

2013 SENATE POLITICAL SUBDIVISIONS

SB 2128

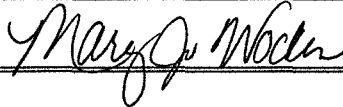
2013 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee
Red River Room, State Capitol

SB 2128
January 17, 2013
17366

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to fees and notice requirements of the county recorder.

Minutes:

You may make reference to "attached testimony."

Chairman Andrist opened the hearing on SB 2128. Senators Andrist, Sorvaag, Anderson, J. Lee, Grabinger, Dotzenrod were present.

Senator Jerry Klein, District 14. Sponsor of SB 2128 and explained the purpose of the bill. As your looking at the bill, we talk about housekeeping issues and a fee change in the bill. I don't think it's a fee increase as much as creating clarity and how they do this. Please listen to the recorders that are here and I urge to give them a due pass on 2128.

Aaron Birst: Association of Counties representing all county government. This association is the umbrella group and within that umbrella is State's Attorneys', Treasurers, Auditors, Recorders and a number of other groups. We stand in support of this bill and I can take you through what this bill does. In Section 1, although this appears like that might be a cost increase, in our opinion it is not. Under current law, plots are computed separately for each additional plot that is done. We strike that and go to a \$50 flat fee. We thought that was an improvement and an efficiency in the county recorder system so they don't have to roll through those. In Section 2, what that section says is the Department of Transportation (DOT) and the counties are prohibited from collecting money from the DOT.. That actually saves the DOT potentially some money, not that it was ever collected before. Section 3, is a unique procedure that is available to state agencies in particular the Bank of North Dakota. Currently under North Dakota law, the Bank of North Dakota can foreclose on someone's property that the Bank of North Dakota owns by what is called 'foreclosure by advertisement'. They simply put out an ad and they can then foreclose on the property. That is not an available remedy to any private lender. Because that is an old statute, there is specific language that requires the recorder to send out certain notice of that advertisement. In the struck language you can see it says, the recorder will be liable in a civil action to a person entitled to a copy of the affidavit. What our intent was to take that out because it appeared to me to be strict liability language if the recorder does not do that. Strict liability runs afoul of the Political Subdivisions Liability Act which is under North Dakota Century Code 32:12.103 which is general liability for political subdivisions.


Senator Andrist: The recorder could still be liable if somebody brought legal action. This just doesn't provide immunity. **Aaron Birst** replied the intent is not to provide immunity to the counties; the intent was to strike that so it is clear that it would go back to the 39:12.103 section which you have to show a dereliction of duty, a negligence action. But again the intent was not to provide some sort of immunity for political subdivisions. Finally, in Section 4, that is a section of law that allows for construction liens on well pipe development. That again is in an older section of law, but it required a recorder. If somebody files a lien in the recorder's office it requires the recorder to send out the notice of the lien action to the alleged person. This is just contrary to what most recorder offices are supposed to be doing. Most recorder offices take in information, collect it, organize it, and provide it when requested. This inserts them in essentially a civil action because they are now doing the work for the person filing the lien. They are responsible to send out these notices. We have the recorders here to provide testimony on how many times this comes up. We just didn't feel the recorder should be in the business of serving civil process and notifications when it is a civil action. These are the concepts behind the bill.

Senator Anderson: I was a little surprised when I read this and saw that a particular elected official would be civilly liable for their actions. It doesn't say anything in here about the office or the county or anything else. It names this specific individual which I thought was a little strange. It looks like a good thing to take out.

Aaron Birst replied it was our thought too. The language appears more damning than normal negligence actions against political subdivisions. In most cases I am guessing the North Dakota Insurance Reserve would be covering the recorders because it is in the scope of their duties. So, it probably would be covered but the language is not great. If the committee is willing to try to say the political subdivision is on the hook as opposed to that individual person I think that would be a good move too.

Senator Sorvaag: In Section 4, the intent of that is so people would be clear, no liens had been filed because there are certain situations where they really didn't know that. I know you're moving it over to the entity that is filing the lien. But is there a consequence if they don't, somewhere in the law? **Aaron Birst** replied the consequences then would be the normal lien process if you do not get notice of the lien. All we're trying to address here and there are sections after this that deals with the process for those lien holders. This just takes the recorders out of the serving of the process.

Senator Grabinger: In Section 2, you suggested that this isn't used anyway and it is not needed. Why didn't you just suggest to remove this from the section? **Aaron Birst** replied that section Chapter 24 talks a lot about roads and working with the DOT, and so instead of just trying to address that whole thing, this provides the DOT protection for not getting charged. So instead of trying to move it to the open records type meeting, we just thought we would keep it in there so the DOT wouldn't be nervous about somehow thinking we are going to start charging them lots of money.

Beth Knutson; McLean County Recorder. In support of SB 2128 specifically Section 1. See written testimony. I ask you to give a do pass on SB 2128. Recorders showed several plats from various communities in the state. (Plat maps are included in testimony). 

Ann Johnsrud: County recorder from McKenzie County at Watford City. We've just brought several different kinds of plats to look at so you know what we're talking about. This is a subdivision plat of 200 lots, 6 pages. This is the one that \$29.50. You can see the scope of work. **Senator Judy Lee:** It is the last page which has the lots. **Ann Johnsrud** replied this would be less than \$30.00 to record. We also have a cemetery plat of 179 lots or blocks and within each one of those blocks ABCD with 8 lots so you can just see the scope of the work that the counties do. (More examples shown). #2

Senator Jim Dotzenrod: The proposal instead of \$29 dollars would be \$50. It still seems like there's really a huge variation here when you refer to the term plat. It could be a huge project that involves lots of work and many pages or could be something very short, one page and simple. It does seem like kind of an unusual pricing scheme that we've set up here in the Century Code. It seems like it's not quite geared right to the work that is being done. There doesn't seem to be much of a relationship between the fee that is spelled out in the code and the actual work that is done to get that fee. Am I right about that?

Beth Knutson replied that our intention was to set a flat fee making it easier for the bigger counties who are doing the larger plats. It is taking them sometimes eight to sixteen hours to count each individual lot just to come up with a fee. This way they would be able to bring the plat in and pay their \$50 and we can continue with our recording process. We included all subdivisions, annexations, and cemetery plots because those generally are the bigger ones that we deal with. The other plats that we have, out lots are smaller one pages and those would remain the same fee.

Senator Jim Dotzenrod: You're looking for a way to simplify just accounting for the charge that is being made and you're not really concerned about all the extra work for all these bigger projects because the subdivision itself is benefiting by having that work done. It ultimately helps build up the system and the property values and tax collections. We probably don't need to worry about the fact that there is a big variation from one project to the next.

Beth Knutson replied that is correct. We are just trying to keep it sort of simple. It makes it easier for the surveyors or whoever comes in to record it too. They are going to know ahead of time that it is \$50. They won't have to wait for us to figure it out, to have the correct fee.

Ruth Stevens, Recorder and Clerk of District Court, Nelson County in Lakota; In support of SB 2128. See written testimony concerning Sections 2,3 and 4. I have worked in my office since 1978 and I have never even filed one of these bonds. #3

Senator Judy Lee: I would just like you to address the section that you skipped over because there has been some discussion. I would be interested in hearing why, so could you elaborate a little bit on your testimony? **Ruth Stevens** replied these foreclosures are done by advertisement. You know it is unique to the Bank of North Dakota. In Nelson County, I do remember back in the 1980's where we did have several of those and I do remember filing the affidavit or recording the affidavit of publication and sending out notice and making sure all of the that was done. I have not had one since. We just felt that we are

civilly liable for this, why should we be. I think it should fall under the general liability of a county elected official.

Marilyn Foss, North Dakota Bankers Association. See written testimony. I am proposing an amendment to simply remove this from the bill. I did call the Bank of North Dakota (BND) yesterday and spoke with Bob Humann who is their Senior Vice President in charge of real estate matters. I asked if the BND still does foreclose by advertisement and his answer was yes. I said, 'do you use that process when somebody else has the mortgage on the property as well' and he said yes. They are not here today because their legal counsel advised them that this bill does not affect them and that is true, it does not affect the BND. It does not affect their ability to foreclose by advertisement but it does affect us, which is why we are here. Our suggestion is that we remove Section 3 from the bill and that if we are looking at removing one step in the system that was originally set up to allow the BND to foreclose by advertisement that instead of removing one protection for a citizens' of the state that we actually look at the whole system for foreclosure by advertisement. (Example given) Addressing Senator Andersons query about why you would name a specific public officer as being liable that is again really historical. When a sheriff fails to do the sheriff's duty and causes someone damage if there is litigation over that you sued the sheriff. That is the public official that was charged with the responsibility. It doesn't mean our public officials are bonded and insured and have protection from being personally liable for their mere negligence. But it is historical in the way you frame who is the defendant in the law suit. I do not at all dispute that the intention of the counties is to shift liability from the specific recorder to the public entity. Removal of this language does not make that clear. I disagree and don't call it strict liability, but we do have clear liability if a record title holder or other lender is injured because the recorder has not done the recorder's duty. There is liability if that person can demonstrate and prove that they suffered damages. That is the critical factor. If you remove this language where there is clear and specific liability, the question then in argument arises what was the intention of that? If the intention of that is to make the political subdivision, the county liable for their recorders' error than I suggest that the change that is warranted is to state that. Then we don't have an argument of whether the point was to remove the liability at all, whether there is an ability to assert governmental immunity in subsequent litigation or not. I think that the proposed language replaces clarity with uncertainty and raises a question. In all of this, we are not at all suggesting that the county recorders are somehow remiss because truly our experience with the recorders is virtually and universally favorable. They do carry out their obligations unbelievably well. But again I would say if we are going to remove one chink in this system that was originally set up for giving the state through the BND, the power to foreclose by advertisement, which is acknowledged to be a really abbreviated process that instead of removing one chink that we actually look at the whole system to insure that the protections that were put in place at that time that we haven't just removed the protections and left the power of the state to act in an manner which no one else can. ††

Chairman Andrist: Marilyn, are you aware of any civil action ever taken against a recorder in North Dakota on this matter? **Marilyn Hoff** replied no, I am not aware of that.

Chairman Andrist: You posed an interesting question. I would like to know just the basic process for foreclosure for you. We know what the BND does now we aren't so sure what yours is. I am sure the person who has defaulted on the payments is notified properly. Just

who is it that has to get these affidavits then? **Marilyn Foss** replied I will give you a general outline of the process for foreclosures for banks and other mortgage lenders, other than the Bank of North Dakota. When somebody goes into default on their mortgage loan of course there is at the outset, your payment is late communication after about three missed payments. Before you can start the formal judicial process by which I mean file a court case, you have to serve on the borrower, what's called the Notice of Intention to Foreclose. By serving it, I mean you have to send it out or have it personally delivered by a method that will either require that person to sign for the delivery of the notice or certified registered mail. Perhaps another deliver service that requires signature or you have to have someone actually take it out, hand it, and then swear that they've handed the Notice of Intention to Foreclose on them. After, I believe it is 90 days, without resolution of the default, once 90 days has passed you are authorized by the statute to bring a court action. The court action requires the preparation and service again by the same hand it to you kind of method so you know you're getting it. For foreclosure that court action names the person who is in default on the loan and also there's title work done so it also names everybody else in the title that would be affected by foreclosing your mortgage and essentially eliminating their interest in the property after sale. Then the lender has to wait a minimum of the time allowed by statute for someone to answer a complaint. Everybody gets to answer a complaint and say no I paid or whatever to defend and if there is a dispute. The legal process for dealing with disputes applies. If there is no answer, or everybody has agreed on what is going to happen, the court can issue an order allowing you to foreclose setting up the system and the timing for a public foreclosure sale. What is eliminated by the process of advertisement is the BND publishes their ad in the legal notices and then they can go straight to sale. All of the opportunity to defend and whatever all of that handing you the notice kind of thing is gone and that is what the obligation on the recorder to at least to try to send out mail so to make sure that you really got notice if your both the record title owner or another mortgage lender.

Chairman Andrist: So the affidavit we are talking about only goes to the person who has defaulted. **Marilyn Foss** replied the notices that I am talking about, the Notice for the Intention to foreclose that goes to the person who is in default. The summons and complaint in a foreclosure action goes to the owner of the property who is usually the person in default and also everybody who is below the mortgager or the chain of title. So if there is a second mortgagor it goes to the second mortgagor if there is somebody who for instance bought the land on a contract- for- deed; it goes to them. It goes to everybody else in the chain of title.

Senator Judy Lee: Because the Bank of North and this may apply more to the committee discussion, but I do want to comment back to Ms. Foss. The environment in which we are working is so much different from the time as you have already talked about, when the Bank of North Dakota was founded, and at that time it wasn't being used for as many different purposes as today. Now, with our Housing Finance Agency and the number of home mortgages that have purchased by the BND, if you go to your local bank and if you're a first time home buyer, and buying a home through that process, those loans are purchased and serviced by the Bank of North Dakota. So it seems to me that some, not particularly sophisticated buyer of their first home who has purchased it through one of those programs deserves appropriate notice the same as in any other situation. More importantly, with all due respect to our chairman's life long career, there aren't a lot of

people under 50 who read a newspaper anymore. They read weeklies, but they don't read dailies. I think what we really need to look at is how that process is working all of these years later and I don't think that we can in our committee decide we're going to say they have to do it the same as everybody else. But I would like to see that as our final goal actually in some of these transactions because that kind of notice may have been just swell at the time that this was established but it isn't necessarily fair to people who probably don't read legal notices anymore; and could find themselves particularly if I was a second mortgage holder, in addition to being a property owner, you know I might be a relative who lent money to a family member but I've got a second mortgage that is recorded and I'm not even going to find out what's going on and all of a sudden there is a sale on the courthouse steps that the sheriff is conducting and its gone beyond the point where I can pull this whole this thing back again. I was trying to put a face on it for somebody who maybe didn't work with this every day. I'm interested in an observation from your point of view.

Marilyn Foss replied that what you're talking about is exactly why I am proposing to remove this section from the bill. In discussing this with recorders it would not be particularly problematic for them. I am suggesting that if are going to revise the statutes on foreclosure by advertisement that we actually look at the entire process. That applies in making a judgment if it is appropriate, if it is still a procedure we want to allow for the Bank of North Dakota what are the things that need to be in place in the statute to assure as you are saying, that all citizens including the person who took a second mortgage on property, whatever, are protected and have notice of the proceedings so they can look at the situation and act to protect themselves and their interests. But as I said I think what this does is just remove one step in the ladder without looking at the whole statute. I do not think that the recorders planned a surreptitious effort on their part to remove a consumer protection. I think they weren't looking at it that way at all and we didn't have a chance to talk about it with them before we saw the bill. I do think that by removing it , a) the Bank of North Dakota will be apprised of the interest of the committee and then we can have a conversation over the interim on what if the committee is interested in what might be the steps to actually take, to look at foreclosure by advertisement.

Chairman Andrist: I think what we're talking about isn't so much this bill but our issue of how we do the foreclosure process, both for the BND and for the other lenders. I think it would be well for the bankers to sit down sometime with somebody from BND in attendance and discuss this whole issue for the possible purpose of introducing legislation at a following session.

Marilyn Foss replied certainly any discussion about it would have to include the BND but as I said, this one little section of the bill does affect the process. I proposed amendments to simply remove it which I think further is the likelihood of the discussion occurring.

Senator Howard Anderson: I think you've convinced the committee that we need to change the process if we remove the liability of the recorder to notify the lien holders and so forth. Do you have any comments on Section 4, the bonding issue? I haven't really heard any specifics about why a bond wouldn't be filed or what instance that might apply? I don't know if that has to do with anything with other lenders or if that bonding requirement would be for a reclamation or environmental cleanup or what that issue is?

Marilyn Foss replied that I did look at that section of the bill and in all my notation it seemed to me that it was alright to have the individual send the notice. Beyond that I don't have any comment.

Jack McDonald, Independent Community Banks, North Dakota. We have talked with the North Dakota Bankers Association and Marilyn Foss about this issue and we concur with the opinion. As you know I am a private attorney as well and our office does do a lot of foreclosures and it is not uncommon when you get a notice of foreclosure to see listed as the defendants, of course the person owning the property, and then there is usually about in a lot of cases, seven or eight, nine, ten different people listed. There is sometimes second and third mortgages listed. There is also some people that have lent the person money and if they've take a secure interest in this. Also another area that wasn't mentioned was judgment debtors. Usually when a person falls behind on their mortgage they've also fallen behind on a lot of other payments. So people have been suing them for judgments; sometimes those judgments are sizable judgments. Sometimes people will owe \$50,000-\$60,000 dollars on a purchase of a boat or a second home or some other toy. By North Dakota law, any judgment becomes a lien against the real property that is owned by that individual. Again, just as a second mortgagee might well be interested in buying out the Bank of North Dakota if they are notified. Same with a judgment debtor, who has a sizable judgment against that individual might well be interested in buying out that mortgage interest at the bank and proceed on their own; by eliminating this you've eliminated them from getting the notice. It is important to take a look at this process. We would favor the position that Marilyn espouse to either to amend this bill now by taking out this section and then then perhaps taking a look at that whole process.

Senator Howard Anderson: Perhaps he has some comments about Section 4 on the bonding deal as well, did you look at that Jack?

Jack McDonald: I kind of agree with Marilyn. I agree with the concept that Mr. Birst mentioned that it is probably best for the individual to send out rather than have the recorder getting involved in what is essentially a civil action. I might also add though that it is not unusual for individual office holders to be assigned in executions and garnishment summons. The sheriff if he doesn't carry out the execution within so many days he is personally liable for the judgment that is trying to be executed. It says the sheriff shall be, not the county. I think when these statutes were first written way back when; they did hold the individuals liable. It is maybe something that needs to be looked at, but by holding the recorder person liable, it's not the only time an officeholders help.

Senator Judy Lee: I had made a note from Mr. Birsts' testimony regarding Section 4, related to construction liens on well- pipe development; I thought that might address your question. That is all it talks about.

Greg Tschider, Credit Union Association of the Dakotas: We support the bill except for Section 3. That obviously is our concern and would request that the committee accept the amendment that has been submitted by Ms. Foss. Several clarifications on testimony that you received so far, the notice before foreclosure gives the debtors 30 days to bring their payments current. If they bring their payments current the foreclosure process has to stop. That is not true with the Bank of North Dakota advertisement process. Also, Mr. McDonald

indicated that in his opinion the county recorders needed to notify judgment holders. That is not correct. The County Recorder does not record judgments. That is done at the Clerk of District Courts office. So, if you did have a judgment against someone and there was an foreclosure by advertisement the county recorder are not required and in fact would not do that. So, I think Senator Lee stated it very well. Why is the Bank of North Dakota basically receiving the benefit that they do. Life has changed. I think it would be wonderful to revisit this. My personal reaction is the Bank of North Dakota should have to foreclose like everybody else, why not! We have no other lawsuit or any other way that you lose property under North Dakota law where you are not guaranteed the right to know its' being done. So I think that whole advertisement concept needs to change to protect consumers, to protect all of us. So I respectfully request that the committee basically accept the amendment on Section 3.

Senator Howard Anderson: If you could ask your attorney to file a lien based on that judgment then you would be notified, correct?

Greg Tschider: No, that is not correct. If you have a judgment, it becomes a public record through the Clerk of District Court. If you want to foreclose on your judgment then you have to start a regular law suit of foreclosure based on your judgment. But that judgment is never filed with the County Recorders' office. That is separate and distinct.

Chairman John Andrist: It doesn't seem to me that removing this section absolve the clerks of any liability, it just isn't an invitation to somebody to sue them.

Greg Tschider replied that I am concerned if this is taken out: number one it is a protection, it's a guarantee. We have given the Bank of North Dakota special consideration. Based on that special consideration, the quid pro quo is the fact that the county recorder has to do this. If we're going to take away that responsibility from the county recorder and just say it is not required unless you can prove negligence; then we shouldn't be giving the Bank of North Dakota the right in the first place. To me it's a balance. Bank of North Dakota gets this benefit but mortgage holders, but not judgment holders, get certain protections over here. Therefore, I submit to the committee that was the purpose of the law in the first place and should be maintained and not changed until we change the whole concept.

Senator Jim Dotzenrod: If we left Section 3 in, remove all the overstrike, and just shifted the liability from the recorder to the county, would that satisfy you or do you think we should maintain this provision that puts the liability on the recorder?

Greg Tschider replied I think the county indirectly has responsibility. Perhaps we need an Attorney General's opinion on this, but it strikes me that when the position is sued, the county basically ends up being responsible. I don't pretend to be an expert on the insurance coverage that counties presently have, but I think that the insurance coverage that is given to the counties applies to all county officials under the same concept.

Dana Bohn, Executive Directive of the North Dakota Farm Credit Council. We don't have anything unique and they've said everything in my testimony, but we to, are supportive of the bill except for Section 3. We have some concerns about that, so we would support the

amendment to remove that. We're supportive of all the efforts to streamline things for the recorders and appreciate all the hard work and everything they do.

Hearing Closed on SB2128.

Testimony 5-8 handed in for record, but attendees did not testify.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee
Red River Room, State Capitol

SB 2128
January 17, 2013
17369

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to fees and notice requirements of the county recorder.

Minutes:

You may make reference to "attached testimony."

Chairman Andrist opened for committee work on SB 2128. All senators were present.

Senator Judy Lee: On SB 2128, the Bank of North Dakota can foreclose by advertising. What I have done is asked Bethany to prepare an amendment for me. This mock amendment strikes Section 3 as had been requested. I would then ask for a Legislative Management Study on the Bank of North Dakota foreclosure procedures. What Bethany has prepared says "during this 2013-2014 Interim the Legislative Management may study the Bank of North Dakota foreclosure procedures specifically foreclosure by advertisement". The Legislative Management may report its findings and recommendations to the 64th Legislative Assembly. I think the subject is way deeper than we have time and it probably should be in Finance and Tax anyway. I think it certainly deserves a review because it obviously hasn't been updated for decades and the world is now a different place. This is a way to eliminate the current objections to that section but be able to move forward in trying to address the bigger problem.

Chairman Andrist: Are you satisfied that the examination should not include the foreclosure procedure for private banks and the same time?

Senator Judy Lee replied that certainly could be included, but the procedure for private banks, Independence Community Banks as well as the banks represented by Ms. Foss, are very specific and there is lots of notice, so really what I think the Bank of North Dakota ought to be doing is the same thing. I am perfectly happy to broaden it to say that Legislative Management may study foreclosure procedures including those of the Bank of North Dakota; and its Foreclosure by Advertisement. Then Legislative Management could decide if they want to limit it in any way. I would like to specifically note that the Bank of North Dakota foreclosure procedures by advertisement would be a part of this study, however, what may the committee wish to do.

Senator Howard Anderson: I would like to keep it specific to the Bank of North Dakota. foreclosure procedures is a really broad deal and if you start studying and bring all that in, I

don't think that is necessary. I think what we need to look at here is why the Bank of North Dakota is different than the others.

Vice- Chairman Ronald Sorvaag: I would agree to limit this to the Bank of North Dakota, but I would support that amendment to eliminate Section 3 and recommend the study.

Senator Judy Lee: How about if I make a motion to adopt an amendment which would strike Section 3 of 2128, and call for the study of the Bank of North Dakota foreclosure proceedings specifically foreclosure by advertisement.

Chairman Andrist: That works for our discussion. You don't mean to strike I don't think Section 3 as much as you want to remove the underline?

Senator Judy Lee: If we remove the underline, then we're back to the statute as it currently so we won't need the whole section. **Chairman Andrist:** So you want to take the whole section out? **Senator Judy Lee** replied because if we take the underscores then we're just leaving it the way it currently is so it doesn't need to be in here at all. **Chairman Andrist:** Sure.

Senator Howard Anderson: I will second that motion.
Roll call vote: 6 Yea, 0 No, 0 Absent

Chairman Andrist: The amendment has passed, we could accept a motion then to give the bill a do pass as amended.

Senator Howard Anderson: I move do pass as amended.
2nd- Senator Ron Sorvaag

Senator Dotzenrod: On line 13, the bill adds from the State of North Dakota, which I assume probably meant to my way of thinking, on behalf of the State of North Dakota. When they say collected from the State of North Dakota, I think what they are saying is fees that would be on behalf of the state. I am unclear as to what would be an example of something that would fall into that category and would demonstrate why we need that? I'm not sure if I understand.

Senator Howard Anderson: Explained an example to Senator Dotzenrod.

Chairman Andrist: That would be my interpretation too. That it is simply saying you can't collect from them.

Senator Judy Lee: It only applies to the DOT, this particular section. It would just be road issues.

Roll call vote: 6 Yea, 0 No, 0 absent.
Carrier: Senator Judy Lee

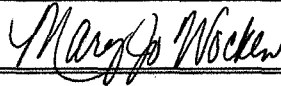
2013 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee
Red River Room, State Capitol

SB 2128
January 25, 2013
17690

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to fees and notice requirements of the county recorder

Minutes:

You may make reference to "attached testimony."

Chairman Andrist reopened for discussion SB 2128

Senator Judy Lee received this information from Mr. Eric Hardmeyer, the Bank of North Dakota in response to SB2128. (00:-2:17) It was in the form of an email.

The bank legal counsel has advised that the issue of foreclosure by advertisement only applies to farm real estate loans. It does not apply to residential real estate loans. It is worthy to note that foreclosure on farm real estate has significantly declined with the Bank of North Dakota in recent years. Our legal counsel has also advised that the option of foreclosure by advertisement is not exclusive to the Bank of North Dakota as a state agency, but is extended to all state agencies holding mortgages on real property containing the power of sale clause. In addition the Bank of North Dakota is willing to use a foreclosure procedures as traditionally handled by the banking industry and can accomplish this through bank policy. So they are able to that without any statutory changes. We do appreciate your reviewing this legislation with us and ask for any questions.

Senator Judy Lee stated that the Bank of North Dakota wanted to let the committee know that they are looking and planning to use that kind of process. It was interesting to know that other agencies can foreclose by advertisement.

Chairman Andrist: I think it is worth noting that perhaps the Bank of North Dakota will be present to provide this information when the House holds the hearing on this bill which is already passed our house.

Senator Sorvaag: What other agencies would be foreclosing?

Senator Judy Lee: I'm sorry Mr. Chairman and Senator Sorvaag, I didn't ask for the list but we could make sure we could find out.

Senator Sorvaag: Aren't all loan run through the Bank of North Dakota? Senator Judy Lee replied there are other entities apparently that hold mortgages on real property. I don't know, but I didn't have time to do that.

FISCAL NOTE STATEMENT

Senate Bill or Resolution No. SB 2128

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

January 17, 2013

PROPOSED AMENDMENTS TO SENATE BILL NO. 2128

Page 1, line 2, replace "sections" with "section"

Page 1, line 2, remove "and 35-22-19"

Page 1, line 3, after "recorder" insert "; to repeal section 35-22-19 of the North Dakota Century Code, relating to a failure to record in a foreclosure; and to provide for a legislative management study"

Page 1, line 13, overstrike "No fees" and insert immediately thereafter "The county auditor"

Page 1, line 13, overstrike "be charged or collected"

Page 1, line 13, remove "from the state of North Dakota"

Page 1, line 13, overstrike "by the county auditor" and insert immediately thereafter "not charge or collect from the state of North Dakota"

Page 1, line 15, overstrike "the provisions of"

Page 1, remove lines 16 through 23

Page 2, line 3, replace "which" with "that"

Page 2, after line 6, insert:

"SECTION 4. REPEAL. Section 35-22-19 of the North Dakota Century Code is repealed.

SECTION 5. LEGISLATIVE MANAGEMENT STUDY - BANK OF NORTH DAKOTA'S FORECLOSURE PROCEDURES. During the 2013-14 interim, the legislative management may study the Bank of North Dakota's foreclosure procedures, specifically foreclosure by advertisement. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly."

Renumber accordingly

Date: 1-17-2013
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2128

Senate Political Subdivisions 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 Dr. Judy Lee Seconded By Sen. Howard Anderson

Senators	Yes	No	Senator	Yes	No
Chairman John Andrist	✓		Senator Jim Dotzenrod	✓	
Vice- Chairman Ronald Sorvaag	✓		Senator John Grabinger	✓	
Senator Judy Lee	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

Date: 1-17-2013
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2128

Senate Political Subdivisions 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 Sr. Anderson Seconded By Sr. Sorvaag

Senators	Yes	No	Senator	Yes	No
Chairman John Andrist	✓		Senator Jim Dotzenrod	✓	
Vice- Chairman Ronald Sorvaag	✓		Senator John Grabinger	✓	
Senator Judy Lee	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Judy Lee

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

REPORT OF STANDING COMMITTEE

SB 2128: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2128 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "sections" with "section"

Page 1, line 2, remove "and 35-22-19"

Page 1, line 3, after "recorder" insert "; to repeal section 35-22-19 of the North Dakota Century Code, relating to a failure to record in a foreclosure; and to provide for a legislative management study"

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Renumber accordingly

2013 HOUSE POLITICAL SUBDIVISIONS

SB 2128

2013 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee Prairie Room, State Capitol

SB 2128
March 7, 2013
Job # 19587

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to fees and notice requirements of the county recorder.

Minutes:

Testimony #1

Chairman N. Johnson opened the hearing on SB 2128.

Beth Knutson, McLean County Recorder: (See testimony #1 Packet) 0:25 - 3:33

Rep. Klemin: The recording fees are not intended to compensate all the county offices for the kind of work that they are doing are they?

Beth Knutson: They are not collected offset all costs, but in this situation we think that the \$50 will save in time and resources. We have to set and count all 200 lots and then recount to make sure we are charging them the right amount and that is where the 8 hours of time comes in.

Rep. Klemin: If we started with a bare tract of agricultural land before it was plotted in lots for residential purposes the amount that is probably paid for property taxes is going to increase geometrically; not just arithmetically. Isn't that correct?

Beth Knutson: That is right.

Rep. Klemin: The County will get a lot more in revenue to finance its operations because of the substantial increase in taxes as a result of the change.

Beth Knutson: That is correct. To continue the original bill was just to remove the session laws portion of this and it somehow got mixed up. We do not charge the state of North Dakota for recording and this refers to Chapter 177 of the 1953 Session laws and replace it with this chapter simply referring to Chapter 24 of NDCC Recorders as well as clerk of court and auditors we will continue to record without charging a fee in reference to state highway condemnations so we are just asking to remove the session laws and change it back to the original. Right now it is say the county auditor will not charge or collect from the state of North Dakota, the record or clerk of court, which is incorrect.

Rep. Klemin: So are you proposing an amendment to this bill on Section 2 to change it back to the original language?

Beth Knutson: Yes

Chairman N. Johnson: In the original 01 version that is what you want it to look like and just remove the session laws at the end.

Beth Knutson: Yes; somehow that got switched around.

Rep. Koppelman: How did this change happen?

Beth Knutson: I am not sure?

Rep. Koppelman: Is there is a reason why the change was requested?

Beth Knutson: My understanding is that hard to find if we would go to reference them.

Rep. Klemin: If you have a problem in the future you can just call Legislative Council.

Beth Knutson: Section 3; no questions. Section 4: The appealed section Read section. So they repealed section four and we were not asking that. Recorders are in favor of the management study.

Chairman N. Johnson: Did Section 4 repeal the liability though?

Beth Knutson: We don't want to repeal the whole section. We want the study done and go from there.

Rep. J. Kelsh: On Section 1 of the bill you showed the map and there were 190 plots and if somebody comes in and does one plot and you record it and you charge \$50 these folks are going to be charged \$50 for doing 190 times the work? Had you given any thought to raising the \$20 and putting \$1 for additional lots up to \$100 or something like that?

Beth Knutson: This is only for subdivisions. We did do a survey of all the counties and asked anybody who came in and actually by the time they get to our office \$50 is low so there was no objection to it.

Rep. Koppelman: The portion that you were referring to that was repealed in 35-22-19 is basically a liability section. Do you know where that came from and is it used commonly and are recorders personally liable or would it be the county that would be liable for the actions of the recorder?

Beth Knutson: My understanding as an elected official you are still personally responsible and I am sure the county would have some responsibility also. In a normal foreclosure the bank hires somebody to do the title work and find all entities that are involved so in this instance they are requiring us to do that; which we do not do. We don't run title. We organize the information so people can come down and do that.

Rep. Klemin: The reference here is for 35-22-17 and 18. What are those sections?

Beth Knutson: I think the section they repealed made us liable for not finding all entities that have interest in the property.

Rep. Klemin: The original language would then continue the reference to those two sections.

Beth Knutson: It is because if we take that part out we are not sure what it will do to Sections 17 & 18 in the whole process of foreclosure by advertisement.

Rep. Koppelman: Section 35-22-17 has to do with the recorder mailing a copy of the affidavit of publication and 35-22-18 has to do with the recorder making an affidavit of mailing and recordation.

Rep. Klemin: On the original bill I don't see why they chose to repeal the whole section 19, but what was left there seems to be a title standard that one could rely on the title that was obtained for the property even if there was a mistake made in the recorder's office and it seems appropriate to leave that in there to clear up that kind of issue otherwise some enterprising attorney might challenge a foreclosure proceeding on the ground that there was some noncompliance somewhere.

Beth Knutson: Our intention was for us to not have to do that research so we are trying to remove the liability from us because we don't do that on a normal basis.

Rep. Klemin: The two sections Rep. Koppelman just read imposes certain duties upon the recorder's office that you aren't doing are you?

Beth Knutson: They are not recording the documents in this fashion was in 1997 so they are not even doing it; the Bank of North Dakota. There may be foreclosure by them but they are not recording the documents.

Rep. Klemin: So maybe we should be looking at Section 17 and 18 in this bill also to see if there is some amendment that needs to be made.

Beth Knutson: That is exactly what we are doing with Section 5 as recommending the study.

Rep. Klemin: The study may or may not take place and even if it did it would take another session to correct anything that maybe we could correct right now.

Marilyn Foss, General Counsel for the ND Bankers Association: Limit my testimony to Section 4 of the engrossed bill and support its amendment. The original bill did remove the liability of the county recorder for not giving notice to the record title owner and subsequent mortgagee when there was a foreclosure by advertisement by the Bank of North Dakota or other state agencies. Our point in the Senate committee was these sections on advertisement and the ability to foreclose by advertisement belongs only to the state.

Every other mortgage lender has to go through a judicial process whereby rules on serving be to the person who was given the mortgage and the mortgagor and whatever apply. The privilege given only to the state and its agencies allows foreclosure by advertisement by publication in a newspaper. That does not insure actual notice to a record holder or even an effort act actual notice to record title owner or somebody else that has the mortgage. The whole point of the law was to make a point to give actual notice to the person who was the record title owner of the land that there is a foreclosure taking place. So we objected to the amendment 35-22-19 because it did not; it took out one protection that had been in there for a long time. In the amendment it got translated to repeal the section of the law when all we were asking for to remove that section of the original bill and it happened to be Section 3. So the amendment we are supporting to remove Section 4 of this bill; which is Page 2, line 1 and the bill leaves intact the current section of law and the subject of a study.

Rep. Koppelman: The questions I asked about liability; has recorders been sued?

Marilyn Foss: This provision of law is older than those provisions of law relating to immunity of setting up our systems for insuring for our county officials so the section does provide for personal liability of this elected official as there are sections of law that provide a sheriff who fails to perform a levy in connection with collecting a judgment and whatever is personally liable for that failure to perform their duty. It if my understanding that the counties insure to cover that liability. I am not aware of anyone that has been sued over this issue as failure to perform.

Rep. Klemin: Did I understand you to say you do or don't want a study?

Marilyn Foss: The ND Bankers Association did not take a position on the study but the Senate committee wanted a study of the subject of foreclosure by advertisement.

Terry Traynor: Association of Counties: This is important to the counties. We support what the recorder is trying to do on the whole bill. We agree with getting rid of the repeal. We think it is inappropriate when the state is mandating that the counties do something on behalf of the bank that they are not trained or licensed and it an inappropriate function for the recorders to do and you incur liability if they miss it up. We would like to see that corrected.

Opposition: None

Neutral:

Bob Newman, Senior Vice President of lending for the Bank of North Dakota: The bank does not have a position on this bill one way or another. This only affects farm real estate mortgages. This foreclosure by advertisement; in 2008 we had two foreclosures; and 2009 we had one and 2010 we have had one and 2011 & 12 we have had none. So there are not a lot of foreclosures going on at this period. When we can't collect on a farm real estate loan we turn it over to the Attorney General's office does the foreclosure procedure for us. What would be the disadvantage to go from advertisement through the judicial process and he said we would have to go through the summons and complaint process through district court so there is an additional cost and there is an additional time

period that it takes to get the court and everything lined up so it takes a little longer to do it. There are more costs involved with it. I am not aware of any situations where the county recorder is being affected by any of these situations. I don't see the Bank of north Dakota ever going back and doing any type of litigation against one of the county recorders or counties or whether another bank might not have gotten proper notice I can't speak for that bank. If there is going to be a study on this; it is going be very brief study.

Rep. Koppelman: You said this only affects agricultural real estate and I am looking at 35-22 to try to find where that is indicated.

Bob Newman: The best way I can explain it is with our residential mortgages the bulk of them are guaranteed by federal housing authority or the veteran's administration so we basically have to foreclosure based on their rules. With the farm loans we are basically going back to this old law. 1886 and 1913 were the two case studies.

Rep. Koppelman: Would see any reason why the bank would not be going through the same procedures as any other financial institution does for foreclosure. Do we need this?

Bob Newman: It is not that big of a deal. Someday we will see an increase in foreclosures, but I don't think it will be that big of a deal.

Rep. J. Kelsh: I don't understand the process of advertising? What are the duties of the county recorder? It is probably recorded in that county only. What is expected of everybody?

Bob Newman: From the Attorney General's office we end up using the appropriate legal newspaper which would be the paper where the property is located. The publication provides notice of the time and place of the sale without the need for a judicial decree. That is what this advertisement ends up doing. That is when the county recorder duties get foggy? Do they have to notify all the other banks involved that might have a second mortgage behind the Bank of North Dakota or a farm credit or somebody else that might have a mortgage on that property? I am not sure how that all works.

Hearing closed.

Chairman N. Johnson: It sounds like somebody should have to come up with some amendments with this one.

Subcommittee appointed: Rep. Klemin; Chairman; and Rep. Beadle and Rep. J. Kelsh.

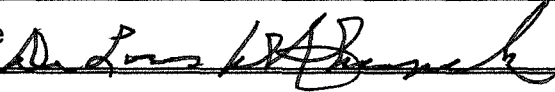
2013 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee Prairie Room, State Capitol

SB 2128
March 15, 2013
Job # 20011

Subcommittee Meeting

Committee Clerk Signature



Minutes:

Rep. Klemin brought the subcommittee hearing to order at 11:30 AM.

Members Present: Rep. Klemin: Chairman; Rep. Beadle and Rep. J. Kelsh.

Purpose: Look though SB 2128 first engrossment to determine if there are any amendments necessary to this bill that might improve it.

Rep. Klemin: Decided to go through the bill Section by Section.

Section 1: Rep. Klemin: asked Rep. Beadle you had some conversations with some members of the county and recorders and realtors concerning the fee that was proposed. In regards to Section 1 of the bill where we are increasing the fee from \$10 plus 10 cents for each additional lot above one lot to a flat fee of \$50. I think that is a pretty significant jump and one that would be hard to get through our assembly. I talked to some individuals from different counties and discussed the idea of making it so that it is a two tier system. We increase the base levels so we increase the fee so they are not losing money on it, but not going all the way up to \$50 for a smaller development like 20-25 lots. The first tier is up to 20 lots for \$20-\$25. Anything above and beyond that would be \$50. One of the concerns is to limit having to count up 180 lots or whatever. Rep. Beadle: proposed an amendment so up to 20 lots it would be \$20; over that would be \$50. That would replace page 1, line 11 where it has underscored \$50 for the flat fee. Rep. J. Kelsh: Seconded it. Discussion: Rep. J. Kelsh: Why don't we make it up to 20 and every 10 go another \$10? Up to \$50. Rep. Beadle: One of the biggest reasons for the counties to bring this forward is they didn't want to get into counting lots. If we did it this way they would still have to count lots. Rep. Klemin: I don't see anyone here from the realtors but I did have a discussion with Claus Lempke who represents the ND Association of Realtors and he told me what Rep. Beadle just proposed by a motion was acceptable to the realtors. They are the ones paying it. Rep. Beadle: I am trying to work on a way so the smaller subdivisions which there is a fair number of them that might only have 5-10 lots; I want to make sure that is protected because I would say that is probably the common use. Rep. Klemin: The idea of having a flat fee is getting away from these different amounts. Rep. Beadle: said the county recorders wanted to get away from counting lots. Voice vote carried.

Section 2: Rep. Klemin: this section rearranged the language of the existing statute without making any substantive changes. The way the original language reads it reads

better than the amended language except that you don't need to have reference to Chapter 177 of the 1952 Session laws. The amendment in there would be to take the original language of Section 23-01-25 and not change 15 and 16 and section 17 would say under strike the provisions of this after chapter put a period and just stop. So removing all the overstruck and underscored language in 15 & 16. Rep. Klemin: Moved to amend this; Rep. Beadle: seconded; and voice vote carried.

Section 3: Rep. Klemin: I did not hear any major problem with this section. We should put in the word person; which covers everyone. We would strike the word recorder so the person who is posting the bond is not going to be the recorder. So it would read on line 21; upon the filing of such a bond change the words individual or entity to person and leave the rest. Rep. J. Kelsh: so moved; Seconded by Rep. Beadle: Voice vote carried.

Section 4: This repeals 35-22-19. Rep. Klemin: This section refers to 35-22-17 & 18 and I provided you with a copy of these sections from the statute as well as 35-22-16. I have given the people who are here a copy too. It takes the responsibility of the recorder to do these things out of the statutes and instead says that they things have to be done as part of foreclosure by advertisement process. It will say the party that wants this done is going to have do all of those things in order to comply with the statutory requirements and that would be the plaintive and since we are in this chapter dealing with foreclosure by advertisement which is only allowed to the state it is going to be someone with the Attorney General's office to make for sure all this stuff is done. 35-22-19 is the liability part and to say the failure to comply with these provisions renders the state liable. This is to make sure the second mortgage holders get notification. Rep. J. Kelsh: moved that motion; Seconded by Rep. Beadle: Discussion: Rep. Beadle: In the initial version in the Senate that section was 3 and they were deleting everything in 35-22-19. The Bank was trying to remove that amendment from the bill; not necessarily remove the section from code. During the testimony the recorders were asking us to remove the repeal and I just wanted to be sure they had been consulted in making some of these other changes. Rep. Klemin: I did provide a copy of this to the recorders in the room with us and they are OK with it. Voice vote carried.

Section 5: Rep. Klemin: It doesn't hurt anything to say we may study this. On the other hand I heard the testimony from the Bank of ND that said it was going to be a very short study. He said in 2008 they did 2; 2009 did 1; 2010 did 1; 2011 & 12 they did none. What are we going to study? Rep. J. Kelsh: It doesn't mean there won't be some work for the recorders, but the liability has been taken out. A study might make it much easier to repeal that section of law. Rep. Klemin: We can leave that in. There was agreed to leave it alone.

Rep. J. Kelsh: Moved we recommend these amendments to the full committee; Rep. Beadle: Seconded. Voice vote carried.

Rep. Klemin: I will have Legislative Counsel prepare a proposed amendment to bring to the committee. Closed.

2013 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee Prairie Room, State Capitol

SB 2128
March 21, 2013
Job # 20299

Conference Committee

Committee Clerk Signature



Minutes:

Proposed amendment #1

Chairman N. Johnson opened the meeting on SB 2128.

Rep. Klemin: This was a bill that did a couple of things relating to the duties of the county recorder, filing fees for plats and some things relating to foreclosures by advertisement by the State of North Dakota and the Bank of North Dakota. The subcommittee consisting of myself, Rep. Beadle, and Rep. J. Kelsh met to consider this bill. We had input from the county recorders, the realtors, the banks and credit unions. What you have before you is the amendment for this bill. I will go through it section by section. Section 1 was on the fee for the recording of plats. We increased from \$7 to \$50; which was discussed both with the recorders; who thought they needed more money to cover the costs of recording and storing plats and also the realtors association were concerned about the amount of the fee and the compromise was that they would either have a two tier recording fee based on the number of lots in the plat. There more lots there are the more work is involved in the process of recording a plat because they have to put down every lot etc. For twenty lots or fewer the fee would be \$20 for recording a plat and for more than twenty lots it would be \$50 for recording them. Section 2, the language in this bill on lines 15 & 16 is to remove the underlining language and put it back to the original language of the original statute. On line 17 & 18 of the bill I would leave that overstrike in and the word this would stay there and the word chapter we could have that be the last word in that sentence and there would be a period after that chapter being 24-01. There is no longer a need to refer to the 1953 Session laws. Section 3: Page 1, line 21, replace individual or entity with person and that is all that is being done there. On page 2 of the amendment it says Page 2, remove line 1; so that repealed Section 35-22-19 of the Century Code, which was apparently unintentionally repealed. 35-22-17 was not the job of the county recorder to do the things like recording etc. It is the job of the party that wants to have it done and make sure it gets done particularly in a foreclosure because you have strict guidelines to follow. The person that really has that responsibility is the attorney for the State of North Dakota who is actually doing the work. In the new Sections 3, 4 5, & 6 go through some existing laws in the foreclosure by advertisement chapter. Went through the changes. The State of ND is the entity that can do foreclosure by advertisement on a mortgage that is not being paid. All the other mortgages have to go through a legal action in the district court. Section 4 changed so that the recorder does not mail a copy of the application; it just says a copy of the affidavit of publication is to be mailed. It takes the responsibility out of the recorder's responsibility. The banks were concerned because often times they have a second

mortgage and if they don't know about the foreclosure by advertisement then it would affect their right of redemption. That gives them the opportunity to come in and pay the debt of the first mortgagee who didn't pay the state or Bank of North Dakota. Went through all the different steps that must be done according to the new proposed amendment to do things correctly for the foreclosure.

Rep. Klemin made a motion to move the amendments; Seconded by Rep. Beadle:

Rep. L. Meier: So in section 6 what you are saying is if there a failure to have the notices mailed they are liable for a lawsuit? Is that what you are saying?

Rep. Klemin: Yes. The State of North Dakota is going to be getting title to that property and if they didn't give notice of the right to redeem to a third party that should have gotten notice and they lose their right to redeem because of it then that bank who could have redeemed has lost out so this just makes sure that these steps are followed.

Rep. Koppelman: Do realtors actually pay this or do they pass it on to the people buying the property? During the hearing the question was raised whether the fee increase was that really necessary because they will get a lot more property tax on an ongoing basis for that property once it is re plated. Did the subcommittee discuss that at all?

Rep. Beadle: As a realtor who has paid the fee a few times I did consult with a few realtors and developers to talk about it. Their consensus was once you get above 20 lots that that is a drop in the bucket. That is where the tier came from.

Rep. Klemin: Didn't you say you were informed the Mylar's that they use to store these plats cost more than the filing fee?

Rep. Beadle: With the Mylar fees it costs \$13.50 to hold the plat so they lose money on that and then the labor on top of that.

Voice vote carried.

Do Pass as Amended Motion made by Rep. A. Maragos; Seconded by Rep. Ben Hanson

Rep. Klemin: You will notice we did not do anything with Section 5 of the original bill which will have to be renumbered. That is the one that calls for a legislative management study of the Bank of North Dakota's foreclosure procedures. Bob Newman from the Bank of North Dakota told us that would be a pretty short study because they don't do these very often anyway. We decided to leave the study in because it is a may study. There is another section in this foreclosure by advertisement law that says if a defendant raises a valid legal defense in the foreclosure by advertisement then the Bank of North Dakota or state of North Dakota is not going to do the foreclosure by advertisement. They have to go through court anyway.

Vote: 14 Yes 0 No 1 Absent Carrier: Rep. Klemin:

House Political Subdivisions Committee
SB 2128
March 21, 2013
Page 3

Closed.

FISCAL NOTE STATEMENT

Senate Bill or Resolution No. SB 2128

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

March 21, 2013

Handwritten initials/signature in the top right corner.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2128

- Page 1, line 2, replace the first "section" with "sections"
- Page 1, line 2, after "24-01-25" insert ", 35-22-16, 35-22-17, 35-22-18, and 35-22-19"
- Page 1, line 3, remove "to repeal section 35-22-19 of"
- Page 1, line 4, remove "the North Dakota Century Code, relating to a failure to record in a foreclosure;"
- Page 1, line 11, after "~~seven~~" insert "twenty dollars for twenty lots or fewer and"
- Page 1, line 11, after "dollars" insert "for more than twenty lots"
- Page 1, line 15, remove the overstrike over "No fees"
- Page 1, line 15, remove "The county auditor"
- Page 1, line 15, remove the overstrike over "~~be charged or collected by the county auditor~~"
- Page 1, line 15, remove "not charge or"
- Page 1, line 16, remove "collect from the state of North Dakota"
- Page 1, after line 18, insert:

"SECTION 3. AMENDMENT. Section 35-22-16 of the North Dakota Century Code is amended and reenacted as follows:

35-22-16. Affidavit of publication recorded - Effect of in evidence.

The affidavit of publication must be recorded ~~at length by~~ in the office of the recorder of the county in which the real property is situated in a record kept for mortgages. The original affidavit, the record thereof, and certified copies of the record are prima facie evidence of the facts contained in the record.

SECTION 4. AMENDMENT. Section 35-22-17 of the North Dakota Century Code is amended and reenacted as follows:

35-22-17. ~~Recorder to mail copy~~ Copy of affidavit of publication to be mailed.

~~The recorder, within~~ Within ten days after the filing of the affidavit of publication of the notice of mortgage foreclosure in any foreclosure of a real estate mortgage by advertisement, ~~shall send, by registered or certified mail,~~ a copy of the affidavit of publication must be mailed by certified mail to the record title owner and to every subsequent mortgagee whose mortgage appears on record, addressed to the person at the post office shown of record in the recorder's office. If no post-office address appears of record ~~and it is unknown to the recorder,~~ the copy must be addressed to the post office located nearest to the land described in the certificate of sale.

SECTION 5. AMENDMENT. Section 35-22-18 of the North Dakota Century Code is amended and reenacted as follows:

35-22-18. Recorder to make affidavit~~Recorder to make affidavit~~ Affidavit of mailing - Recordation.

~~The recorder shall make an~~ An affidavit setting forth the time and manner of the mailing of the copy of the affidavit of publication, the description of the land, and the name and post-office address of the person or persons to whom the affidavit of publication was mailed, ~~and shall attach thereto the registry receipt or receipts, and the affidavit and registry receipt or receipts~~ must be filed and recorded in the recorder's office.

SECTION 6. AMENDMENT. Section 35-22-19 of the North Dakota Century Code is amended and reenacted as follows:

35-22-19. Failure of recorder to mail notices - Liability.

The failure of the recorder to comply with the provisions of sections 35-22-17 and 35-22-18 in no way invalidates the foreclosure proceedings nor affects the title to the property involved, but such failure renders the recorder state liable in a civil action to the person entitled to a copy of the affidavit of publication herein described for any damage sustained by the person by reason of such failure."

Page 1, line 21, replace "individual or entity" with "person"

Page 2, remove line 1

Renumber accordingly

Date: 3-21-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2128

House Political Subdivisions 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 Rep. Klemin Seconded By Rep. Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Ben Hanson		
Vice Chairman Patrick Hatlestad			Rep. Kathy Hogan		
Rep. Thomas Beadle			Rep. Jerry Kelsh		
Rep. Matthew Klein			Rep. Naomi Muscha		
Rep. Lawrence Klemin					
Rep Kim Koppelman					
Rep. William Kretschmar					
Rep. Alex Looyen					
Rep. Andrew Maragos					
Rep. Lisa Meier					
Rep. Nathan Toman					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent: Attachment #1

Vote carried!

Date: 3-21-13
 Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2128**

House Political Subdivisions 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 Rep. Maragos Seconded By Rep. Hanson

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Ben Hanson	✓	
Vice Chairman Patrick Hatlestad	✓		Rep. Kathy Hogan	✓	
Rep. Thomas Beadle	✓		Rep. Jerry Kelsh	✓	
Rep. Matthew Klein	✓		Rep. Naomi Muscha	✓	
Rep. Lawrence Klemin	✓				
Rep. Kim Koppelman	✓				
Rep. William Kretschmar	—				
Rep. Alex Looyen	✓				
Rep. Andrew Maragos	✓				
Rep. Lisa Meier	✓				
Rep. Nathan Toman	✓				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep. L. Klemin

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

REPORT OF STANDING COMMITTEE

SB 2128, as engrossed: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2128 was placed on the Sixth order on the calendar.

Page 1, line 2, replace the first "section" with "sections"

Page 1, line 2, after "24-01-25" insert ", 35-22-16, 35-22-17, 35-22-18, and 35-22-19"

Page 1, line 3, remove "to repeal section 35-22-19 of"

Page 1, line 4, remove "the North Dakota Century Code, relating to a failure to record in a foreclosure;"

Page 1, line 11, after "~~seven~~" insert "twenty dollars for twenty lots or fewer and"

Page 1, line 11, after "dollars" insert "for more than twenty lots"

Page 1, line 15, remove the overstrike over "No fees"

Page 1, line 15, remove "The county auditor"

Page 1, line 15, remove the overstrike over "~~be charged or collected by the county auditor~~"

Page 1, line 15, remove "not charge or"

Page 1, line 16, remove "collect from the state of North Dakota"

Page 1, after line 18, insert:

"SECTION 3. AMENDMENT. Section 35-22-16 of the North Dakota Century Code is amended and reenacted as follows:

35-22-16. Affidavit of publication recorded - Effect of in evidence.

The affidavit of publication must be recorded ~~at length by~~ in the office of the recorder of the county in which the real property is situated in a record kept for mortgages. The original affidavit, the record thereof, and certified copies of the record are prima facie evidence of the facts contained in the record.

SECTION 4. AMENDMENT. Section 35-22-17 of the North Dakota Century Code is amended and reenacted as follows:

35-22-17. Recorder to mail copy Copy of affidavit of publication to be mailed.

~~The recorder, within~~ Within ten days after the filing of the affidavit of publication of the notice of mortgage foreclosure in any foreclosure of a real estate mortgage by advertisement, ~~shall send, by registered or certified mail,~~ a copy of the affidavit of publication must be mailed by certified mail to the record title owner and to every subsequent mortgagee whose mortgage appears on record, addressed to the person at the post office shown of record in the recorder's office. If no post-office address appears of record ~~and it is unknown to the recorder,~~ the copy must be addressed to the post office located nearest to the land described in the certificate of sale.

SECTION 5. AMENDMENT. Section 35-22-18 of the North Dakota Century Code is amended and reenacted as follows:

35-22-18. Recorder to make affidavit~~Recorder to make affidavit~~ Affidavit of mailing - Recordation.

~~The recorder shall make an~~An affidavit setting forth the time and manner of the mailing of the copy of the affidavit of publication, the description of the land, and the name and post-office address of the person or persons to whom the affidavit of publication was mailed, ~~and shall attach thereto the registry receipt or receipts, and the affidavit and registry receipt or receipts must be filed and recorded in the recorder's office.~~

SECTION 6. AMENDMENT. Section 35-22-19 of the North Dakota Century Code is amended and reenacted as follows:

35-22-19. Failure of recorder to mail notices - Liability.

The failure of the recorder to comply with the provisions of sections 35-22-17 and 35-22-18 in no way invalidates the foreclosure proceedings nor affects the title to the property involved, but such failure renders the recorder state liable in a civil action to the person entitled to a copy of the affidavit of publication herein described for any damage sustained by the person by reason of such failure."

Page 1, line 21, replace "individual or entity" with "person"

Page 2, remove line 1

Renumber accordingly

2013 TESTIMONY

SB 2128

TO: Chairman John Andrist
From: Beth Knutson, McLean County Recorder
RE: Support SB 2128

Chairman Andrist and Committee Members,

My name is Beth Knutson and I am the McLean County Recorder. I am testifying in support of Senate Bill 2128, specifically Section 1. Recorders are seeking legislation to increase the fee for recording subdivision plats. The current fee for recording is \$10.00 for one lot plus \$.10 for each additional lot. This fee has had not been updated since 1993 and Recorders feel this increase is warranted and will help to recoup tax dollars spent by counties in the process of recording and subsequent handling of subdivision plats. We have brought examples of several different kinds of subdivision plats to help put into perspective what we are dealing with.

The process of recording a plat begins with the initial approval from the County Planning and Zoning Commission, followed by final approval of the County Commission, next the County Auditor certifies that taxes on the property are paid. The plat then comes to the Recorders office for recording. Upon payment of the proper recording fees and assuring all required signatures and seals are present, the plat is recorded and a new index is created for each new lot and block. After recording, the plat goes to the County Tax Assessor who removes the current parcel numbers, makes new parcels for each and every new lot and calculates the taxable value for each. The new parcels are then added to the tax rolls and subsequently tax statements are created and fees for property taxes calculated and assessed by the County Treasurer for collection.

Hypothetically, a 200 lot Subdivision plat will require 8 hours of work in the Recorders office, weeks spent by the Tax Director parceling 200 new lots and assigning 911 addresses to each, which in turn will create 200 new entries on the tax rolls, adding 200 more tax statements for the County Treasurer. With the current fee schedule, this hypothetical plat would bring in \$29.90 in recording fees to the County.

Section 1 of Senate Bill 2128 was developed to set a flat rate of \$50.00 for recording a Subdivision Plat, which includes Annexation Plats and Cemetery Plats. Recorders believe this is an updated and fair fee to offset the time and resources spent by the counties in the handling and work required with subdivision plats.

Thank you for your time and I ask you to give a do pass on Senate Bill 2128. I would be happy to answer any questions you might have on Section 1 of this bill.

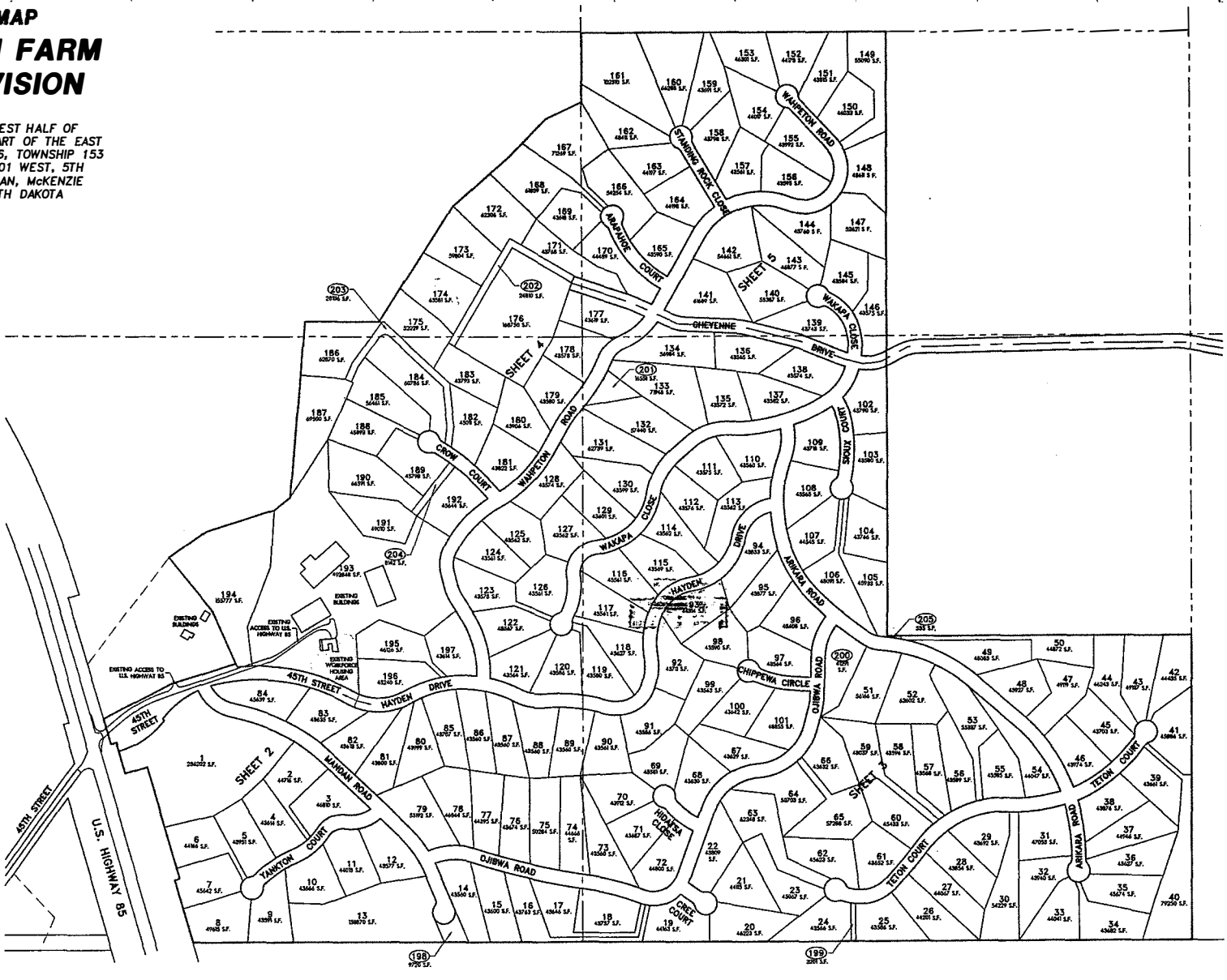
Beth A. Knutson

ARC DESIGN
RESOURCES INC.

8281 25TH PARKWAY
LOWE'S PARK, S. 11111
VOICE: (970) 404-4338
FAX: (970) 404-4338
www.arcdesign.com
Design Plan Control No. 94-02394

KEY MAP HAYDEN FARM SUBDIVISION

OF
PART OF THE WEST HALF OF
SECTION 15 AND PART OF THE EAST
HALF OF SECTION 16, TOWNSHIP 153
NORTH, RANGE 101 WEST, 5TH
PRINCIPAL MERIDIAN, MCKENZIE
COUNTY, NORTH DAKOTA



RESURRECTION GARDEN

BEING A REPLAT OF PART OF SUNSET MEMORIAL GARDENS
SITUATED IN THE WEST HALF OF THE SOUTHEAST QUARTER
OF SECTION 36, TOWNSHIP 139 NORTH, RANGE 49 WEST, 5th P.M.
TO THE CITY OF FARGO
CASS COUNTY, NORTH DAKOTA

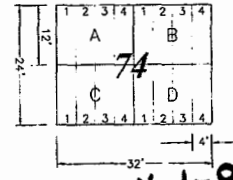


Section 5 of Sunset Memorial Gardens Cemetery
 Area Square Feet ±159,240
 Area Acreage ±3.656
 Standard Graves 2,650
 Cremation Graves 70
 Columbarium 224 Niche

Standard Grave Spaces
 Blocks 1 through 179
 Lots per Block A, B, C, D
 Grave Spaces 1 through 5
 Grave Dimensions 4'0" W x 12'0" L

Cremation Grave Spaces
 Area Columbarium
 Grave Spaces K1 through K70
 Grave Dimensions 3'6" L x 3'6" W

TYPICAL LOT - BLOCK - GRAVE LAYOUT (NOT TO SCALE)



1304812
 P:000 1 of 2
 3/17/2012 2:49 PM
 PLOT 127.80

X-1-98

RESURRECTION GARDEN

BEING A REPLAT OF PART OF SUNSET MEMORIAL GARDENS
SITUATED IN THE WEST HALF OF THE SOUTHEAST QUARTER
OF SECTION 36, TOWNSHIP 139 NORTH, RANGE 49 WEST, 5th P.M.
TO THE CITY OF FARGO
CASS COUNTY, NORTH DAKOTA

OWNER'S CERTIFICATE:

KNOW ALL MEN BY THESE PRESENTS: THAT SUNSET MEMORIAL GARDENS, INC. IS THE OWNER AND PROPRIETOR OF THAT PART OF SUNSET MEMORIAL GARDENS, SITUATED IN THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 139 NORTH, RANGE 49 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SUNSET MEMORIAL GARDENS, ALSO BEING THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 36; THENCE NORTH 04°24'02" WEST (ASSUMED BEARING), ALONG THE WESTERLY LINE OF SAID SUNSET MEMORIAL GARDENS AND ALONG THE WESTERLY LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 36, FOR A DISTANCE OF 288.12 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUE NORTH 04°24'02" WEST, ALONG THE WESTERLY LINE OF SAID SUNSET MEMORIAL GARDENS AND ALONG THE WESTERLY LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 36, FOR A DISTANCE OF 724.50 FEET; THENCE NORTH 85°35'58" EAST FOR A DISTANCE OF 147.56 FEET; THENCE SOUTH 57°33'06" EAST FOR A DISTANCE OF 89.92 FEET; THENCE SOUTH 49°25'18" EAST FOR A DISTANCE OF 42.43 FEET; THENCE SOUTH 04°25'17" EAST FOR A DISTANCE OF 27.00 FEET; THENCE SOUTH 85°08'04" WEST FOR A DISTANCE OF 85.44 FEET; THENCE SOUTH 08°53'18" WEST FOR A DISTANCE OF 101.86 FEET; THENCE SOUTH 04°25'18" EAST FOR A DISTANCE OF 50.50 FEET; THENCE SOUTH 10°43'42" EAST FOR A DISTANCE OF 30.55 FEET; THENCE SOUTH 18°27'28" EAST FOR A DISTANCE OF 41.23 FEET; THENCE SOUTH 30°59'12" EAST FOR A DISTANCE OF 89.44 FEET; THENCE SOUTH 04°25'17" EAST FOR A DISTANCE OF 17.00 FEET; THENCE SOUTH 22°08'37" WEST FOR A DISTANCE OF 22.36 FEET; THENCE SOUTH 40°34'43" WEST FOR A DISTANCE OF 14.14 FEET; THENCE SOUTH 43°35'29" WEST FOR A DISTANCE OF 134.54 FEET; THENCE SOUTH 29°16'07" WEST FOR A DISTANCE OF 36.11 FEET; THENCE SOUTH 85°35'58" WEST FOR A DISTANCE OF 127.72 FEET TO THE TRUE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 3.656 ACRES, MORE OR LESS.

AND THAT SAID PARTY HAS CAUSED THE SAME TO BE SURVEYED AND PLATTED AS RESURRECTION GARDEN IN THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA.

OWNER:

SUNSET MEMORIAL GARDENS, INC.

Steven K. Eicholtz
STEVEN K. EICHOLTZ, CHAIRMAN

STATE OF NORTH DAKOTA }
COUNTY OF CASS } SS

ON THIS 28th DAY OF July, 20 10, BEFORE ME, A NOTARY PUBLIC, PERSONALLY APPEARED STEVEN EICHOLTZ, PRESIDENT OF SUNSET MEMORIAL GARDENS, INC., KNOWN TO ME TO BE THE PERSON WHO IS DESCRIBED IN AND WHO EXECUTED THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.

NOTARY PUBLIC: Katie Winick

KATIE WINICK
Notary Public
State of North Dakota
My Commission Expires Sept. 3, 2014

STATE OF NORTH DAKOTA }
COUNTY OF CASS } SS

ON THIS 28th DAY OF July, 20 10, BEFORE ME, A NOTARY PUBLIC, PERSONALLY APPEARED ODELL JOHNSON, SECRETARY OF SUNSET MEMORIAL GARDENS, INC., KNOWN TO ME TO BE THE PERSON WHO IS DESCRIBED IN AND WHO EXECUTED THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.

NOTARY PUBLIC: Katie Winick

KATIE WINICK
Notary Public
State of North Dakota
My Commission Expires Sept. 3, 2014

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:

I, JAMES A. SCHLIEMAN, REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA, DO HEREBY CERTIFY THAT THIS PLAT IS A TRUE AND CORRECT REPRESENTATION OF THE SURVEY OF SAID SUBDIVISION; THAT THE MONUMENTS FOR THE GUIDANCE OF FUTURE SURVEYS HAVE BEEN LOCATED OR PLACED IN THE GROUND AS SHOWN.

DATED THIS 13th DAY OF July, 20 10.

J.A. Schlieman
JAMES A. SCHLIEMAN
REGISTERED LAND SURVEYOR NO. 6066



STATE OF NORTH DAKOTA }
COUNTY OF CASS } SS

ON THIS 13th DAY OF July, 20 10, BEFORE ME, A NOTARY PUBLIC, PERSONALLY APPEARED JAMES A. SCHLIEMAN, REGISTERED LAND SURVEYOR, KNOWN TO ME TO BE THE PERSON WHO IS DESCRIBED IN AND WHO EXECUTED THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.

NOTARY PUBLIC: Sara Hadden

SARA HADDEN
Notary Public
State of North Dakota
My Commission Expires April 1, 2016

COUNTY RECORDER'S CERTIFICATE:

DOCUMENT NO. 1304812

STATE OF NORTH DAKOTA } \$27.80 pd.
COUNTY OF CASS } SS

I HEREBY CERTIFY THAT THE ABOVE INSTRUMENT WAS FILED AND RECORDED IN THIS OFFICE ON THE 17th DAY OF September, 20 10, AT 2:43 O'CLOCK P.M. AND WAS DULY RECORDED IN BOOK 1 of Plat PAGE 98.
Jewel A. Spies
JEWEL A. SPIES, CASS COUNTY RECORDER



Odell A. Johnson
ODELL A. JOHNSON, SECRETARY

FILED Book: X.1 Page: 98 1304812
9/17/2010 2:49PM
PLAT 527-8C

Sheet 2 of 2
Project No. 6826-001

X-1-98



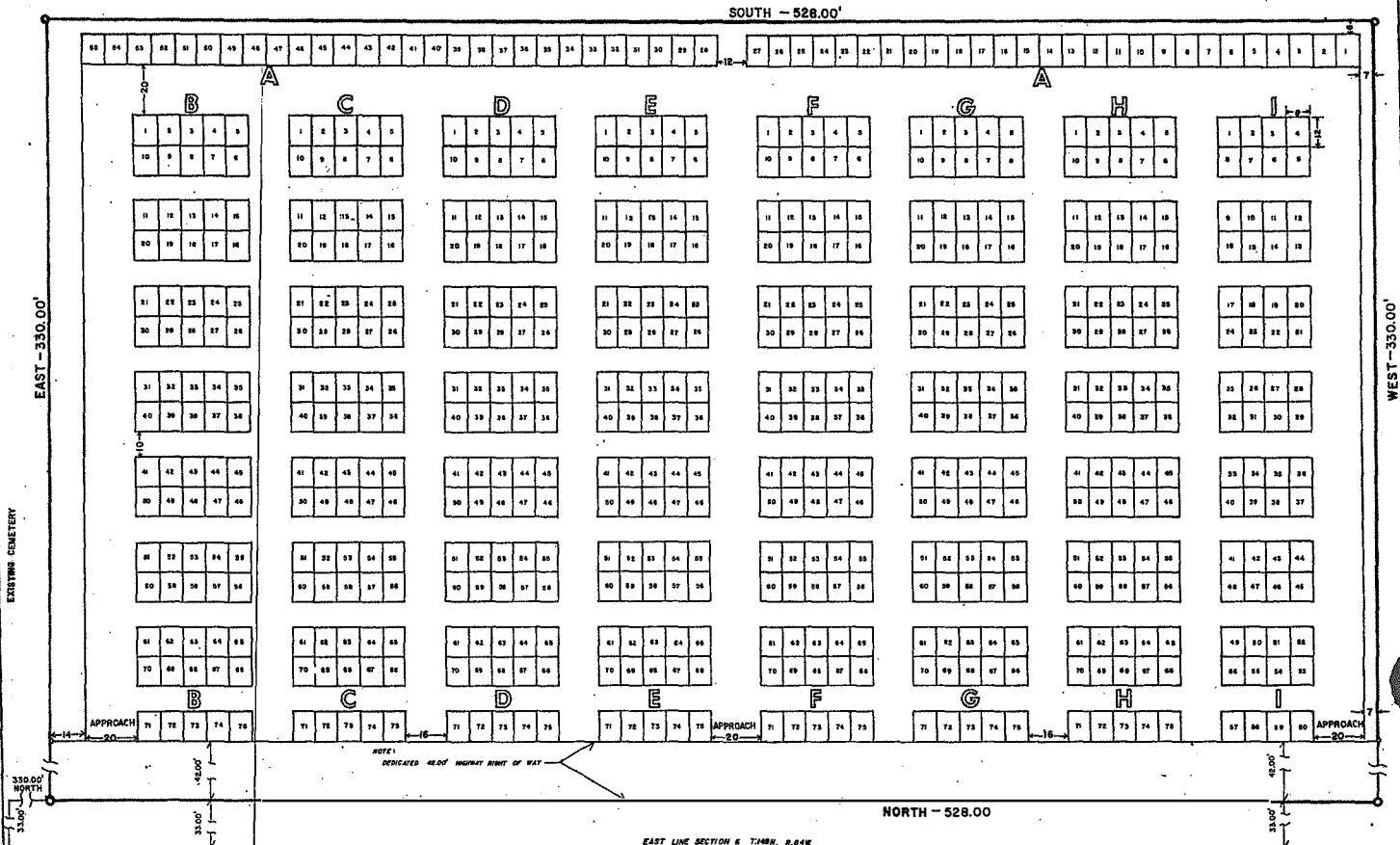
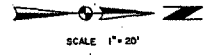
HoustonEngineering Inc.
Phone: 701.237.5065

GARRISON CEMETERY EXPANSION

PART OF THE NE 1/4, SE 1/4 SECTION 6, T.148 N., R.84 W.

MCLEAN COUNTY, NORTH DAKOTA

DOCUMENT No. 298538



DESCRIPTION

A TRACT OF LAND IN THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER (NE-1/4 SE-1/4) OF SECTION SIX (6), TOWNSHIP ONE HUNDRED FORTY-EIGHT (148), RANGE EIGHTY-FOUR (84), DESCRIBED AS FOLLOWS:
 BEGINNING AT A POINT THIRTY-THREE (33) FEET WEST AND THREE HUNDRED THIRTY (330) FEET NORTH OF THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER (NE-1/4 SE-1/4) OF SAID SECTION SIX (6); THENCE NORTH 528 FEET; THENCE WEST 330 FEET; THENCE SOUTH 528 FEET; THENCE EAST 330 FEET TO THE POINT OF BEGINNING.
 TRACT CONTAINS 4.0 ACRES, MORE OR LESS.

OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT THE CITY OF GARRISON BEING THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN ON THE ANNEXED PLAT HAS CAUSED THAT PORTION DESCRIBED ABOVE AND SHOWN ON THE ANNEXED PLAT TO BE SURVEYED AND PLATTED AND DOES DEDICATE STRIPS INCLUDING SECTIONS, CORNERS AND OTHER PUBLIC UTILITIES WHEREVER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER. IT ALSO DEDICATES EASEMENTS, 10 FEET WITHTHIN THE LAND FOR WATER, SEWER, GAS, ELECTRIC, TELEPHONE, OR OTHER PUBLIC UTILITY OR SERVICE UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS "UTILITY EASEMENT".

CITY OF GARRISON, NORTH DAKOTA
 BY: *Charles Crank*
 CHARLES CRANK, MAYOR

STATE OF NORTH DAKOTA)
 COUNTY OF McLEAN)
 BE IT SHOWN THAT ON THIS 21st DAY OF October, 1984, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE PERSONALLY APPEARED CHARLES CRANK, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND THAT EXECUTED THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME. IN TESTIMONY WHEREOF I HAVE SET MY HAND AND NOTARY SEAL ON THAT DAY AND DATE WRITTEN ABOVE.



NOTES

(1) o DENOTES IRON PIER MARKERS TO BE SET.

PLANNING COMMISSION APPROVAL

THE SUBDIVISION OF LAND SHOWN ON THE ANNEXED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF GARRISON ON Dec 10, 1984, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF GARRISON, AND REGULATIONS ADOPTED BY SAID PLANNING COMMISSION. IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF GARRISON.

Don Trumble
 DON TRUMBLE, CHAIRMAN
Diame Affelt
 DIAME AFFELT, SECRETARY

CITY COUNCIL APPROVAL

THE CITY COUNCIL OF THE CITY OF GARRISON, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT/HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, AND HAS APPROVED THE BOUNDARIES AS SHOWN ON THE ANNEXED PLAT AS AN AMENDMENT OF THE MASTER PLAN OF THE CITY OF GARRISON.

THE FOREGOING ACTION OF THE CITY COUNCIL OF GARRISON, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE 7th DAY OF January, 1985.
Charles L. Crank
 CHARLES L. CRANK, MAYOR
 ATTEST: *Diame Affelt*
 DIAME AFFELT, AUDITOR

CITY ENGINEER'S APPROVAL

VEIGEL ENGINEERING, P.C., CITY ENGINEER FOR THE CITY OF GARRISON, NORTH DAKOTA, HEREBY APPROVE THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT.

M. Hill P.E.
 M. HILL, P.E.
 VEIGEL ENGINEERING, P.C., CITY ENGINEER

SURVEYOR'S CERTIFICATE

I, ERVIN M. KRANE, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THIS PLAT WAS PREPARED UNDER MY SUPERVISION, COMPLETED JUNE 12, 1984, AND THAT ALL DIMENSIONS AND BEARINGS SHOWN HEREON ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT ALL MONUMENTS ARE TO BE SET AS SHOWN.

Ervin M. Krane
 ERVIN M. KRANE
 REGISTERED PROFESSIONAL LAND SURVEYOR
 NORTH DAKOTA REG. NO. 2666



STATE OF NORTH DAKOTA)
 COUNTY OF McLEAN)
 BE IT KNOWN THAT ON THIS 23rd DAY OF October, 1984, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE PERSONALLY APPEARED ERVIN KRANE, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND THAT EXECUTED THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME. IN TESTIMONY WHEREOF I HAVE SET MY HAND AND NOTARY SEAL ON THAT DAY AND DATE WRITTEN ABOVE.

Diame Affelt
 DIAME AFFELT, AUDITOR



AN ANNEXATION PLAT OF "WEST SIDE ACRES" TO THE CITY OF HARVEY, A PART OF THE SOUTH HALF OF SECTION 25 AND PART OF SECTION 36, TOWNSHIP 150 NORTH, RANGE 73 WEST, WELLS COUNTY, NORTH DAKOTA.

CERTIFICATE

I, DAVID S. HEYER, REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA, PREPARED AND MADE THE ATTACHED PLAT OF "WEST SIDE ACRES", A PARCEL OF LAND ANNEXED TO THE CITY OF HARVEY ON THE 30th DAY OF JULY, 2012. DO HEREBY CERTIFY THAT THE PROPERTY REPRESENTED IN THIS PLAT IS A PART OF THE SOUTH HALF OF SECTION 25 AND PART OF SECTION 36, TOWNSHIP 150 NORTH, RANGE 73 WEST, WELLS COUNTY, NORTH DAKOTA, AND THAT SAID ATTACHED PLAT IS A CORRECT REPRESENTATION OF SAID PARCEL OF LAND ANNEXED TO THE CITY OF HARVEY DESCRIBED AND DESCRIBED AS FOLLOWS TO-WIT:

BEGINNING AT THE SOUTHWEST CORNER OF SECTION 36, TOWNSHIP 150 NORTH, RANGE 73 WEST, WELLS COUNTY, NORTH DAKOTA;
 THENCE WEST ALONG THE SOUTH LINE OF SAID SECTION 36 TO THE SOUTHWEST CORNER OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 36;
 THENCE NORTH ALONG SAID EAST LINE TO THE NORTHEAST CORNER OF SAID WEST HALF, SAID CORNER LYING ON THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 36;
 THENCE EAST ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER TO THE SOUTHWEST CORNER THEREOF;
 THENCE NORTH ALONG THE EAST LINE OF SAID NORTHWEST QUARTER TO A POINT ON SAID EAST LINE LYING 780.78 FEET SOUTH OF THE NORTH LINE OF SAID SECTION 36;
 THENCE EAST PARALLEL TO THE NORTH LINE OF SAID SECTION 36 FOR A DISTANCE OF 343.54 FEET;
 THENCE NORTH PARALLEL TO THE EAST LINE OF SAID NORTHWEST QUARTER FOR A DISTANCE OF 780.78 FEET TO A POINT ON THE NORTH LINE OF SAID SECTION 36;
 THENCE WEST ALONG THE NORTH LINE OF SAID SECTION 36 TO A POINT ON THE SOUTHWESTLY EXTENSION OF THE WEST LINE OF BIG BEAR ADDITION TO THE CITY OF HARVEY;
 THENCE NORTH ALONG THE SOUTHWESTLY EXTENSION OF THE WEST LINE OF SAID BIG BEAR ADDITION TO THE SOUTHWEST CORNER OF SAID BIG BEAR ADDITION;
 THENCE EAST ALONG THE SOUTH LINE OF SAID BIG BEAR ADDITION TO THE SOUTHWEST CORNER THEREOF;
 THENCE NORTH ALONG THE EAST LINE OF SAID BIG BEAR ADDITION FOR A DISTANCE OF 432.55 FEET;
 THENCE EAST ALONG THE SOUTH LINE OF SAID BIG BEAR ADDITION TO THE CITY OF HARVEY LYING 320.00 FEET NORTH OF THE SOUTHWEST CORNER OF SAID HANAM ADDITION;
 THENCE SOUTH ALONG THE WEST LINE OF SAID HANAM ADDITION FOR A DISTANCE OF 320.00 FEET TO THE SOUTHWEST CORNER THEREOF;
 THENCE EAST ALONG THE SOUTH LINE OF SAID HANAM ADDITION TO THE SOUTHWEST CORNER THEREOF;
 THENCE SOUTH ALONG THE WEST LINE OF SAID HANAM ADDITION TO A POINT ON THE NORTH LINE OF SAID SECTION 36;
 THENCE WEST ALONG THE NORTH LINE OF SAID SECTION 36 FOR A DISTANCE OF 37.5 FEET;
 THENCE SOUTH PERPENDICULAR TO THE NORTH LINE OF SAID SECTION 36 TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY #82;
 THENCE EAST PARALLEL TO THE NORTH LINE OF SAID SECTION 36 TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF NORTH DAKOTA STATE HIGHWAY #5;
 THENCE SOUTHWESTERLY ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID U.S. HIGHWAY #82 TO A POINT ON THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 36;
 THENCE NORTHWESTERLY ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID NORTH DAKOTA STATE HIGHWAY #5 TO A POINT ON THE SOUTHWESTLY RIGHT-OF-WAY LINE OF SEVENTH STREET IN THE CITY OF HARVEY;
 THENCE EASTERLY PERPENDICULAR TO THE EAST LINE OF SAID SECTION 36 TO A POINT ON THE EAST LINE OF SAID SECTION 36;
 THENCE SOUTH ALONG THE EAST LINE OF SAID SECTION 36 TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 36;
 THENCE WEST ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID U.S. HIGHWAY #82;
 THENCE SOUTHWESTERLY ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID U.S. HIGHWAY #82 TO A POINT ON THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 36;
 THENCE SOUTH ALONG THE EAST LINE OF SAID SECTION 36 TO THE SOUTHWEST CORNER THEREOF, THE POINT OF BEGINNING.

SAID TRACT CONTAINS 335.16 ACRES, MORE OR LESS.

DAVID S. HEYER
 REGISTERED LAND SURVEYOR
 N.D. REG. NO. 2008

CERTIFICATE BY EXECUTIVE OFFICE OF CITY

I, JASON GROSSMAN, DO HEREBY CERTIFY THAT I AM NOW, AND AT ALL TIMES DURING THE ANNEXATION OF THE PROPERTY DESCRIBED HAVE BEEN MAYOR OF THE CITY OF HARVEY, COUNTY OF WELLS, STATE OF NORTH DAKOTA, AND I FURTHER CERTIFY THAT ON THE 30th DAY OF JULY, 2012, AT 10:02 O'CLOCK P.M. THE CITY OF HARVEY, COUNTY OF WELLS, STATE OF NORTH DAKOTA, DID ANNEX THE PROPERTY DESCRIBED IN THE CERTIFICATE SHOWN ON THE ANNEXATION PLAT OF "WEST SIDE ACRES" BY DAVID S. HEYER, REGISTERED LAND SURVEYOR THAT THE DESCRIPTION, DISTANCES AND LIMITS SHOWN ON SAID PLAT ARE THE SAME USED IN THE ANNEXATION PROCEEDINGS BEFORE THE CITY COMMISSION OF THE CITY OF HARVEY, AND THAT SAID PLAT SHOWS THE CORPORATE LIMITS OF THE CITY CONTIGUOUS TO THE ANNEXED PROPERTY AND THE CHANGE MADE THEREIN BY SAID ANNEXATION.

ATTEST: KAREN NORDBY, CITY AUDITOR
 JASON GROSSMAN, MAYOR

ON THIS 30th DAY OF JULY, 2012, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED JASON GROSSMAN, MAYOR, AND KAREN NORDBY, CITY AUDITOR OF THE CITY OF HARVEY, KNOWN TO ME TO BE THE PERSONS DESCRIBED IN THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME IN THE CITY OF HARVEY.

LAURE WENZELER
 Notary Public
 Wells County, North Dakota
 My Commission Expires 09/21/2012

HARVEY CITY COUNCIL APPROVAL
 THIS PLAT OF A PARCEL OF LAND ANNEXED THE 30th DAY OF JULY, 2012, IS HEREBY APPROVED THIS 24th DAY OF JULY, 2012.

JASON GROSSMAN, MAYOR
 KAREN NORDBY, CITY AUDITOR

ON THIS 30th DAY OF JULY, 2012, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED JASON GROSSMAN, MAYOR, AND KAREN NORDBY, CITY AUDITOR OF THE CITY OF HARVEY, KNOWN TO ME TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME IN THE NAME OF THE CITY OF HARVEY.

HARVEY PLANNING AND ZONING COMMISSION APPROVAL
 THIS PLAT OF A PARCEL OF LAND ANNEXED THE 30th DAY OF JULY, 2012, IS HEREBY APPROVED THIS 24th DAY OF JULY, 2012.

MIKE RUST, CHAIR
 STATE OF NORTH DAKOTA
 COUNTY OF WELLS

ON THIS 30th DAY OF JULY, 2012, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED MIKE RUST, CHAIR OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF HARVEY, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN THE NAME OF THE HARVEY PLANNING AND ZONING COMMISSION.

CITY ENGINEER'S APPROVAL
 APPROVED BY THE CITY ENGINEER THIS 30th DAY OF JULY, 2012.

BRANDON OYE, CITY ENGINEER
 STATE OF NORTH DAKOTA
 COUNTY OF CASS

ON THIS 30th DAY OF JULY, 2012, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED BRANDON OYE, CITY ENGINEER, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.

J. MICHAEL SELLS
 Notary Public
 Wells County, North Dakota
 My Commission Expires Oct. 1, 2012

PROFESSIONAL ENGINEERING
 BRANDON OYE
 No. 6473
 No. 14-0001
 NORTH DAKOTA

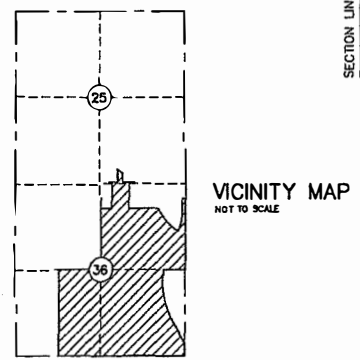
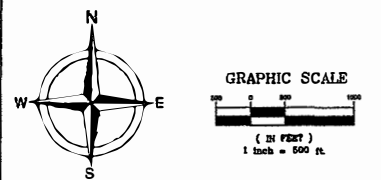
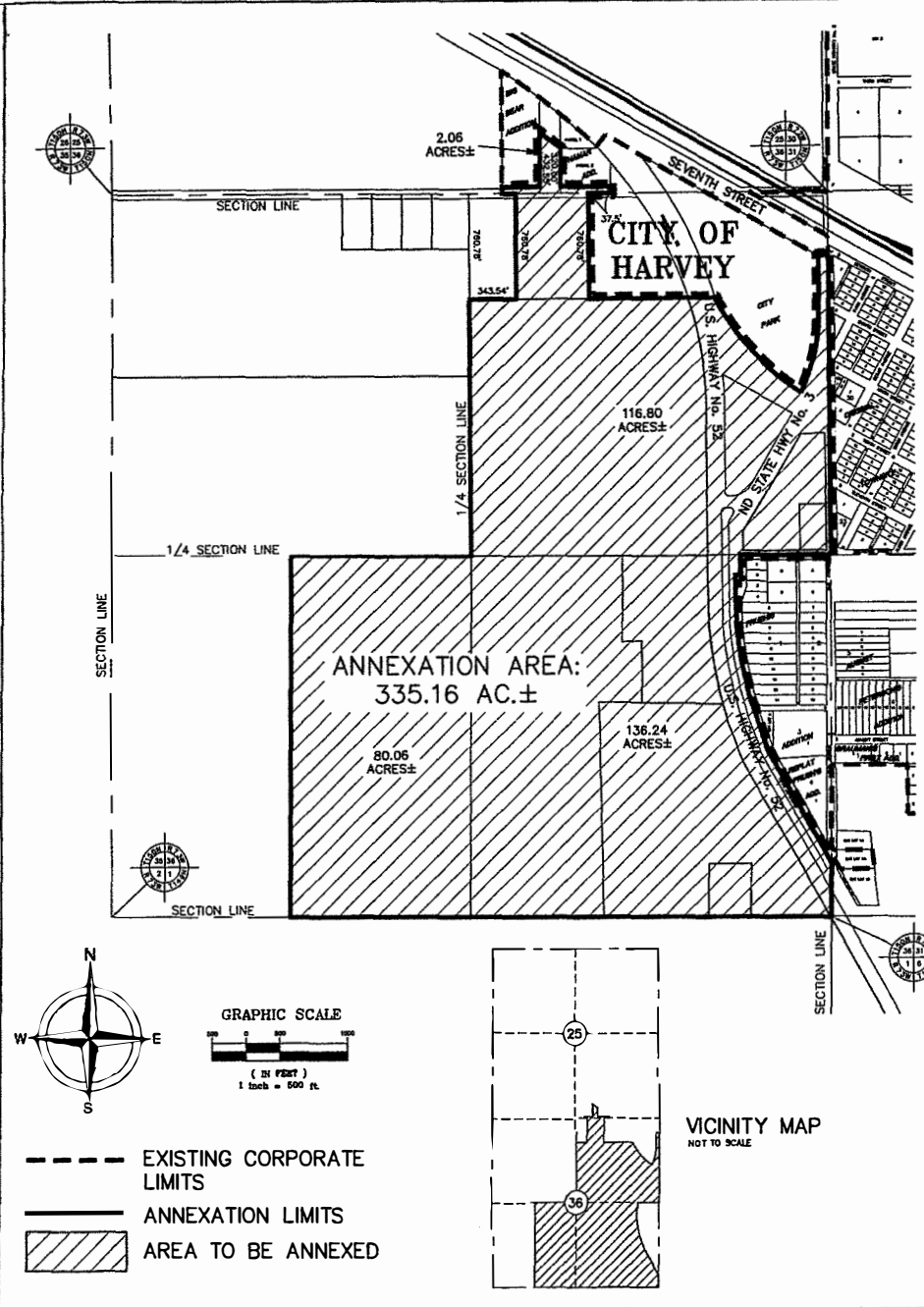
LAURE WENZELER
 Notary Public
 Wells County, North Dakota
 My Commission Expires 09/21/2012

RECORDED
 WELLS COUNTY, N.D.

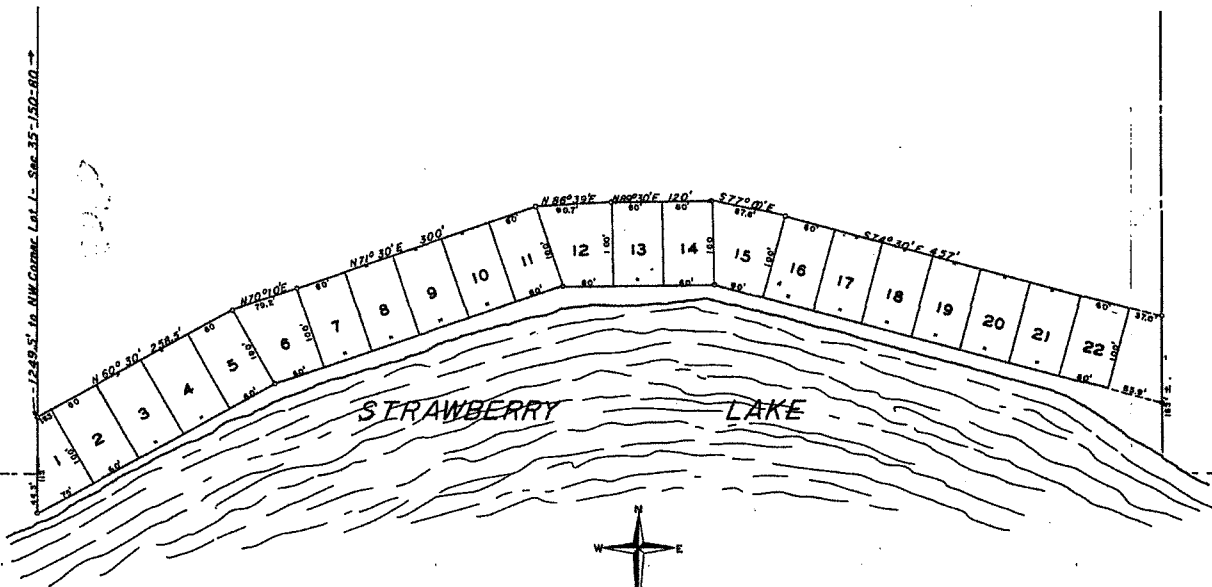
201108 Pg 5 of 5
 WELLS COUNTY Created: 8/27/2012 10:15 PM

201108 Fee: \$10.00 PLTC 196B
 RECORDS OFFICE, WELLS COUNTY, ND
 1500 1st AVENUE S.W. STE 201
 FARGO, ND 58103
 PHONE: 701.785.3200
 FAX: 701.785.3201
 WWW.WELLSCOUNTYND.GOV

moore engineering, inc. PROJ. NO. 16193



--- EXISTING CORPORATE LIMITS
 --- ANNEXATION LIMITS
 [Hatched Box] AREA TO BE ANNEXED



SLATER'S RESORT

LOT 1 - SEC. 35 - TWP. 150 N. - RGE. 80 W

SCALE 1" = 100'

KNOW ALL MEN BY THESE PRESENTS, that AGNES SLATER is the duly appointed and acting Executrix of the Estate of ROBERT SLATER, the Owner of all that part of Lot 1, Section 35, Township 150 N., Range 80 W. of the 5th P.M., described as follows: Beginning at a point on the West line of said Lot 1, said point being 1249.5 feet South of the Northwest corner thereof, thence N 60°-30'E 258.5 feet, thence N 70°-10'E 79.2 feet, thence N 71°-30'E 300 feet, thence N 86°-39'E 90.7 feet, thence N 89°-30'E 120 feet, thence S 77°-00'E 87.6 feet, thence S 74°30'E 457.0 feet to a point on the East line of said Lot 1, thence South along said East line 165 feet, more or less to the North Shoreline of Strawberry Lake, thence Westerly along said Shoreline to the point where said Shoreline intersects the West line of said Lot 1, thence North along said West line 115 feet, more or less to the Point of beginning.

MOREOVER, That the said owner has caused the same to be surveyed and the accompanying plat thereof to be made as SLATER'S RESORT. Lots are numbered from 1 to 22 inclusive.

In Witness whereof the said owner has caused these presents to be executed and her name hereunto affixed this 16 day of June, 1961

STATE OF NORTH DAKOTA
COUNTY OF Laurel

Agnes Slater
Executrix of the Estate of Robert Slater,
Deceased.

On this 16 day of June, 1961, before me, a Notary Public, personally appeared Agnes Slater, known to me to be the person who executed the foregoing instrument and who acknowledged to me that she executed the same.

L. J. Johnson
Notary Public, Laurel County, N. Dak.
My Commission Expires 19

CERTIFICATE

I, L. J. Johnson, Registered Professional Engineer and Land Surveyor in North Dakota, hereby certify that I made the Survey shown on this plat and that the same is correct

L. J. Johnson



RECORDED
280917
INDEXED

STATE OF NORTH DAKOTA
COUNTY OF Laurel
I, the City Clerk, have this day filed for record and publication this instrument in my office and it is hereby certified that a true and correct copy of the same has been filed for record and publication in my office.

RECORDED
INDEXED
FILED



HAYDEN FARM SUBDIVISION

OF
PART OF THE WEST HALF OF
SECTION 15 AND PART OF THE EAST
HALF OF SECTION 16, TOWNSHIP 153
NORTH, RANGE 101 WEST, 5TH
PRINCIPAL MERIDIAN, MCKENZIE
COUNTY, NORTH DAKOTA



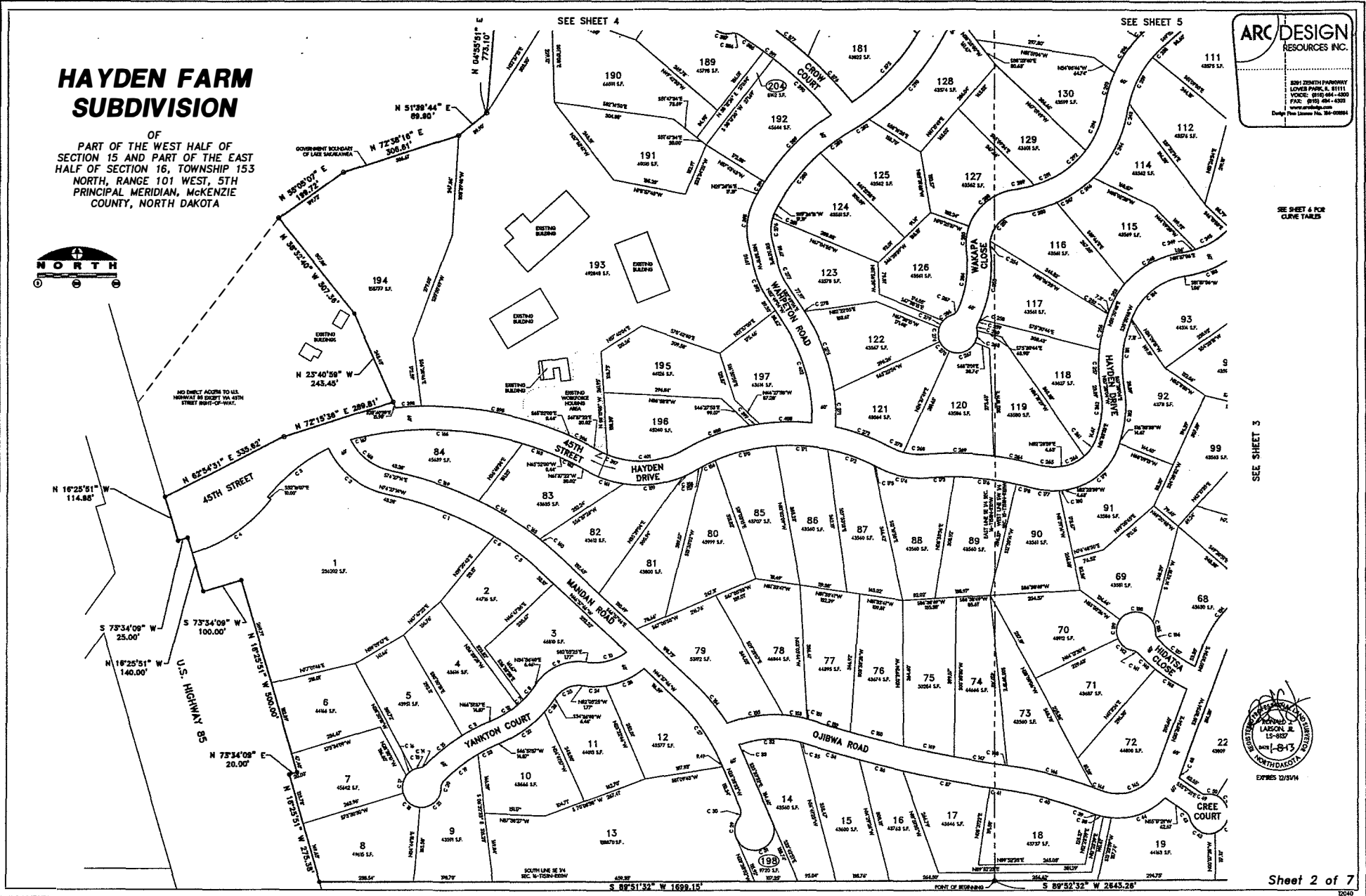
NO DIRECT ACCESS TO U.S.
HIGHWAY 89 EXIST ON 45TH
STREET NORTH-OF-WAY.

**ARC DESIGN
RESOURCES INC.**

8391 204TH PARKWAY
LOWER PAPER, S. 81111
VOICE: 910-984-4300
FAX: 910-984-4303
www.arcdesign.com
Design: Paul Larson, No. 94-00894

SEE SHEET 4 FOR
CURVE TABLES

SEE SHEET 5



S 89°51'34" W 1699.15'

POINT OF BEGINNING
S 89°52'32" W 2643.28'

12240

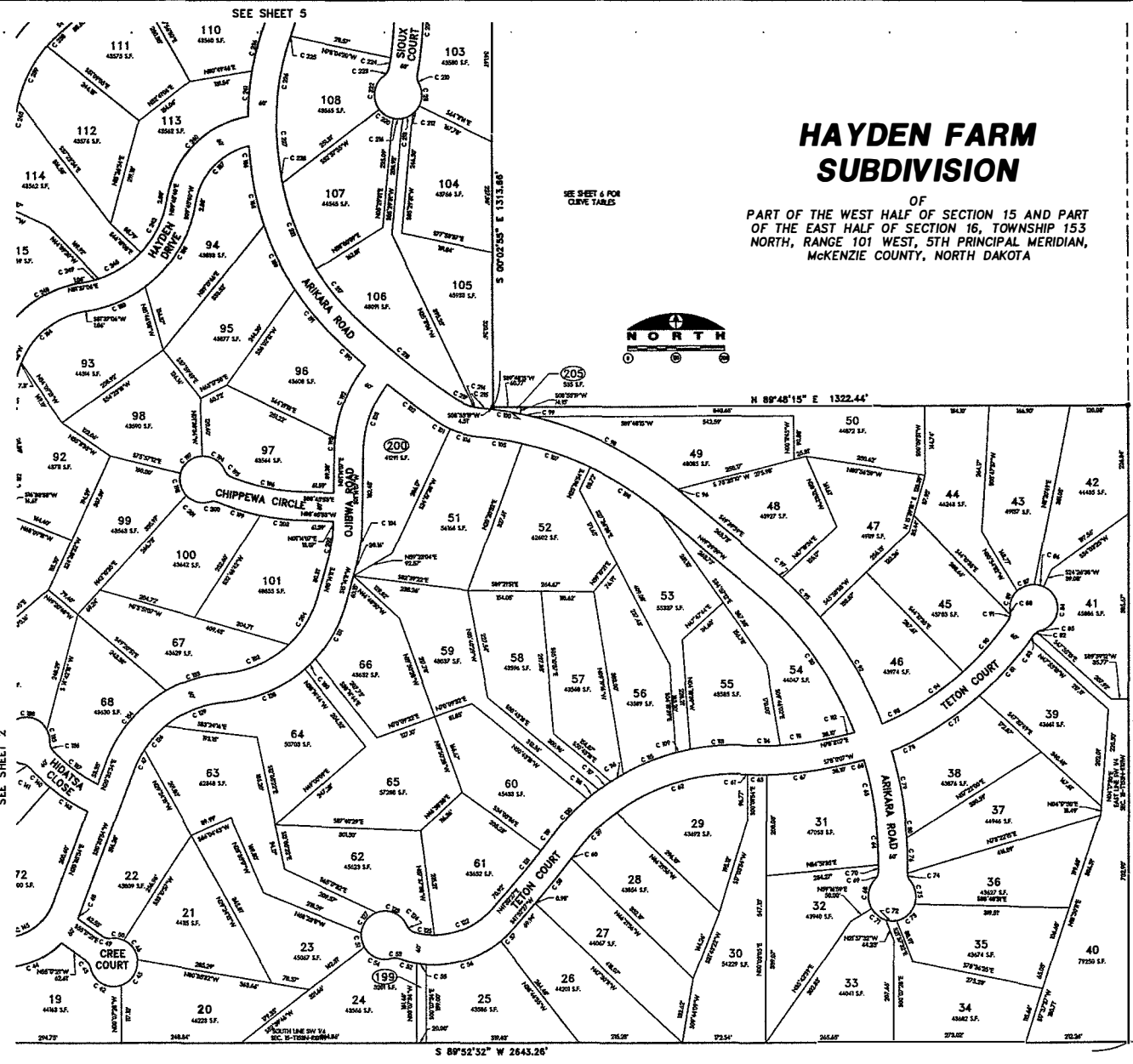
ARC DESIGN
RESOURCES INC.

8813 24TH PARKWAY
LONG BEACH, IL 61111
VOICE: (815) 464-4200
FAX: (815) 464-4202
www.arcdesign.com
Design Pro License No. 181-02004

HAYDEN FARM SUBDIVISION

OF
PART OF THE WEST HALF OF SECTION 15 AND PART
OF THE EAST HALF OF SECTION 16, TOWNSHIP 153
NORTH, RANGE 101 WEST, 5TH PRINCIPAL MERIDIAN,
MCKENZIE COUNTY, NORTH DAKOTA

SEE SHEET 4 FOR
CLIVE TABLES

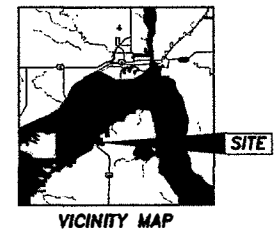


- NOTES:**
- LOT 1 IS RESERVED FOR COMMERCIAL USE.
 - LOTS 95 AND 96 ARE RESERVED FOR A MILL-DIE LOT INCLUDING INDUSTRIAL, COMMERCIAL, OFFICE AND RESIDENTIAL USE.
 - LOT 74 IS RESERVED FOR USE BY CENTIFURAL SERVICES, INC. OR ITS ASSIGNEE, FOR OIL PRODUCTION.
 - LOTS 70 AND 71 ARE RESERVED AS A PRIVATE DRIVE ACCESS TO THE SOUTH AND SHALL BE OWNED AND MAINTAINED BY THE OWNER OF LOT 70 UNLESS SOLD.
 - LOTS 29 AND 30 ARE RESERVED FOR PARK AREAS.
 - LOT 20 IS RESERVED AS A PRIVATE DRIVEWAY FOR THE SHARED AND COMMON USE OF LOTS 17-19 AND LOT 20.
 - LOT 21 IS RESERVED AS A PRIVATE DRIVEWAY FOR THE SHARED AND COMMON USE OF LOT 20 AND LOTS 20-22.
 - LOT 22 IS RESERVED AS A PRIVATE DRIVEWAY FOR THE SHARED AND COMMON USE OF LOTS 19-22.
 - LOT 23 IS RESERVED AS A PRIVATE DRIVE ACCESS TO THE NORTH AND SHALL BE OWNED AND MAINTAINED BY THE OWNER OF LOT 23, UNLESS SOLD.
 - SPEED LIMITS FOR ALL STREETS WILL BE 25 MPH.
 - INTERIOR CORNERS TO BE SET AS CONSTRUCTION IS COMPLETED.

LEGEND

•	SET BORN PIN 3/4 INCH IN DIAMETER AND 4 FEET LONG WITH PLASTIC CAP MARKED "RONALD J. LARSON, JR. LS-837"
○	FOUND MONUMENT
---	SECTION LINE
---	PROPOSED RIGHT-OF-WAY LINE
---	EXISTING RIGHT-OF-WAY LINE
---	EXTERIOR BOUNDARY LINE
---	INTERIOR LOT LINE
12	LOT NUMBER
S.F.	SQUARE FEET

OWNERS
FETRY TRUST NO. 2009
P.O. BOX 16207
LOVES PARK, ILLINOIS 61822

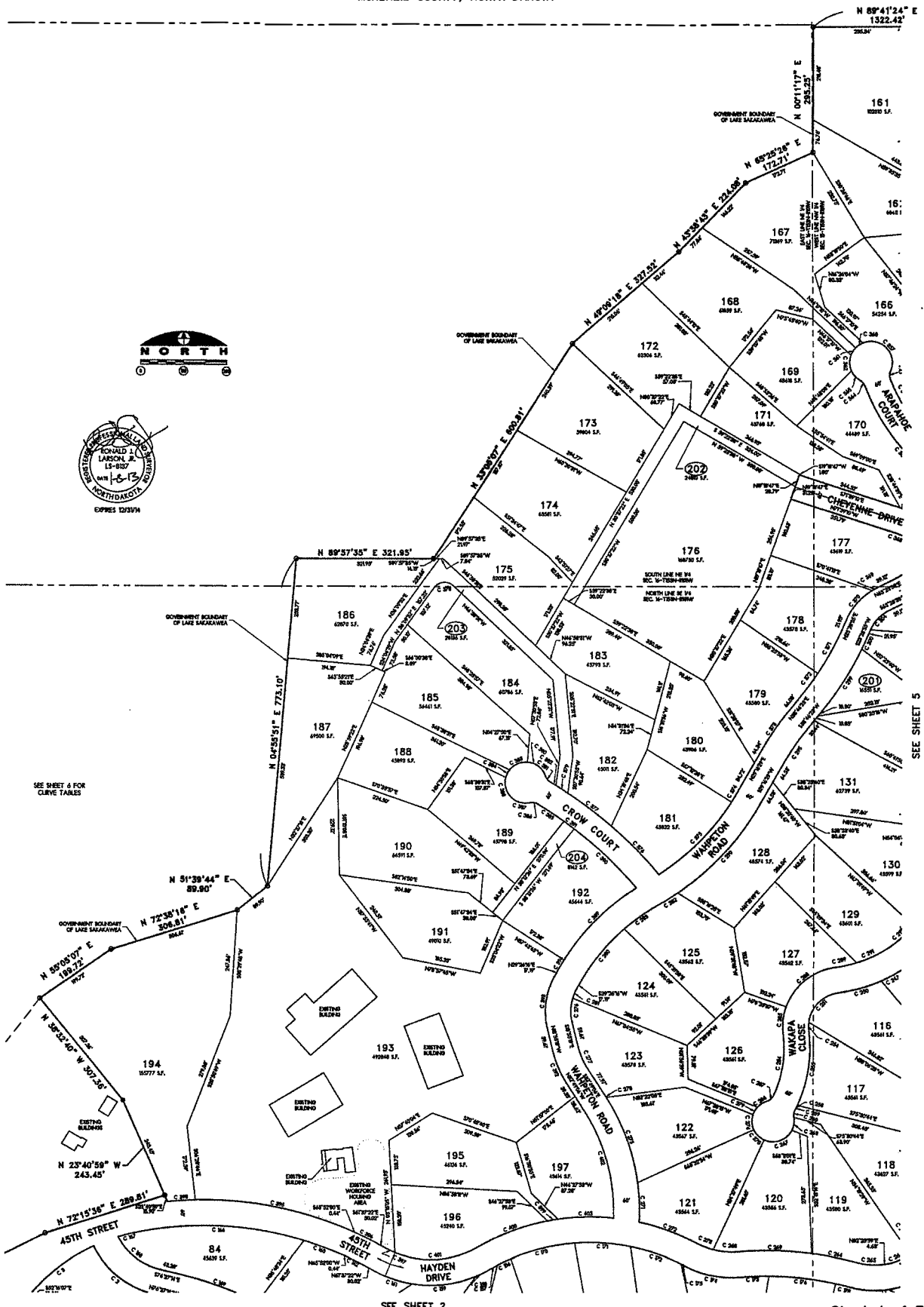
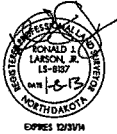


HAYDEN FARM SUBDIVISION

OF
PART OF THE WEST HALF OF SECTION 15 AND PART
OF THE EAST HALF OF SECTION 16, TOWNSHIP 153
NORTH, RANGE 101 WEST, 5TH PRINCIPAL MERIDIAN,
MCKENZIE COUNTY, NORTH DAKOTA

ARC DESIGN
RESOURCES, INC.

8081 SOUTH HARBORWAY
LAKES PARK, S.D. 57111
PHONE: (605) 444-4330
FAX: (605) 444-4332
www.arcdesign.com
Design License No. 340-00084



SEE SHEET 2

Sheet 4 of 7

8040

HAYDEN FARM SUBDIVISION

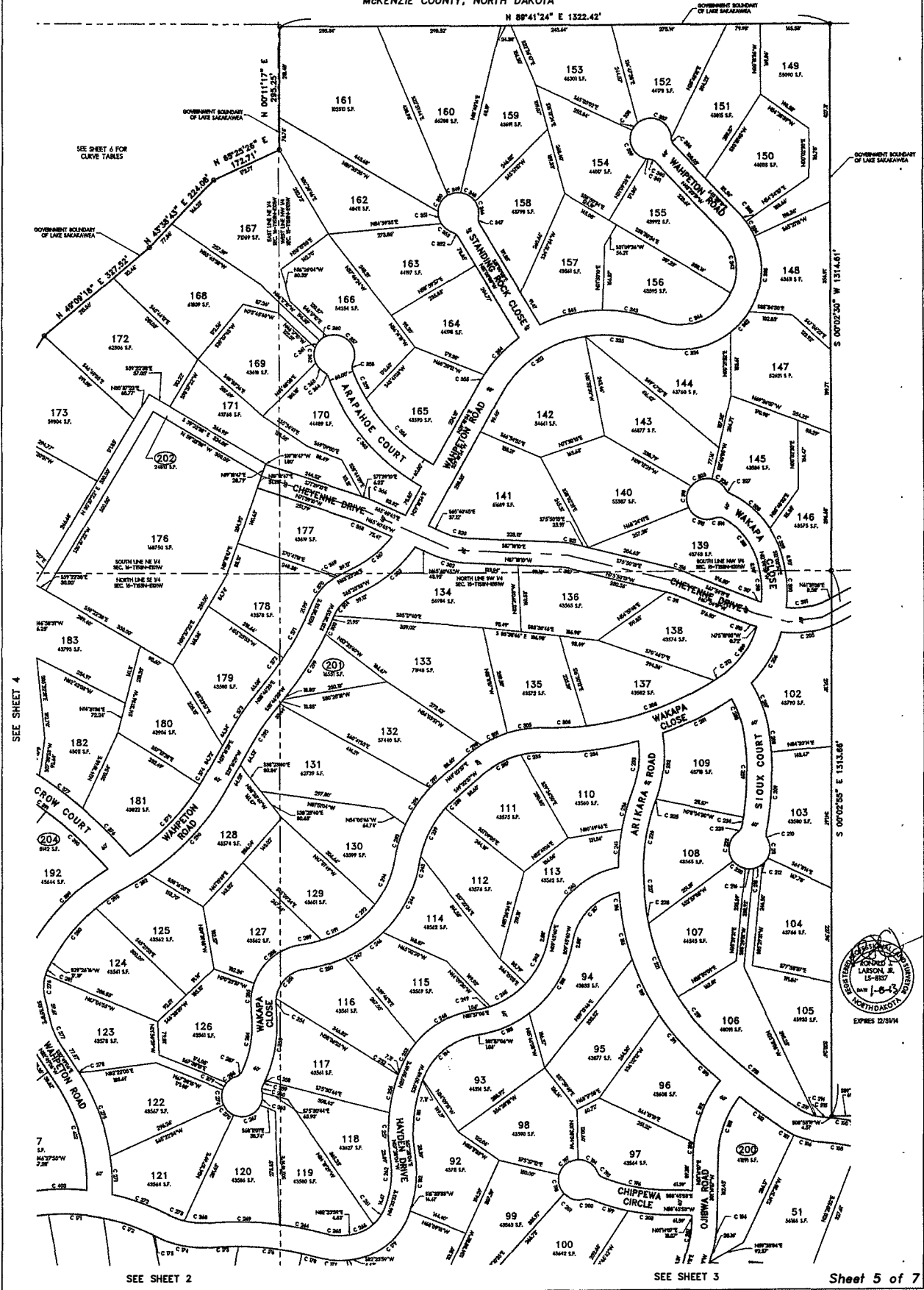
OF
PART OF THE WEST HALF OF SECTION 15 AND PART
OF THE EAST HALF OF SECTION 16, TOWNSHIP 153
NORTH, RANGE 101 WEST, 5TH PRINCIPAL MERIDIAN,
McKENZIE COUNTY, NORTH DAKOTA

ARC DESIGN
RESOURCES INC.

2001 20th Parkway
Lynchburg, VA 24111
PHONE: (804) 444-4200
FAX: (804) 444-4205
www.arc-design.com
Drawing Title: Hayden Farm Subdivision



N 89°41'24" E 1322.42'



SEE SHEET 4 FOR
CURVE TABLES

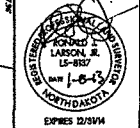
SEE SHEET 4

CROW COURT

WAKAPPA ROAD

SEE SHEET 2

SEE SHEET 3



HAYDEN FARM SUBDIVISION

OF
PART OF THE WEST HALF OF SECTION 15 AND PART OF THE EAST
HALF OF SECTION 16, TOWNSHIP 153 NORTH, RANGE 101 WEST,
5TH PRINCIPAL MERIDIAN, MCKENZIE COUNTY, NORTH DAKOTA

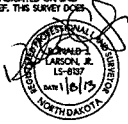


SURVEYOR'S CERTIFICATE

I, RONALD J. LARSON, JR., A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, DO HEREBY CERTIFY THAT, AT THE REQUEST OF PETER TRUST NO. 1989, ERFREY PETER, TRUSTEE, I HAVE MADE THE WITHIN AND FOREGOING PLAT AND DESCRIPTION OF LAND AS HEREIN DESCRIBED AND THAT THE LOTS, DISTANCES, AREAS, AND LOCATIONS AS INDICATED ON SAID PLAT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY DOES NOT REPRESENT A COMPLETE TITLE SEARCH.

RONALD J. LARSON, JR.
REGISTERED LAND SURVEYOR NO. LS-8187
STATE OF NORTH DAKOTA
ARC DESIGN RESOURCES, INC.
5201 25TH PARKWAY
LAKOTA, SD 57111
(605) 684-4300

DATE 11/6/15



EXPIRES 12/31/14

STATE OF N/DOKA)
COUNTY OF WINNEBAGO) SS

BE IT KNOWN THAT ON THE 04 DAY OF January, 2015 BEFORE ME, PERSONALLY APPEARED RONALD J. LARSON, JR., KNOWN TO ME TO BE THE PERSON WHO IS DESCRIBED WITHIN THIS INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.



Barbara C. Balfanz
NOTARY PUBLIC
STATE OF NORTH DAKOTA
MY COMMISSION EXPIRES 11/22/15

OWNERS CERTIFICATE

WE CERTIFY THAT THE PURPOSE OF THIS SURVEY IS THE EXECUTION OF SAID PLAT, AND DO DEDICATE THE STREETS, ALLEYS, PARKS, AND PUBLIC GROUNDS AS SHOWN HEREON, INCLUDING ALL SEWERS, CULVERTS, DITCHES, WATER DISTRIBUTION LINES, SIDEWALKS, GROUNDS, EXISTING TRAILS, AND ANY OTHER EXISTING EASEMENTS, WHETHER SUCH IMPROVEMENTS ARE SHOWN OR NOT, TO THE PUBLIC USE FOREVER.

WE AGREE NOT TO VACATE ANY PORTION OF THIS PLAT WITHOUT THE CONSENT OF MCKENZIE COUNTY COMMISSION. WE ALSO HEREBY DEDICATE EASEMENTS TO RUN WITH THE LAND FOR WATER, SEWER, GAS, ELECTRIC, TELEPHONE, OR OTHER PUBLIC UTILITY LINES OR SERVICES UNDER, ON, OR OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS 'UTILITY EASEMENTS'.

WITNESSED MY HAND AND SEAL OF OFFICE AS NOTARY PUBLIC AT LAKOTA, NORTH DAKOTA, THIS 04 DAY OF JANUARY, 2015.

STATE OF N/DOKA)
COUNTY OF LAKE) SS

BE IT KNOWN THAT ON THE 12 DAY OF February, 2015 BEFORE ME, PERSONALLY APPEARED BARBARA C. BALSFAZ, AS ATTORNEY IN FACT FOR ERFREY P. PETER, TRUSTEE OF PETER TRUST NO. 1989, KNOWN TO ME TO BE THE PERSON WHO IS DESCRIBED WITHIN THIS INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.



Christine B. Hoffman
NOTARY PUBLIC
STATE OF NORTH DAKOTA
MY COMMISSION EXPIRES 10-23-15

EXISTING OUTSIDE BOUNDARY DESCRIPTION

Part of the Southwest Quarter and part of the Northwest Quarter of Section 15 and part of the Southeast Quarter of Section 16 both situated in Township 153 North, Range 101 West of the 5th Principal Meridian bounded and described as follows to-wit:

Beginning at the Southeast corner of said Section 16 thence South 89°32'22" West along the South line of the Southeast Quarter of said Section 16, a distance of 1879.15 feet to the Easterly right-of-way line of US Highway 85; thence North 10°32'51" West along the Easterly right-of-way line of US Highway 85, a distance of 573.38 feet; thence North 73°34'09" East along the Easterly right-of-way line of US Highway 85, a distance of 20.00 feet; thence North 16°25'31" West along the Easterly right-of-way line of US Highway 85, a distance of 500.00 feet; thence South 73°34'09" West along the Easterly right-of-way line of US Highway 85, a distance of 1100.00 feet; thence North 16°25'31" West, a distance of 1140.00 feet; thence South 73°34'09" West along the Easterly right-of-way line of US Highway 85, a distance of 36.00 feet; thence North 16°25'31" West along the Easterly right-of-way line of US Highway 85, a distance of 18.08 feet; thence North 62°54'31" East, a distance of 263.62 feet; thence North 72°32'56" East, a distance of 289.81 feet; thence North 23°40'59" West, a distance of 243.45 feet; thence North 28°22'49" West, a distance of 202.36 feet to the Government Boundary line of Lake Sakakawea; thence North 52°10'10" East along the Government Boundary line of Lake Sakakawea, a distance of 197.72 feet; thence North 72°38'16" East along the Government Boundary line of Lake Sakakawea, a distance of 306.61 feet; thence North 57°09'14" East along the Government Boundary line of Lake Sakakawea, a distance of 99.10 feet; thence North 04°52'31" East along the Government Boundary line of Lake Sakakawea, a distance of 772.10 feet; thence North 87°57'36" East along the Government Boundary line of Lake Sakakawea, a distance of 523.95 feet; thence North 32°02'07" East along the Government Boundary line of Lake Sakakawea, a distance of 600.68 feet; thence North 49°09'58" East along the Government Boundary line of Lake Sakakawea, a distance of 327.52 feet; thence North 43°38'43" East along the Government Boundary line of Lake Sakakawea, a distance of 224.08 feet; thence North 62°52'26" East along the Government Boundary line of Lake Sakakawea, a distance of 127.71 feet; thence North 00°10'07" East along the Government Boundary line of Lake Sakakawea, a distance of 295.25 feet; thence North 89°42'04" East along the Government Boundary line of Lake Sakakawea, a distance of 1022.42 feet; thence South 60°02'30" West along the Government Boundary line of Lake Sakakawea, a distance of 328.61 feet to the East line of the Northwest Quarter of the Southwest Quarter of said Section 15, thence South 02°02'57" East along the East line of the Northwest Quarter of the Southwest Quarter of said Section 15, a distance of 138.64 feet to the North line of the Southwest Quarter of the Southwest Quarter of said Section 15, thence North 89°48'15" East along the North line of a Southwest Quarter of the Southwest Quarter of said Section 15, a distance of 1022.64 feet to the East line of the Southwest Quarter of the Southwest Quarter of said Section 15, thence South 02°02'41" East along the East line of the Southwest Quarter of the Southwest Quarter of said Section 15, a distance of 135.42 feet to the South line of the Southwest Quarter of said Section 15, thence South 89°32'51" West along the South line of the Southwest Quarter of said Section 15, a distance of 2643.26 feet to the point of beginning. Containing 270.387 Acres more or less, Situated in the County of McKenzie, State of North Dakota.

NEW DESCRIPTION

HEREAFTER TO BE KNOWN AS HAYDEN FARM SUBDIVISION, MCKENZIE COUNTY, NORTH DAKOTA.

AUDITOR'S CERTIFICATE OF TAXES

TAXES, DELINQUENT SPECIAL ASSESSMENTS OR INSTALLMENTS OF SPECIAL ASSESSMENTS OR TAX ASSESSMENTS FOR PROPERTY DESCRIBED ON THE ATTACHED INSTRUMENT ARE UNPAID IN THE AMOUNT OF \$ 0.00 PLUS PENALTY AND INTEREST.

CERTIFIED THIS 04 DAY OF January, 2015

Linda Szymovec
LINDA SZYMOVEC
MCKENZIE COUNTY AUDITOR



APPROVAL OF MCKENZIE COUNTY BOARD

THIS IS TO CERTIFY THAT THE COUNTY BOARD OF COMMISSIONERS OF MCKENZIE COUNTY, NORTH DAKOTA, HAS EXAMINED THE PLAT OF HAYDEN FARM SUBDIVISION LOCATED IN THE PART OF THE SOUTHWEST QUARTER AND PART OF THE NORTHWEST QUARTER OF SECTION 15 AND PART OF THE SOUTHWEST QUARTER OF SECTION 16, BOTH SITUATED IN TOWNSHIP 153 NORTH RANGE 101 WEST OF THE 5TH PRINCIPAL MERIDIAN, MCKENZIE COUNTY, APPROVAL THEREON, DATED THE 04 DAY OF January, 2015.

MCKENZIE COUNTY DOES NOT ACCEPT RESPONSIBILITY FOR THE RECONSTRUCTION, REPAIR, OR MAINTENANCE, INCLUDING SNOW REMOVAL, UPON ANY STREETS, ROADS, ACCESS EASEMENTS, OR OTHER PUBLIC WAYS CONTAINED WITHIN THE SUBDIVISION AND THE ADJACENT PARCELS OWNED BY DAN AND DORE VADRIAT AT THE TIME OF THIS RECORDING UNTIL SUCH TIME AS PERTINENT AND APPROVED BY MCKENZIE COUNTY COMMISSION.

Linda Szymovec
ATTORNEY IN FACT FOR LINDA SZYMOVEC
MCKENZIE COUNTY AUDITOR

Ronald A. Anderson
RONALD A. ANDERSON, CHAIRMAN OF THE
MCKENZIE COUNTY BOARD OF COMMISSIONERS

STATE OF NORTH DAKOTA)
COUNTY OF MCKENZIE) SS

BE IT KNOWN THAT ON THE 16 DAY OF Jan, 2015 BEFORE ME, PERSONALLY APPEARED RONALD A. ANDERSON, CHAIRMAN OF THE MCKENZIE COUNTY BOARD OF COMMISSIONERS AND ACKNOWLEDGED THE EXECUTION AND SIGNING OF THE ABOVE.



Dennis M. Hoffmann
NOTARY PUBLIC
STATE OF NORTH DAKOTA
MY COMMISSION EXPIRES 2-23-15

CERTIFICATE OF MCKENZIE COUNTY RECORDER

STATE OF NORTH DAKOTA)
COUNTY OF MCKENZIE) SS

THIS PLAT WAS FILED FOR RECORD IN THE OFFICE OF THE MCKENZIE COUNTY RECORDER, IN THE STATE OF NORTH DAKOTA AT 12:08 O'CLOCK PM ON THE 16th DAY OF Jan, 2015 AND WAS DULY RECORDED AS DOCUMENT NO. 445903

Ann Johnson
ANN JOHNSON, RECORDER

BY
DEPUTY



TO: Chairman John Andrist

RE: Support SB 2128

Chairman Andrist and Committee Members,

SB 2128, Section 1 is asking for a fee increase for subdivision, annexation and cemetery plats. This fee has not been adjusted since 1993. Currently the fee is \$10.00 for one lot and \$.10 for each additional lot. The counties invest a great deal of time and resources, not only in the Recorders office but the Tax Director and Treasurers office in handling these plats. The only fee paid to the counties is to the Recorders office. These fees need to be updated and I feel this increase is a step in the right direction.

Section 2 NDCC 24-01-25 –Fees not collected from the State of North Dakota – This section refers to “chapter 177 of the 1953 Session Laws” which was used to create the condemnation provisions necessary for development of the interstate highways system. This bill removed the reference and replaces it with “this chapter”, referring to Chapter 24 of the NDCC. Recorders will continue to record documents associated with the State Highway condemnations, without charging a fee

Section 3 NDCC 35-22-19- Failure of the recorder to mail notices in a foreclosure – would remove the portion that renders the recorder liable in a civil action. These proceedings are only done by the Bank of North Dakota. We feel we should not be held liable in a Bank of North Dakota foreclosure action.

Section 4 NDCC 35-24-13 – Bond to indemnify again liens – this would shift the burden of notice of a lien by the person who posted the bond, rather than the Recorder. Recorders are a central storage information network for real and personal properties liens and should not be doing work for individual entities.

I urge you to give a do pass to SB 2128 and bring the plat fees and other portions of the NDCC into the 21st century.

Thank you for your time and your support.

Ann M. Johnsrud

McKenzie County Recorder

North Dakota County Recorders Association Legislative Chairman

TO: Chairman Andrist and Committee Members
FR: Ruth Stevens – Nelson County Recorder/Clerk of District Court
RE: Support SB 2128 – Sections 2, 3 & 4

Mr. Chairman and members of the committee:

I am Ruth Stevens, Recorder and Clerk of District Court for Nelson County, here in support of SB 2128. I will speak about Sections 2, 3 and 4 of this bill, which are amendments to clean up references to old and antiquated laws.

24-01-25. Fees not charged for recording instruments. This section refers to “chapter 177 of the 1953 Session Laws”, which was a huge body of legislation enacted to create the condemnation provisions necessary for development of the interstate highway system. SB 2128 will remove that reference, and replace it with “this chapter”, simply referring to Chapter 24 of the NDCC. Recorders will continue to record, without charging a recording fee, any receipts, plats and deeds associated with State highway condemnations.

35-22-19. Failure of Recorder to mail notices – Liability. This section refers to foreclosure proceedings done by advertisement and is unique to the Bank of ND. While this section states that “*our failure to comply with 35-22-17 & 18 in no way invalidates the foreclosure proceedings nor affects the title to the property involved*”, it *does make the Recorder liable* in a civil action. We are asking to remove the liability. The Recorder is not in the business of doing work for individual entities, but rather a central storage information network for all real property records of the county. We gather information for the Bank of ND in these proceedings, but feel we should not be held liable when it is their foreclosure action.

35-24-13. Bond to indemnify against liens. This section of the code refers to bonds filed in the Recorder’s office when a contractor has not been paid for labor, materials or services used or furnished to be used in the drilling or operating of any oil or gas well. Subsection 2 places the burden of sending notice and a copy of the bond to all obligees named therein on the County Recorder. We are asking to remove this burden from the Recorder and place it on the individual or entity that filed the bond. Once again, as Recorders, we are a central storage information network for real and personal property liens. We should not be doing work for individual entities.

Thank you for your time and I ask that you will support our bill by giving a “do pass”. I am happy to answer any questions you might have on these sections of the bill.

Ruth Stevens

TESTIMONY OF MARILYN FOSS
(NORTH DAKOTA BANKERS ASSOCIATION)

SB 2128

Mr. Chairman, members of the committee, I am Marilyn Foss, general counsel for the North Dakota Bankers Association. NDBA is interested only in Section 3 of the bill. Although it's not clear from the face of the bill, Section 3 involves Bank of North Dakota's process for foreclosing real estate mortgages "by advertisement". In many states, all mortgage lenders may foreclose a mortgage by advertisement. Simply stated, being able to foreclose a mortgage by advertisement allows the foreclosed property to be sold after six, weekly publications of a notice in a newspaper.

In North Dakota, only the Bank of North Dakota is allowed to foreclose by advertisement. Other mortgage holders must start a formal court case action against the mortgagor and obtain a court order before foreclosing and selling mortgaged real estate. That legal action names the borrower and every other person or creditor with a known (recorded) interest in the property as a defendant. Legal papers must be personally served on each defendant and each has the right to answer the foreclosure complaint and to defend to protect his or her interests in court. Requirements for party status and service of the legal papers ensure the borrower and other creditors with a mortgage interest in the property will know about the foreclosure so they can act to protect their respective interests.

On the other hand, foreclosure by advertisement avoids all the process, expense and delay that accompanies judicial foreclosure and puts the burden to bring a formal legal action to enjoin the foreclosure and defend on the borrower and subsequent mortgagees. All the Bank of North Dakota has to do to foreclose and sell property is to publish a notice in a local newspaper once a week for six times. If it happens that a bank or other person who holds a subsequent mortgage doesn't see the newspaper, that person won't know of the foreclosure and sale and can lose the entire loan value, even if the value of the property was sufficient to support more than just the BND mortgage.

Current law addresses the special status of the State (acting through BND) and the fairly high risks of foreclosure by advertisement to mortgage creditors other than BND by requiring the county recorder to send a copy of the filed affidavit of publication (via registered or certified mail) to the “record title owner and to every subsequent mortgagee whose mortgage appears on record” and to make and record an affidavit of mailing of that affidavit of publication. These requirements are set out at N.D.C.C. 35-22-17 and 35-22-18. If a recorder fails to fulfill these obligations, N.D.C.C. 35-22-19 makes it clear that the recorder is liable for damages incurred by a person who was entitled to be sent the affidavit of publication. Section 3 removes the language providing for this clear civil liability. In effect, it makes a recorder less accountable than the recorder is under the current statute because the recorder is not liable for damages resulting from a failure to send out the required copy of the affidavit of publication of the notice of foreclosure by advertisement..

This is not an academic matter. I checked with the Bank of North Dakota and was told that, yes, the Bank does foreclose by advertisement and that it does so even though other mortgagors have subsequently recorded mortgages against the same property. Once BND forecloses its mortgage, those mortgage interests are eliminated.

We believe the current law appropriately balances the interests of the State in being able to quickly foreclose and sell foreclosed property and the interests of a record title holder and other mortgage creditors to protect their interests. It’s a system that has worked for many years and it shouldn’t be altered at the potential expense of the public. For that reason, I have prepared an amendment to remove Section 3 from the bill.

Thank you.

PROPOSED AMENDMENT TO SB 2128

(Sponsored by NDBA)

January 17, 2013

Page 1, line 2, remove "and 35-22-19"

Page 1, lines 16 through 23

Renumber accordingly

TO: Chairman John Andrist

RE: Support SB 2128

Chairman Andrist and Committee Members:

I am Carrie K. Krause, the Wells County Recorder, and I strongly urge you to support SB 2128.

Section 1 Plat fee increase: For 20 years there has not been a fee increase on recording plats and with all the technology it has made it more expensive to complete the recording process. The current cost of a plat is \$10 plus \$0.10 for each lot which in turn takes a great amount of time to figure if there are a significant number of lots. It is a time consuming effort to record a plat that not only stops in the County Recorder's Office but also the Tax Director, Auditor, 911 Coordinator and the Treasurer's office.

Section 2 NDCC 24-01-25: Fees not collected from the State of North Dakota – this part of the bill just removes the 1953 Session Laws and replaces it with this chapter referring to Chapter 24. As Recorders we will continue to record documents associated with State highway condemnations without collecting fees.

Section 3 NDCC 35-22-19: Failure of Recorder to mail notices – Liability –this section makes the Recorder liable in a civil suit. We are asking to have this liability removed from us, as the Recorder's Office is a central storage and information network for property records in our counties. The Recorder is not in the business of doing work for individual businesses.

Section 4 NDCC 35-24-13 – Bond to indemnify against liens – this section takes the burden of notice off the Recorder and places it on the person who posted the bond.

I ask that you give a do pass to SB 2128.

Thank you for your support.

Carrie K. Krause

Wells County Recorder

TO: Chairman Andrist and Committee Members
Senator Dotzenrod

RE: Support SB 2128

Chairman Andrist, Senator Dotzenrod and Committee Members

I am Cyndy J Kolle, Richland County Recorder, and I strongly urge you to support SB 2128.

Section 1 NDCC 11-18-05(C)(1) - Plats are an expensive item for our counties to store and preserve. As well as the amount of time spent on making it a usable part of the County real estate records. Not only our office, but the Treasurers, GIS and 911 Communications office spend a lot of time assigning parcel numbers, 911 addresses and then tax statements. We have not had a change in fees for Plats since 1993. We feel that a \$50 flat fee for recording a plat is a step in the right direction. This fee would eliminate the counting of lots and expedite the recording process. It would allow smaller counties to invest in items such as plat scanners. As county employees we are always looking for ways to expedite, simplify and make things more efficient.

Section 2 NDCC 24-01-25 - Fees not collected from the State of North Dakota – This portion of the bill would remove the 1953 Session Laws portion, which is antiquated, and simply refer to the provisions of this section of the law. Recordors do not have access to the 1953 Session Laws, the online version only going back to 1997.

Section 3 NDCC 35-22-19 - Failure of the recorder to mail notices in a foreclosure – would remove the portion that renders the recorder liable in a civil action.

Section 4 NDCC 35-24-13 - Bond to indemnify again liens – this would shift the burden of notice to the person who posted the bond, rather than the Recorder

I ask that you give a do pass to SB 2128

Thank you for your support.

Cyndy J Kolle

TO: Chairman Andrist and Committee Member
Senator Grabinger

RE: Support SB 2128

Chairman Andrist, Senator Grabinger and Committee Members

I am Linda Chadduck, Interim Stutsman County Recorder. I would like to strongly urge you to support SB 2128. Plats are an expensive item for our counties to store and preserve. Not only our office, but the Auditor, Treasurer and Tax Assessor offices spend a lot of time assigning plat numbers, parcel numbers, 911 addresses and then tax statements. We have not had a change in fees for Plats since 1993. We feel that a \$50 flat fee for recording a plat is a step in the right direction. This would eliminate the counting of lots and expedite the recording process. It would allow smaller counties to invest in items such as plat scanners. As county employees we are always looking for ways to expedite, simplify and make things more efficient.

Sections 2, 3, and 4 of SB 2128 are seeking to take out old verbage and to remove liability on the recorder for actions by the Bank of North Dakota or private entities. We are the record keepers for the county and are not in the business of doing work for other entities.

I ask that you give a do pass to SB 2128

Thank you for your support.

Linda Chadduck

TO: Chairman John Andrist

RE: Support SB 2128

Chairman Andrist and Committee Members:

SB 2128, Section 1 Subdivision c of subsection 1 of 11-18-05 Plat Fee Increase: The Recorders office has not had a fee increase for recording subdivisions, annexation and cemetery plats for over 20 years. Current fees are \$10.00 for one lot and then \$.10 for each additional lot. The counties invest time and resources in handling these plats, not only in the Recorders office but also the Auditor's, Tax Director, and Treasurer offices. Fees are only rendered at time of service to the Recorder's office.

Section 2, NDCC 24-01-25: Fees not charged for recording instruments for the State of North Dakota. This section refers to "chapter 177 of the 1953 Session Laws", which was used to create the condemnation provisions necessary for development of the interstate highway project system. This bill will remove the reference, and replace it with "this chapter", referring to Chapter 24 of the NDCC. County Recorders will continue to record instruments, without charging a fee, any receipts, plats and deeds associated with the State highway condemnations.

Section 3, 35-22-19: Failure of Recorders to mail notices – Liability. This section refers to foreclosure proceedings done by advertisement and involves the Bank of North Dakota and puts liability on the Recorders. We are asking to have the liability removed. The Recorder's office is a central storage for real property records. If we fail to comply with 35-22-17 & 18 it in no way affects the title to the property involved. We feel that we should not be held liable when it is the Bank of North Dakota's foreclosure action.

Section 4, 35-24-13: Bond to indemnify against liens. This would put the action involved on the individual or entity that filed a bond when a contractor has not been paid for labor, materials or services used or furnished to be used in the drilling or operation of any oil or gas well and remove the Recorder's office responsible for sending notice and a copy of the bond to all obliges named therein.

Thank you for your time and support on SB 2128. I urge you to give a "do pass" to SB 2128.

Vicki Kubat

Cavalier County Recorder





Amendment

Strike Section 3 of SB 2128 & call for study of BND foreclosure procedures

LEGISLATIVE MANAGEMENT STUDY-- BANK OF NORTH DAKOTA FORECLOSURE PROCEDURES.

During the 2013-14 interim, the legislative management may study the Bank of North Dakota's foreclosure procedures, specifically foreclosure by advertisement. The legislative management may report its findings and recommendations to the sixty-fourth legislative assembly.



#1

TO: Chairman Johnson
From: Beth Knutson, McLean County Recorder
RE: Support SB 2128

Chairman Johnson and Committee Members,

My name is Beth Knutson and I am the McLean County Recorder. I am testifying in support of Senate Bill 2128.

(1) Subdivision c of subsection 1 of section 11-18-05. In this section recorders are seeking legislation to increase the fee for recording subdivision plats. The current fee for recording is \$10.00 for one lot plus \$.10 for each additional lot. This fee has had not been updated since 1993 and Recorders feel this increase is warranted and will help to recoup tax dollars spent by counties in the process of recording and subsequent handling of subdivision plats. We have brought examples of several different kinds of subdivision plats to help put into perspective what we are dealing with.

The process of recording a plat begins with the initial approval from the County Planning and Zoning Commission, followed by final approval of the County Commission, next the County Auditor certifies that taxes on the property are paid. The plat then comes to the Recorders office for recording. Upon payment of the proper recording fees and assuring all required signatures and seals are present, the plat is recorded and a new index is created for each new lot and block. After recording, the plat goes to the County Tax Assessor who removes the current parcel numbers, makes new parcels for each and every new lot and calculates the taxable value for each. The new parcels are then added to the tax rolls and subsequently tax statements are created and fees for property taxes calculated and assessed by the County Treasurer for collection.

Hypothetically, a 200 lot Subdivision plat will require 8 hours of work in the Recorders office, weeks spent by the Tax Director parceling 200 new lots and assigning 911 addresses to each, which in turn will create 200 new entries on the tax rolls, adding 200 more tax statements for the County Treasurer. With the current fee schedule, this hypothetical plat would bring in \$29.90 in recording fees to the County.

Section 1 of Senate Bill 2128 was developed to set a flat rate of \$50.00 for recording a Subdivision Plat, which includes Annexation Plats and Cemetery Plats. Recorders believe this is an updated and fair fee to offset the time and resources spent by the counties in the handling and work required with subdivision plats.

(2) 24-01-25. Fees not charged for recording instruments. This section refers to “chapter 177 of the 1953 Session Laws”, which was a huge body of legislation enacted to create the condemnation provisions necessary for development of the interstate highway system. The wording to this Section was changed in the First Engrossment of SB 2128. We want to only remove the reference to the 1953 Session Laws, and replace it with “this chapter”, simply referring to Chapter 24 of the NDCC. Recorders, as well as Clerks of Court and Auditors, will continue to record, without charging a recording fee, any receipts, plats and deeds associated with State highway condemnations.

(3) 35-24-13. Bond to indemnify against liens. This section of the code refers to bonds filed in the Recorder’s office when a contractor has not been paid for labor, materials or services used or furnished to be used in the drilling or operating of any oil or gas well. Subsection 2 places the burden of sending notice and a copy of the bond to all obligees named therein on the County Recorder. We are asking to remove this burden from the Recorder and place it on the individual or entity that filed the bond. As Recorders, we are a central storage information network for real and personal property liens. We should not be doing work for individual entities by serving notices.

(4) 35-22-19. Failure of Recorder to mail notices – Liability. This section refers to foreclosure proceedings done by advertisement and is unique to the Bank of ND. The Senate committee amended this bill to repeal Section 35-22-19. Recorders are not asking to have this section repealed. While this section states that “*our failure to comply* with 35-22-17 & 18 in no way invalidates the foreclosure proceedings or affects the title to the property involved”, it *does make the Recorder liable* in a civil action. We were asking to remove that liability, because the Recorder is not in the business of doing work for individual entities, but rather is a central storage information network for all real property records of the county. We gather information for the Bank of ND in these proceedings, but feel we should not be held liable when it is their foreclosure action. Recorders would be in agreement to amend the bill by adding a **Legislative Management Study for Bank of North Dakota’s Foreclosure Procedures, specifically foreclosure by advertisement.**

Thank you for your time and I ask you to give a do pass on Senate Bill 2128. I would be happy to answer any questions you might have.

Beth A. Knutson

TO: Chairman Johnson and Committee Members

Representative Beadle, Hanson, Hogan, Koppelman and Muscha

RE: Support SB 2128

Chairman Johnson; Representative Beadle, Hanson, Hogan, Koppelman, Muscha and Committee Members

I am Jewel Spies, Cass County Recorder and I strongly urge you to support SB 2128.

SB2128, Section 1: Fee increase for Plats. Plats are an expensive item for our counties to store and preserve. As well as the amount of time spent on making it a usable part of the County real estate records. Not only our office, but the Auditors, Treasurers and Tax Assessors office spend a lot of time assigning parcel numbers, 911 addresses and then tax statements. We have not had a change in fees for Plats since 1993. We feel that a \$50 flat fee for recording a plat is a step in the right direction. This fee would eliminate the counting of lots and expedite the recording process. It would allow smaller counties to invest in items such as plat scanners. As county employees we are always looking for ways to expedite, simplify and make things more efficient.

Section 2: NDCC 24-01-25 - Fees not charged for recording instruments. These session laws are 60 years old and not available to the Recorders. This would remove the reference to the Session Laws.

Section 3: 35-24-13 Subsection 2 - Bond to Indemnify. This would remove the burden from the Recorder of sending notices out. We feel the entity/person filing the bond should have this responsibility.

Section 4 & 5: 35-22-19 – Legislative Management Study Bank of North Dakota's Foreclosure Procedures.
We agree with the recommended study.

I ask that you give a do pass to SB 2128

Thank you for your support.

Jewel A Spies

March 4, 2013



Re: SB 2128

To Whom This May Concern:

I urge you to vote "YES" on SB2128. This is the bill relating to fees and notice requirements of the county recorder. The North Dakota County Recorder's Association supports this bill.

Section 1: This bill would increase the recording fee for plats to a flat fifty dollar fee. We often hear from out-of-state customers that our current plat recording fees are extremely low in comparison to other states.

Section 2: This part removes some very old session laws.

Section 3: We believe it should be the responsibility of the person posting the bond to send out the notices.

Sections 4 & 5: We would support the recommended legislative study on the process of foreclosure by advertisement.

Please vote "YES" on SB2128.

Thank you for your time,

Kari Evenson
Williams County Treasurer/Recorder

Treasurer/Recorder - Kari Evenson

PO Box 2047 | 205 E. Broadway | Williston, ND 58802-2047 | Fax 701.577.4535 | www.williamsnd.com
Treasury Functions 701.577.4530 | treasurer@co.williams.nd.us
Recording Functions 701.577.4540 | recorder@co.williams.nd.us

To: Chairman Johnson and committee members

Re: Support SB 2128

Chairman Johnson, Vice-chairman Hatlestad and Committee members:

I am Betty Braun the Ward County Recorder and I strongly urge you to give a do pass on SB 2128.

Section 1 of this bill will set a flat rate of fifty dollars for the recording of a plat by the county recorder, we have done a lot of research and found this is a reasonable fee and will lessen the work done by the recorder as well as compensate the county for time and supplies used in the recordation of plats.

Section 2 is basically cleaning up some language by removing the session laws which are not available to us and we feel should not be mentioned in this section of the century code.

Section 3 will require the person filing the bond to send out the notification, not the recorder. We feel that whoever is responsible for the filing should also be responsible for the notice of the filing. We as recorders are here to record documents and keep them organized for the public we should not be required to send notices for the documents we are recording.

Section 4 & 5 are the sections dealing with foreclosure by advertisement, section 4 should not have been repealed and as for section 5 we do recommend and support the study on the procedure of foreclosure by advertisement.

I am in support of this bill and as I stated before strongly urge you give this bill a due pass.

Thank You



Betty Braun

Ward County Recorder

BURLEIGH COUNTY RECORDER

DEBBIE KROSHUS
RECORDER

Senate Bill 2128

To whom it may concern,

In regards to the proposed Senate Bill 2128 I would like to urge a vote to pass.

Section 1: It would be very beneficial to all county recorders in North Dakota to have a flat rate of \$50.00 for all subdivision plats recorded. This would help recoup some of the costs associated with all necessary steps in recording plats. There is much time spent by several different people in this process.

Section 2: Session law is quite dated and not readily available to us.

Section 3: It should be the responsibility of the person posting the bond to send out notices and not the responsibility of the recorder. Current law puts undue liability on recorders and requires actions most recorders do not have time to do.

Sections 4 and 5: I agree to the recommended legislation to have a study conducted on the process of foreclosure by advertisement.

Thank you for your consideration.

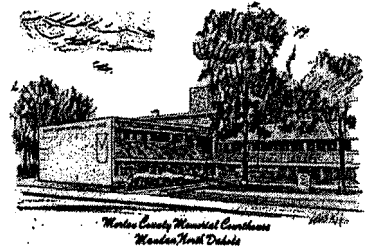
Sincerely,

Debbie Kroshus

Debbie Kroshus
Burleigh County Recorder

MORTON COUNTY

STATE OF NORTH DAKOTA
210 2ND AVE NW MANDAN ND 58554



CARROLE SCHANER
COUNTY RECORDER
(701) 667-3306

March 4, 2013

To whom it may concern,

In regards to Senate Bill 2128

Section 1, do pass, we would like to recoup some of the money for the counties for the time spent on the process of recording plats.

Section 2, do pass, recommending the language to read , The county auditor, the recorder, or the clerk of court may not charge or collect from the state of North Dakota for any services rendered for the recording or filing of any document required under this chapter.

Section 3, do pass, recommending that it is the responsibility of the person posting the bond to send out the notices.

Section 4 &5, do pass, in favor of a study of the Bank of North Dakota Foreclosure procedure -- specifically foreclosure by advertisement.

Sincerely,

A handwritten signature in cursive script that reads "Carrole Schaner".

Carrole Schaner
Morton County Recorder

TO: Chairman Johnson and Committee Members

Representative Kelsh

RE: Support of SB 2128

Chairman Johnson; Representative Kelsh and Committee Members

I am Deborah Anderson, Dickey County Recorder and I strongly urge you to support SB 2128.

SB 2128, Section 1: Fee increase for Plats. Plats are an expensive item for our counties to store and preserve along with the time it takes to make our plats a usable part of the County real estate records. This also affects the Auditor's, Treasurer's and Tax Director's office to assign parcel numbers, 911 addresses and tax statements. It has been 20 years since there has been a change in our fees for plats. We, as Recorder's feel that a \$50 flat fee for recording a plat is a viable resource of income not only for the larger counties, but for the smaller counties to obtain items such as plat scanners. This fee would also eliminate the counting of lots and expedite the recording process.

Section 2: NDCC 24-01-25 – Fees not charged for recording instruments. These session laws are outdated and are not made available to the Recorders.

Section 3: 35-24-13 Subsection 2 – Bond to Indemnify. This would remove the burden from the Recorder of sending out notices. The Recorders feel that the entity/person filing the bond should have this responsibility.

Section 4 & 5: 35-22-19 – Legislative Management Study of North Dakota's Foreclosure Procedures.

We agree with the recommended study.

I ask that you give a do pass to SB 2128

Thank you for your support.

Deborah D. Anderson

-

To: Chairman Johnson
From: Ann Johnsrud, McKenzie County Recorder
RE: SB 2128

Chairman Johnson and Members of the Committee,

My name is Ann Johnsrud and I am the McKenzie County Recorder. I am testifying in support of SB 2128.

Section(1) 11-18-05 I am asking for an increase in the Plat recording fee, from \$10.00 for the first lot plus ten cents for each additional lot to a flat fee of \$50.00 for every subdivision plat, which would include annexation and cemetery plats. This will simplify the process for county Recorders and also update a very old fee.

Section (2) 24-01-25 I am asking for the reference to "chapter 177 of the 1953 Session Laws" portion to be removed, instead referring to "this section of the law". The Senate inadvertently misunderstood the intent and changed the first sentence. No fees are charged by any county office for the development of the interstate highway system, and this would continue.

Section (3) I am asking to remove the burden placed on Recorders to send notice to all obliges regarding bonds filed on oil and gas wells. The burden should be placed on the individual or entity that filed the bond, it should not be the Recorders responsibility.

Section (4) I am asking that this section of the law, changed on the Senate side to repeal the entire code, be reinstated with an amendment added to the NDCC for a Legislative Management Study for the Bank of North Dakota's Foreclosure Procedures, specifically foreclosure by advertisement. The Recorders and Bankers quickly realized that more study and assessment needed to be done before there could be any change to this portion of the NDCC.

I would ask that you consider the changes to SB 2128, adding an amendment for a Legislative Management Study to Section (4). Thank you for your time.

Ann Johnsrud, McKenzie County Recorder

#1

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2128

Page 1, line 2, replace the first "section" with "sections"

Page 1, line 2, after "24-01-25" insert ", 35-22-16, 35-22-17, 35-22-18, and 35-22-19"

Page 1, line 3, remove "to repeal section 35-22-19 of"

Page 1, line 4, remove "the North Dakota Century Code, relating to a failure to record in a foreclosure;"

Page 1, line 11, after "seven" insert "twenty dollars for twenty lots or fewer and"

Page 1, line 11, after "dollars" insert "for more than twenty lots"

Page 1, line 15, remove the overstrike over "No fees"

Page 1, line 15, remove "The county auditor"

Page 1, line 15, remove the overstrike over "~~be charged or collected by the county auditor~~"

Page 1, line 15, remove "not charge or"

Page 1, line 16, remove "collect from the state of North Dakota"

Page 1, after line 18, insert:

"SECTION 3. AMENDMENT. Section 35-22-16 of the North Dakota Century Code is amended and reenacted as follows:

35-22-16. Affidavit of publication recorded - Effect of in evidence.

The affidavit of publication must be recorded ~~at length by~~ in the office of the recorder of the county in which the real property is situated in a record kept for mortgages. The original affidavit, the record thereof, and certified copies of the record are prima facie evidence of the facts contained in the record.

SECTION 4. AMENDMENT. Section 35-22-17 of the North Dakota Century Code is amended and reenacted as follows:

35-22-17. Recorder to mail ~~copy~~ Copy of affidavit of publication to be mailed.

~~The recorder, within~~ Within ten days after the filing of the affidavit of publication of the notice of mortgage foreclosure in any foreclosure of a real estate mortgage by advertisement, ~~shall send, by registered or certified mail,~~ a copy of the affidavit of publication must be mailed by certified mail to the record title owner and to every subsequent mortgagee whose mortgage appears on record, addressed to the person at the post office shown of record in the recorder's office. If no post-office address appears of record ~~and it is unknown to the recorder,~~ the copy must be addressed to the post office located nearest to the land described in the certificate of sale.

SECTION 5. AMENDMENT. Section 35-22-18 of the North Dakota Century Code is amended and reenacted as follows:

35-22-18. Recorder to make affidavit~~Recorder to make affidavit~~**Affidavit of mailing - Recordation.**

~~The recorder shall make an~~An affidavit setting forth the time and manner of the mailing of the copy of the affidavit of publication, the description of the land, and the name and post-office address of the person or persons to whom the affidavit of publication was mailed, ~~and shall attach thereto the registry receipt or receipts, and the affidavit and registry receipt or receipts must be filed and recorded in the recorder's office.~~

SECTION 6. AMENDMENT. Section 35-22-19 of the North Dakota Century Code is amended and reenacted as follows:

35-22-19. Failure to mail notices - Liability.

The failure of the recorder to comply with the provisions of sections 35-22-17 and 35-22-18 in no way invalidates the foreclosure proceedings nor affects the title to the property involved, but such failure renders the recorder~~state~~ liable in a civil action to the person entitled to a copy of the affidavit of publication herein described for any damage sustained by the person by reason of such failure."

Page 1, line 21, replace "individual or entity" with "person"

Page 2, remove line 1

Renumber accordingly