uneconomical for small-scale builders.

PUDs used for routine subdivisions are a warning that something is not working as it should.

In the Twin Cities area, about half of recently built suburban single-family homes are in PUDs.¹ Table 1 shows the 10 most PUD-dependent cities.

1. In some cities, including Minneapolis, developments built under PUD agreements retain a conventional underlying zoning, so the data do not allow one to distinguish PUDs.

TABLE 1. NUMBER AND SHARE OF 2010S HOUSES IN PUDS

City	Houses	Share of houses in PUDs (percentage)
Chaska	931	97
Maple Grove	1,864	95
Carver	396	93
Blaine	2,935	91
Victoria	983	90
Rosemount	766	86
Savage	1,183	86
Dayton	479	86
Eagan	560	74
Lino Lakes	595	74

Note: This table includes only cities with at least 200 houses built in the 2010s. Data include houses built from 2010 to early 2019 on land zoned for residential use or for PUDs.

Source: Michael Corey and MaryJo Webster, tax appraisal records from metropolitan Minnesota counties and zoning maps from cities (data on file with author, n.d.).

Here, the problem appears to be that local governments cannot, using the fiscal tools the state has allowed them, make new development pay for itself. Instead, localities impose uneconomical zoning to force builders into PUD negotiations.

In addition, Minnesota suburbs, like many local governments nationwide, use zoning to curate which types of people can move to town. This is an inappropriate use of government power and tramples on property rights and fair housing principles.

To address these interrelated problems, HF 3256 proposes to empower local governments fiscally in exchange for limits on their ability to force developers into using PUDs, either as an explicit requirement or by setting minimum lot sizes uneconomically high so that land value can be unlocked only via a PUD.

MINIMUM LOT SIZES

The most universal form of residential land use regulation in the United States is minimum-lot-size requirements. In metropolitan Minnesota,² about 43 percent of houses built in the 2010s were on lots very close to, or significantly smaller than, the minimum lot size. In some cases, local governments routinely grant exceptions to their own minimum-lot-size requirements, resulting in noncompliant lots. In other cases, a large share of lots is very close to the minimum lot size. In either case, the data show that there is strong demand for lots smaller than the legislated minimums.³

2. The metropolitan area is defined in section 473.121 subdivision 2 and covers most of seven counties. Minn. Stat. § 473.121 (2021). My data cover the Metropolitan Urban Service Area.

3. The analysis used here follows a method developed in M. Nolan Gray and Salim Furth, "Do Minimum-Lot-Size Regulations Limit Housing Supply in Texas?" (Mercatus Research, Mercatus Center at George Mason University, Arlington, VA, May 2019).

Table 2 shows the 10 metropolitan cities with the highest share of newly built houses on lots that are either near or smaller than the minimum lot size. The list includes both Minneapolis and St. Paul, as well as eight suburbs. Minimum lot sizes vary within each jurisdiction, but all the suburbs have median minimum lot sizes between 9,000 and 15,000 square feet, or three to five homes per acre.

The additional cost of land can be substantial. Regulations that effectively add 1,000 square feet of land to the lot size increase the cost of a home by about \$10,000 in most jurisdictions, although the figure is as high as \$29,000 in Edina. In research undertaken in another context, I find that households rarely value extra yard space by as much as it costs.⁴

TABLE 2. CITIES WHERE MINIMUM LOT SIZES ARE TOO TIGHT FOR THE MARKET

City	Share of lots that are tightly zoned (percentage)	Share of lots that are noncompliant (percentage)	Median minimum lot size	Cost of 1,000 sq ft
Edina	14	37	9,000 sq ft	\$29,346
Woodbury	25	42	10,000 sq ft	\$12,907
Eden Prairie	33	19	13,500 sq ft	\$12,070
Minneapolis	55	9	5,000 sq ft	\$10,181
Minnetrissa	16	46	14,500 sq ft	\$10,063
Farmington	39	9	10,000 sq ft	\$9,246
St. Paul	59	5	5,000 sq ft	\$7,565
Dayton	17	54	15,000 sq ft	\$7,449
Forest Lake	20	47	15,000 sq ft	\$6,530
Rogers	33	34	15,000 sq ft	\$2,857

Note: Includes only houses built in 2010–2019 for which a minimum lot size can be identified and thus excludes most PUD zones. Tightly zoned lots are those with a lot size between 90 percent and 110 percent of the minimum. Noncompliant lots are those less than 90 percent as large as the published minimum. The fourth column lists the median minimum lot size that applies to recently built houses. The final column shows the median land value, as appraised for tax purposes, on these lots. Data include houses built from 2010 to early 2019 on land zoned for residential use or for PUDs.

Source: Michael Corey and MaryJo Webster, tax appraisal records from metropolitan Minnesota counties and zoning maps from cities (data on file with author, n.d.).

Thus, smaller minimum lot sizes would likely result in a more diverse housing stock, better value for home buyers, and new homes that are attainable to a greater number of Minnesota households.

CONCLUSION

Land use authority is not a purely local prerogative. It takes place within an institutional framework defined and regularly adjusted by the state. When warning signs emerge, such as the dominance of PUD regulation in growing metropolitan suburbs, the legislature should consider adjustments to those institutions to ensure that local land use authority can be used in ways that are fair, protect property rights, and serve the interests of Minnesotans.

4. Salim Furth, “Foundations and Microfoundations: Building Houses on Regulated Land” (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, October 2021).

Oppose the Authorization of MUNICIPAL STREET IMPROVEMENT DISTRICTS

House File 3256/Article 2

Building Owners and Managers Association of St. Paul

Care Providers of Minnesota

Greater Minneapolis Building Owners & Managers Association

Hospitality Minnesota

Housing First

LeadingAge Minnesota

Jewish Community Relations Council – Minnesota and the Dakotas

Minnesota Association of Realtors

Minnesota Auto Dealers Association

Minnesota Bankers Association

Minnesota Beverage Association

Minnesota Business Partnership

Minnesota Catholic Conference

Minnesota Chamber of Commerce

Minnesota Council of Nonprofits

Minnesota Funeral Directors Association

Minnesota Grocers Association

Minnesota Hospital Association

Marine Retailers Association of the Americas

Minnesota Multi-Housing Association

Minnesota Petroleum Marketers Association

Minnesota Private College Council

Minnesota Retailers Association

Minnesota Service Station Association

Minnesota Shopping Center Association

Minnesota Alliance of YMCAs

Minnesota Trucking Association

NAIOP: Commercial Real Estate Development Association

National Federation of Independent Business

National Marine Manufacturers Association

Pioneer Equipment Dealers Association

What the Proposal Does:

The proposed Municipal Street Improvement District provision provides broad authority to cities to impose a yet-to-be determined tax on property owners.

It allows *city councils* to impose an additional property tax.

Why We Oppose It:

This legislation creates an end-run around requirements imposed on cities under the special assessment laws designed to protect property tax payers.

Under the proposal, there is no need for the city to prove benefit to an affected property to justify imposing a new fee.

Cities are free to draw the taxing district in any shape, allowing them to impose the tax only on certain properties.

The mechanism for apportioning fees to parcels is based on a ambiguously-defined trip generation tool. The fees generated can be used to pay for improvements, such as sewers and trails, that have nothing to do with traffic counts.

Another taxing mechanism for cities is NOT NECESSARY. Cities already have numerous tools for financing transportation improvements, including:

- General Property Tax Revenue
- Special Assessments
- State Transportation Aid
- Special Service Districts
- Tax Increment Financing
- Property Tax Abatement
- Local Option Sales Tax

Fees levied in Municipal Street Improvement Districts do not sunset after a particular project has been paid for. Rather, once imposed, the fees can be collected from property owners for up to 20 years.

Furthermore, in 2016, the MN Supreme Court found a similar plan in St. Paul to be a function of the city's taxing authority and therefore UNCONSTITUTIONAL when applied to tax-exempt properties.

The Municipal Street Improvement District has been introduced and ***rejected 9 times in the last 11 biennia*** because legislators have BIPARTISANLY and CONSISTENTLY recognized that it is bad public policy that is wrong for Minnesota property owners!

Increasing Housing Affordability and Homeownership Access

HF 3256 (Elkins)

Minnesota's Housing Challenges

Currently, Minnesota stands approximately 60,000 housing units short of the necessary amount to achieve balance in our housing market.

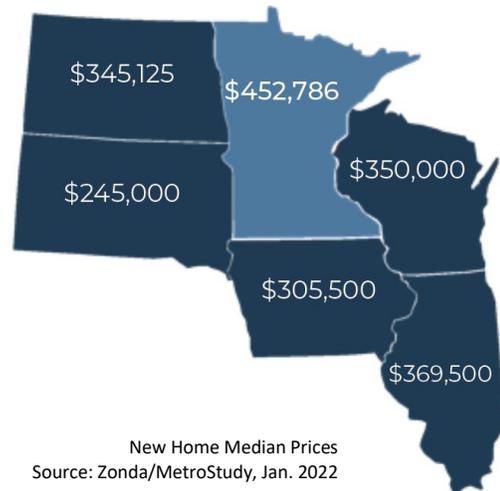
- **Worst** inventory of available for-sale homes in the nation for any major market.
- **Widest** homeownership gap in the nation for a major metropolitan area (Minneapolis-St. Paul).
- **Highest** regional new single-family detached home cost.

Without bold reforms to spur the building of tens of thousands of new homes, Minnesota cannot address these challenges head-on.

Bill Description

HF 3256 is the first major step toward addressing Minnesota's housing challenges through modernizing the state's housing policies. This comprehensive approach addresses several key areas where Minnesota's housing policies are increasing costs and preventing the creation of needed starter homes.

HF 3256 lifts unnecessary roadblocks, strengthens our housing market, increases housing affordability and makes Minnesota more competitive in the region. However, Articles 1 and 2 would add to the state's housing problems by creating new housing and property taxes that increase the cost of housing. In addition, Article 10 would create a new "energy cost disclosure requirement." This should be a homebuyer option, not a mandate.



How HF 3256 Increases Housing Access and Affordability

- Legalizes new starter homes by modernizing Minnesota’s land use practices.
 - Stops mandates for luxury material upgrades and other building code conflicts that drive costs.
 - Restores reasonable homeowner choice on home, garage, and lot size – allowing starter home options.
 - Reduces lot costs while ensuring that local governments can adequately fund infrastructure, parks and trails.
 - Ends “zoning by loophole” and aligns local controls to comprehensive plans.
-

Say Yes to Legalizing New Starter Homes

Increasing housing affordability and access to homeownership requires a sustained surge of new housing of all types, primarily those priced modestly and targeted toward first-time home buyers. HF 3256 takes a regional approach to housing and returns affordability and access into the housing market equation. As this bill moves forward we urge you to remove the provisions of the bill adding new housing and property taxes. Voting **YES** protects the dream of homeownership for future generations of Minnesotans.





Association of Minnesota Counties

February 22, 2022

Representative Sandra Masin
Chair, House Local Government Division
543 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Re: HF3256 (Elkins) Local Land Use and Building Permit Provision Modified

Dear Chair Masin and Committee Members:

The Association of Minnesota Counties (AMC), a membership-based organization representing all 87 Minnesota counties, appreciates the opportunity to offer comments on HF3256: Legalizing Affordable Housing Act; local land use and building permit provision modified.

AMC met with Representative Elkins last fall after he announced this proposal focusing on local government land use and permitting authorities. We appreciated his willingness to hear our concerns and HF3256 now includes some of the changes we discussed. We are still reviewing the bill updates and gathering feedback from our members, but there are a few items that we would like to raise for the committee's consideration now:

- Article 8, lines 19.31 – 21.6 would add building permits to the deadlines for agency action in M.S. 15.99: ***Review and decisions on building permits are not akin to the other actions in this section of statute.*** It would be difficult to complete all building permit work within these deadlines. This issue has been before the courts and building permits have been specifically excluded.
- Article 3, section 1, lines 7.10 – 7.21 addresses the relationship between county official controls and their comprehensive plan: ***Comprehensive plans are broad policy statements for future development and this language seems to suggest more specificity exists or that the plan should include more detail of how or when development might occur.*** In addition, official controls are already required to follow the comprehensive plan under case law.
- Article 1, lines 1.15 – 4.5 creates authority in M.S. Chapter 394 for counties to impose impact fees through the language in in the new Chapter 462E: ***Some counties may be interested in this authority, but we have questions about implementing this language and we are working on recommendations for improvement.***

Once again, we appreciate the opportunity to share our thoughts on the proposal and will share additional comments and recommendations with the author as work on this legislation continues. If you have any questions regarding AMC's position, please feel free to contact me at bmartinson@mncounties.org or 651-246-4156.

Sincerely,



Brian Martinson, Policy Analyst
Association of Minnesota Counties



February 18, 2022
VIA: Hand Delivered
RE: HF3256/SF3259

Dear Honorable Minnesota Senators and Representatives,

I am writing on behalf of the Vinyl Siding Institute (VSI) to express our support for HF3256/SF3259, the Legalize Affordable Housing Act. The vinyl industry is a significant contributor to the great state of Minnesota. VSI supports this bill because property owners, not city hall, should dictate home designs. Bans such as the ones currently in place needlessly add to Minnesota's housing issues.

VSI is the trade association for manufacturers of vinyl and other polymeric siding. As an organization, it is our goal to further the development and growth of the vinyl and polymeric siding industry by helping to develop material, product, and performance standards in cooperation with standards-making organizations and code bodies. We engage in product stewardship and various outreach activities. We also serve as an information resource to remodelers, builders, planners, designers, architects, elected officials, building code officials, distributors, homeowners, and other exterior cladding decision-makers on the facts about vinyl siding.

HF3256/SF3259 works to remedy the problem of local preemption of building materials and requirements approved by the Minnesota Building Code. Implementing unnecessary material requirements can significantly increase the cost of construction and limits the choice of homebuyers. Minnesota has the highest housing costs in the Midwest, and the Twin Cities has the widest housing equity gap in the state. Pre-pandemic Minnesota had the lowest available housing inventory in the nation. Local bans of code-compliant materials are hurting this great state by exacerbating its housing issues.

The VSI respectfully asks that you vote in favor of advancing HF3256/SF3259. Vinyl siding and other polymeric claddings are safe, durable, and allowed under the state building code. Thank you for any consideration you may choose to extend to this request.

Respectfully,

A handwritten signature in black ink, appearing to read "K. Offringa", written in a cursive style.

Kate Offringa
President and CEO



February 22, 2022

Dear members of the House Local Government Committee,

On behalf of AIA Minnesota's 2,300 architects and design professionals, we would like to underscore our support for the provisions of HF 3256 related to homeowners' disclosures of energy efficiency ratings and utility information (Article 10). AIA Minnesota's architects are committed to reducing the impact of the built environment on our changing climate, and we understand the connection between energy efficient operations and affordability.

As a design community, our goal is to create truly affordable housing, which means that its operation is as efficient and affordable as possible; helping homeowners understand where the home they are purchasing falls on the efficiency continuum can help them plan for expenses and efficiency improvements, and improve understanding of the ways day-to-day home operations impact our climate.

We would like to offer our thanks to Representative Elkins for his hard work on HF 3256 prior to, and during, this legislative session. Addressing the affordable housing crisis throughout the state of Minnesota will require innovative solutions that address all the complex facets of the problem, and we appreciate the opportunities to share our expertise and opinions as this bill takes shape.

We recognize there is not currently consensus on the entirety of HF 3256, and respect stakeholder's concerns with provisions in the bill. It is imperative we continue to work together to identify solutions to the incredibly challenging problem of resilient affordable housing. We hope you will support this bill today so that work can continue. Minnesota's architects stand ready to offer our expertise and will continue to support efforts to provide resilient, healthy, high-quality, truly affordable housing to all Minnesotans.

Thank you.

Sincerely,



Alicia Belton, FAIA, NOMA
President, AIA Minnesota



Mary-Margaret Zindren
Executive Vice President, AIA Minnesota