

OFFICE OF TAX EQUALIZATION

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2023 Senate Finance and Taxation Committee
Honorable Senator Jordan Kannianen, Chairman
North Dakota State Capitol

Dear Senator Kannianen and Members of the Senate Finance and Taxation Committee:

My name is Don Flaherty and I am the Director of Tax Equalization for Dickey County. I am testifying today in opposition to HB 1438 and to offer an amendment. The changes being proposed to subsection 8 of section 57-02-08 in HB 1438 are very similar to the changes made in subsection 9 of the same section in the 2021 session. While I believe it is important for an institution of public charity to be able to plan for the future so as to be of better service to their community, I believe the language used in the proposed change is contrary to the intent the bill sponsor and legislature wish to convey. The language used to provide an exemption for future use (page 1, lines 14-18) is very similar to the language that was adopted by the legislature for the future development of churches. This language has been interpreted to mean that land purchased for future development is exempt for up to 10 years so long as it is undeveloped. It is the addition of the definition of "undeveloped land" (page 1, lines 18-21) that changes this interpretation and as a result can extend this exemption to the entire time that this property is owned by the institution of public charity.

According to the bill, "undeveloped land" includes land undergoing construction or containing improvements . . . before the building is completed and suitable for use. The exemption on the undeveloped land will expire ten years after the taxable year in which the property was acquired only if construction improvements have not commenced. If improvements have commenced during the ten-year period, then because of the wording used in lines 14-18 and the definition of "undeveloped land", the expiration clause is made moot and is no longer in effect. As such, the property would remain exempt regardless of whether the construction is completed or not so long as it is owned by the institution of public charity.

Legal Counsel Dee Wald submitted a diagram (see attached) in her testimony to the House Finance and Taxation Committee on HB 1439. Since the language in HB 1439 is similar to HB 1438, I believe that diagram is applicable to this bill as well. In the diagram, we see the perceived effect of the bill based on the definition of undeveloped land, but this diagram does not consider the termination of the ten-year expiration because construction has commenced. If it is the intent of the legislature to adopt conditions that would fit this diagram, then I would like to offer the following amendment:

On page 1, line 18 strike out the word "commenced" and replace it with the words "been completed".

I believe this change will correct this bill so that it will only provide the exemption for the ten-year period as intended and therefore, I would encourage you to make this adjustment to HB 1438.

Respectfully Submitted,

Donald W. Flaherty

Dickey County Director of Tax Equalization

NDCC 57-02-08(9)

Prior to 2021 Session

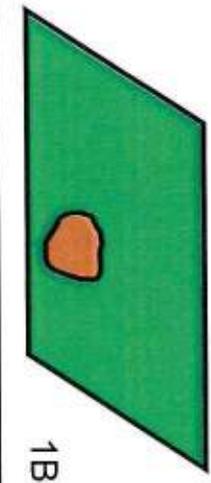


Tax on \$10K (land)

NOT EXEMPT

Land for Future Church

1A

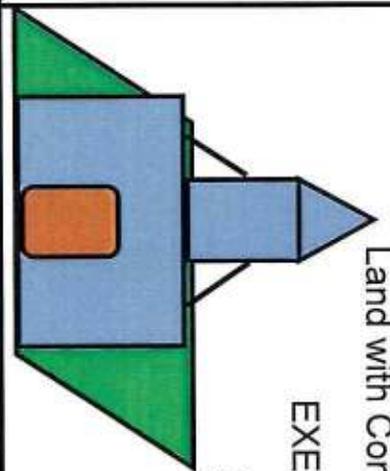


Tax on \$10K plus improvements

NOT EXEMPT

Improved Land for Future Church

1B



No Tax

EXEMPT

Land with Completed Church

1C

HB 1471 (2021)

*Impact was to Box 2A

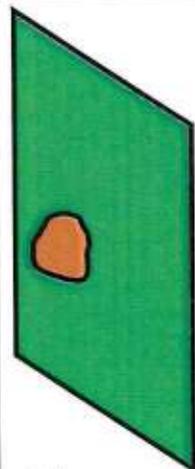


No Tax

EXEMPT for up to 10 years

Up to 20 Acres for Future Church

2A

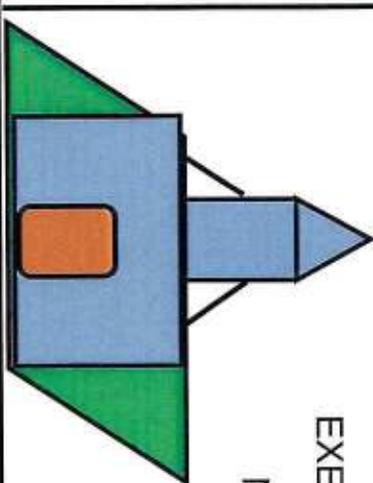


Tax on \$10K plus improvements

NOT EXEMPT

Up to 20 Acres for Future Church After Development Begins

2B



No Tax

EXEMPT

Land with Completed Church

2C

HB 1439 (2023)

*Impact is to Box 3B

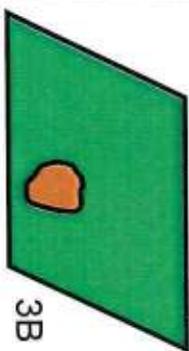


No Tax

EXEMPT for up to 10 years

Up to 20 Acres for Future Church

3A

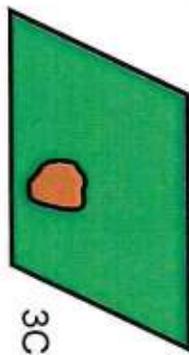


No Tax (for 10 yrs)

EXEMPT for up to 10 years

Up to 20 Acres for Future Church After Development Begins

3B

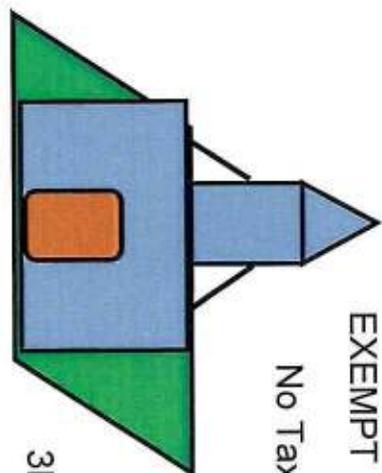


Tax on \$10K plus imp.

NOT EXEMPT for years 11 through Completion

Up to 20 Acres for Future Church After Development Begins

3C



No Tax

EXEMPT

Land with Completed Church

3D