Thank you for allowing me the time to address your committee regarding HD 1330.

About myself and EagleRidge Development.

I am a real estate developer with more than 30 years of development experience in Wyoming, Arizona and North Dakota, but primarily in the Fargo and West Fargo area. Over the years myself, along with my team at EagleRidge Development have developed over 3,000 single family residential lots AND more than 3,000 apartment units in the Fargo and West Fargo community. We have developed more than 250,000 feet of office and commercial space as well. My quick math indicates that over the years I have been assessed more than $150,000,000 for municipal improvements. In the 30 years prior to 2022 I never once objected to the allocation of special assessments by any City in North Dakota.

Sheyenne Road redevelopment project.

In 2019 West Fargo decided to rebuild Sheyenne Street, a significant arterial road. This project was published, advertised, and bid in 2019. At the time this project was introduced to the public, West Fargo's assessment policy was similar to that of its surrounding communities. Construction was completed in 2021. After the project was completed, there was a significant amount of public outcry as the preliminary specials were much higher than originally projected. After the pushback from its residents, West Fargo, in June of 2022 adopted a new special assessment policy that radically changed the formula to determine the benefit to its property owners. Instead of utilizing the method used by its neighbors (and West Fargo itself for over 20 years) West Fargo decided to look to the *use* of a property rather than the size or front footage of property itself to determine benefit. this new policy caused the assessments for multi family property to increase, in some cases by 1000%. With the increased burden to its multi family properties, the assessments to single family homes dropped by 50%. The bigger burden on apartments also caused commercial and industrial assessments to drop, but by a smaller percentage.

We believe the new method utilized by West Fargo is unfair and most likely contrary to statute for a number of reasons. These include:

Assessing the use of a property was not the intent of the law. This new apportionment method conflicts with longstanding North Dakota law that establishes that an improvement's benefit to an affected property must be analyzed considering the property itself, not the current use of the property. *Chernick v. City of Grand Forks*, 210 N.W.2d 73, 81 (N.D. 1973)(rejecting contention that "the lot involved is not benefited by the improvement, owing to its present particular use"; the "benefit is presumed to inure not to the present use, but to the property itself.") Historically, special assessment apportionments have been tied to the size of the property (e.g., square footage or lineal frontage). This method of apportioning costs fairly distributes the cost of the improvement to the property itself, rather than its current use. The Special Assessment Commission's deviation from this method was improper.

<u>Changing the assessment method after the project is complete is patently unfair</u>. When West Fargo initially presented the project and the anticipated costs to the public, it was presented and calculated using its longstanding assessment method. Taxpayers had at least a general sense of what the cost would be when they determined whether they wanted to protest the project, or let it proceed. Making a change to the assessment method <u>*after the fact*</u> is at the very least misleading. How could a taxpayer ever have certainty that the method of assessment would not be drastically different if the City experiences cost overruns or just simply wants to penalize a particular zoning class? Taxpayers deserve to know what they are in for when deciding if a municipal improvement project is a good idea.

<u>The new assessment policy will lead to wildly varying and unfair assessments</u>. Attached is a map showing the assessments to a number of properties along Sheyenne Street as determined by West Fargo's new formula. There is no logical relationship between the front footage, area and the assessments. As a result, the taxpayers on the West side of Sheyenne pay a much larger portion of the road cost than the currently unzoned, or single family zoned property on the East side of the road. What happens when the property on the East side is ultimately developed, perhaps as multi family property? They may have the same "use" but they would not get assessed in the same manner. Instead, they get a much lower assessment for these improvements. This gives property zoned for multifamily use later in time an unfair advantage over properties currently zoned (used) for multifamily housing.

Additionally, West Fargo is assessing vacant multi family land <u>*as if they will one day hold the maximum number of units allowed by their zoning*</u>. This is entirely speculative and will undoubtedly turn out not to be the case. Over time, (and at any time), these properties may be rezoned for an entirely different used before they are one day developed. Meanwhile, vacant single family lots only get assessed as if they will have one house, regardless of what is ultimately built upon the lot.

<u>West Fargo does not consider the cost of providing municipal services to single family properties</u>. West Fargo will defend its policy claiming that it only wants the apartment owners to pair their "fair share". Unfortunately in making this claim, West Fargo fails to consider actual cost of municipal improvements associated with single family construction. On a per unit basis, single family homes cost a city much more to service than apartments. I asked my development director, Jonathan Youness to compare the municipal improvement costs for two of my recent West Fargo projects. The amount and cost of municipal improvements is described in the chart below. The difference in cost is astounding. You will see that apartments are much more efficient for a city to serve than an equivalent number of single family homes.

For 200 apartment units at the Northern Lights, the city needs 668 feet of sewer and water main. For 270 units of single family housing, the city needs more than 46,000 feet of sewer and water pipe. The cost of service to a single family home is nearly 50 TIMES the cost of serving an Urban Mixed Use apartment, These are rough numbers, but they are accurate. Under its current policy, West Fargo is essentially requiring its apartment owners (and by extension renters – many of whom are on a fixed income) to subsidize single family homes. This is not only unfair, but bad public policy.

| Residential Utility Footage Analysis (water and Sewer) | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Desc. | Total Residential Units | Total Land Area (acres) | Sanitary Sewer Infrastructure Cost | Water Main Infrastructure Cost | Linear Foot of Pipe Req'd | Total LF per Residence | Infrastructure Cost per Unit | 200 Unit Equivalent |
| Typical Single Family Development | 270.00 | 70.00 | $ 1,444,528.00 | $ 1,276,775.00 | 46,029.00 | 170.48 | $ 10,078.90 | $ 2,015,780.00 |
| Traditional Multi-Family | 120.00 | 10.00 | $ 64,608.96 | $ 61,440.44 | 2,134.00 | 7.90 | $ 466.85 | $ 93,369.93 |
| Urban Mixed Use | 196.00 | 2.61 | $ 19,739.95 | $ 19,693.19 | 668.00 | 3.41 | $ 201.19 | $ 40,237.89 |
| | | | | | | | | $ 2,149,387.82 |

| Land Area Example | | 200 Unit Equiv. |
|---|---|---|
| Typical Single Family Development | 70.00 | 51.85 |
| Traditional Multi-Family | 10.00 | 16.67 |
| Urban Mixed Use | 2.61 | 2.66 |
| Total Land Area | 82.61 | **71.18** |
| Total Project Cost | $2,886,785.54 | $ 2,149,387.82 |
| **Typical Single Family Development** | **$2,446,132.28** | **$ 1,565,705.90** |
| **Traditional Multi-Family** | **$ 349,447.47** | **$ 503,262.61** |
| **Urban Mixed Use** | **$ 91,205.79** | **$ 80,419.31** |

| West Fargo Equivelant Unit Example | | 200 Unit Equiv. |
|---|---|---|
| Typical Single Family Development | 270.00 | 200.00 |
| Traditional Multi-Family | 72.00 | 120.00 |
| Urban Mixed Use | 117.60 | 120.00 |
| Total Project Units | 459.60 | 440.00 |
| Total Project Cost | $2,886,785.54 | $ 2,149,387.82 |
| **Typical Single Family Development** | **$1,695,892.29** | **$ 976,994.46** |
| **Traditional Multi-Family** | **$ 452,237.94** | **$ 586,196.68** |
| **Urban Mixed Use** | **$ 738,655.31** | **$ 586,196.68** |

Taxpayers deserve the assurance that they will be treated fairly by every level of government. They deserve to be treated in the same manner as other taxpayers. If cities are allowed to assess property in new, novel and punitive ways, it will only lead to unfair results. The changes we have proposed and that are contained in HB 1330 are not designed to penalize cities or limit the use of special assessments as a funding mechanism. Rather they are designed to insure that cities continue to assess property owners in a consistent manner that accurately reflects the benefit to the property itself, not its current or anticipated future use. For the above reasons, I respectfully ask that you consider the proposed changes to the NDCC 40-23-07 contained in HB 1330. If you would like additional information, please just let me know. I can try and answer any questions you may have at this time. Thank you.

Special Assessments using the West Fargo Policy