

**Walstad, John M.**

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**From:** Clarice Liechty <clarice\_liechty@yahoo.com>  
**Sent:** Wednesday, May 23, 2012 1:49 PM  
**To:** Walstad, John M.; Hogue, David J.; Headland, Craig A.; Cook, Dwight C.  
**Subject:** Testimony for the Interim Taxation Committee Meeting May 29, 2012

Dear Mr. Walstad and the Taxation Committee,

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

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

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

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

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

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

Also at the end of line 18 and line 21, the word **or** should be inserted. *don't need*

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

From my perspective, I put forth that an aggrieved business or individual (such as myself) has no recourse beyond the city and county equalization boards, if the State Board of Equalization does not have the authority to require the city (municipality) nor the county to determine if a project operator is complying with his/her promise (written and verbal testimony) to deliver a certain product or a service. I am asking that this authority through legislation be granted to the SBOE.

Because the city of Jamestown has again refused to investigate the tax exemption granted to my competitor, and to determine if my findings that he is not complying are correct, I am paying \$1,356.93 property tax per unit per year and my competitor is paying \$595.14 per unit per year. I

am paying \$798.13 more per unit per year. Our rents are similar. Our buildings were opened up for renters at the same time.

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

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

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

Thank you for the work you are doing.

Sincerely,  
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