

2009 HOUSE FINANCE AND TAXATION

HB 1388

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 4375 1388

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: 01/21/09

Recorder Job Number: 7479

Committee Clerk Signature

Minutes:

1388

Chairman Belter opened the hearing on HB 4375:

Rep. Koppelman: HB 1388 essentially deals with true and full value of property for purposes of taxation for real estate tax or property tax. As you probably know, there is a little history to this. True and full value came several years ago from a lawsuit. There was a lawsuit filed by the railroads because railroad property had been valued at actual market value as opposed to property owned by citizens, which had been valued lower for tax purposes. The court found that unconstitutional saying that we have a provision in our constitution in North Dakota that says we have to have a fair and equitable system of taxation, and therefore, all property has to be valued at true and full value. That has contributed greatly to the incredible rise in property taxes in North Dakota over the years. This bill says that true and full value should mean just that. Nothing more. The State Board of Equalization has a practice that they've adopted because they feel it's impossible to identify the exact true and full value to the dollar or penny where they create kind of a fudge factor where they say that they value property anywhere from 95 to 105 percent of its value. We think that's fine. I think it is fundamentally wrong for anybody in North Dakota to have to pay tax on 105% on what their property is worth. This bill simply says you can't value it at any more than 100%. If you want a fudge factor, make it 95 to

100, make it 90 to 100, whatever it needs to be, but don't go over 100% especially in a day when our taxpayers are under the crushing burden of high property taxes, we certainly should not be unjustifiably burdening them further with a tax that is a phantom tax on a value that is higher than what the property is actually worth. That is a State Board of Equalization policy.

2009 HOUSE STANDING COMMITTEE MINUTES

HB 1388

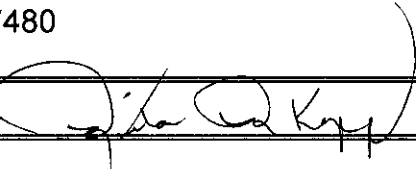
House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 21, 2009

Recorder Job Number: 7480

Committee Clerk Signature



Minutes:

Representative Koppelman: This bill also talks about true and full value. It is a little bit different than what I just described (mistakenly on Job 7710/ HB 1375). This has to do with special assessments that are charged to a property. That happens for a number of reasons when there are improvements to your property, when there are repairs to your property, the repairs are made by the city or county or township or whatever jurisdiction you live in and then those special assessments are charged against the property to pay for them. That is a common practice and we all understand that. The problem is, and I don't think it is a widespread problem, but I heard that several assessors do this, if you take a blanket approach to special assessments where you say any improvement is going to be added to the value of the property for tax purposes. What you are doing is artificially driving up the taxes on that property, possibly for no good reason. Again, as I described a moment away in the other bill's context, this could result in a taxpayer getting taxed for more than the property is actually worth.

As an illustration, say somebody put a curb and gutter in front of your house. It may improve the value of your home, but there should be some demonstration that it does. If they put a sidewalk in front of your house, does that improve the value of your home? It may. It may not.

Certainly you are responsible to pay for the cost of putting that sidewalk in with a special assessment and I have no problem with that. If there is a practice anywhere in the State of ND, where they add that to the value of your house and you are going to be paying higher taxes for the next 25-30 years because they put a sidewalk in and it was assumed that would raise the value of your home, that isn't appropriate. What this bill does is simply say that if there is a special assessment attached to your home for an improvement, the assessor has to demonstrate, through a given market or accepted practice valuation, that your home is actually worth more before they can charge you higher taxes. Mr. Chairman, I apologize for getting mixed up on the bills, but that is HB 1388. I would certainly be happy to attempt to answer any questions.

Representative Weiler: I have been trying to sort out in my mind what you are attempting to do here. Let's take a brand new subdivision in northwest Minot. You have the house valued at \$150,000 but the sidewalk is not in yet. When they put the sidewalk in, are you saying that they are coming in and valuing that house at \$155,000 and they shouldn't be able to do that?

Representative Koppelman: The answer is yes. First of all, I am not saying that everyone is doing that. I think we have some very responsible assessors in our state that do not do that, but I have heard enough evidence (we introduced this last session as well and I don't think there was a real good understanding of it and that's why I am back because I am hearing continued reports that this does go on). The circumstance you described is very typical. I have been told by builders that they have been in circumstances where they will get a home valued at a particular price based on comparable sales in the area for similar homes, then a political subdivision will come along and say now we have installed sewer and water which cost this much so we are adding that to the value of the home. The objection is based on

comparable sales; the assumption is that the home has sewer and water service so that should not increase the value. It is to prevent that from happening.

Representative Weiler: How about a situation where you have a neighborhood and someone spends \$3,000 to put in a sidewalk? Is your home valued higher because you have a new sidewalk?

Representative Koppelman: I don't know, but this would insure it wouldn't be. I am told that it is being done (inaudible).

Representative Weiler: Are they valuing my home higher because my street was resurfaced?

Representative Koppelman: I don't know. I hope not for repairs, but I am told it happens sometimes for improvements. The bottom line then is there shouldn't be any concern about the bill because all it does is insure it doesn't happen.

Representative Weiler: I would like to go back to the same scenario where it is a new development, I could make an argument that without a sidewalk, that house is not worth as much as it is with a sidewalk. In that case, there would be a reason to increase the value.

Representative Koppelman: Absolutely. Under the bill, if you can demonstrate that it is worth more, the value can and should go up.

Claus Lembke, North Dakota Realtors: We have seen houses side by side in Fargo with large special assessments in excess of \$20,000 on a new property. If you were to assess one of them as a \$150,000 with no specials, the assessor could make the other \$170,000, which would be totally unfair. We know specials do add value. If you had a house without the sidewalk, improvements or the street, but it doesn't add true value. The market dictates value and that is what they should look at. That assessor automatically assesses the specials against it. You know the life of a property, a street or a sidewalk is about 20 years. Wouldn't

they then be obligated to take 1/20th off each year? They do not. In all fairness, if they are going to increase the value for specials, they should also depreciate them. Mr. Chairman, we support this bill.

Chairman Belter: Any further testimony on 1388? Any opposition to 1388? Any neutral testimony on 1388?

Kevin Ternes, City of Minot Assessor: Clearly if someone puts a sidewalk in front of their home and the other homes don't have sidewalks, there isn't enough data to value a home with sidewalks versus without sidewalks. Therefore, we don't assess based on that at all. They put a storm sewer in our neighborhood this year and those are basic repairs. We are not going to add \$1000 in lot values because there is \$1000 special assessment. I can understand Representative Koppelman's concerns. The question I have about this bill as to the intent.

At the end, it says "as shown by sales of property subject to those special assessments or with similar improvements". If we have two subdivisions of 40 lots each side by side, one developer decides to put in his own improvements (water, sewer, curb and gutter) by going to the bank and getting his own money and sells those lots for \$40,000 and another developer decides to use a special assessment financing mechanism so there are now about \$25,000 worth of specials on his lots (similar size). I can come along and buy that lot for \$15,000 and assume \$25,000 specials so in my mind, I bought a \$40,000 lot. I can go to the other developer and give him \$40,000 and not assume anything. We would like to ability to assess both of those lots at \$40,000 because that is what they are worth. I have market evidence proving that one lot is worth \$40,000 even though I am only going to pay \$15,000 and assume \$25,000 in specials over the next ten years which I can go to City Hall and pay right away or I can pay the interest. My question is whether that is sufficient supporting evidence that I have lots out here

worth \$40,000. Otherwise I fear development would be treated differently and could be assessed differently.

Representative Froseth: On a new development, the land is there, the improvements (water, sewer, street, curb and gutter are assessed with special assessments, but you don't actually have a cost-sales ratio until that lot is sold or the lots start selling, would you? You wouldn't have any actual true and full value of that property, would you?

Kevin Ternes: Are you saying we wouldn't know what to assess the property at if it has been fully improved until the first lot sells? We would simply use what is happening right next to it. We have a pretty good of idea of what 40 brand new lots fully developed are going to sell for so we can assess them the following year. Keep in mind, the improvements are in in June and the first assessment on that lot will probably happen the year after. Many times we go out in the winter and put a value on all these new lots that are ready to go. We have six months of sales from last year to let us know what the property value is.

Representative Froseth: How can you tell the value of a lot when it is covered with four feet of snow?

Kevin Ternes: We have the plat, we know the size, we know the location and we will visit with the developer to know whether there is curb and gutter, water and sewer in there. We only assess at market value. My concern is if I have debt telling me that this lot is worth \$40,000 even though some of it is in the specials I still owe at City Hall because that is what other lots are selling for. We need the ability to value these lots at market value. Otherwise, we are going to have two different playing fields for different developers.

Representative Brandenburg: How do you find the balance of assessing new developments when upgrades have to be made to the current system?

Kevin Ternes: I think we might be talking about two different things. If it costs me \$1 million to extend this water line from a bunch of old houses to a brand new subdivision, then the special assessment committee or the district would assess that \$1 million over all the new lots. Is it fair to these new lots that in addition to the new pipe, they have to replace a lot of old pipe in the existing housing? That is not an issue I can speak to. We will know and not assess new lot values to these old houses that got new infrastructure when the old stuff was 50 or 60 years old unless the market would indicate that they were all of a sudden worth more. I wouldn't think there would be a big change.

Representative Brandenburg: It has happened because of the people. There is nobody or very few people in the new development (inaudible).

Kevin Ternes: Are you referring to the direct money it takes to put this infrastructure in?

Representative Brandenburg: More people benefit than just the new development, but the existing ones do not want to be part of new assessments.

Kevin Ternes: We don't control how the special assessments are distributed. We only look at the value of the new lot as it is currently approved and the value of the old lots. If they gained something special, that is fine. Generally nobody is getting their assessments raised in existing neighborhoods unless the market all of a sudden says they are worth a whole lot more. I have never seen what you are speaking of. My concern is are we supposed to assess a \$15,000 lot with \$25,000 specials at City Hall at \$15,000 or is it truly worth \$40,000?

Chairman Belter: I believe that some cities require that the developer include the specials in the cost of the lot.

Kevin Ternes: I understand that people can buy a lot in Bismarck for \$15,000, yet they owe \$25,000-30,000 at City Hall over the next ten years. In Minot, we don't special assess the underground stuff, just the above ground.

Representative Koppelman: The intent of the bill is not to skew values. The value, in my view, should be whatever the market value of that property is. I understand what you are talking about. Some communities take the approach of \$15,000 plus specials and other developers sell the lot at \$40,000 and you never see the specials. The lot is worth the same. This doesn't deal with paying off the specials and so forth; it deals with what is the market value of that lot when the specials are all paid.

Chairman Belter: Is this neutral testimony?

Leon Samuelson, Tax Director in Morton County: What is happening in the City of Mandan in the higher-end areas is that suddenly some lots are selling for \$100-120,000, but you also have \$30-35,000 of special assessments on them. When someone buys that lot, he knows he is paying \$125,000 for the lot and he is assuming \$30,000 in special assessments so he knows he is paying \$155,000 for the lot. Is that considered true and full value? Is it \$125,000 or \$155,000? If an individual buys a house for \$350,000 and assumes specials of \$30,000, he knows at the time he makes the purchase, that he can pay the specials off or pay them on the installment plan. What is the true and full value? What he pays or what he pays and is assuming? How do we treat specials (21:00)?

Chairman Belter: Marcy, aren't there some cities that require special assessments be included in the price of the property?

Marcy Dickerson, Tax Department : That is my understanding. I don't know which cities, but I have heard that. I agree wholeheartedly with both what Kevin and Leon said. I think they explained it very well. If you look at buying a home and there are two houses side-by-side in a block and one has the specials already paid off and included in the price the seller is asking, you aren't going to pay the same amount for the lot next door where you would still have to pay the specials due. There is no question that specials are like a second mortgage on the house.

You have to pay those off if you want to keep your house, just like you have to pay your mortgage or property taxes. I think Leon's explanation was very good and I hope you will take it into consideration.

Representative Weiler: If there are cities in North Dakota that make developers put specials into the price of the lot, could we find out?

Marcy Dickerson: I will try to do that.

Chairman Belter: I thought Bismarck did that. No?

Jerry Hjelmstad, ND League of Cities: I know there were some cities in the southwestern part of the state that got burned by putting specials on lots and the lots never did sell. I believe the City of Gladstone was one that had some real financial difficulties because there wasn't any way to pay off the specials and the lots never did sell. Some cities in that area have a policy not to do any specials as part of the development, but to do that up front.

Chairman Belter: Any other questions? If not, we will close the hearing on HB1388.

2009 HOUSE STANDING COMMITTEE MINUTES

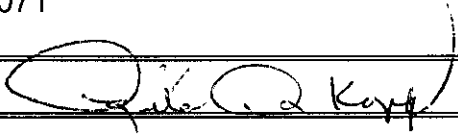
Bill/Resolution No. **HB 1388**

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 28, 2009

Recorder Job Number: 8071

Committee Clerk Signature 

Minutes:

Chairman Belter: 1388 is Representative Koppelman's bill that has the special assessments not included in the value of a home.

Representative Weiler: I have some amendments I would like to pass out. It is a hog house amendment. My apologies on the hog house, but it came to mind while listening to a bill that this might be a good thing to do. I move the amendments.

Chairman Belter: We have a motion from Representative Weiler and a second from Representative Grande to move the amendments.

Representative Weiler: Briefly what has happened since 2002-2003 in ND is that there were some really good times in the real estate market from 2003-2007. The valuations went through the roof in many locations around the state. City assessors rode that wave and the valuations went way up and so did property taxes. What has happened since the last half of 2007-2008 is that things are starting to level off and come backwards. It is not as good as it was; it has probably peaked out. What we are finding now when someone sells a home or when someone purchases a home is that often they are purchasing the home for less than what the city has the market value at. Often in 2003-2007, the price we suggested the seller put the house on the market for was 10-15% above what the city had it valued at and

properties sold. When houses sold at that increased value, valuations went up. Now that they are going back down, we are finding that when someone puts a house on the market for \$190,000, the city has it valued at \$190,000 and it is selling for \$170,000 or \$175,000. Very seldom now are houses selling for what the city has them valued at. When the buyer complained about the value, we would tell them to go down to the city, show the paperwork to them and see if they will adjust it. This forces them to adjust the value down to what the purchase price was. If they rode the wave going up, we need to allow the buyers to not pay the high valuations when they purchase a home for less than the market value. It is a fairness issue. There are some provisions in here. My apologies that John Walstad is not here to explain some of the details about the sales price, etc. and personal property stuff. There is also a line that says "For purposes of this section, sales price of the property must be reduced by the value of any personal property included in the sale and the amount of any special assessments, mortgage points or other costs traditionally borne by the purchaser paid by the seller as part of the transaction". Some types of financing allow up to 6% above the purchase price to allow the seller to pay closing costs, points and prepaid. The seller pays money towards the buyer's closing costs, down payment, etc. It is legal and is done every day. The value of the home would be lowered to \$150,000 from \$159,000. It is a bill to simply address the rising valuations that are no longer true because prices are coming down. People should not be paying property taxes on higher values. The only other thing that I would like to have put in here is that this is effective for any sales made after January 1, 2008. That's when the values started coming down and that's only fair. If there are issues with that effective date, I can live with it the way it is.

Representative Kelsh: How often are properties assessed?

Representative Weiler: That's a good question. They will tell you they go out and look at property. No, they don't. They call the realtors and ask what kind of shape the house is in and why it sold for less than market value.

Representative Kelsh: They don't have to reassess that property immediately after a sale?

Representative Weiler: It puts the onus on the purchaser to bring the purchase agreement to the assessor's office and force a reassessment.

Representative Grande: If the purchaser is fine paying the higher tax and doesn't show up at the assessor's office, it would stay the same?

Representative Weiler: There would have to be some education of realtors, telling them this is a new law and you need to make your clients aware of it.

Representative Headland: Personal property. Who determines the value of appliances and things like that? If you buy a lake place and the guy includes the dock in the price of the home, how is that going to be handled?

Representative Kelsh: Isn't that typically negotiated between the buyer and the seller through the real estate agent?

Representative Weiler: I think the intent would be. Typically appliances stay with property, furniture typically doesn't stay, but maybe that's something that needs to be addressed.

Chairman Belter: In a contract between the buyer and seller, that would not necessarily be divided out, but it would state in the contract that you were buying the house plus such personal property, I would assume, with exclusions. In most instances, you are not talking about a lot of money.

Representative Pinkerton: This sounds pretty good. It doesn't have to go for the price. The assessor just has to take into consideration the purchase price.

Representative Weiler: The assessor has to lower their assessed true and full value to the purchase price.

Representative Pinkerton: What happens if a family member sold a \$100,000 house or lake cabin for \$50,000? That would be pretty common. How would you deal with that?

Chairman Belter: The IRS would consider that as a gift. Arms length sale means it has to be in a competitive market.

Representative Froseth: I was wondering about personal property. I sold my house and the guy talked me out of all my appliances.

Vice Chairman Drovdal: I have no problem with the idea that if the city has a value of \$200,000 and I buy something for \$159,000 that it should be taxed at \$159,000; but I think we are muddying the water with all this other stuff with special assessments.

Representative Weiler: I agree with you. This was not the discussion that I had with John Walstad. I didn't know there was anything in here about special assessments. We did talk about mortgage points because that can add a lot of value to the purchase price but the special assessments and the personal property were not. Mr. Chairman, my apologies, but I might want to try to fix this a little bit.

Representative Froseth: I think personal property has to be in there. If a \$100,000 home sold for \$120,000 because a lot of really nice furniture went with it, the furniture is not taxable as property tax purposes. In that case, the sales tax would indicate that.

Representative Weiler: I would like to check on some things and make sure it is the way I want it before it goes before the Senate.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1388**

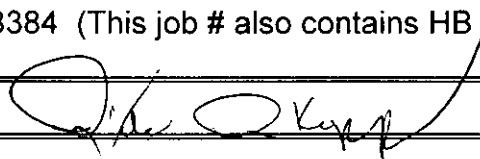
House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 2, 2009

Recorder Job Number: 8384 (This job # also contains HB 1512)

Committee Clerk Signature



Minutes:

Representative Weiler: This is the Representative Koppelman's bill we hog housed. There was a discussion previously about the line in the middle of the paragraph that says "for purposes of this section, the sales price of the property must be reduced by the value of any personal property". We took that out. The new amendment .0102 (**Attachment 1**) does not have that in there. The reason for that is if a house sells for \$150,000 and we start reducing personal property, we could be reducing window treatments, appliances, garage door openers, sprinkler systems, etc. Most of the time when houses sell, these items are included. This will eliminate issues with assessors having to put value on appliances, window treatments, and reducing the value of the \$150,000 house to \$144,000. It could even be a bigger issue when you start dealing with boat docks and things like that. Walstad thought it was best to leave that out. We are not trying to reduce the amount by more than closing costs and things like that.

Representative Grande: Did you want to put an effective date in? If not, do you want to cross that language out? You still have it on page one, line one, to provide an effective date.

Representative Weiler: There is not an effective date on these amendments, is that what you are saying. I would hope we could put it in January 1, 2009.

Representative Headland: Frankly, I like the first amendment better. Basically what you are doing is allowing personal property to be taxed as part of the sales price of the home. I think that is inherently wrong.

Representative Weiler: The reason behind that is that 95% of the time, when a house sells, it includes the appliances and window treatments. If we are going to include that as being a reduction, an assessor has to go in and come up with a value for each item. I think that's a real issue.

Representative Headland: I can agree to that point. I don't know if there is a way to write appliances and that type of thing in. You mentioned boat docks. There is just no way I can ever see that a boat dock should be part of a sales price of a lake or other home, whether or not it is included.

Representative Weiler: The purpose of this bill is when valuations are high and going up and up and the city assessors are assessing homes at high levels. Now that some prices are on the way down, let's try to correct the situation. There are houses for sales the city has assessed at \$190,000 that are selling for \$170,000. We are trying to correct that. When we have to subtract all the personal property, you don't end up at \$170,000, but at \$164,000. What value do you put on a 20 year old refrigerator? In order for assessors to put values on these things, they have to go into a home.

Representative Headland: I understand your point, but I just think there are some things considered personal property that should not be part of the sale of a house.

Representative Weiler: I believe the reason John Walstad wrote that in was to cover things like furniture that people normally take with them that were to be excluded.

Representative Kelsh: In both amendments, it says the purchaser is responsible for providing information as to the value. I don't know that the burden falls on the assessor to determine what that value is unless the purchaser comes in with something ridiculous.

Representative Weiler: The purchaser is responsible for taking the purchase agreement to the assessor and informing him that he paid \$170,000 for the house and it should be assessed at \$170,000, so we are putting the onus on the purchaser. I see a real big problem with including personal property in this, but if the committee wants to pass it that way, that's fine.

Representative Kelsh: One quick example is that there was a real estate agent in Fargo who gave a flat screen television to home buyers as an incentive. If that was included in the value of the house, it could be \$3,500 off. To me that was personal property, but it was also an incentive to get people to buy a house.

Representative Weiler: I don't think you should be able to take an additional \$3,500 off the price you paid for the home. We don't want to take valuations down further and further. All we want to do is make a correction to the market. When houses are coming down, we need to assess them at the price they really sold for.

Representative Grande: I move the amendments .0102 with the effective date January 1, 2009 added to the bottom.

Representative Winrich: Looking at the bill, that same is accomplished saying it is for taxable years after December 31, 2008.

Chairman Belter: I think that is the preferred way to write the law. **We have a motion from Representative Grande on the amendments .0102 and a second from Representative Brandenburg to accept the two amendments and add the effective date for taxable years after December 31, 2008. A voice vote resulted in a unanimous aye vote. The amendments were adopted.** What are your wishes on HB 1388? **I have a motion from**

Representative Grande for a “do pass as amended” on HB 1388 and a second from Representative Brandenburg. Is there any discussion?

Representative Pinkerton: Did you run this by an assessor to see what they thought?

Representative Weiler: Absolutely not. Mr. Chairman, I understand there are consequences here and they may be upset because technically this did not have a hearing, but my apologies to them because I didn't think about this until I was sitting in the committee listening to Koppelman. It popped in my head and; therefore, it won't have a hearing on this side, but it will on the Senate side. They will be upset about it, but the taxpayers are upset about the rising valuations as well.

A roll call vote resulted in 12 ayes, 0 nays, 1 absent/not voting. Representative Weiler will carry the bill.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1388

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-02 of the North Dakota Century Code, relating to reassessment of property that has been sold for less than its true and full value as most recently assessed; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-02 of the North Dakota Century Code is created and enacted as follows:

Reassessment based on sales price. Property that has been sold in an arm's-length transaction for a price less than the true and full value of that property as determined in its most recent preceding assessment must be reassessed by the first assessment date following the sale at a true and full valuation not exceeding the sales price. This section does not apply to property that has been improved, property that has changed property classifications, or property that has been divided or partitioned since its previous assessment. For purposes of this section, the sales price of the property must be reduced by the value of any personal property included in the sale and the amount of any special assessments, mortgage points, or other costs traditionally borne by the purchaser that were paid by the seller as part of the transaction. The purchaser of the property is responsible for providing the assessor with the documentation necessary to determine the sales price of the property for purposes of this section.

Renumber accordingly

Testimony

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1388

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-02 of the North Dakota Century Code, relating to reassessment of property that has been sold for less than its true and full value as most recently assessed; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-02 of the North Dakota Century Code is created and enacted as follows:

Reassessment based on sales price. Property that has been sold in an arm's-length transaction for a price less than the true and full value of that property as determined in its most recent preceding assessment must be reassessed by the first assessment date following the sale at a true and full valuation not exceeding the sales price. This section does not apply to property that has changed property classifications or property that has been divided or partitioned since its previous assessment. For purposes of this section, the sales price of the property must be reduced by the amount of any special assessments, mortgage points, or other costs traditionally borne by the purchaser that were paid by the seller as part of the transaction. The purchaser of the property is responsible for providing the assessor with the documentation necessary to determine the sales price of the property for purposes of this section."

Renumber accordingly

February 2, 2009

VK
2/3/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1388

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-02 of the North Dakota Century Code, relating to reassessment of property that has been sold for less than its true and full value as most recently assessed; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-02 of the North Dakota Century Code is created and enacted as follows:

Reassessment based on sales price. Property that has been sold in an arm's-length transaction for a price less than the true and full value of that property as determined in its most recent preceding assessment must be reassessed by the first assessment date following the sale at a true and full valuation not exceeding the sales price. This section does not apply to property that has changed property classifications or property that has been divided or partitioned since its previous assessment. For purposes of this section, the sales price of the property must be reduced by the amount of any special assessments, mortgage points, or other costs traditionally borne by the purchaser which were paid by the seller as part of the transaction. The purchaser of the property is responsible for providing the assessor with the documentation necessary to determine the sales price of the property for purposes of this section.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2008."

Renumber accordingly

Date: 2/2/09

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1388

House FINANCE AND TAXATION Committee

Check here for Conference Committee

Legislative Council Amendment Number Amendment

Action Taken Do Pass Do Not Pass Amended

Motion Made By Grande Seconded By Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Representative Froelich		
Vice Chairman David Drovdal			Representative Kelsh		
Representative Brandenburg			Representative Pinkerton		
Representative Froseth			Representative Schmidt		
Representative Grande			Representative Winrich		
Representative Headland					
Representative Weiler					
Representative Wrangham					

Voice

Total (Yes) 13 No 0

Absent _____

Floor Assignment _____

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

Amendment passed on voice vote

Date: 2/2/09

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1388

House FINANCE AND TAXATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Grande Seconded By Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	/		Representative Froelich		
Vice Chairman David Drovdal	/		Representative Kelsh	/	
Representative Brandenburg	/		Representative Pinkerton	/	
Representative Froseth	/		Representative Schmidt	/	
Representative Grande	/		Representative Winrich	/	
Representative Headland	/				
Representative Weiler	/				
Representative Wrangham	/				

Total (Yes) 12 No 0

Absent 1 (Froelich)

Floor Assignment Representative Weiler

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

REPORT OF STANDING COMMITTEE

HB 1388: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1388 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-02 of the North Dakota Century Code, relating to reassessment of property that has been sold for less than its true and full value as most recently assessed; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-02 of the North Dakota Century Code is created and enacted as follows:

Reassessment based on sales price. Property that has been sold in an arm's-length transaction for a price less than the true and full value of that property as determined in its most recent preceding assessment must be reassessed by the first assessment date following the sale at a true and full valuation not exceeding the sales price. This section does not apply to property that has changed property classifications or property that has been divided or partitioned since its previous assessment. For purposes of this section, the sales price of the property must be reduced by the amount of any special assessments, mortgage points, or other costs traditionally borne by the purchaser which were paid by the seller as part of the transaction. The purchaser of the property is responsible for providing the assessor with the documentation necessary to determine the sales price of the property for purposes of this section.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2008."

Renumber accordingly

2009 TESTIMONY

HB 1388

**Testimony to the House Finance & Taxation Committee,
Chairman Wesley R. Belter**

1/21/2009 by

Kevin Ternes, City Assessor

City of Minot

kevin.ternes@minotnd.org

House Bill 1388

Mr. Chairman, my name is Kevin Ternes and I am the City Assessor in Minot.

At this point, I would like to testify neutral on this bill if I may but would like to ask clarification of the bill's intent.

Currently, if new residential lots are selling for \$40,000 in one subdivision with all specials paid or none assessed because the developer may have financed them already, that is usually a pretty good indicator of value.

If comparable residential lots are selling in the adjacent subdivision for \$15,000 plus \$25,000 in special assessments that the buyer will assume and probably pay for over 10 years or so, it's the market's opinion, a realtor's opinion, a bank appraiser's opinion, the bank's opinion, the seller's opinion, and the buyer's opinion that those lots have a market value of around \$40,000. That has been the reason that assessors have also recognized value in special assessments. Assessors are required to assess at market value. Market value is best determined by the interaction of buyers and sellers in the open market.

This bill would prohibit the assessor from considering the "value or cost of improvements by special assessments" when estimating the True and Full Value for assessment purposes unless there is supporting evidence.

My question is would sales of comparable lots from other similar subdivisions that have sold without the assumption of special assessments with similar improvements such as the lots under special assessments be considered supporting evidence under this bill?

If "supporting evidence" consists of comparable lots with no specials being assumed selling for \$40,000, when assessing lots that have sold for \$15,000 plus \$25,000 in specials then assessors will simply be doing what they have always done. Assess at market value based on comparable sales. And that leads to the question, what this bill if passed will have accomplished?

Would it be possible to get clarification from someone on the intended definition of "supporting evidence"?