

2013 HOUSE FINANCE AND TAXATION

HB 1046

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1046
January 14, 2013
Job #17146

Conference Committee

Committee Clerk Signature

Mary Brucher

Explanation or reason for introduction of bill/resolution:

A Bill relating to city or county authority to reduce or revoke a previously granted property tax exemption or option to make payments in lieu of taxes; and to provide an effective date.

Minutes:

Attached testimony #1

Chairman Belter: Opened hearing on HB 1046.

John Walstad, Legislative Counsel: Handed out attached testimony from Clarice Liechty from Jamestown. The bill draft arose during an interim committee discussion because of a situation that Liechty pointed out regarding a property tax exemption or a new construction. She was the mayor at the time this came out and she supported it. Since that time she felt that the owner of the property is not using the property in the way she thought it was going to be used. She is no longer mayor or a member of the counsel so she made a complaint regarding the use of the property being incompatible with the exemption that was granted. Then there was some discussion with lawyers. The attorney for the city of Jamestown did some checking with the attorney general's office and the general policy is that political subdivisions have only those powers that are expressly given to them by the legislature in statute. The legislature gave political subdivisions the authority to grant property tax exemptions for economic developments reasons or whatever. But there is nothing in there saying that political subdivisions can take it back if the person who is getting the benefit is doing something that was not anticipated. The interim committee did not want to weigh in on the particular circumstances that Liechty pointed out but they felt that there is a possibility of abuse once a property tax exemption is granted and they can last five years for an exemption; 10 years for an exemption if it's agriculture processing and 20 years under payments in lieu of taxes. If a city does that and it stuck with it then the property owner can do whatever with the property and the exemption is still in place. So the committee's concern was to deal with future situations if they should arise under which a city or county has granted an exemption and then the person who is developing the property doesn't follow through. On page 3 of the bill is the language that matters. It gives a governing body an option to reduce or revoke a property tax exemption. There are four circumstances that would give justifiable cause for the governing body to do that. One is the information provided by the project operator has proven to be inaccurate or untrue. The second one is the use of the property by the project operator doesn't comply with the reasonable expectations of the governing body at the time the exemption or the payment in

lieu of taxes is approved. Basically they have to have reasonable grounds when they granted the exemption that this is what we thought we were giving the exemption for. Here is what our expectation was that you were going to do with that property and even hire eight employees as part of his project. If those expectations don't develop the exemption or payment in lieu of taxes could be revoked or reduced. The third one is that the property was improved to a substantially greater extent than the governing body thought they were approving. Then the fourth one is change of ownership. The law already provides that. If the project operator sells the property the new operator who acquired that property would not be bound by any promises made in getting the exemption. That new operator would have to come back to the governing body to get an extension for that person's ownership of it.

Chairman Belter: Are there any questions? Any further testimony in support of 1046?

Jerry Hjelmsted, North Dakota League of Cities: I think HB 1046 clarifies the authority for a city or county to revoke an exemption of a previously granted (inaudible). One concern is that by having just the four we're not sure if that's covering all the bases. We'd like to have some language about negotiating an agreement with the project developer. The reasons contained in the negotiated agreement could be to revoke the exemption phase of the negotiated agreement.

Chairman Belter: Are you going to provide the committee with those amendments?

Jerry Hjelmsted: I can put together an amendment and get back to you.

Chairman Belter: Thank you. Is there any further testimony on 1046? Any opposition to 1046? Any neutral testimony on 1046?

Susan Beehler, Mandan: Neutral testimony. One of the things with working with property taxes in Mandan they have come up with a property tax exemption policy. I don't think they've had to revoke anybody's property tax exemption but they've had letters of understanding with the developer that they were going to give the property tax exemption. The city of Mandan did that as a claw back provision. I would like to see that if someone had a policy that would be allowed. For Mandan some of this is different. We don't have a place to shop and so some of the property tax exemptions have been based on the type of business that they will give an exemption too. I would like that not to be vacated with a new law. I don't know the legalities of the law but if a community has something in provision about how Jerry mentioned I think we would then be able to keep that. Maybe the attorneys could figure something out on that.

Chairman Belter: Any other neutral testimony on 1046? If not we will close the hearing on 1046.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1046
January 16, 2013
Job #17270

Conference Committee

Committee Clerk Signature

Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to city or county authority to reduce or revoke a previously granted property tax exemption or option to make payments in lieu of taxes.

Minutes:

Attached amendment #1.

Chairman Belter: Opened hearing on HB 1046.

Vice Chairman Headland: There is an amendment in here that I'm not sure where it came from.

Will, Legal Intern: That was handed out by me (in audible) from Jerry Hjelmstad.

Chairman Belter: Is everybody comfortable with the amendment? On page 3 line 14 after the word "year" insert "for reasons specified in a negotiated agreement or".

Representative Klein: Made a motion to move the amendments.

Representative Hatlestad: Seconded.

Chairman Belter: Verbal vote: Ayes 14 Nays 0 MOTION CARRIED.

Representative Drovdal: Made a motion for DO PASS AS AMENDED.

Representative Froseth: I don't know where I got this from but I have it written down on page 1 line 13 the change of word from "may" to "shall or must" but I don't know where it came from.

Chairman Belter: I think that came in an email suggestion from Clarice Liechty from Jamestown.

Representative Marie Strinden: She is talking about page 3 line 13 and 14 and instead of having the word "may" have the word "shall".

Vice Chairman Headland: That's telling them that they have to.

Chairman Belter: Any other discussion? If not do I have a second motion for a do pass as amended?

Representative Haak: Seconded.

Chairman Belter: Will the clerk read the roll for a DO PASS AS AMENDED. YES 14
NO 0

Representative Hatlestad will carry the bill.

FISCAL NOTE STATEMENT

Senate Bill or Resolution No. HB 1046

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, school districts, or townships. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

Becky Keller
Senior Fiscal Analyst

13.0052.02002
Title.03000

Adopted by the Finance and Taxation
Committee

January 16, 2013

VK
1/16/13

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1046

Page 3, line 14, after "year" insert "for reasons specified in a negotiated agreement or"

Renumber accordingly

Date: 1-16-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1046

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number

*Withdrawn
to discuss.*

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By R. Drovdal Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 1-16-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1046

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By R. Klein Seconded By R. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) 14 No 0

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Verbal Vote → All Yes → Motion Carried

Date: 1-16-13
 Roll Call Vote #: 3

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1046**

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By R. Drovdal Seconded By R. Strinden ^{Haak}

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter	✓		Rep. Scot Kelsh	✓	
Vice Chairman Craig Headland	✓		Rep. Steve Zaiser	✓	
Rep. Matthew Klein	✓		Rep. Jessica Haak	✓	
Rep. David Drovdal	✓		Rep. Marie Strinden	✓	
Rep. Glen Froseth	✓				
Rep. Mark Owens	✓				
Rep. Patrick Hatlestad	✓				
Rep. Wayne Trottier	✓				
Rep. Jason Dockter	✓				
Rep. Jim Schmidt	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment R. Hatlestad

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1046: Finance and Taxation Committee (Rep. Belter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1046 was placed on the Sixth order on the calendar.

Page 3, line 14, after "year" insert "for reasons specified in a negotiated agreement or"

Renumber accordingly

2013 SENATE FINANCE AND TAXATION

HB 1046

2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee

Lewis and Clark Room, State Capitol

HB 1046

3/6/2013

Job Number 19484

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 40-57.1-03 of the North Dakota Century Code, relating to city or county authority to reduce or revoke a previously granted property tax exemption or option to make payments in lieu of taxes; and to provide an effective date.

Minutes:

Chairman Cook opened the hearing on HB 1046.

John Walstad, Legislative Council, introduced HB 1046.

Chairman Cook - When I look at the effective date I'd say that this bill would allow the city of Mandan to then do what their attorney has told them they cannot do and that is go revisit that property and if there was still a time period left on the exemption they could remove it from that existing property, right?

John Walstad - That is correct. It was written so that it wouldn't undo any of the years of exemption that have already been allowed, but if the exemption is still in place for tax year 2014 then the governing body could use these provisions.

Chairman Cook - If the governing body elects not to change the exemption is there any recourse? It's still a subjective decision by the body, right?

John Walstad - That's right.

Senator Triplett - It seems to me that if we pass this bill in this form it would encourage municipalities to enter in to really specific contractual agreements about what the expectations are. I would think that the people coming to ask for the exemptions would want that in order so they wouldn't have it taken away from them at some point in the future so it probably wouldn't actually be used that much but my expectation would be that it would encourage more clarity in the granting of the exemptions up front. Would that be your assessment?

John Walstad - Yes I think that would be the result. I don't think cities and counties would just rely on this language, I think it's more of a heads up, hey, governing body, you might

want to think about what happens if this promise doesn't come true and then contractual agreements would be the appropriate way to do those so you could tailor it to the specific situation that the promoter is promising.

Senator Triplett - It also seems like it would discourage the developers from a certain amount of puffery that goes on in their presentations to local governments.

Connie Sprynczynatyk, North Dakota League of Cities - I have personal experience sitting on a board and dealing with these requests for exemptions. Claw back provisions despite any puffery that might be present when somebody presents a project claw back provisions are not all that uncommon but this does provide a mechanism to take back that property tax exemption and we had claw back provisions when I was on the commission all the time. This is a special question and thank you for not getting in to the merits of any presenting reason for the interim study but we think it's a good move.

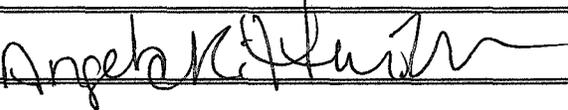
Chairman Cook closed the hearing on HB 1046.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB 1046
3/25/2013
Job Number 20418

Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 40-57.1-03 of the North Dakota Century Code, relating to city or county authority to reduce or revoke a previously granted property tax exemption or option to make payments in lieu of taxes; and to provide an effective date.

Minutes:

Chairman Cook opened discussion on HB 1046.

Senator Oehlke - I'll move a **Do Pass**.

Seconded by **Senator Dotzenrod**.

Roll Call Vote 7-0-0

Carried by **Senator Dotzenrod**.

FISCAL NOTE STATEMENT

Senate Bill or Resolution No. HB 1046

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, school districts, or townships. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

Becky Keller
Senior Fiscal Analyst

Date: 3-25-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1046

Senate Finance & Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Senator Oehlke Seconded By Senator Dotzenrod

Senators	Yes	No	Senator	Yes	No
Chairman Dwight Cook	X		Senator Jim Dotzenrod	X	
Vice Chairman Tom Campbell	X		Senator Connie Triplett	X	
Senator Joe Miller	X				
Senator Dave Oehlke	X				
Senator Randy Burckhard	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Dotzenrod

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1046, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman)
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1046 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

HB 1046

/
Walstad, John M.

From: Clarice Liechty <clarice_liechty@yahoo.com>
Sent: Sunday, January 13, 2013 10:13 AM
To: Belter, Wesley R; Headland, Craig A.; Walstad, John M.; Dockter, Jason D.; Haak, Jessica E.; Hatlestad, Patrick R.; Kelsh, Scot R.; Klein, Matthew M.; Owens, Mark S.; Schmidt, James E.; Strinden, Marie J.; Trottier, Wayne A.; Zaiser, Steve L.; Froseth, Glen A.; Drovdal, David O.
Cc: Grabinger, John; Wanzek, Terry M.; Pollert, Chet A.; Fong, Cory G.; Strinden, Lauren; - Info-Governor's Office; Goehring, Doug C.; Peterson, Robert R.; Schmidt, Kelly L.; Looyesen, Alex
Subject: Testimony on HB1046 January 14,2013

Dear Chairman Belter, Vice Chairman Headland, and the Taxation Committee and Mr. Walstad,

I am not in North Dakota so I am unable to attend your taxation committee meeting tomorrow, the 14th, on HB 1046.

I am Clarice Liechty from Jamestown have been working with the legislative interim taxation committee regarding the city, county, and state government authority (and their equalization board's authority) to revoke a property tax exemption and payment in lieu of taxes previously granted when the one receiving the exemption does not follow through with what was agreed at the time the exemption was granted.

I appreciate all the work the taxation interim committee has done regarding this legislation with HB 1046.

The following paragraph is from my email my testimony of May 2, 2012 testimony regarding the word **may** and is my testimony comment today.

"On line 13 and 14 the word **may** is inserted. From my perspective, the word **shall or must** should be inserted rather than the word **may**. With the word **may**, the city or county has no requirement to investigate to determine if the information provided by the project operator is inaccurate or untrue. Using the word **shall or must** requires them to gather information and/or require certain information from the project operator to be able make a determination if the project operator has complied with his/her written and verbal testimony (promise)."

The email testimony below from September 10, 2012 and May 23, 2012 also stands as testimony today that hopefully gives you an understanding of my rational.

Hopefully to give you some perspective - I will also be emailing to you in another email which is the last letter I wrote to the State Tax Equalization Board and their belated response from Tax Commissioner Cory Fong.

Thank you for your work. We do need tax fairness in North Dakota.

Sincerely,
Clarice Liechty
PO Box 467
Jamestown, ND 58402-0467
701-320-5745

----- Forwarded Message -----

From: Clarice Liechty <clarice_liechty@yahoo.com>
To: "Walstad, John M." <jwalstad@nd.gov>; Craig Headland <hhgnc@daktel.com>; Craig Headland <theadland@nd.gov>; David Hogue <dhogue@nd.gov>; Dwight Cook <dcook@nd.gov>
Sent: Monday, September 10, 2012 11:53 PM
Subject: I cannot come to the taxation committee meeting tomorrow.- read my comments please.

Dear Mr. Walstad, Senator Houge, Representative Headland, Senator Cook, and the Taxation Committee,

My plans were to come to the Taxation Committee tomorrow Sept 10th, but I had cataract surgery on September 6th that was unsuccessful making it impossible for me to Bismarck.

My hope is that you and your committee will push for tax fairness and tax reform . I have recently run my personal tax issue, of a tax exemption granted and no performance by the person getting the tax exemption, through the city, county and state tax equalization committees for the second time. And to the ND Human Services who granted the assisted living license. All to no avail.

It was during the last legislative session that the legislators adopted the Latin works translated - "One sows for the benefit of another." But in action it is - "One's sow for the benefit of another." As you can understand - someone is making a pig of themselves by eating my sow. You are the people who can make and change the tax laws. See my comments below in my previous email to you

Pleading for your favor and mercy.
Clarice Liechty
Jamestown

From: Clarice Liechty <clarice_liechty@yahoo.com>
To: "Walstad, John M." <jwalstad@nd.gov>
Sent: Thursday, May 24, 2012 5:42 PM
Subject: Re: Testimony for the Interim Taxation Committee Meeting May 29, 2012

Thank you.
Clarice

From: "Walstad, John M." <jwalstad@nd.gov>
To: Clarice Liechty <clarice_liechty@yahoo.com>

Sent: Thursday, May 24, 2012 9:48 AM

Subject: RE: Testimony for the Interim Taxation Committee Meeting May 29, 2012

Hi Clarice- I will distribute your letter to the Taxation Committee. I will go over your suggested changes with them so they understand what you are suggesting. Thanks for your comments.

John Walstad
Code Revisor
North Dakota Legislative Council
600 E. Boulevard Avenue
Bismarck, ND 58505

From: Clarice Liechty [mailto:clarice_liechty@yahoo.com]

Sent: Wednesday, May 23, 2012 1:49 PM

To: Walstad, John M.; Hogue, David J.; Headland, Craig A.; Cook, Dwight C.

Subject: Testimony for the Interim Taxation Committee Meeting May 29, 2012

Dear Mr. Walstad and the Taxation Committee,

I sincerely appreciate the effort you and the Interim Taxation Committee has made to draft legislation to put into law the granting of the authority for the city and county to **revoke** a previously granted property tax exemption and payment in lieu of taxes.

I will not be able to attend the taxation committee meeting on May 29th.

The following are my comments to the committee regarding the First Draft of 13.0052.01000

Several times in N.D.C.C. 40-57.1-03 the words may, shall, and must are used.

In addition to page 1 line 7 inserting the words **or revoke** in the proposed draft, on page 3 starting with line 10 through line 26 new language is inserted into the law.

On line 13 and 14 the word **may** is inserted. From my perspective, the word **shall or must** should be inserted rather than the word **may**. With the word **may**, the city or county has no requirement to investigate to determine if the information provided by the project operator is inaccurate or untrue. Using the word **shall or must** requires them to gather information and/or require certain information from the project operator to be able make a determination if the project operator has complied with his/her written and verbal testimony (promise).

Also at the end of line 18 and line 21, the word **or** should be inserted.

As for the Memorandum for the Interim Taxation Committee that addresses the Issue of the Lack of Authority of the SBOE to reverse New Business Incentives - Regarding his analysis of N.D.C.C. 40-57.1-03 Legal Counsel Daniel L Rouse writes, "However, there is no legislative history --express or implied-- in either Senate Bill 2294, or in any other statute, to indicate that the Legislative Assembly ever intended decisions of local governing bodies whether to grant business incentives should be subject to review by the State Board of Equalization (SBOE)."

From my perspective, I put forth that an aggrieved business or individual (such as myself) has no recourse beyond the city and county equalization boards, if the State Board of Equalization does not have the authority to require the city (municipality) nor the county to determine if a project operator is

complying with his/her promise (written and verbal testimony) to deliver a certain product or a service. I am asking that this authority through legislation be granted to the SBOE.

Because the city of Jamestown has again refused to investigate the tax exemption granted to my competitor, and to determine if my findings that he is not complying are correct, I am paying \$1,356.93 property tax per unit per year and my competitor is paying \$595.14 per unit per year. I am paying \$798.13 more per unit per year. Our rents are similar. Our buildings were opened up for renters at the same time.

The following is from the January 19, 2011 Taxation Committee minutes - .

Senator Cook said the correspondence provided by Ms. Liechty raises some issues that should be considered. He said the committee should delve into this issue regarding authority of the State Board of Equalization, and whether statutory provisions adequately address remedies to require a project operator to live up to promises made in obtaining a property tax exemption. He said a question also was raised about why an assisted living facility license would be granted to a facility that is not providing assisted living services. Chairman Hogue said the issue of licensing of assisted living facilities would be outside the committee study coverage, but the taxation issues should be explored.

I have written a letter to Ms. Carol Olson Director of Human Services concerning this matter and am waiting for a response.

Thank you for the work you are doing.

Sincerely,
Clarice Liechty
PO Box 467
Jamestown, ND 58402-0467
701-320-5745 cell

From: "Walstad, John M." <jwalstad@nd.gov>
To: Clarice Liechty <clarice_liechty@yahoo.com>
Sent: Monday, March 26, 2012 8:07 AM
Subject: RE: email me - memorandum and bill draft re revoking property tax exemptions

Clarice- Here are the documents. Thanks for coming out for the meeting.

John Walstad
Code Revisor
North Dakota Legislative Council
600 E. Boulevard Avenue
Bismarck, ND 58505

From: Clarice Liechty [mailto:clarice_liechty@yahoo.com]

Sent: Friday, March 23, 2012 3:18 PM

To: Walstad, John M.

Subject: email me - memorandum and bill draft re revoking property tax exemptions

Dear John,

Please email me the memorandum and the bill draft relating to circumstances in which cities or counties would have authority to revoke or reduce property tax exemptions...or Payment in lieu of taxes previously granted.

Thank you,
Clarice Liechty

Walstad, John M.

From: Clarice Liechty <clarice_liechty@yahoo.com>
Sent: Sunday, January 13, 2013 10:21 AM
To: Belter, Wesley R; Headland, Craig A.; Walstad, John M.; Dockter, Jason D.; Drovdal, David O.; Froseth, Glen A.; Haak, Jessica E.; Hatlestad, Patrick R.; Kelsh, Scot R.; Klein, Matthew M.; Owens, Mark S.; Schmidt, James E.; Strinden, Marie J.; Trottier, Wayne A.; Zaiser, Steve L.
Cc: Looyesen, Alex; Wanzek, Terry M.; Pollert, Chet A.; Strinden, Lauren; -Info-Governor's Office; Fong, Cory G.; Goehring, Doug C.; Schmidt, Kelly L.; Peterson, Robert R.; Grabinger, John
Subject: email from Tax commissioner Fong to me - Fw: tax protest

Dear Taxation Committee,

This is the email I received from Tax Commissioner Cory Fong as I referenced in my email to you a few minutes ago.

Clarice Liechty

----- Forwarded Message -----

From: "Fong, Cory G." <coryfong@nd.gov>
To: Clarice Liechty <clarice_liechty@yahoo.com>; "Cook, Dwight C." <dcook@nd.gov>; Craig Headland <hhgnc@daktel.com>; "Grabinger, John" <jgrabinger@nd.gov>; Rep. Jessica Haak <JHaak@nd.gov>; Alex Looyesen <looyesen4house@gmail.com>; "Wanzek, Terry M." <tmwanzek@nd.gov>; "Pollert, Chet A." <cpollert@nd.gov>
Cc: "Rauschenberger, Ryan A." <rarauschenberger@nd.gov>; "Dickerson, Marcy D." <mdickerson@nd.gov>; "Wald, Dee A." <dwald@nd.gov>; "Rouse, Daniel L." <drouse@nd.gov>
Sent: Friday, January 4, 2013 1:46 PM
Subject: RE: tax protest

Dear Ms. Liechty,

I am sincerely sorry that you did not receive a notice of the result of your 2012 appeal to the State Board of Equalization, concerning a property tax exemption and payments in lieu of taxes granted to the developer of an apartment complex in the City of Jamestown. The State Board of Equalization took no action on your appeal.

You brought your appeal to the State Board of Equalization in 2011. Both the Jamestown City and Stutsman County Boards of Equalization had previously denied your appeal. Legal counsel for the State Board of Equalization determined that the Board had no statutory authority to grant the relief you sought, and recommended the board take no action on this matter.

In 2012 you again brought your appeal to the State Board of Equalization. Legal counsel again stated the Board was without statutory authority to grant the relief you sought and again recommended they take no action on this matter. No action was taken.

The following appears in the minutes of the September 6, 2012, State Board of Equalization meeting.

"Special Assistant Attorney General Daniel L. Rouse reported on the appeal of Stutsman County resident Clarice Liechty. The Jamestown City council granted new business incentives in the form of a partial property tax exemption and payments in lieu of taxes to the developer of an apartment complex. Appellant, another developer of apartment complexes in Jamestown, protested this decision to the city and county boards of equalization. Both governing bodies denied Appellant's protests. Appellant asked the State Board of Equalization to reverse the decisions by the local governing bodies to grant and affirm the business

incentives. Appellant made the same appeal to the State Board of Equalization in 2011. Mr. Rouse stated the Board was without statutory authority to grant relief sought by Appellant, and again recommended they take no action on this matter.”

Again, I extend my sincere apologies to you that you did not receive a timely notice from the board or this office concerning the result of your 2012 appeal.

Sincerely,

Cory Fong
Tax Commissioner
Cory Fong
Tax Commissioner
Office of State Tax Commissioner
State of North Dakota
600 E Boulevard Ave Dept 127
Bismarck ND 58505-0599
Phone - 701.328.2771
E-mail - coryfong@nd.gov
www.nd.gov/tax/

From: Clarice Liechty [mailto:clarice_liechty@yahoo.com]
Sent: Wednesday, December 26, 2012 3:50 PM
To: Fong, Cory G.; Cook, Dwight C.; Craig Headland; Grabinger, John; Rep. Jessica Haak; Alex Looyesen; Wanzek, Terry M.; Pollert, Chet A.
Subject: tax protest

Dear Tax Commissioner Cory Fong, Senator Dwight Cook, Representative Craig Headland, Senate-elect John Grabinger (Dist 48), Representative-elect Alex Looyesen (Dist 48), Representative-Elect Jennifer Haak (Dist 48), Senator Wanzek (Dist 29), and Representative Pollert (Dist 29).

Below is a copy of my letter to the State Board of Equalization of this past July 2012. I have not received any response from the Board of Equalization regarding my protest. I also sent copies of this protest to each of the board members and did not receive any response from any of them either.

Senator Dwight Cook and Representative Craig Headland serve on the Taxation Interim Committee. Together we have worked on a bill that should (in this case) require corrective action to be made by a governing body that grants a tax exemption when the party getting the exemption does not follow through with their end of the agreement. Hopefully this bill will come to the floor and pass both house and signed by the governor.

We need to seriously look at and have a discussion regarding equity in taxation. Hopefully you who serve in the legislature will be aggressive in promoting tax reform and tax fairness.

Sincerely,

Clarice Liechty
PO Box 467
Jamestown, ND 58402-0467

701-320-5745

July 23, 2012

To the State Board of Equalization Board:
Governor Jack Dalrymple
Tax Commissioner Cory Fong
Ag Commissioner Doug Goehring
State Treasurer Kelly Schmidt
State Auditor Robert Peterson

Again, I am appealing to the State Board of Equalization regarding a tax exemption and payment in lieu of taxes granted by the city of Jamestown to Mr. Marvin Brown – Prairie Hills Apartments.

This is a re-run of my protests in 2011 to the city of Jamestown Board of Equalization, the Stutsman County Board of Equalization and the State Board of Equalization (SBOE)(2011 SBOE protest testimony enclosed) - all refusing to address my protest of a tax exemption granted to one of my competitors, Marvin Brown of Prairie Hills Apartments in Jamestown.

Now, in 2012, I have protested to the city and the county. The following is from the city and county Board of Equalization minutes.

CITY OF JAMESTOWN BOARD OF EQUALIZATION MEETING APRIL 10, 2012 OFFICIAL MINUTES
A written letter of protest was received from Clarice Liechty, Verke Liechty Development, LLC., relative to the exemption granted to Prairie Hills Apartments, 1221 5th Street NE.

Official Proceedings of the Stutsman County Equalization Meeting – June 5th, 2012

Clarice Liechty presented information to the board to request that the Stutsman County Equalization Board take action to move to initiate a proceeding to correct the tax assessment of the Prairie Hills Apartment PCL # 74-254-4000 (Brown Bear Properties) at 1221 5th St NE; Jamestown, ND. Clarice's protest is based on the fact that concrete was poured in the footings prior to September 8, 2009. This fact was not learned until after the exemptions were granted. Clarice is requesting Stutsman County to review Mr. Brown's verbal testimony when he appeared before the city council and enumerated the services his facility would provide. Clarice presented the same information last year at the Stutsman County Equalization Meeting and it was appealed to the state. Clarice stated that the State of North Dakota felt that they did not have the authority as a board of equalization to tell the city to do anything. Casey Bradley, Auditor/COO, stated that the only requirement right now for tax exemptions is taxable value and jobs. It is up to the individual entities discretion to follow up on the tax exemption or not. The City of Jamestown Board of Equalization meeting on April 10, 2012 did not take any action regarding Clarice Liechty's request. Marks made a motion, seconded by Schwartz to decline the request from Clarice Liechty. Roll call vote: Ova, Marks, Schwartz, Klose voted aye.

My appeal today to the 2012 State Board of Equalization (protest, complaint, and request) remains the same – From my investigation, I cannot find that Mr. Brown – Prairie Hills Apartments is complying with what his written application and in his verbal testimony stated what he would do – That is to rent 20 of his apartment units to people who need assisted living services and providing the services he said he would provide. My request has been and is to require the bodies of government to investigate to determine if Mr. Brown is actually renting those who require assisted living services and is providing the services he said he would provide. And if he is not – revoke the exemption.

All of you (equalization boards) have determined that “we took no action on your appeal.” is suffice for equitableness and fairness in taxation. I did not support Measure 2 because it went too far in giving more

authority and responsibility to the state government. But, I do support a measure of requirement of equitableness, fairness and responsibility in taxation. And if local governments are not providing this, that the state should have the authority to require the local governments to operate at a standard that is equitable and fair. Those who opposed Measure 2 also opposed it on the basis that "out of state" taxpayers would not have to participate in supporting our government services. Mr. Brown lives in Montana!

Since the last SBOE meeting, I have corresponded with the Taxation Committee (see minutes of their January 19, 2012 meeting enclosed with my note to Senator David Cook). I also testified at their March 23, 2012 meeting regarding this issue. I am enclosing a copy of a letter I wrote to Carol Olson, Executive Director of the Department of Human Services which I have not, to date, received a response from neither her nor her department.

I have worked with the Taxation Committee to put additional language into the North Dakota Century Code 40-57.1-03 to grant the city and county (and hopefully the SBOE) the authority to revoke a previously granted property tax exemption and payment in lieu of taxes (enclosed is a copy my email testimony to John Walstad and the Taxation Committee). In this email to the Taxation Committee, I am asking that the authority through legislation be granted to the SBOE to take action. Hopefully you can support me in this effort.

As it stands today – I am paying \$798.13 more per unit per year in property tax than my competitor, Mr. Brown. Our rents are similar. Our buildings were opened up for renters at the same time.

It was during the last legislative session that the legislators adopted the Latin words translated "One sows for the benefit of another." Laudable! But in action it is - "One's sow for the benefit of another." Someone is making a pig of themselves by eating my sow.

Sincerely,

Clarice Liechty
PO Box 467
Jamestown, ND 58402-0467
701-320-5745 cell
701-252-5745 home

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PROPOSED AMENDMENT TO HOUSE BILL NO. 1046

Page 3, line 14, after the word "year," insert "for reasons specified in a negotiated agreement or".