

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2299

2007 SENATE POLITICAL SUBDIVISIONS

SB 2299

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2299**

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: **February 8, 2007**

Recorder Job Number: **3203 & 3222 (action)**

Committee Clerk Signature

Shirley Borg

Minutes:

Chairman Cook called the Senate Political Subdivisions Committee to order. All members (5) were present.

Chairman Cook opened the hearing on SB 2299 relating to city governing body authority to adopt a standard of valuation of less than true and full value for property tax purposes for certain vacant lots.

Senator Holmberg, District 17, Grand Forks ND, prime sponsor, introduce SB 2299. He introduced the bill on behalf of the ND Association of Builders.

Doreen Riedman, Executive Officer, ND Association of Builders, testified in support of SB 2299. (See attachment #1)

Mel Carson, City Assessor, Grand Forks, ND, testified in support of SB 2299. He would have been opposed to the original bill as it was written but with the amendment it is basically what we are doing now.

Bill Wocken, City Administrator, City of Bismarck, ND. supports the bill with the amendments.

Marcy Dikerson, State Supervisor of Assessments appeared neutral. I do like the bill with the amendment. Agrees with the process.

Chairman Cook closed the hearing on SB 2299.

Recorder # 3222 February 8, 2007

Chairman Cook asked the committee for discussion or action on SB 2299.

Senator Warner moved the Riedman amendments.

Senator Anderson seconded the motion.

Voice Vote: All members in favor.

Senator Warner moved a Do Pass as Amended.

Senator Anderson seconded the motion.

Discussion:

Roll call Vote: Yes 4 No 1 Absent 0

Senator Hacker: Carrier

REPORT OF STANDING COMMITTEE

SB 2299: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2299 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "of less than true and" with "that recognizes the supply of"

Page 1, line 3, remove "full value for property tax purposes for certain"

Page 1, line 15, replace "of less than true and" with "that recognizes the supply of vacant lots available for sale."

Page 1, remove lines 16 and 17

Renumber accordingly

2007 HOUSE POLITICAL SUBDIVISIONS

SB 2299

2007 HOUSE STANDING COMMITTEE MINUTES

Bill No. SB 2299

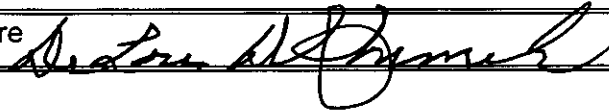
House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: March 1, 2007

Recorder Job Number: 4199, 4220

Committee Clerk Signature



Minutes:

Chairman Herbel opened the hearing on SB 2299.

Rep. Carlson: In support of the bill and also a sponsor. Have been building houses for the last 27 years in Fargo. Have been working with the Home Builders Assoc. and done a lot of work with them on various issues. This bill very simply, if you look on lines 15 & 16 of your engrossed bill it says the governing body of the city may adopt a standard of valuation that recognizes the supply of vacant lots available for sale. We have been pretty fortunate in recent years to have a good economy and had a lot of construction in some of the larger cities. I can take you back to a point in time where the cities where getting lots back in many of the communities including Dickinson, Fargo, Williston because the market was so slow that there was nothing being built and the lots had the improvements on them and there was nothing happening in those market places. None of us want to see those days come back again. On the other hand when cities are developing land there is always the questions of how many lots and it is very expensive to bring services to lots so when you plat subdivisions now are not being a 30-40 lot type they are being 100-200-300 lot types. Every city wants growth and development, but there should be a mechanism. This bill enables legislation that would allow the cities, if they choose, to enact language to tax vacant lots at a less than the true value.

That is all it is asking for is the ability to be able to do that. It does not do anything to take away the payments that are required on the special assessments. They are preset in many cases so the developer is not like he is getting off if he was to ask the city, if he had an empty 150 lots to have them valued, because they have not sold and they have not developed. If you take the typical lot in Fargo, if the lot was \$20,000 and the assessor assessed it at \$20,000. If you use the 2% figure on what the value would be the tax on that empty lot is \$400. It is a \$400 bill on each lot. It doesn't sound like a lot of money when he is asking to have that lot valued down, but if he has 200 lots it is a big deal. Plus I can give you an example. I just bought a lot for \$50,000. But along with the \$50,000 for the lot there were \$27,000 worth of specials. \$2500 a year in special assessments. So if you think the builder is getting off here without having to pay; he had to put a bond up front, and pay those. They can not be let go anymore. They have to be taken care of. So this is asking, if he goes to the city of Fargo, Dickinson or Williston and says I would appreciate it if we could value those lots down to \$10,000 because they are not selling very fast and if you could give us some assistance on those because there is nothing improved on them. I am paying the specials and I would like to have it valued down and that is what this does. The city can look at their cash flow and say I can't do it. We have other programs that don't allow us to do that. I would hope Chairman Herbel that you would look favorable on this bill.

Rep. Kim Koppelman: How does this deal with the true and full value of the property?

Rep. Carlson: I did not consider that and I did have a bill that passed out of this chamber that take the three year averaging on full and true value instead of having it 95% and 105% of value for every year it had to go up that amount. Mine averaged it out which would have lowered that value. To be quite honest I can't tell you what affect that would have. That would be some body from the assessors would probably have to look at that because I just don't

have the answer for that. I can tell you that we want to encourage in this state economic development, but on the other hand we really need to encourage home ownership. Compared to many states our home ownership is lower than many states because we have a lot of people that are renters. In Fargo our national average might be in the neighborhood of 60% home ownership and we are at the 48% and 49%. We need to try and find ways to encourage home ownership. If this is one more step that helps a little bit and the city has a right to say yes or no.

Rep. Steve Zaiser: I agree with you that private home ownership is lower in the state of ND; particularly Fargo. Are we sort of loading up the benefits for the new home buyer or the developer? We have that taxation for the first \$75,000 for the first 5 or 3 years or two years.

What I am hearing from people in my district, which is the old part of the city where there is not much new construction, why are we paying the taxes when the people building the new fancy houses are getting all these tax breaks?

Rep. Carlson: For those people in your district I would care to wager there are some people that will become eligible that were not eligible before by the way we changed the Homestead Tax Credit in the older part of town. There are opportunities there. We have a housing finance agency that deals with first time home buyers whether it is new or used that allows them to excess and lower down payments and lower interest rates. We have the new home buyer program. All of these are local option; they can say yes or they can say no. Fargo and West Fargo have chosen to say yes. There are many benefits to encouraging various programs to home ownership and there is also the fact that if I build a house, people build more houses because of the exception. When it is all done it is the value of future dollars. Most people buy a house on whether they can afford the payment. The price could be a million dollars, but if the payment is only \$500 they are going to buy the house. When that house comes off the two

year exception they are going to be payment more taxes for the next 95 years of its life. That is why the cities look to the future value of dollars. We dance on both sides of local control in this assembly. It all depends on whether it fits us and today it fits us.

Rep. Steve Zaiser: A city commissioner that I know has done a study that showed me that proved that people built regardless or not of that tax exemption for new housing. He further concluded that when the exemption went off a good percentage of those folks ended up filing for bankruptcy because they had over extended themselves.

Rep. Carlson: That is his opinion of the study. I am sure I can prove just the opposite when I looked at that. That commissioner and I will never agree on that issue.

Rep. Kim Koppelman: Looking at the original version do you know what precipitated the amendment?

Rep. Carlson: I can only speak of the way it is today. Other people can speak of that today.

Rep. Donald Dietrich: In Grand Forks I get questions from folks in that \$130,000-\$120,000 area priced homes, why should someone get a break on the first \$75,000? Course the idea was to spur development and growth. On a \$130,000 home is \$2860; a \$225,000 home is which is about the normal of what has been happening in the south end of Grand Forks, the taxes would have been \$4950; abated to \$1650 for the first two years compared to folks paying \$2860 so they are paying a substantial amount of taxes. I am involved with a nonprofit organization in Grand Forks building homes for 80% medium income and lower income folks. Those folks also get a \$7500 rebate on their new homes and their taxes normally would be someplace in the area of \$3100, but with the \$7500 abatement so their taxes are a little over \$800 so those folks are also taking advantage. When we first started that program in March 1997 in Grand Forks; the flood happened in April, 1997 and the growth that was spurred because of the abatement was fantastic. We built 212 homes in the north end of Grand Forks

and everyone got the abatement. Most of these people we beginning families and lower or moderate income. When a developer purchases 40-50 acres in the city of Grand Forks they have to put into the ground multi million dollars for investments in infrastructure. They pay a special assessment on every one of the lots every year, but the lots are kept at value of about \$35,000 and they are being taxed on those lots for 50-60 acres and I think it is a burden for developers. What impact would this have for developers to built homes?

Rep. Carlson: If he developed a 40 acre plot and he had 3 acres per lot he would have 120 lots; if he asked for half value he would get \$200 a lot you would be asking for only \$2400.

These are not big numbers because it is just on the land. The abatement has never included the lots, but it did include all the improvements back then when I came before the legislature years ago. So whether the house was \$60,000 or \$260,000 they got all their taxes forgiven for two years. That has migrated over time to where it is today where it says it is local control, but is is \$75,000 of value. So the legislature has revisited that issue. They have said it was too broad and have narrowed it down but they still allow the locals to control.

Rep.Dwight Wrangham: Are the developers being taxed out of the market or is there a shortage of available lots?

Rep. Carlson: The price of land, improvements and money so it has driven out most developers because of the costs associated with developing lots.

Rep. Lawrence Klemin: Standard valuation seems to mean some kind of a formula to treat all vacant lots the same way?

Rep. Carlson: We have the full and true value on the books that requires that every time I sell a piece of real estate that that statement must be put on the deed. So if one lot sells for \$20,000 you have established what the value will be for those other lots if they are all similar.

Doreen Riedman: ND Association of Builders: (see testimony #1) I think Rep. Carlson went through this bill completely and provided allot of information so I am not going to belabor this option. We think it is a good thing especially for the smaller communities. This is just one more tool to help bring housing to those communities. It also gives the assessors the flexibility they desire doing these valuations. The bill was amended taking out the true and full valuation. We did not play with those words. They did not want to compromise that language so we did accept and agree with what they came up with that would be acceptable for the assessors. I would believe they would make that determination of what that standard valuation is. Publish from Dickinson was planning on being here and could not make it due to the weather. He did speak with the Dickinson City Assessor and she extends her support of this.

Rep. Steve Zaiser: On the standard valuation, the way I see this there looks like there is a certain formula for these vacant lots? You indicated each city could set up their own formula. I am not clear on what that means?

Doreen Riedman: I think that is best left up to the assessors to answer that because I don't know how they actually formulate that.

Rep. Lee Kaldor: I have no problem with the standard valuation, but I have a problem with the supply of vacant lots. That means to me that it could be used two totally different ways. An over supply or lack of available lots and is that your intention to cover both? If that is your intention why not just come in and say the property that is being developed should not be assessed at the full and true, it should be assessed at a standard rate?

Doreen Riedman: That is exactly what we had wanted to do in the beginning with that first bill but we realized that we would face some opposition from the assessors on that. Yes, we understand it is never going to go beyond what is true and full value.

Rep. Lawrence Klemin: We may have a community where development is going strong and the value is real. The developers are able to sell those lots at the present value that justifies their investment. If there is adequate activity and assessor would say look there doesn't need to be a reduction. But in a community like my home town where they are having a hard time finding a developer that is a different story. We have a lack of supply we need to add a loss and that is going to be a potential risk and burden. I see this almost as a double standard of application.

Doreen Riedman: Maybe it is and we are not seeing something. I would hope our assessors are fair out there and hopefully they will treat us all fairly.

Marcy Dickerson: Tax Department, State Supervisor of Assessments. I would like to respond to Rep. Lee Kaldor questions and some of Rep. Kim Koppelman. Basically we were not happy with the original language in this bill because we thought it did compromise the true and full value standard. The current language I don't believe does compromise it. It says they can look at the supply of vacant lots, which does affect the true and full value of the lots. We are looking at the true and full value on the property on the assessment date, not the potential true and full value down the road. So I think it duct tails nicely with the true and full value. If you have 300 lots of there; two of them sold for \$35,000 each. The sales ratio will show those lots sold for \$35,000 and that is what we look at to determine what comparable property is selling at. You know that those 300 lots are not going to sell this year for the same money those two sold for so I think this is a very reasonable way of reaching real true and full value. It gives another tool to look at besides just the sales ratio study. It is nice to use the sales ratio study, but it when it is obviously not relative to the properties you are valuing it nice to have the option of using another tool. In several of the major cities this process has been used and is in affect right now. I am in favor of the current bill; not the original one.

Rep. Lawrence Klemin: What we are talking about here is coming up with a mythology of using something less than market value or less than true full value. Otherwise it would be meaningless to add this language in here if it didn't mean something different than what true and full value is.

Marcy Dickerson: I think that this does represent true and full value at the time of the assessment.

Rep. Lawrence Klemin: I will read the definition in the section that we are talking about. Full value means the value determined by considering the earning or productive capacity, if any. The market value, if any and all other matters that affect the actual of the property to be assessed. That last clause there all other matters that affect the actual value of the property to be assessed seems to be the kind of thing we are talking about where some of the cities are now using the values. When we get down to this new language; the standard evaluations. My question to Rep. Carlson is are we talking about some kind of uniform methodology or formula that is going to be applied to determine valuations based on supply and demand of vacant lots and how does that fit into the equalization costs then with respect to the local area or county or is it state wide?

Marcy Dickerson: I agree that this provision in there does cover what you just read from the century code. It is the all other matters that affect the value of the lots. You might be more comfortable with this if it just said the governing body of the city may recognize the supply of vacant lots available for sale and value them. Then forget about standard valuation. I think the intend is that the city assessor will look at the lots and see what they have sold for; but based on the knowledge of the various things in the city the city assessor will be looking at these properties and what at the current time he believes it would be.

Rep. Lawrence Klemin: So what we are really talking about is allowing the cities to deviate from a standard valuation. From the equalization standpoint would you say what cities are doing then would have to be relative new form statewide in this regard? Why not set aside a standard valuation. Even though this is the value of the property, we are not going to tax it at that because of other matters relating to the actual value.

Marcy Dickerson: I disagree with that. I am saying the reduced value that they would put on properties under this would be their opinion of the true current market value of that property. may not necessarily. I think it would depend on the situation in individual cities. You may have a lot more over supply or under supply of lots in one city than another.

Rep. Kim Koppelman: I appreciate our testimony and I agree with you. This engrossment clarifies what the cities might be able to do under that definition rather than doing it anyway. The bill deals strictly with vacant lots. Some cities are just using the sales ratio studies. Should we be looking at something in the statues boarder than this?

Marcy Dickerson: I think in other properties we don't run into this problem as much. With other properties, if there is a glut of houses on the market the asking prices are going to have to come down and I think the sales ratio will be a pretty good indicator. On your vacant lots when you have what use to be a big piece of farmland and now it is all carved up nicely, but nothing has sold yet that is an entirely different situation and you don't have sufficient sales. By the time most of those lots are sold sure then you will have sufficient sales and the remaining lots will be worth just about what the ones sold before.

Rep. Kim Koppelman: Discussed housing sales and values and tax valuations. What is the house is selling for less? Their compliant to me is there is not refund for over valuation.

Marcy Dickerson: I agree with some of what you are saying, but in the real world the sales and the sales ratio study is always at least one year old. At the increasing environment we

have been in recent years almost any number that you come up with from the sales ratio study is probably low. If a house were assessed at what appears to be 100% of its value. In the smaller cities when there aren't sufficient sales for one year they can get by for three more years and you know those are even lower.

Rep. Steve Zaiser: I agree the engrossed version is an improvement. The one aspect that I am not clear on it talks about adopting a standard for valuation. To me it might set somebody up for litigation. I was wondering if it might be appropriate setting standards so it is defined more clearly. I agree it should be just these vacant lots. Would it be appropriate to have some sort of formula that fits into these situations or not?

Doreen Dickerson: I would prefer to see it left more open for the assessors to use their judgment. Formula may work in one city and inappropriate in others.

Rep. Lawrence Klemin: I am having a little difficulty with the language, especially the word standard. It seems to state we should have something fixed that is uniformly applied. Doesn't your office have some sort of guideline for assessors that say they are to do valuations based on something like 5%?

Marcy Dickerson: Discussed basis for the 5% valuation.

Rep. Lawrence Klemin: So what we are discussing is a deviation from that guideline in the situation involving vacant lots. Instead of a guideline that says you must be between 95% of the value of the sales ratio study, we are allowing the cities the latitude to determine some other lower percentage than the 95%.

Marcy Dickerson: That is right. That is exactly what we have been doing. The board has not been enforcing that 95% - 105% of the vacant lots just for this reason. This basically says maybe the sales ratio study isn't the best indicator of true market value at this time so you can look at this factor also.

Bill Wolken: City Administrator with the City of Bismarck: I have discussed this bill with my city assessors and we have come to allot of the same determinations that Miss Dickerson just testified on so we are just going to say we are in favor of this bill. We think it does recognize the true and full value and the market place.

Rep. Kim Koppelman: Do you agree that the engrossed version of the bill clarifies the definition language we heard?

Bill Wolken: Yes I do believe the engrossed version of the bill does recognize the practice the assessors do use in order to value market value. The supply of lots makes a huge difference on what goes on and that is what the language is intended to do.

Hearing closed.

Chairman Herbel reopened the hearing on SB 2299. Job #4220

There was some concern about standard in there. We haven't got an amendment prepared, but we can probably clarify that. I think there was some concern about standard that something had to be met. Rep. Lawrence Klemin and I discussed that and Rep. Donald Dietrich has some language he had written out which could be used.

Rep. Donald Dietrich: If I may suggest the language for that line be the governing body of the city may establish valuations of lots that recognize the supply of vacant lots available for sale. There had been some discussion on property and I have run it about a couple of people and they felt it was directed toward lots and they want to keep it that way.

Rep. Kim Koppelman: I think we are probably getting into an area of inequities here if we say that the governing body recognizes the supply of vacant lots available, but we don't say that they can recognize the supply of property available. In a community where there are a number of parcels of property for sale and they aren't selling, that is a depressed market and it means that the valuation on those properties are probably not what they are assumed to be. Just like

the same argument with those lots and so we are kind of favoring one type of property if you say you can consider that for vacant lots, but you can't consider it for houses or agricultural land or whatever else you might be valuating.

Rep. Kari Conrad: Rep. Kim Koppelman are you talking about developed land where they have sewer and water?

Rep. Kim Koppelman: Could be.

Rep. Kari Conrad: When I think of lots as just acreages.

Rep. Kim Koppelman: I think it could be either in either case. A vacant lot could be a vacant lot that has not been improved yet, but a parcel could be a lot that does not have an improvement on it. By the same token any piece of property could be completely developed with a house setting on it that is 50 years old or it could be raw land. My point it is if we start picking and choosing types of property I think we are getting into a situation of inequity. The more I heard the more I became convinced that what this language really does is simply clarify the definition of Rep. Lawrence Klemin this morning that talks about that they can consider other factors. I think the statute should simply say here is an example of how to consider other factors.

Rep. Lawrence Klemin: The state board of equalization does sales studies around the state and the whole point is they are trying to equalize valuations statewide. You start out with your local board of assessment, your county board of assessment and your state board of assessment. They have these guidelines that they send out to the county assessors and you must follow these guidelines. By following these guidelines if you assess property between 95% and 105% of these amounts shown here, but what they are willing to do is follow a limited deviation from the guideline for vacant lots. I don't think in any way they would be willing to have cities have a deviation for property other than the vacant lot.

Chairman Herbel: The intent is just for vacant lots. Not to encompass all properties.

Marcy Dickerson: That is correct.

Rep. Kim Koppelman: I support the intent of the bill. My concern is that as we set here as public policy makers we have to consider a boarder prospective just as Rep. Lawrence Klemin has talked about. What does the law say and what do people do. However, the guidelines are not the law. It seems to me if we look at the definition you read this morning Rep. Lawrence Klemin was what they are trying to put into law they can already do because the definition says they can. If we are going to insert something into law clarifying that, then the implication is you can't do it anywhere else and I think it gets us into an area of inequity. I will support the bill either way, but I think it is much better legislation if they do it proper.

Rep. Lee Kaldor: I don't know if this is true. I am assuming that there some instances where assessors are telling their counsel that they don't have any latitude in a vacant lot situation and they don't look at that section of law that gives them some latitude. as a reason or justification of lower those valuations for vacant lots. This language in this bill will clarify that and at least they would have to respond to that or convey that information to their counsel or commission that there indeed is another way of doing this. I respect what you are saying Rep. Kim Koppelman but I think this is defined for a specific purpose. It is the in between time from the time of the development until the lot is sold that there do have this time value money issue it does take time. They don't all sell right away and is it really proper to assess at that higher level when they really have to wait quite a while to get their money. I don't see anything wrong with Rep. Donald Dietrich is putting forth in that amendment.

Rep. Kari Conrad: Developer from Minot thought this was a good bill.

Rep. Donald Dietrich Made a Motion to move the amendment Seconded by Rep. Chris Griffin

Went over the amendment proposed. (see proposed amendment)

Discussion: None

Voice vote carried.

Do Pass As Amended Motion Made By Rep. Pat Hatlestad Seconded Rep. Nancy Johnson

Discussion:

Rep. Dwight Wrangham: I am not going to support the bill because being a strong supporter of home rule and local entities where they have authority I think they already have the ability to do this and I think putting it into the law is going to make it that much harder on assessors to tell developers, if you want to develop lots that is fine, you develop them and you pay taxes like anyone else who has a lot of two available and I think we are micro managing where a city should be doing it.

Rep. Donald Dietrich: I appreciate Rep. Dwight Wrangham comments, but I do not think we are stepping on the cities control.

Vote: 13 Yes 1 No 0 Absent Carrier: Rep. Louis Pinkerton

Hearing closed.

