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July 13, 2022

Northfield Charter Commission
801 Washington Street
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*Via U.S. Mail and
Via Email to Lance Heisler, Chair, at
lheisler@lampelaw.com*

RE: Addendum to Legal Opinion dated June 28, 2022
Our File No.: 3170.001

Dear Commission Members:

This correspondence is provided as an addendum to my legal opinion letter dated June 28, 2022. At Chair Heisler's request, I have reviewed the Minnesota Court of Appeals opinion in *Motokazie! Inc. v. Rice County*, 824 N.W.2d 342 (Minn. App. 2012). In *Motokazie!*, the court analyzed whether a Rice County ordinance that required a supermajority vote for a zoning amendment was superseded by Minnesota Statute § 375.51, subd. 1, which requires a county ordinance to be "enacted by a majority vote of all the members of the county board unless a larger number is required by law." The court concluded that the ordinance's supermajority requirement did not conflict with the state law, and was therefore valid. *Id.* at 350.

My legal opinion remains unchanged after reviewing the *Motokazie!* decision. The facts and analysis in *Motokazie!* are distinguishable from the question presented by the Commission for the following reasons:

1. The first basis on which the court upheld the county ordinance over state statute was its determination that there is broad authority in Chapter 394 for counties to adopt procedures and rules for land development and administration of official controls. There is not the same broad grant of authority in the Municipal Planning Act, Chapter 462 ("MPA") as applied to cities. In fact, Minn. Stat. § 462.351 specifically states that the intent of the MPA is to provide municipalities with a "single body of law" and "a uniform procedure for adequately conducting and implementing municipal planning." Chapter 394 does not include any similar language, so perhaps provides counties with broader authority than Chapter 462 does for cities.¹

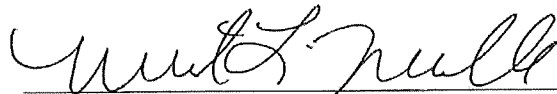
¹ The *Motokazie!* court did not engage in the traditional preemption analysis or make any conclusions based on preemption.

2. The second basis on which the court upheld the ordinance was its interpretation of the specific language of Minn. Stat. § 375.51. Section 375.51 states that a majority vote is required for zoning amendments “unless a larger number is required by law.” The Court concluded that the county ordinance was a “law” that could increase the vote requirement. Section 462.357, subd. 2(b), in contrast, does not contain any similar language or exception and therefore does not give a municipality the same authority to require a larger number of votes than the simple majority required.

The *Motokazie!* court did not discuss, let alone overrule, the conclusion in *City of Richfield v. Nordmarken* that the Municipal Planning Act preempts a conflicting provision of a city charter. *Nordmarken* is still good law and directly on point with the issue presented by the Commission. The *Motokazie!* opinion therefore does not change my legal opinion that the simple majority requirement for zoning amendments found in Minn. Stat. § 462.357, subd. 2(b) governs over the two-thirds majority requirement of the Northfield City Charter.

Sincerely,

GREGERSON, ROSOW, JOHNSON & NILAN, LTD.


Margaret L. Neuville

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My legal opinion remains unchanged after reviewing the *Motokazie!* decision. The facts and analysis in *Motokazie!* are distinguishable from the question presented by the Commission for the following reasons:

1. The first basis on which the court upheld the county ordinance over state statute was its determination that there is broad authority in Chapter 394 for counties to adopt procedures and rules for land development and administration of official controls. There is not the same broad grant of authority in the Municipal Planning Act, Chapter 462 ("MPA") as applied to cities. In fact, Minn. Stat. § 462.351 specifically states that the intent of the MPA is to provide municipalities with a "single body of law" and "a uniform procedure for adequately conducting and implementing municipal planning." Chapter 394 does not include any similar language, so perhaps provides counties with broader authority than Chapter 462 does for cities.¹

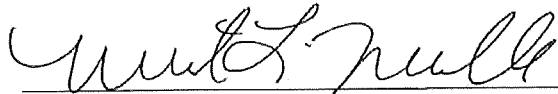
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2. The second basis on which the court upheld the ordinance was its interpretation of the specific language of Minn. Stat. § 375.51. Section 375.51 states that a majority vote is required for zoning amendments “unless a larger number is required by law.” The Court concluded that the county ordinance was a “law” that could increase the vote requirement. Section 462.357, subd. 2(b), in contrast, does not contain any similar language or exception and therefore does not give a municipality the same authority to require a larger number of votes than the simple majority required.

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