

## HB 1439 Testimony

Mr. Chairman, members of the Senate Finance and Tax Committee, my name is Rep. Larry Bellew, District 38 Republican from Minot. I am here to introduce and support passage of HB 1439.

Last session, our Legislative Assembly passed HB 1471. This bill, as passed, was intended to exempt religious organizations (Churches) from property taxes if they have commenced with construction improvements. However, according to the Tax Department and I quote, "It is our interpretation that under NDCC 57-02-08.9c, to be exempt, undeveloped land must be owned by a religious corporation or organization for the purpose of a future church building. That exemption expires 10 years after the taxable year in which the property was acquired by the religious corporation or organization if construction improvements to accommodate a church building have not commenced.

However, if the exemption has not expired, but construction improvements to accommodate a church building or buildings do begin, the land is *no longer* undeveloped. Yet, there is no church building or buildings in place until built. Commencement of construction improvements changes the taxable status of the *formally* undeveloped land from exempt to non-exempt until such time as the church building or buildings are built and suitable for use. If the Legislative

Assembly intends for there to be an exemption while construction improvements are underway, then additional language should be added to specifically provide for that exemption.” This is what I thought HB 1439 did. Even, though I feel that HB 1471 did the same thing.

Now, we have HB 1439, which defines undeveloped land. The tax department agrees with this definition, however, the tax department now concludes that the new building must be built within the 10 year time frame in the bill. If it is not, then the land and the church under construction will become taxed, which is totally wrong.

Mr. Chairman, members of the committee, I do not believe property owned by a religious corporation or organization should not be taxed at all. This was upheld in the 1970 Supreme Court Case *Walz v. Tax Commission of the City of New York*. This solidified that real property owned by religious organizations should be tax exempt. This also would line up with our constitution in Article X, Section 5. Also, ND Attorney’s General opinion no. 81-81 from 1981 states, “Thus, the real property located in a city would be exempt from ad valorem property taxation pursuant to the provisions of Section 57-02-08(9), N.D.C.C., if the

exemption applicant made a proper factual showing that proved that the primary use of the subject property is for religious purposes.”

Finally, Mr. Chairman, if the bill could be amended in section 2, to allow the retroactive effective date – application to be part of this bill as was originally drafted, I would appreciate it. I spoke with the City Manager of Minot and he did not have a problem with the retroactive date.

I urge this committee to pass this bill and correct what the tax department is saying and amend the bill.