

15.0905.03000

FISCAL NOTE STATEMENT

Senate Bill or Resolution No. HB 1392

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.

Sheila Sandness
Senior Fiscal Analyst

15.0905.02000

FISCAL NOTE STATEMENT

Senate Bill or Resolution No. HB 1392

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.

Sheila Sandness
Senior Fiscal Analyst

15.0905.01000

FISCAL NOTE STATEMENT

Senate Bill or Resolution No. HB 1392

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.

Sheila Sandness
Senior Fiscal Analyst

2015 HOUSE FINANCE AND TAXATION

HB 1392

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1392
2/3/2015
23094

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL relating to special assessment imposition for mobile home park and single family residential property.

Minutes:

Attachment #1, 2, 3, 4, 5

Chairman Headland: Opened hearing.

Representative Nathe: Introduced bill. Distributed testimony from Dennis Reynolds, owner of North Star Mobile Home Park in Minot. (See attachment #1).

Chairman Headland: Testimony in support of HB 1392.

Todd Kranda, attorney with Kelsch, Kelsch, Ruff and Kranda: Provided testimony. (See attachment #2).

Representative Hatlestad: Are all the mobile home parks in North Dakota treated as commercial property?

Todd Kranda: No, they are not all treated that way. They are all treated differently.

Donna Barnhardt, manager and owner of Tatley Meadows Mobile Home Park: Provided Testimony. (See attachment #3).

Jim Farnsworth, owner and manager of Colonial Estates in Bismarck: I urge a do pass on HB 1392.

Tom Ihry, Director of NDMHA and Representative from Liechty Homes: Donna from Tatley Meadows gave the best information that is out there. I just want to emphasize the affordable housing and anything that is taxation, water, or sewer is passed onto the tenants.

Representative Steiner: Is it a problem in Bismarck that some have been assessed at commercial level?

Jim Farnsworth: Yes, there has been and continues to be a variation in how that is applied. It comes down to us dealing with more of the economically challenged people; we are trying to have them treated as fairly as anybody else in the community.

Chairman Headland: They are treating different trailer locations differently within the city?

Jim Farnsworth: Every city has a different way of doing it.

Representative Trottier: Do the cities cooperate and try to negotiate or work these deals out?

Jim Farnsworth: In Bismarck there hasn't been a lot of negotiating that goes on.

Representative Mitskog: I heard that in Bismarck mobile homes are treated as residential not commercial. Is that accurate?

Jim Farnsworth: We are zoned as residential and many times we are assessed as commercial.

Mark Swenson, Land development consultant, professional engineer, and district manager for Baseline Engineering: Distributed testimony. (See attachment #4 of testimony and Google map).

Chairman Headland: Any other testimony in support? We will now hear the opposition.

Bill Wocken, City Administrator for the City of Bismarck: Provided testimony. See attachment #5.

Representative Toman: Given your example here the legislation we have here wouldn't have affected the city of Bismarck because you are already assessing at a lower rate than a single family.

Bill Wocken: I think it's how you interpret the intentions of HB1392.

Representative Froseth: The lots are rented so how are these units taxed?

Bill Wocken: The examples in the court that Mr. Swenson distributed are all rental lots, so we would assess the property owner.

Representative Froseth: I meant the real estate taxes, how is the mobile home itself taxed?

Bill Wocken: There is a mobile home tax that is assessed by the county.

Representative Mitskog: When a new mobile home park comes into a city: are retention ponds or the concern of runoff addressed?

Bill Wocken: There is a standard that the State Health Department employs, runoff up to a certain frequency storm has to be retained on site. That is true of mobile homes to businesses etc.

Chairman Headland: Is it unusual or standard practice that different cities have different parameters when it comes to special assessments?

Bill Wocken: It is typical that different cities have different rules.

Chairman Headland: But it would be unusual for a city to apply the standards of special assessment different for different areas.

Bill Wocken: That is correct. One residential area should be treated the same as another residential area.

Chairman Headland: The city of Bismarck is consistent in that practice?

Bill Wocken: We believe we are.

Representative Klein: On the example provided by the engineer on the assessment district, that was a storm water district? And then you picked up part of the trailer court into that area?

Bill Wocken: I'm not real familiar with the example Mr. Swenson provided, I know that it is where the mobile home park is. I don't know if there was a street improvement or if it was a wastewater improvement which would make a difference on how we assess the cost.

Representative Klein: But if it was a street improvement there's no outlet from the mobile home park into that area at all.

Bill Wocken: We look at the streets as a district and there's traffic back and forth between streets in an area. So we would assess an arterial street a bit different than a local street. But we try to equally assess the adjacent streets.

Representative Klein: In looking at this particular one it doesn't make any sense at all if they were assessed for street improvement.

Representative Schneider: I'm having trouble with testimony we just heard how this is fair. Is this something where you and other groups and perhaps the engineer who just testified, could talk about this? And explain if there are any inconsistencies?

Bill Wocken: Each of our special assessment districts we sent an estimate of the cost to each of the parcels that will be impacted by the district. We show them the district and invite discussion. The special assessment commission is the one who is responsible for making sure there is equity in the individual special assessments on parcels.

Representative Schneider: If you're giving notice do you give it to each of the individual trailer owners in the mobile home park or just to the owner of the park?

Bill Wocken: Just to the owners. We don't have access to a list of the residents.

Representative Schneider: Would it be true that the mobile home park does not get assistance on its internal streets or garbage pickup or other city services?

Bill Wocken: That is correct; we do not do garbage pickup in the mobile home court. We charge for city services that are provided to lots outside the mobile home park. The park is free to provide for their own garbage pickup which they prefer. There are no city services on private streets.

Representative Schneider: It really does appear to be unfair the way it was described. I would hope that we wouldn't have to have a legislative action to ameliorate that. I am not seeing where this balances out in a fair way to the trailer owners.

Bill Wocken: I would make an offer to the committee that I can go to our special assessment people and have them write up the basis on how the assessments were made in that area. I did not know that example was going to be used.

Chairman Headland: I think we need some clarification. Bill, I know you haven't seen this sheet so could you come up here and look at it and describe to me if South Arlington connects to West Arlington? It's hard to tell.

Mr. Swenson: There is a connection between south Arlington Dr.

Bill Wocken: I'll provide you with some more information on that particular district.

Blake Crosby, Executive Director of North Dakota League of Cities: I think we are getting off in the weeds here and we need to read the bill the way it is printed. Property within a mobile home park may not be assessed at a greater rate than single, family, residential property in the district. I don't think that consistency between cities is the issue. The issue is that mobile home parks are commercial enterprises and are assessed and taxed at commercial rates. That is what this bill is looking to do. To have the assessment made on a residential rate which in effect lowers their property tax bill. These are commercial enterprises and they should be assessed that way. In Williston, some out of state businesses came in and bought up three or four of the mobile home parks and raised the rate from \$300 a month to \$1200 a month. They did that because it was a commercial business opportunity for them. They should be assessed as a commercial business. The basic question comes down to: is a mobile home park a commercial enterprise, or is it not? And I am saying that it is a commercial enterprise and ask for a Do Not Pass on 1392.

Chairman Headland: Is there any other opposition?

Closed the Hearing on 1392.

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1392
2/4/2015
23240

- Subcommittee
 Conference Committee

Ammonda Muscha

Explanation or reason for introduction of bill/resolution:

Relating to special assessment imposition for Mobile Home Park and single family residential family.

Minutes:

Attachment 1, 2

Chairman Headland: Bill Wocken is here with information regarding the special assessment bill.

Bill Wocken, City of Bismarck: Distributed testimony and explained. See attachment #1.

Chairman Headland: For clarification purposes Vice Chairman Owens has a question.

Vice Chairman Owens: Apartment complexes you classify as commercial?

Bill Wocken: Yes. The special assessments levied against the land not the units, and the same is true about local home parks. The special assessments are against the land not the units.

Chairman Headland: Mobile home probably has more footage than an apartment. I think they are just objecting to twice the factor that goes along with being a commercial property and they believe they are single dwelling units they should be taxed like a residential property that is the just of the bill.

Bill Wocken: As the bill is written it says the property within a mobile home court may not be assessed at a greater rate the single family property in the district. So yea you are correct. A two times factor is appropriate to be employed because those units square foot per square foot generate more traffic therefore more deterioration to the road surface. That is the rationale we use.

Vice Chairman Owens: If the mobile home park itself is commercial, do you actually divide those up into lots or is it just the entire thing is one commercial lot?

Bill Wocken: The mobile home park is one lot. Referred to map #2 which shows the area that was improved. When we talk about the cost per unit we are talking about the cost of

the assessment to the mobile home park if you were to split it into units. We don't have the ability to do that, we make the one assessment against the park and what the owner chooses to do with that is up to him but if you were to take that and say as it applies to an individual unit that is where the 50 per unit comes in.

Representative Froseth: In reality the only difference is the owner of the mobile home park will actually pay off the special assessments twice as fast if he is assessed as commercial property rather than residential property?

Bill Wocken: If you were to grant the relief that is in HB 1392 then that is correct.

Vice Chairman Owens: The way the bill reads right now is property within a mobile home park may not be assessed at a greater rate than a single family residential property in the district, if the entire mobile home park is one piece of property we have just turned that into one house by those words?

Sara Meier, Property Tax Specialist with Office of Tax Commissioner: I think a special assessment district has to look at either front foot or how that property is benefited when they spread those special assessments.

Vice Chairman Owens: Regardless of how big it is or how many people are living on it, it is done by square footage, with frontage or total footage?

Sara Meier: I'll let Bill answer that.

Bill Wocken: Yes, we can spread special assessments either by square footage or front footage. We spread square footage for drainage projects because we assume the rain will fall equally over the area. Front footage is different, referred to the spreadsheet in the packet; it identifies the various individual parcels that are included in this special assessment. The 3rd from the top is the assessment from the entire mobile home park.

Representative Steiner: Is it arbitrary whether it goes from part a to part b? Who makes that call?

Bill Wocken: That is a judgment call. Our policy on page 5 gives us the responsibility to try to accumulate the special assessments in the park to some sort of logic and we have chosen the 315 feet because that is where the lot line meets patriot drive, which is the major distribution street within the mobile home park. If anyone is not happy with that they can tell the staff who may be a little possessed of their idea, so then it goes to the special assessment commission. The special assessment commission and 3 individuals from the community are responsible for taking a look at it and making sure it is equitable. The decision special assessment commission is appealable to the city commission and then the PD assures relief after that.

Representative Schneider: That process has a little different twist when a mobile home park is involved and that there isn't an ownership interest among the people living in the mobile homes until it becomes assessed against them at which time the process is already completed, right?

Bill Wocken: The cost of a mobile home owner never gets assessed to them, at least the city. It gets assessed to the lot owner and we have asked the owner if this change, does it go back to the tenant or not and that is their business. We don't have a say in that decision.

Representative Schneider: We heard in other testimony that it is passed on to them and they don't go through the appeal process. If the mobile home court owner doesn't do it, it likely will not get done. That is where the disparity comes from that a lot of these folks are low income people also and that impacts the fairness of the system.

Bill Wocken: We've asked the question but that is the limit as far as we can go because it is the owner's responsibility to decide how to spread his costs.

Chairman Headland: When the mobile home tax is due it's sent out in a form similar to how a property tax statement is sent. There would never be a case where a person renting a space for their trailer within a park would ever have a special assessment on their mobile home tax. How are they distributing that cost out? Are they adding it to the rent?

Sara Meier: That's probably how they are operating. They have to recover the costs somehow for the special assessments, the lot owners would have to get that expense somehow so it would be passed on to the people who are renting those lots where the mobile homes are located.

Chairman Headland: It appears to me that they are not objecting. The people renting the spaces are the ones objecting to have to pay the two times factors. Is that correct? Just because of where they have chosen to locate their dwelling, if they locate it on property they own themselves, then they would be special assessed; but they would be special assessed at a factor of one instead of the factor of two.

Sara Meier: Yes.

Representative Froseth: I don't know if this is an issue the state should get involved in. It should be a decision by each city housing of how to assess it. Some assess it as commercial, special, or residential. I don't think we should be setting the policy for which the cities have to go by.

Chairman Headland: If different cities do different special assessments, would all cities in the case of commercial property use a two times factor?

Bill Wocken: I know of a number of cities that use a two times factor. We use a two times factor for reasons I have explained earlier. Another way to do it would to set up a separate for commercial versus residential which is basically what we should be doing with a two times factor.

Chairman Headland: Do you think the language in the bill does what it is asking it to do?

Bill Wocken: Because it says the rate of taxation is what is being referred to and both of the amendment sections I believe that it does do what the bill sponsors were asking for.

That would be to say whatever the rate is for any residential unit it would be the same for a mobile home park.

Chairman Headland: Ideas? Representative Froseth thinks we are stepping into something that is not our area and I would tend to agree.

Representative Schneider: I would like to agree with Representative Froseth but we tell cities how to do things when there are problems and I think there is a problem with this one. We heard testimony that each city does it differently and that a number of cities zone these as residential which would get rid of the appearance of unfairness between the label of commercial and residential. We have been in a position to fix other things we would love to have in the purview of the counties or the cities and this one is particularly for some vulnerable people who don't have a voice in this. No taxation without representation. I would like to see some standardization.

Representative Steiner: I think they have representation because they elect their city commissioners and they can put pressure on to make changes at their local level. That is where they are free to vote there and they elected the city commission. They can influence that special assessment commission and make their case there. They do have input. Local decisions will be different from each city so I don't think we should micromanage this.

Chairman Headland: If we are to do this are we going to have dwellers from apartments ask for the same request? How far do we want to go with this?

Representative Mitskog: I don't think there's an opportunity for the residents of mobile home parks to locally bring forward their concerns or be part of that process of protesting the special assessment because they often have absentee ownerships. Ownership is out of touch and not available. I think we should look at addressing the lack of uniformity that the state is treating this.

Chairman Headland: As a former city commissioner, did you special assess?

Representative Mitskog: Yes. I received from our assessor, special assessments do not factor into whether a parcel is commercial or residential, and it only factors in the benefits associated with that parcel. Projects around apartments are spread on a square foot or front foot basis, so the size of the lot would determine the assessment. Specials can be spread per parcel, front foot basis, or square foot basis. The special assessment committee will determine the fairest of the three for the entire district.

Representative Trottier: Are all special assessments voted on by the public for those that are affected?

Bill Wocken: No. Special assessments are really an installment purchase so the improvement is voted upon by the city commission. People have an opportunity to protest out of the district in which case a special assessment is barred, but they are not voted on person by person. There are two public hearings also involved in the process at the special assessment commission and at the city commission when the assessments are formalized. A vote no.

Representative Trottier: In our small town, under 1000 people, it is probably because the city council is aware of it that they have never been able to initiate a special assessment, not matter what it is for. They never put one in because the people speak and the people refuse it.

Bill Wocken: If 50% or more of the people in a district protest it that improvement is barred.

Representative Mitskog: There's that process and an opportunity for the public to weigh in, but I am concerned that the information would get mailed to the property owner and there may not be good communication. Are they making aware to their tenants that there is a special assessment district being created up for a project? Do they have an opportunity to attend one of these public hearings so their voices are heard?

Representative Trottier: It would be one vote per land owner. If you have an apartment building the owner of the apartment building gets to vote and the residents do not. So in a trailer park, the trailer park owner will only have one vote and possible have 500 people in there. Is that true?

Bill Wocken: Yes.

Vice Chairman Owens: If that one owner controls more than 50% of the property in the special assessment, then they can stop it.

Bill Wocken: On a square foot assessment that is true but I'm not sure on the details...

Chairman Headland: I've asked our intern to find a trailer court in this state that is taxing or special assessing in a different fashion or if they are on the same level as residents.

Written testimony submitted from William Block, RH Associates: Mr. Block was not present at the hearing but requested this be added to the record: See attachment #2.

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1392
2/10/2015
23573

- Subcommittee
 Conference Committee

Committee Clerk Signature

Mary Brucher

Explanation or reason for introduction of bill/resolution:

A bill relating to special assessment imposition for mobile home park and single family residential property.

Minutes:

No attachment.

Vice Chairman Owens: MADE A MOTION FOR A DO PASS.

Representative Strinden: SECONDED.

Vice Chairman Owens: I decided to recognize this as residential property and an affordable home issue.

Representative Trottier: What would it take for a property owner of a trailer park to sell lots for \$1 with an agreement that when they leave they have to sell that back to that property owner for \$1.00. Then the property tax could be part of the maintenance agreement on that trailer park. Every individual trailer home owner would have a vote in this situation. I don't think it would be a double taxation.

Representative Mitskog: Wahpeton is actually looking at that right now. They are looking at doing co-op housing where the city would acquire the land then start a co-op and sell off the lots. This would give those property owners a say in the process. I'm concerned about this on a state level. Cities are treating mobile home parks so differently and there is no unified process. The people being impacted and hurt are the people living in these mobile home parks.

Representative Toman: This says property within a mobile home park so their argument was that we don't assess each lot. If this passes they will have to say there are 50 lots in there?

Vice Chairman Owens: I asked that same question. For every other type of special assessment it was the square footage along the roadway. For water, it is assumed the rain is spread equally across all property. When it comes to storm sewers they do it across the square footage of the lot. I was wondering if we do this then would all of them be classified

as one. In testimony it was said it was based on the factor and not the description of the property.

Representative Toman: My concern then would be, are they going to take the single family dwelling and multiply it times 50 so the trailer park residents are going to be paying the same as a single family dwelling on that same frontage even though they don't have that same frontage?

Vice Chairman Owens: They don't have it divided out; it's just one plot. They would have to re-plot the whole thing to do it and I don't see them going through that trouble on private property.

Representative Froseth: By passing this bill gives no assurance that the rents are going to go down. The market drives the price of the rents so there's no assurance that the people in the courts are going to get a break in the rent.

Vice Chairman Owens: You're absolutely correct because this bill has nothing to do with the rent; it's only about special assessments.

Representative Kading: I'm going to have to resist the do pass on this because I don't think it's our place to get into the micromanagement of local affairs. I think the local elected officials know the issues better than us at that level. I think that's best left to manage.

Representative Klein: One of the problems I have is that every city seems to do it differently. With passing this bill force them all into the same category?

Chairman Headland: That would be correct. Everybody needs to understand is the cost of the special assessment doesn't change but it's going to be spread out differently. Single dwelling units are going to be taken off the burden of this extra cost. The cost of the special assessment will be spread over all those properties the same and the cost is the same so it's going to go up for them.

Representative Mitskog: It depends on which city you live in. Some cities aren't adding that two times factor.

Chairman Headland: That is true.

**ROLL CALL VOTE: 10 YES 4 NO 0 ABSENT
MOTION CARRIES FOR A DO PASS**

Representative Dockter will carry this bill.

Date: 2-10-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1392

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep. Owens Seconded By Rep. Strinden

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND		✓	REP HAAK	✓	
VICE CHAIRMAN OWENS	✓		REP STRINDEN	✓	
REP DOCKTER	✓		REP MITSKOG	✓	
REP TOMAN	✓		REP SCHNEIDER	✓	
REP FROSETH		✓			
REP STEINER		✓			
REP HATLESTAD	✓				
REP KLEIN	✓				
REP KADING		✓			
REP TROTTIER	✓				

Total (Yes) 10 No 4

Absent —

Floor Assignment Rep. Dockter

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

REPORT OF STANDING COMMITTEE

HB 1392: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1392 was placed on the Eleventh order on the calendar.

2015 SENATE FINANCE AND TAXATION

HB 1392

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB1392
3/11/2015
Job #24675

- Subcommittee
 Conference Committee

Committee Clerk Signature

Alicia Grove

Explanation or reason for introduction of bill/resolution:

Relating to special assessment imposition for mobile home park and single family residential property.

Minutes:

Attachments #1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11, #12

Chairman Cook opened the hearing on HB1392.

Rep Mike Nathe appears to present the bill. There's been a problem with mobile homes and assessment. Right now some of the mobile home property is being at the commercial rate and that rate is being passed along those individual living in those parks. It's inconsistent. Some areas of the state will charge at the commercial rate like Bismarck does. Other cities will charge at the residential rate.

Sen. Dotzenrod -- Is that happening? Are there places in North Dakota where property in a mobile home park is being assessed at a higher rate? I wouldn't have thought this was a real problem.

Rep. Nathe -- Yes, it's happening right here in Bismarck.

Todd Kranda, Attorney at Kelsch, Kelsch, Ruff & Kranda in Mandan, appearing as lobbyist for North Dakota Manufactured Housing Association. In support of HB1392 (**Attachment #1**). Also presented testimony from Myron Atkinson, **Attachment #2**; and William R. Block, **Attachment #3**. I know that Sen. Poolman was here earlier and I did send a message to Rep. Nathe. I don't think she is here yet, but I will step aside when she can appear before the committee.

Nicole Poolman, Dist. 7 -- I had heard, on a number of occasions, from my constituents from mobile home parks complaining about property taxes. I always felt that it seemed to be disproportionate, the amount of complaints I would get from those citizens and constituents rather than regular homeowners. Now this all makes sense, as this problem was brought to us. And it makes no sense to me why we would charge double the rate on special assessments on some of our poorest citizens rather than charging them like any

other homeowner. I am hoping that you will be able to support the bill. We think it's an important change to help our constituents.

Sen. Laffen -- I serve on the Grand Forks special assessment commission and my city attorney is here, as well, and he may to step up and correct me if I am wrong. I think in Grand Forks the way we do it is we special assess the entire mobile home park to the owner of the park and we would assess that parcel like any other parcel. I am struggling to understand how we would end up at a higher rate than a single family residential around it.

Todd Kranda -- Grand Forks is one of the cities covered by the minimum. You are right, some cities are fine. I'm not saying that those 7 that were studied by this memo do a doubling, as we are trying to correct, but every city seems to have a different way and a different process. I think all cities apply it against the park property owner but then that is passed down to the individual property mobile home tenants so they are receiving that double assessment for that curb improvement when in essence it should be half as much because you are using less space for that curb, compared to a home, and its double.

Sen. Cook -- What are they doing different? You assess it by the sq. footage or by the linear footage, all property?

Todd Kranda -- I'm not sure but as I understand it they are treating it as commercial property. They are saying this is a commercial venture and it is not technically applying to the mobile home owners that are no different than the person across the street with a single family.

Sen. Laffen -- That would be a difference. In Grand Forks, we do have some different rates for commercial, as an example our storm water has a double rate for commercial because all of our commercial property have way more parking and it gets into the storm sewer much quicker. If your city was assessing these as commercial there could be some difference.

Todd Kranda -- Some of the other people testifying here might comment on that. This is not commercial property. It is a home for mobile home people. It's closer to residential than it is to an office complex and a big parking lot. We think we should be on the single family residence level to treat our occupants the same.

Sen. Unruh -- Grand Forks rates are listed on the last page of Todd's attachment and they do have a lower rate for parks.

Sen. Oehlke -- Most mobile parks, the people in them are tenants. Does the city tax them directly, or do they tax the park, in general, but they have a higher rate for those tenants and it gets put on their rent?

Todd Kranda -- Yes, the park gets the assessment and it is passed through to the individual mobile home lot occupants.

Sen. Laffen -- To clarify Sen. Unruh's comments, in Grand Forks, parks is a park, not a mobile home park.

Todd Kranda -- I would like to introduce to you, Donna Barnhardt, she will be 1 of 2 individuals that I will be introducing to speak next.

Donna Barnhardt, manager and a stockholder of Tatley Meadows Mobile Home Park (Attachment #4) I'm testifying in support of HB1392.

Todd Kranda introduces Jim Farnsworth.

Jim Farnsworth, Owner/Operator of Colonial Estate Manufactured House Community (Attachment #5). In support of HB1392.

Mark Swenson, Dist. Manager for Baseline Engineering for N.D., a Land Development Consultant, and Registered Professional Engineer in ND. In support of HB1392

I have worked on several mobile home courts but the majority of my work is single family, apartments, commercial and industrial as well. I am not a lobbyist. I have some concerns about how the law is written but I am supportive of it. My concern is that the law doesn't fully address the issue. Special assessments are nothing more than a method to disperse construction costs for a particular improvement, usually streets but it's also used for water, sewer, and many other things as well. My research shows that the land in a court is taxed as commercial and it's taxed at a 10% higher rate than similar single family and the court owners think that is unfair. This bill doesn't address that. This is simply the special assessments. (meter 21:50-23:41) Basis of Special Assessments **(Attachment #6)** Refers specifically to page 4 of attachment 6. Fargo Infrastructure Funding Policy **(Attachment #7)** Refers specifically to page 4 of attachment 7. Fargo's assessment are based on a zoning which is the appropriate, in my opinion, way to deal with assessments. (meter 25:01-28:13) . **(Attachment #8 - drawing)** (meter 28:14-35:50).

The city, in my opinion, is functioning like a public utility. You have to use their facilities and water. My hesitancy on this is only because the bill doesn't fully address all these catch points. They will still try to use this to pull in more costs. I think you have given the city too much authority on many of these things.

Sen. Laffen -- Do you work only in Bismarck?

Mark Swenson -- I work civil engineering projects over the western 2/3 of the state.

Sen. Laffen -- Do you see this problem anywhere other than Bismarck? Bismarck is using a commercial code to assess their mobile home parks? I don't know that anyone else is doing that. Would you be opposed to amending the bill? I'm a little uncomfortable with the language that says we have to assess them as a single family residential. I think your idea that when they are special assessed, you would use whatever they are zoned at because taxes are different than specials. A property should be taxed for what it is currently being used for but specials should go against it for what its potential use is and that's what zoning takes into account. I'd be more comfortable if we changed this. What is your opinion?

Mark Swenson -- Getting back to the statement that they are twice as dense and therefore, in a way, that is the gist of things. They should be assessed on benefit received. If a mobile home court is 10% more dense than the single family to the north it should be

assessed 10% more. I have some trouble with this with the way that it is worded but what I'm telling you, as a designer, for these new courts; you look at this example here, this court and a single family to the left, when you take into account that they have a park the newer courts are not twice as dense if not a little less dense. The city should be taking the subdivision plats, figuring out the density, the number of drivers and people, and assessing it in that way.

Opposed Testimony:

Bill Wocken, Bismarck City Administrator (Attachment #9, Attachment #10)

Ask for a do not pass.

Sen.Laffen -- Do you have a different rate between commercial and residential for anything other than the storm water? Is that the only one that has the different rate?

Bill Wocken -- The commercial rate is applied for all commercial property and all of the assessments. The residential rate is a single rate. The commercial is two.

Sen.Laffen -- But just for storm water?

Bill Wocken -- That is for storm water and for the surface improvements.

Sen. Laffen -- Let's take this example that you've been showing us and let's say that you had to rebuild Century Avenue, would it be assessed any differently to the single family residential, as opposed to the mobile home park? Would that street be assessed at a different rate to those two?

Bill Wocken -- Century Avenue, being an arterial street, we have an entirely different policy.

Sen. Laffen -- So let's assume that it is not an arterial.

Bill Wocken -- If it was not an arterial, I believe the assessment would be twice the rate for commercial property, yes.

Sen. Laffen -- It would be? On what justification?

Bill Wocken -- We look at the impact for storm water in particular, we look at the impervious surfaces. When we look at a street project, we look at the amount of traffic that's put on that street. If we assume that each vehicle wears the street at the same rate, we know that vehicles are generated at a much high rate from commercial rate, we assess at a higher rate because of that traffic.

Sen.Laffen -- If the landowner of the mobile home park were to sell to a new owner and that owner converted it to a single family residential, would the previous assessments get changed then back to a residential rate? Or would it stick to the commercial?

Bill Wocken -- I assume that we are talking about single family residential, that conversion would happen for the entire park so lots sizes and everything else would change. We would then assess for the use that was in place at the time that the district was levied.

Sen. Laffen -- So it would stay as commercial even though?

Bill Wocken -- No, it would go to residential, if it were converted to residential. If all the lots were changed.

Sen. Laffen -- Yes, all the lots were changed.

Bill Wocken -- Well, then there would be no reason to treat it any differently than the surrounding area, except that it would probably have private streets. If it has private streets we have a policy that says that we only assess at the half rate because they are private streets and they have to do their own street maintenance.

Chairman Cook -- It's been a while since I've had my nose in chapter 48, but is there any language that enables cities to have a different rate for commercial over residential, or is it silent to the issue?

Bill Wocken -- As I read it, we take the charge that we put together an equitable rate and we extend that to our formulas. I can't tell you that there is a specific piece in the century code that talks about it. I think the general rule is that we have to assess on the basis of benefit.

Sen. Triplett -- If Mr. Swenson was correct that your formal definition of the district is pointing at his map, to catch the street, whereas what you have described for us, looking at your map #1, that you were thinking by catching that street of benefiting these 180 properties. Is he correct that your formal definition of the district is just this as opposed to catching all the properties?

Bill Wocken -- I don't know if I understand the question.

Sen. Triplett -- Can you see where his blue line is drawn?

Bill Wocken -- Yes.

Sen. Triplett -- He has suggested that this is the formal definition of the district and that all you are doing is just catching this little bit. What you explained on map #1 is that by catching that road that you are considering the benefit to these 180 properties here; if that disparate way of showing things on maps might be part of the angst. That is if they are perceiving the assessment as being just on this part and being as high as it is as opposed to understanding that it is really intended to be applied these 180 lots.

Bill Wocken -- I'm not sure how it is interpreted but since the assessment is sent to the court owner and we intend it to be for the entire mobile home court that is certainly our intention and that is what we communicate. The only point of difference would be the 315

ft. that we assess into the mobile home court as a logical basis for a connection to the outside streets.

Blake Crosby, Executive Director of North Dakota League of Cities -- The first piece I handed out comes from **Dan Eberhardt, Special Assessment coordinator for the City of Fargo (Attachment #11)** Asks for a do not pass.

Blake Crosby I am testifying on behalf of the League in opposition to HB1392. (Attachment #12) (meter 59:27-1:00:40)

Sen.Laffen -- Are apartment buildings commercial or residential? When special assessments are applied to apartment complexes, are they applied as a commercial or residential.

Blake Crosby - Commercial. They are a business. It's my understanding they are applied as commercial because they are a private business.

Sen. Laffen -- It would be nice to hear from Bill because I don't think that's the case. In Grand Forks we assess them as residential because they are zoned residential. I don't know anywhere else in North Dakota that assesses them as a commercial property. For taxation they are taxed as a commercial entity but from special assessments, I think they are generally residential.

Blake Crosby --There are some inconsistencies across the state. We need to deal with the commercial side of it. That is the crux here and if the city of Grand Forks has determined that they want to deal with that differently, that is their prerogative. To try to make a cookie cutter out of this, I don't think that would be a good policy to undertake.

Sen. Laffen -- I could argue that apartments are even denser than mobile home parks. In fact, they are much denser. I'd like to ask Bill how they are doing apartments.

Bill Wocken -- Apartments are assessed as commercial properties. Two times. We have a 30% coverage ratio in our residential neighborhoods, 40% mobile home park, 50% in apartments. Anything that is not single family is assessed as commercial.

No further testimony.

Chairman Cook closed the hearing on HB1392.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB1392
3/30/2015
Job #25582

- Subcommittee
 Conference Committee

Committee Clerk Signature

Alicia Grove

Explanation or reason for introduction of bill/resolution:

Committee work

Minutes:

Attachment #1

Chairman Cook opened the committee work on HB1392.

Sen. Cook distributed a letter from Larry Gullickson (Attachment #1).

Sen. Laffen -- I know a lot more about this subject than I did about agriculture modifiers. I am on the special assessment commission in Grand Forks. When I first started looking at this, a lot of the issues were about Bismarck's assessing of these mobile home parks and they do assess differently than Grand Forks. When I looked at the numbers, I didn't see a whole lot of difference, in the end, even though the policy was different. I didn't see a big difference in the numbers. The way the assessment actually shook out, especially when compared to a very dense housing project right next door.

Sen. Dotzenrod -- You said you couldn't see a big difference, you are comparing residential to mobile homes?

Sen. Laffen -- A dense residential area that was being assessed at residential rate, in the end, didn't have a whole lot different assessment than the mobile home park did at a commercial rate. And Bismarck does it differently. I think their commercial assessments are double what a residential rate would be on certain things like storm water. For me, this comes down to whether we want to allow those jurisdictions to have their own control over how they do assessments. I think they need some of that flexibility. There is a fairly exhaustive process at the end of specials where you get to protest, discuss, there is a special assessment hearing. If this were really an issue you would think they would be hearing it in their own community, at their own special assessment hearings. I'm not sure this is a legislative issue, as much as just a city issue.

Sen. Bekkedahl -- I would agree with Sen. Laffen, I think the frameworks that we have in state law allow this for localities to weigh in on their particular issues. When they looked at some of the testimony and memos provided, it seems like every city has a little different

application of the state law. Some take a higher level of definition to this than others. I don't know that we need to narrow that definition and make it harder for the locals to interpret what they think is necessary for them to do business. It is a local control issue in my mind as well.

Sen. Dotzenrod -- When I first saw this bill, it seemed to me that this an easy bill to pass because it's obvious you don't want to have a mobile home assessed greater than a single family residence. It seemed so obvious and then we get into the testimony and find out that it's really about how you manage surface runoff. I always thought of it as curb and gutter and street paving but a lot of the problems that they are managing here are water and the porosity and the ability to have surfaces available that the water can soak in to, compared to places where it's got to run off. It was a more complicated thing than I thought it would be at the outset. (meter4:44-5:40)

Sen. Cook -- I could take you to two mobile home parks in Bismarck and the amount of cement and roof in one of them is twice as much as it is in another one. And yet they are taxed the same. I tend to agree: it's a local issue and I do believe that some of the property owners in Bismarck, did probably voice their concern at the local level. They did not get the outcome that they wanted at the local level so they came with legislation. I am sympathetic to their concerns. I wish the local level had made a different decision that what they did. I was surprised to learn of the number of cities in North Dakota that have a defined policy for levying special assessments that deals with different treatment they have between residential and commercial. One thing I would like to do with this bill is to turn it into a bill that requires municipalities over such-a-such size that are going to use special assessments to have a local assessment policy dealing with certain issues and require them to have a hearing on it.

Sen. Laffen -- We never even used to have a policy but we do now and it's actually gotten to be quite detailed. It really made sense to be consistent in how we did things, so policy developed. I think Grand Forks has some unique things because of the way some of the assessments we've had to do, especially flood protection. We assess flood protection over our entire city. We have a policy on how we do that. That is why I lean toward this is more of a local issue. We have guidelines in place, a law in place that says how we can special assess.

Sen. Cook -- Residential property in Mandan gets assessed same square footage as a commercial property that's all cement. That isn't right either.

Any interest in amending it?

Sen. Triplett -- I think your idea is a perfectly reasonable one. I don't know where the cut-off would be and we could certainly discuss that with the representative of the league of cities, but at a certain point I don't know how you could even go about doing special assessments without having a written policy. I'd be happy to consider that as an amendment to this, as opposed to just killing it.

Sen. Laffen -- I agree with that. If we did that, I would prefer to see it as a hoghouse amendment that just does that.

Sen. Cook -- John, we are going to talk. Do you want to just step up now and we will give you some ideas, together as a committee, on a hoghouse amendment to 1392.

John Walstad, Legislative Council -- Absolutely, unequivocally, uninterested in the outcome. Neutral.

Sen. Cook -- But you care.

John Walstad -- I care that this committee gets the best product that it can receive, after its due deliberation. I brought my friend and associate, Nick Winbauer, with me today. He is a student at St. Marys, and wants to be an attorney. I brought him here because I told him I would bring him to the meeting of the smartest committee that we have.

Sen. Cook -- And he says that to every committee he goes to. It's the first thing you learn about being a lawyer.

HB1392 a hoghouse amendment that requires municipalities over, let's say 10,000, have a written policy regarding special assessments relative to commercial and residential property.

John Walstad -- Mobile homes, as well? Separate.

Sen. Cook -- Mobile homes, yes.

John Walstad -- Ag?

Sen. Cook -- Various classifications of property. Maybe you can work with Bill Wocken because the city of Bismarck has a policy. You might look at it and see all the different things they address in their special assessment policy to write up the requirement because we want to have a policy similar to that one.

Sen. Bekkedahl -- Are we talking about an amendment that says merely they have to have a written policy or are we going to put specifics in the written policy as legislation as well?

Sen. Cook -- I don't think we want to put a lot of specifics into it but we do want to require them to have a hearing to approve their policies. You've got to require the policy and require a hearing to have it. We need to have a date certain by which that has to happen.

John Walstad -- And it should be by ordinance? That would invoke the public hearing.

Sen. Cook -- Okay.

Sen. Bekkedahl -- To follow up, I like Grand Forks policy on this.

Sen. Laffen -- We've been working on it.

Sen. Cook -- You've got a start, John.

John Walsh -- 10,000 is the cut?

Sen. Cook -- Yes. We've got a clock ticking.

John Walsh -- When does the clock stop ticking?

Sen. Cook -- I don't know but there are still 3 bills in the House.

Sen. Laffen -- Do we ever require cities to post any of this information in certain places? Is that ever mandated in statute?

Sen. Cook -- I don't think so.

Sen. Laffen -- I don't know if it would be a good idea if all these cities would have websites; it would be nice to have that policy.

Sen. Cook -- That is another issue.

John Walsh -- It's not covered now.

Committee work stopped.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB1392
4/1/2015
Job #25681

- Subcommittee
 Conference Committee

Committee Clerk Signature

Alice Grove

Explanation or reason for introduction of bill/resolution:

Committee work

Minutes:

Attachments #1, #2

Chairman Cook opened the committee work on HB1392.

Sen. Cook -- (Attachment #1) And before we offer these amendments, at some point, we are going to make sure that there isn't a lot of desire to pass the bill, as it is. This is the first time that I've seen them but I knew that it was going to require an ordinance. I've already had some objections to requiring an ordinance. Those that have them, they would be happy to have a hearing on the rules that they have in place today but the challenge that they have with an ordinance is that it takes out a lot of flexibility once you put it as an ordinance. We may want to change this so that it just requires a hearing and not an ordinance and I would agree to that unless somebody else here strongly thinks that if we are going to amend it, we should require an ordinance.

Sen. Bekkedahl -- I agree. That was the one issue that I thought would make this even better. I agree with the hearing part of it but a policy or procedure is much better than an ordinance.

Sen. Cook -- Terry Traynor. You talked to me briefly this morning. I told you to go make amendments. Committee, you are going to hear a brand new issue, no legislation. He's looking for a home to fix the problem on it and I'm going to let him explain what the problem that he perceives is and if there is a desire that's it's minor enough that the fix should be happening then maybe this is the bill where it should happen. I made no promises to the Assoc. of Counties to fix a city issue.

Terry Traynor, Association of Counties -- I have shared this information with Mr. Crosby, as well. Thank you for this opportunity to address this issue. McKenzie County contacted our office, asking if there was a way to deal with an issue that they have been faced with in the dissolution of the city of Rawson, which is the subject of the AG's opinion. **(Attachment #2)** Section 40-53-.1-07 is the governing statute with a suggested change to it that basically gives the county the responsibility to assume control of all property

belonging to a dissolved city and then to employ a qualified person to manage and operate the property. It was McKenzie County's intention to just sell the property in Rawson. The city has a number of vacant lots and they would like to just dispose of them rather than try to rent them or do something with them. They feel it's more prudent to get them back on the tax roles. As the AG's opinion states, the law is fairly specific in what the responsibility of the county is and it does not include dispose of the property. They would like to have that authority added so they could dispose of the property before the next 2 years when they would come back with a bill to do the same thing. I realize that it is very late and there weren't many vehicles. We had a vehicle on the House side but the House decided that they would rather kill the vehicle than add anything to it. The special assessment bills you are dealing with here are the last title 40 legislation still alive.

Sen. Cook -- If the county was going to sell it, it would be under the standard laws in code, as far as having an auction on the county courthouse steps?

Terry Traynor -- That is correct. Chapter 11-27 is the way the county has to dispose of property itself and it would be like disposing their property.

Sen. Cook -- And they are not looking for any deviations from that chapter?

Terry Traynor -- No.

Sen. Oehlke -- Is this something that would require the county commissioners to do this, or do they have the option to do this?

Terry Traynor -- They are required to assume control but as it was drafted, and the intention of the McKenzie County States Attorney is they just want that option added, that they could still manage property and rent it out if that was the decision of the commission, or they could dispose of it, if that was a more prudent decision for the taxpayers.

Sen. Cook -- Do you know when the city dissolved, did the city assume that the county was going to sell this property?

Terry Traynor -- It was one of those situations where it sort of dissolved over the years. There was one family, one couple, still living in town. It wasn't operating as a town.

Sen. Cook -- What I am getting at is if this was introduced as a bill and there was a hearing here, would that couple be standing at the podium and saying...

Terry Traynor -- I honestly can't answer that question. The McKenzie County States Attorney gave us no indication that this was controversial at all.

Sen. Cook -- Anybody have any real concerns with putting an amendment on this bill?

Sen. Dotzenrod -- It says, or dispose of the property in accordance with chapter 11-27. This property, there are going to be probably some people who own property who want to retain ownership. This would be only property that is abandoned?

Sen. Cook -- Owned by the city.

Sen. Triplett -- I will just say that I think this is a really narrowly drawn AG's opinion. Had I been the AG, I would have interpreted "control" to mean sell. If you control property, you ought to be able to sell it. I think the AG's opinion is wrong. I guess I don't have any problem with it.

Terry Traynor -- If I may comment, I know of at least 2 other attorneys that agree with Sen. Triplett on that.

Sen. Cook -- I've never found an issue yet that you would get all attorneys to agree on.

Sen. Triplett -- It is unreasonable to assume that the legislature, who put that control in there, meant that a county should have to maintain teeny, tiny little lots owned by a previous city in perpetuity. No one could possibly have meant that. So, the word control should have been interpreted to include the control to sell.

Sen. Bekkedahl -- I would agree with Sen. Triplett. I have a hard time believing that there was ever intended that this property could not be sold. Whenever the county or the city takes over property, for whatever reason, they have the opportunity to sell and dispose of that property. This looks, to me, like the only case I've ever seen where they cannot dispose of property. If we can be corrected with anything, I think we should be.

Sen. Cook -- There's no real problem with putting this amendment on this bill? Other than this bill might end up getting killed.

Terry Traynor -- We've ridden the wrong horse before.

Sen. Cook -- Haven't we all.

Sen. Cook -- Well, we are going to have to get these amendments changed anyway. Does somebody want to move the amendments that Terry Traynor just offered.

Sen. Unruh -- I will move the Traynor amendments to HB1057.

Sen. Bekkedahl -- Seconded.

Sen. Oehlke -- I have a little discussion on it. There is a community in my neck-of-the-woods that was bought out, so technically it's not a city anymore. They still operate like a city and there isn't even a handful of people that live there but they control the whole area. I talked to the states attorney and said there's one guy on the city council here who was convicted of growing pot. I thought if you were a felon you can't hold a position as city commissioner, and the states attorney said, yeah, well it's just not worth going after. I don't know if this would force anything to have to happen or if someone could go to the county and say, you need to step up to the plate here, or if they could just go on ignoring this situation. I guess I'd like to visit with maybe Terry about that before I voted.

Sen. Triplett -- I have a technical correction, I think I heard Sen. Unruh say that she was amending 1057, which is already passed.

Sen. Cook -- 1392.

Sen. Unruh -- I would like to correct my motion to 1392.

Sen. Cook -- We will just set this aside. Sen. Oehlke you ask your questions. We will come back to this. I will get the other amendments corrected to remove the reference to an ordinance and then we will deal with 1392.

Recessed until 10:30.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB1392
4/1/2015
Job #25694

- Subcommittee
 Conference Committee

Committee Clerk Signature

Alice Grove

Explanation or reason for introduction of bill/resolution:

Committee work

Minutes:

Chairman Cook opened the committee work on HB1392.

Sen. Cook -- We had a motion to amend the Terry Traynor amendment and that was made and seconded.

Sen. Triplett -- Just to clarify, the amendments that you are referring to are .01001?

Sen. Cook -- No, I don't think they have a number on them.

Sen. Triplett -- Okay. Which ones are we on then?

Sen. Unruh -- No. They were the Traynor amendments. Before we do move the next set of amendments, I would have a different motion that I would like to try with the committee and that would be a do pass on HB1392, as amended.

Sen. Triplett -- We didn't vote on the Traynor amendments.

Sen. Cook -- We haven't?

Sen. Triplett -- No, she presented the motion and then you held it while Sen. Oehlke was thinking about it.

Sen. Cook -- Sen. Oehlke, are you alright now? Maybe I'm bringing this back too soon.

Sen. Oehlke -- I haven't had a chance to visit with Terry.

Sen. Cook -- Okay. Well, I'm going to give Sen. Oehlke his time to do that. We don't have to be in any hurry to kick these out.

Sen. Laffen -- Just remind me, did we approve the 01 amendments on this bill already?

Sen. Cook -- No.

Sen. Laffen -- So right now there are no amendments on this bill?

Sen. Cook -- We are going to replace those 01 amendments with some 02 amendments so you might as well get these in your book. It takes out reference to an ordinance, its still supposed to require a hearing so put them in your book and we will deal with this one after we deal with the Traynor amendments.

Chairman Cook closed the committee work for the week.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB1392
4/6/2015
Job #25816

- Subcommittee
 Conference Committee

Committee Clerk Signature

Alicia Groves

Explanation or reason for introduction of bill/resolution:

Committee work

Minutes:

Attachment #1

Chairman Cook opened the committee work on HB1392.

Sen. Triplett -- My note on this one says that we had a motion to move the Traynor amendment and then the bill is on hold while Oehlke thinks. The question is, has Sen. Oehlke finished thinking?

Sen. Oehlke -- I think so.

Sen. Cook -- I've got a motion to amend the Traynor amendments, also, but somebody tell me what are the Traynor amendments?

Sen. Unruh -- It allows the city to be able to dispose of property as the county does and the dissolution of a city.

Sen. Bekkedahl -- It deals with the town of Rawson in McKenzie County.

Sen. Cook -- I remember them now. There they are. Did we get a second on that motion to move the Traynor amendments?

Sen. Triplett -- Sen. Unruh made a motion. I don't think it even got a second before Sen. Oehlke objected and asked for time to think and so we put it on hold.

Sen. Cook -- We have a motion by Sen. Unruh, seconded by Sen. Bekkedahl to move the Traynor amendments. **All in favor say aye. Aye carried.**

Sen. Cook -- Did we ever put on the amendments requiring a municipality to have a written process?

Sen. Laffen -- That went on to a different bill. No? That was to define the process.

Sen. Unruh -- It was to just simply require a hearing but not an ordinance to do so. The first one required a municipal ordinance for special assessments and the second one required a municipal policy regarding special assessments and just simply required a hearing, rather than the ordinance and before we got moving too far on those amendments, I wanted to discuss the merits of the bill as is before we adopted amendments.

Sen. Unruh -- With that, I would give a **do pass to HB1392, as currently amended** a whirl if there is a second.

Sen. Dotzenrod -- Seconded.

Sen. Bekkedahl -- Clarification? That means not including the amendment 01002, correct?

Sen. Laffen -- So this is the bill that is mandating that mobile home parks not be assessed at greater than single family residential? As I listened and looked at the numbers, my opinion was that this was sort of a local issue and I would like to allow the local city or county do what they wish because I didn't think there was a whole lot of difference in the way these specials were done so I'm probably going to vote no.

Sen. Triplett -- I would like to know from Sen. Unruh why she is moving the do pass without considering the amendments because I liked the second version of the amendment, the 1002 amendment. **(Attachment #1)**

Sen. Cook -- I think the reason is that it is a hoghouse amendment. 01002.

Sen. Dotzenrod -- What we are voting on in the motion is 1392 as it was introduced?

Sen. Cook -- Basically as it was introduced with that minor amendment on there that Terry Traynor brought.

Sen. Dotzenrod -- If we defeat this motion for do pass then we would have some other options in front of us?

Sen. Cook -- Yes.

Sen. Triplett -- If we defeated this motion and wanted to go with the hoghouse, we would have to re-add the Traynor amendment on to that one separately?

Sen. Cook -- Yes.

Sen. Laffen -- I want to make sure what I am voting on, we are voting on the original bill with the Traynor amendments? We did not add 002?

Sen. Cook -- Yes. We did not.

Roll call vote on 2-5-0. Motion failed.

Sen. Cook -- We have before us HB1392. I think the proper motion would be to hoghouse the bill except for the Assoc. of County amendments plus amendment 01002. Follow that Cole?

Sen. Triplett -- So moved.

Sen. Bekkedahl -- Seconded.

Roll call vote on amendment to HB1392, 7-0-0. Carried.

Sen. Cook -- We have before us HB1392, as amended, it includes 01002 and the Traynor amendments.

Sen. Laffen -- I would move a do pass on HB1392. As amended.

Sen. Bekkedahl -- Seconded.

Roll call vote on HB1392, as amended. 6-1-0. Carried.

Carrier: Sen. Laffen

40-53.1-07. Dissolution -- Care of property -- Manager -- Disposition of funds.

If a city is dissolved, the board of county commissioners shall assume control of all property belonging to the dissolved city and shall employ a qualified person to manage and operate the property and to collect all charges due from the operation of such property or dispose of the property in accordance with Chapter 11-27. The person employed shall execute a bond to the county in an amount determined by the board of county commissioners, conditioned that that person will faithfully perform that person's duties and will promptly pay all money that person receives to the county treasurer monthly on the first day of each month. The bond shall be executed by the person employed and a surety company authorized to do business in the state. The premium on the bond shall be paid by the board of county commissioners from city funds, if any, and if none, from county funds.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1392

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 40-22 of the North Dakota Century Code, relating to adoption of municipal policy establishing special assessment determination methods for allocation of assessments among and within classes of property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 40-22 of the North Dakota Century Code is created and enacted as follows:

Municipal policy providing special assessment determination methods for allocation of assessments among and within classes of property.

By December 31, 2015, the governing body of each city with a population exceeding ten thousand shall adopt written policies, after a public hearing for consideration of the policies, which will be applied for cost allocation among properties benefited by a special assessment project. Policies established under this section must provide separately the policy that will be applied for cost allocation for each kind of special assessment district and, within each kind of special assessment district, the cost allocation method for residential, commercial, agricultural, and mobile home park property and for any property subject to separate or special assessment factors or assessment rates."

Renumber accordingly

April 6, 2015

TJ
4/6/15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1392

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 40-22 of the North Dakota Century Code, relating to adoption of municipal policy establishing special assessment determination methods for allocation of assessments among and within classes of property; to amend and reenact section 40-53.1-07 of the North Dakota Century Code, relating to the disposition of the property of a dissolved city by a county.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 40-22 of the North Dakota Century Code is created and enacted as follows:

Municipal policy providing special assessment determination methods for allocation of assessments among and within classes of property.

Within five months of this section becoming applicable to a city, the governing body of each city with a population exceeding ten thousand shall adopt written policies, after a public hearing for consideration of the policies, which will be applied for cost allocation among properties benefited by a special assessment project. Policies established under this section must provide separately the policy that will be applied for cost allocation for each kind of special assessment district and, within each kind of special assessment district, the cost allocation method for residential, commercial, agricultural, and mobile home park property and for any property subject to separate or special assessment factors or assessment rates.

SECTION 2. AMENDMENT. Section 40-53.1-07 of the North Dakota Century Code is amended and reenacted as follows:

40-53.1-07. Dissolution - Care of property - Manager - Disposition of funds.

If a city is dissolved, the board of county commissioners shall assume control of all property belonging to the dissolved city and shall employ a qualified person to manage and operate the property and to collect all charges due from the operation of such property or dispose of the property in accordance with chapter 11-27. The person employed shall execute a bond to the county in an amount determined by the board of county commissioners, conditioned that that person will faithfully perform that person's duties and will promptly pay all money that person receives to the county treasurer monthly on the first day of each month. The bond shall be executed by the person employed and a surety company authorized to do business in the state. The premium on the bond shall be paid by the board of county commissioners from city funds, if any, and if none, from county funds."

Renumber accordingly

Date: 4-6-15

Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO HB 1392

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: Terry Traubers Amendment
or dispose of the property in accordance
with Chapter 11-27.

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Sen. Unruh Seconded By Sen. Bekkedahl
voice vote carried

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook			Senator Jim Dotzenrod		
Vice Chairman Lonnie Laffen			Senator Connie Triplett		
Senator Brad Bekkedahl					
Senator Dave Oehlke					
Senator Jessica Unruh					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 4-6-15

Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO HB1392

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Sen. Unruh Seconded By Sen. Dotzenrod

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	✓		Senator Jim Dotzenrod		✓
Vice Chairman Lonnie Laffen		✓	Senator Connie Triplett		✓
Senator Brad Bekkedahl		✓			
Senator Dave Oehlke		✓			
Senator Jessica Unruh	✓				

Total (Yes) 2 No 5

Absent 0

Floor Assignment _____

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

Date: 4-6-15

Roll Call Vote #: 3

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO HB1392

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 15.0905.01002 + Traynor Amendment

- Recommendation: Adopt Amendment
- Do Pass Do Not Pass Without Committee Recommendation
- As Amended Rerefer to Appropriations
- Place on Consent Calendar
- Other Actions: Reconsider _____

Motion Made By Sen. Triplett Seconded By Sen. Bekkedahl

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	✓		Senator Jim Dotzenrod	✓	
Vice Chairman Lonnie Laffen	✓		Senator Connie Triplett	✓	
Senator Brad Bekkedahl	✓				
Senator Dave Oehlke	✓				
Senator Jessica Unruh	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

Date: 4-6-15

Roll Call Vote #: 4

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO HB1392

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 15.0905.01003 Title.0200

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
- Other Actions: Reconsider _____

Motion Made By Sen Laffen Seconded By Sen Bekkedahl

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	✓		Senator Jim Dotzenrod	✓	
Vice Chairman Lonnie Laffen	✓		Senator Connie Triplett	✓	
Senator Brad Bekkedahl	✓				
Senator Dave Oehlke		✓			
Senator Jessica Unruh	✓				

Total (Yes) 6 No 1

Absent 0

Floor Assignment Sen. Laffen

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

REPORT OF STANDING COMMITTEE

HB 1392: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1392 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 40-22 of the North Dakota Century Code, relating to adoption of municipal policy establishing special assessment determination methods for allocation of assessments among and within classes of property; to amend and reenact section 40-53.1-07 of the North Dakota Century Code, relating to the disposition of the property of a dissolved city by a county.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 40-22 of the North Dakota Century Code is created and enacted as follows:

Municipal policy providing special assessment determination methods for allocation of assessments among and within classes of property.

Within five months of this section becoming applicable to a city, the governing body of each city with a population exceeding ten thousand shall adopt written policies, after a public hearing for consideration of the policies, which will be applied for cost allocation among properties benefited by a special assessment project. Policies established under this section must provide separately the policy that will be applied for cost allocation for each kind of special assessment district and, within each kind of special assessment district, the cost allocation method for residential, commercial, agricultural, and mobile home park property and for any property subject to separate or special assessment factors or assessment rates.

SECTION 2. AMENDMENT. Section 40-53.1-07 of the North Dakota Century Code is amended and reenacted as follows:

40-53.1-07. Dissolution - Care of property - Manager - Disposition of funds.

If a city is dissolved, the board of county commissioners shall assume control of all property belonging to the dissolved city and shall employ a qualified person to manage and operate the property and to collect all charges due from the operation of such property or dispose of the property in accordance with chapter 11-27. The person employed shall execute a bond to the county in an amount determined by the board of county commissioners, conditioned that that person will faithfully perform that person's duties and will promptly pay all money that person receives to the county treasurer monthly on the first day of each month. The bond shall be executed by the person employed and a surety company authorized to do business in the state. The premium on the bond shall be paid by the board of county commissioners from city funds, if any, and if none, from county funds."

Re-number accordingly

2015 CONFERENCE COMMITTEE

HB 1392

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1392
4/13/2015
26067

- Subcommittee
 Conference Committee

Committee Clerk Signature

Mary Brucher

Explanation or reason for introduction of bill/resolution:

A bill relating to special assessment imposition for mobile home park and single family residential property.

Minutes:

No attachments.

Chairman Dockter: Would the senate please explain the changes you made?

Senator Laffen: We heard all the testimony on trying to regulate a way political subdivisions do their special assessments relating to mobile home parks. There was one issue that came from Bismarck and as we looked at the numbers and the logic for the way the city of Bismarck assessed mobile home parks within their assessment policies we couldn't find that they were doing anything wrong; it was different than some communities. As we looked at the individual assessments related to that mobile home park there were very small residential lots nearby where there wasn't much difference in the overall assessments. In the end we weren't compelled to take the step into regulating the way cities do their special assessments or the policies they enact within them. Certain cities may have a reason to have a policy that's different from another city and we thought it was best to leave that within the city commission to decide how they want their own policies to be set. We thought it was valuable to have the policies written and we picked a line of 10,000 people. It would be useful to have special assessment policies written and in place for communities to be able to see how they do those going forward and help provide some consistency. At the end of each year's assessment there is a requirement to have a special hearing. We thought that if this was an issue even within Bismarck that people who feel they are being assessed unfairly can come to the hearing and make their claim. Then the commission should react at a local level rather than us trying to start setting policy for special assessments within each city.

Representative Owens: We heard they were doing it different in Bismarck and Minot. How do they do mobile homes in Grand Forks?

Senator Laffen: In Grand Forks the assessment policy is that mobile home parks are assessed at a residential value. In Grand Forks there are a series of different assessments; roads, sewers, and water. When Grand Forks assesses new road infrastructure it's the same way for everybody, there is no commercial rate or residential

rate. The only one they split between residential and commercial is storm water. They do it for the same reason that Bismarck argued that they use the commercial rate. Grand Forks splits them because of density and the amount of pavement in assuming that commercial carries a much bigger parking lot. They have a double weighted assessment for commercial versus residential. When the special assessment commission looks at each property they use zoning as the qualifier for whether you're commercial or residential. Our community thinks zoning is a better qualifier in that you could cease to operate a trailer park but it's the underlying zoning that will determine what you can use that property for. Currently each community could do that differently.

Representative Owens: In the bill there are currently three types of property classifications throughout the entire code; residential, commercial, and agriculture. The senate now wants to create a new classification of property; mobile home park property. That seems like a big jump to me to create a new classification of property in the century code. If we're going to do it then we're going to have to promulgate it throughout the entire code. I'm not in favor of singling that out at this point because then we'll have to do apartments, nonprofit land, etc. Even under agriculture we have modifiers. Why does the senate want to create a new category of property or was that the intent?

Senator Laffen: I don't think that was the intent. I don't remember changing anything there. I think that terminology was put in there because that's what the bill was referencing. I would agree that we don't want to create a new category.

Senator Dotzenrod: I don't recall that we thought it should be a new category of property tax. It was a question of how you divide out special assessments by the kind of property you have within a city. We were looking at mobile home parks as commercial. It's a type of commercial property, not a separate property class. The city's obligation to the taxpayers is to manage the surface water they get within the city. Those things are expensive and when they manage that surface water they have to decide how to allocate and spread the costs out. Part of our testimony was that commercial property and mobile homes have a larger percentage of surface area that's impermeable that has a large amount of run off compared to residential property which has a larger share of the property footprint that can absorb rain water into the ground. The share of apartments, commercial property, strip malls, and mobile home parks where the percentage of that home, lot, and garage sheds water and has to go off onto the surface and into the storm drain was a larger share than residential property. That was their justification for distributing the taxes. We had a hard time arguing and we didn't have the research to know those percentages. I don't think it was an attempt to create a new class; these are types of commercial property they were talking about.

Representative Owens: I've heard that it's based on usage and determined what the expected usage is. The way this reads it looks like it's creating a new property class because it's listed on the same level with commercial property, not as a subcomponent of commercial property. I would have a problem leaving mobile home park property in this. The zoning part is interesting to me.

Senator Laffen: I don't think we'd have any problem scratching "and mobile home park." I think that was excess language that shouldn't have been in there. I would also scratch the word "district" on line three of page three. I don't think we're trying to say we want policy

written for each kind of special assessment district because the district is redefined every time you do a project.

Representative Owens: Scratch "district" in both sentences?

Senator Laffen: Yes, it would be both.

Chairman Dockter: Could you explain section two?

Senator Laffen: This came from the Association of Counties. It relates to a problem they had been running into on how to dissolve a city and close it out. This was language added that says the county commission would employ a person, pay for the bond, and collect rents, sell buildings, and whatever is necessary to close down the functions of that city that the county has now inherited.

Senator Unruh: I think specifically it was for the ability of the county to dispose of the city property under this section. It was brought to us late but it seemed reasonable to try and address the issue they have. While I supported the bill on the floor the way that it came to us in conference committee I did not support the amendments going forward. I am the minority on this conference committee. I liked the bill how you sent it over to us but I am only one vote on this side of the table. I liked the original bill even better.

Chairman Dockter: We agree to strike out the two spots with the word "district" and the "mobile home park property." The only thing we may have to have another conference committee on is to decide on the zoning part and any other issues with the bill. Does anyone else have any comments? Seeing none we will adjourn.

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1392
4/14/2015
26093

- Subcommittee
 Conference Committee

Committee Clerk Signature



Minutes:

Attachment #1

Chairman Dockter: Senator Laffen.

Senator Laffen: Distributed proposed amendments 15.0905.01004; see attachment #1. The amendment asks that the senate recede from its original amendments and amend. The amendment fixes the problem we talked about last time which was the study for special assessments. I thought the language was confusing as Representative Owens pointed out so the language now in the study states that policies established under this section must provide separately the policy that will be applied for cost allocation for each kind of special assessment and the method for residential, commercial, and agricultural property. It is saying that you need to post your policies for the type of assessment and for the various properties.

Chairman Dockter: Is there any discussion?

Senator Laffen: Made a motion that the senate recede from senate amendments and amend with 15.0905.01004.

Representative Owens: Second.

Chairman Dockter: Is there any discussion?

Representative Owens: I don't see anything to discuss. It's what we had a conversation about and it's the simplest change to that. The senate receded so then we put back those amendments with the new changes. It looks good to me.

Roll call vote: 6 yes 0 no 0 absent

Motion carries.

April 13, 2015

SLC
4/14/15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1392

That the Senate recede from its amendments as printed on pages 1449 and 1450 of the House Journal and pages 1201 and 1202 of the Senate Journal and that House Bill No. 1392 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 40-22 of the North Dakota Century Code, relating to adoption of municipal policy establishing special assessment determination methods for allocation of assessments among and within classes of property; to amend and reenact section 40-53.1-07 of the North Dakota Century Code, relating to the disposition of the property of a dissolved city by a county.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 40-22 of the North Dakota Century Code is created and enacted as follows:

Municipal policy providing special assessment determination methods for allocation of assessments among and within classes of property.

Within five months of this section becoming applicable to a city, the governing body of each city with a population exceeding ten thousand shall adopt written policies, after a public hearing for consideration of the policies, which will be applied for cost allocation among properties benefited by a special assessment project. Policies established under this section must provide separately the policy that will be applied for cost allocation for each kind of special assessment and the cost allocation method for residential, commercial, and agricultural property and for any property subject to separate or special assessment factors or assessment rates.

SECTION 2. AMENDMENT. Section 40-53.1-07 of the North Dakota Century Code is amended and reenacted as follows:

40-53.1-07. Dissolution - Care of property - Manager - Disposition of funds.

If a city is dissolved, the board of county commissioners shall assume control of all property belonging to the dissolved city and shall employ a qualified person to manage and operate the property and to collect all charges due from the operation of such property or dispose of the property in accordance with chapter 11-27. The person employed shall execute a bond to the county in an amount determined by the board of county commissioners, conditioned that that person will faithfully perform that person's duties and will promptly pay all money that person receives to the county treasurer monthly on the first day of each month. The bond shall be executed by the person employed and a surety company authorized to do business in the state. The premium on the bond shall be paid by the board of county commissioners from city funds, if any, and if none, from county funds."

Renumber accordingly

Date: April 14, 2015
 Roll Call Vote #: 1

**2015 HOUSE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. 1392 as (re) engrossed

House Finance and Taxation Committee

- Action Taken
- HOUSE accede to Senate Amendments
 - HOUSE accede to Senate Amendments and further amend
 - SENATE recede from Senate amendments
 - SENATE recede from Senate amendments and amend as follows
 15.0905.01004
 - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Laffen Seconded by: Representative Owens

Representatives	4/13	4/14	Yes	No	Senators	4/13	4/14	Yes	No
Chairman Dockter	✓	✓	✓		Senator Laffen	✓	✓	✓	
Representative Owens	✓	✓	✓		Senator Unruh	✓	✓	✓	
Representative Mitskog	✓	✓	✓		Senator Dotzenrod	✓	✓	✓	
Total Rep. Vote					Total Senate Vote				

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier No carrier Senate Carrier No carrier

LC Number 15.0905 . 01004 of amendment

LC Number _____ . 03000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

HB 1392: Your conference committee (Sens. Laffen, Unruh, Dotzenrod and Reps. Dockter, Owens, Mitskog) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1449-1450, adopt amendments as follows, and place HB 1392 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1449 and 1450 of the House Journal and pages 1201 and 1202 of the Senate Journal and that House Bill No. 1392 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 40-22 of the North Dakota Century Code, relating to adoption of municipal policy establishing special assessment determination methods for allocation of assessments among and within classes of property; to amend and reenact section 40-53.1-07 of the North Dakota Century Code, relating to the disposition of the property of a dissolved city by a county.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 40-22 of the North Dakota Century Code is created and enacted as follows:

Municipal policy providing special assessment determination methods for allocation of assessments among and within classes of property.

Within five months of this section becoming applicable to a city, the governing body of each city with a population exceeding ten thousand shall adopt written policies, after a public hearing for consideration of the policies, which will be applied for cost allocation among properties benefited by a special assessment project. Policies established under this section must provide separately the policy that will be applied for cost allocation for each kind of special assessment and the cost allocation method for residential, commercial, and agricultural property and for any property subject to separate or special assessment factors or assessment rates.

SECTION 2. AMENDMENT. Section 40-53.1-07 of the North Dakota Century Code is amended and reenacted as follows:

40-53.1-07. Dissolution - Care of property - Manager - Disposition of funds.

If a city is dissolved, the board of county commissioners shall assume control of all property belonging to the dissolved city and shall employ a qualified person to manage and operate the property and to collect all charges due from the operation of such property or dispose of the property in accordance with chapter 11-27. The person employed shall execute a bond to the county in an amount determined by the board of county commissioners, conditioned that that person will faithfully perform that person's duties and will promptly pay all money that person receives to the county treasurer monthly on the first day of each month. The bond shall be executed by the person employed and a surety company authorized to do business in the state. The premium on the bond shall be paid by the board of county commissioners from city funds, if any, and if none, from county funds."

Renumber accordingly

HB 1392 was placed on the Seventh order of business on the calendar.

2015 TESTIMONY

HB 1392

HB 1392
2-3-15

Nathe, Mike R.

From: Todd D Kranda <kranda@kelschlaw.com>
Sent: Tuesday, February 03, 2015 10:31 AM
To: Nathe, Mike R.
Subject: Fwd: ndmha

#1

Begin forwarded message:

From: dsreynolds3@comcast.net
Date: February 3, 2015 at 9:11:18 AM CST
Subject: ndmha

I am Dennis Reynolds owner of North Star Mobile Home Park in Minot. Last year we go a Storm Drainage Special Assessment for \$175K. We cannot afford it . We were assessed as commercial property at 2 time the normal rate. our assessment per lot was about \$1,800 and individual home were between \$750 and \$1,250
If you need more you can call me at 303-278-5944. That is my cell .
Dennis Reynolds
Littleton CO 80127

HB 1392
2-3-15
#2 p. 1

**Testimony in Support of
HOUSE BILL NO. 1392
House Finance and Taxation Committee
February 3, 2015**

Chairman Headland, House Finance and Taxation Committee members, for the record my name is Todd D. Kranda. I am an attorney with the law firm of Kelsch, Kelsch, Ruff & Kranda in Mandan and I appear before you today as a lobbyist on behalf of the North Dakota Manufactured Housing Association to support HB 1392.

The North Dakota Manufactured Housing Association (NDMHA) is a state trade association representing all segments of the manufactured housing industry, including manufactured home builders, suppliers, retailers, community developers, owners and managers, insurers and financial services companies. The NDMHA works to promote fair laws and regulations, increase and improve financing options, promote a positive image of manufactured housing, provide technical analysis and counsel, promote industry professionalism and remove zoning barriers to the use of manufactured housing. Through these various programs and activities, the NDMHA seeks to promote the use of manufactured housing to consumers, developers, lenders, community operators, insurers, the media and public officials, so that more Americans will be able to realize their dream of affordable home ownership.

The NDMHA supports HB 1392 because it is necessary to establish a fair and reasonable treatment of manufactured home park property when special assessments are being made within the cities across North Dakota. The NDMHA recently became aware of different treatment of manufactured home property in different cities across the state. In some cities manufactured home property has

special assessments that are charged double the rate of single family residential property. While in many other cities they are treating the manufactured home park property in a fair and reasonable fashion the same as single family residential property. HB 1392 simply tries to create a fair and consistent approach across the state for special assessment of manufactured home park property, applying the same rate as with single family residential property. Several NDMHA members are here to testify and explain their experience and the reason why HB 1392 is fair and necessary.

I would urge a **DO PASS** recommendation for **HB 1392**. I would be happy to try to answer any questions.

HB 1392
2-3-15
3

HOUSE BILL #1392

- Tatley Meadows is an attractive mobile home community that was designed and built to provide those who otherwise likely could not afford to own their own home, with the opportunity to do so, and to build value in their property.
- It is unfair to charge assessments to mobile home park residents at a higher rate than to other residential homes. Mobile home communities provide people with the opportunity to build equity in a home they own in the most affordable way. In Bismarck, mobile home parks are zoned residential, not commercial. Mobile homes in modern communities rarely are moved from the park. The beneficiary of the assessments is the homeowner, not the park owner.
- Many mobile home owners are at the lower end of the income scale, are disabled, or are elderly. Mobile home communities provide high quality, affordable housing for them. It is unfair to ask them to pay special assessments at a higher rate than that paid by other homeowners, who might even be just across the street.
- Operating costs incurred by mobile home parks are ultimately passed on to the residents, as with any business. The costs aren't likely to be passed along immediately or exactly, but, like any other business or with the government, increased operating costs are paid for by the end-user in more expensive product or service costs, or in taxes. Special assessments are like any other operating costs; they are passed along to the end-user or the business (or government) goes 'out of business'.
- No one is making a case that mobile home parks, and ultimately the homeowners, should not be fairly charged special assessments. But it is unfair to charge mobile home communities with a rate that is different, and often higher, than other residential neighborhoods in a community. The special assessments rates charged should be on the same scale as the other residential properties.

HB 1392
2-3-15 #4 p.1

BASIS OF SPECIAL ASSESSMENTS

Special Assessments is the method the City uses to pay for public improvements that affect benefiting properties. The costs of the improvement are allocated to the parcels/lots that benefit from these improvements.

1. Special Assessment Districts

A. Storm Water

- Cost allocation based on parcel/lot Square Footage.
- District boundaries are determined by watershed areas.
- Coulees, Detention Ponds, and other nondevelopable lots are not assessed for storm water.
- For Regional Storm Water, Utility assumes cost for unannexed property via assessment to City owned parcel. This cost is held in abeyance and assessed in a continuous district to previously unannexed land when the land is subsequently annexed. (See Continuous Districts below).
 - Factor applied to unannexed property should coincide with the Comprehensive Land Use Plan.

B. Street Lights

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn to include properties that abut the improvement.
- City considers installing street lights when 50% of lots developed or sooner if transportation safety issues exists.
- Corner lots only pay a 1/2 street light assessment for each side of the lot.

C. Streets

1. Local Streets

a. New Pavement/Reconstruction/Resurfacing - patch, level, mill & overlay, chip seal

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn to include properties that abut the improvement.
- Corner lots are assessed based on one side frontage and are assessed at a rate of 1/2 if only one street abutting the lot is being improved.

2. Collector Streets

a. New Pavement/Reconstruction/Resurfacing - patch, level, mill & overlay, chip seal

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn to include properties that abut the improvement.
- Corner lots are assessed based on one side frontage and are assessed at a rate of 1/2 if only one street abutting the lot is being improved.
- In non-commercial zoned areas, city assumes cost to construct a street wider than 37 feet and thicker than local roadway design.
- Balance is assessed.

3. Arterial Streets

a. New Pavement/Reconstruction

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn to include abutting properties (direct benefit) and those in the area half way to the next arterial (secondary benefit).
- Direct benefit would be an assessment equivalent to new pavement assessment on a local street plus a share of secondary benefit as all parcels/lots pay for a local street plus a portion of an arterial street.
- Secondary benefit would be proportionate amount of the direct benefit.
- Corner lots are assessed based on one side frontage and are assessed at a rate of 1/2 if only one street abutting the lot is being improved.
- In non-commercial zoned areas, city assumes cost to construct a street wider than 37 feet and thicker than local roadway design. Commercial zoned areas are assessed full width and depth costs.
- Balance of cost less assessments funded by other City resources.

b. Resurfacing - patch, level, mill & overlay, chip seal

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn to include properties that abut the improvement.
- Assessment to be proportionate with assessment for typical local street resurfacing assessment. (i.e. 60% of typical local street resurfacing assessment due to arterials requiring resurfacing more frequently than local streets.)
- Corner lots are assessed based on one side frontage and are assessed at a rate of 1/2 if only one street abutting the lot is being improved.
- In non-commercial zoned areas, city assumes cost to construct a street wider than 37 feet and thicker than local roadway design.
- Balance of cost less assessments funded by other City resources.

4. Hard Surface Street Projects - Revised 2/12/13

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn to include properties that abut the improvement.
- City subsidy of 55% provided.

5. Pavement Reconstruction with Ground Water Projects (with Subbase Drainage System) - Revised 2/12/13

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn in accordance with applicable street classification.
- City subsidy of 75% provided.
- Commercial zoned areas are assessed at two times the residential rate, plus a proportionate amount for full-width and extra-depth costs, where applicable.
- Balance of cost less assessments funded by other City resources.

6. ***Alleys (public alleys with existing asphalt or concrete pavement) - 2/12/13***

- The full cost to pave, resurface, or reconstruct public alleys will be assessed proportionately, without subsidy, based on lot frontage/width, to properties that either abut the alley or have access to their property via the public alley.

D. Concrete Curb & Gutter/Sidewalk/Driveways (New and Repairs)

- Total cost assessed directly to individual parcels/lots.

E. Federal Aid Projects

- Parcels/lots included in Federal Aid projects are to be assessed equivalent to what they would have paid if federal funding not involved. (See Arterial Streets above.)

F. Water Mains

- Cost allocation based on parcel/lot Front Footage.
- Half the cost to install 8" water main for residential or 12" for commercial is calculated and then allocated to all parcels on the one side of improvement proportionately based on lot frontages. Same is done for the other side of improvement.
- City assumes cost of over size main installation.

G. Sewer Mains

- Cost allocation based on parcel/lot Front Footage.
- Half the cost to install 8" sewer main for residential or 10" for commercial is calculated and then allocated to all parcels on one side of improvement proportionately based on lot frontages. Same is done for the other side of improvement.
- City assumes cost of over size main installation.

2. Continuous Districts

A. Trunk Line Fees

a. Formula for Assessment

- Intended to recover the costs that Water and Sewer Utilities have assumed for over size mains and other general infrastructure such as treatment plants, pump stations, reservoirs, and trunk water and sewer mains already in place to serve unannexed property.
- Base fee is determined annually. R5 zoning is assessed base fee. R10 zoning and < 10,000 SF is base fee. R10 zoning and > 10,000 SF and < 20,000 SF is 2 times the base fee. R10 or higher zoning and > 20,000 SF are at base fee times ratio of SF divided by 10,000 SF.

B. Main Lines Built by City Prior to Annexation (Not over sized mains) - Revised 2/12/13

- Costs held in abeyance to be assessed upon annexation of parcels.
- a. *Water*
 - Assessed only if a parcel has the ability to tap directly into the water line and has not already paid for a watermain.
- b. *Sewer*
 - Criteria to assess is based on a parcel having ability to directly tap into the sewer line.

BASIS OF SPECIAL ASSESSMENTS (CONTINUED)

c. *Cost allocation based on parcel/lot Front Footage.*

- Assessment is triggered by annexation, prospectively from 2007 annexations on.
- If a specific utility or assessment district was created to install water or sewer main, that cost is used.
- If an over size main was installed, an average per foot cost of the prior years three-way agreements or assessment districts is calculated by engineering to apply to now annexed property.

C. Storm Water

- Costs held in abeyance to be assessed upon annexation of parcels.
- Cost allocation based on parcel/lot square footage.

3. Factors - Revised 2/14/12 & 3/11/14

A. The following factors are applied in all assessment districts except water and sewer mains and Continuous Districts:

- Factors applied: Commercial - 2.0; Residential - 1.0
 - Park Property - if it holds a revenue producing facility (i.e. pool) then Commercial - 2.0; otherwise same as Residential - 1.0.
 - Schools & Churches - always Commercial - 2.0.
- Storm Water Lots - 0.5
 - Storm water lots are subject only to paving and street lighting assessments with a factor of .5 applied to lot frontages.

← MOBILE HOME COURTS ARE RESIDENTIAL ZONED BUT ASSESSED AT COMM.

B. *Parcels with Access via Private Drives or Access Easements - 3/11/14*

- Private drives are roadways, whether named or not, that lead from a public street to more than one private residential property and are owned and maintained by private individuals or organizations rather than the city.
- An access easement allows owners of property that does not have direct access to a public street to pass through the adjoining land to access their property.
- Commercial properties that gain access to their property from a public street via a private drive or an access easement are assessed for pavement and street lighting improvements to the public street based on their lot width or adjusted lot width, if applicable.
- Residential properties that gain access to their property from a public street via a private drive or an access easement are assessed for pavement and street lighting improvements to non-arterial public streets based on 50% of their lot width or adjusted lot width, if applicable.
- Actual costs of concrete repairs to curb & gutter, driveway aprons, or sidewalk on the shared access will be assessed proportionately to all parcels sharing the access.

4. Adjustments

- Adjustments are made where warranted and may include the following:
 - A comparison of lot square footage to lot frontage is done to determine if frontage adjustments are necessary.
 - Adjustment is made for lots on curves or cul-de-sacs as their frontages are disproportionately larger or smaller than standard lots. A 35' set back measurement from the lot line is measured and actual front footage is replaced by adjusted front footage.
 - Adjustments are made for larger/odd shaped lots that abut more than one street.
 - If a lot takes up a whole block, compare it to the sum total assessment of all the parcels on an entire block in the neighborhood and adjust frontage to make it comparable.
 - Also use frontage that abuts the improvement; reduce frontage by 1/2 of median lot size. Therefore, not penalizing them for corner lot, but paying more because larger lot.
 - A reduction to lot square footage may be made when assessing storm water costs to undeveloped land to account for future streets.
 - Adjustments to parcel/lot square footage may be warranted when assessing storm water costs based on the characteristics of the parcel/lot in relation to the project.





Navigation controls including a compass, a street view pegman icon, a zoom in (+) button, a zoom out (-) button, and a zoom slider.

Google earth

46°50'07.76" N 100°43'15.58" W elev 1797 ft eye alt 6497 ft



HB 1392
2-3-15
#5 p.1

Testimony of Bill Wocken
House Bill 1392
House Finance and Taxation Committee
February 3, 2015

Mr. Chairman and Members of the House Finance and Taxation Committee:

My name is Bill Wocken. I am City Administrator for the City of Bismarck and I am speaking this morning in opposition to House Bill 1392 with the knowledge and consent of the Bismarck City Commission.

House Bill 1392 seeks to amend the special assessment portion of the Century Code to specify that property within a mobile home park may not be assessed for an improvement at a rate greater than single family residential property in that improvement district.

There are basically two types of special assessments to which this would apply: stormwater districts and surface improvement districts (road, curb and gutter, lighting, etc.) Let's look first at the stormwater districts. They are assessed on the basis of the square footage of the property. Square footage is used as an assessment basis since rain is presumed to fall evenly over a large area. In Bismarck commercial property is assessed at a "two times" factor while single family residences are assessed at a "one times" factor. The commercial rate is twice the residential rate.

Property that fits into the commercial category includes businesses, multi-family housing and mobile home parks. This classification mirrors the state law classification for taxation purposes. The reason the "two times" factor is applied to the commercial property is because of the coverage of the land. There is much more impervious surface in a commercial lot than in a single family residential lot where lot coverage is a maximum of 35% of the site. Simply put, the open space on the residential lot stores some of the stormwater so that it reaches ponds and catch basins much later than runoff from roofs and parking lots, if it gets there at all. The cost of stormwater management is largely related to the size of the facilities constructed. Commercial lots add to that size requirement dramatically due to their characteristic rapid runoff.

Surface improvements like roads are assessed on a front foot basis (frontage of the lot). Bismarck chooses this assessment metric since special assessments must be levied against property, not people. The commercial assessment rate is based on the frontage of the entire property on the improvement, like a road, that is being constructed. The density of a multiple family area or a mobile home park means there will be more use of the improvement per acre from commercially classified areas than from less densely developed single family zones. In a recent district involving a mobile home park and a single family neighborhood the mobile home park was assessed an amount that would equate to \$1,174.88 per lot while a smaller single family lot in the district paid \$1,380.82 for a 73 foot frontage and an 80.5 foot lot was assessed \$1,845.11. Mobile home parks also have small private streets so the lower cost for the park property is not of concern to us.

On the process side, the City of Bismarck has a written set of policies used to levy its special assessments. Each winter we review the policies and ask the City Commission to review areas that might be adjusted for better and more equitable assessments. If a citizen is unhappy with their special assessment we first offer to meet with them as staff. If that is not successful they are free to appear before the Special Assessment Commission to discuss the equity of the district's assessments. If the citizen is not satisfied with the Special Assessment Commission's judgment they can appear before the City Commission. Judicial remedies exist beyond the Commission.

Mr. Chairman and Committee Members, the city requests a "Do Not Pass" recommendation on House Bill 1392. I believe I have shown that we have a universal process that is followed for all parcels in the city. I believe the formula in the process offers equity to all classes of lots and I believe the appeal process is fair and easy to access. I think in this case the city is better able to guarantee equity than a state statute that singles out one class of property for special treatment. I would ask you for a "Do Not Pass" recommendation on House Bill 1392 and I will stand for questions from the committee.



HB 1392
2-4-15
#1 p.1

Northeast Bismarck Special Assessment
Street Maintenance project
Patch, overlay, chipseal
Costs assessed based on front footage of lots

An aerial map of the project area is provided to show the physical layout of the area and how the mobile home court streets flow into the streets in the area.

Map 1 shows the district boundaries for Unit 2. These boundaries were chosen because they logically define who uses the streets in this area. Streets to be included in the project were chosen by age of paving and condition. Please note, as a person moves east they are increasingly unlikely to use the west entrance to the mobile home park. Therefore, the east end of the park was not included in this district. The east end of the park will be assessed as other public streets leading to that end of the park are maintained.

Map 2 shows the work performed under this project. The pink colored streets were all maintained with patch, overlay and chipseal as their conditions warranted.

On Map 3 you will note the mobile home court was not charged for the frontage of all its streets but only for 315 feet of frontage. That is the distance from the edge of the public street, South Arlington Drive, east of Colonial Drive to the main mobile home court street, Patriot Drive. This distance was chosen to make the assessment for the court reasonable for its use.

Enclosure 4 shows the benefiting properties included in this district. I have masked the owners and addresses but each entry in column 1 is a distinct ownership. Please note the mobile home park has only one entry. It is the third parcel from the top of the page. Please note the average frontage of the single family lots (mostly 60-65 foot frontages).

Enclosure 4 shows the computation used to derive the total special assessments for individual properties (third last column on the right). Please note the city underwrites 25% of the district cost to reduce the impact of these projects.

Enclosure 5 is the city special assessment policy. Page 5 of 5 describes the adjustment principle used to arrive at the 315 foot frontage used for the mobile home cost computation.

Costs: Average small single family residential lot with 60 feet of frontage = \$899.01
Cost for the mobile home court = \$9,439.63 (when split for 183 units = \$51.58 each)

Bill Wocken
for City of Bismarck



CENTENNIAL RD

GREENSBORO DR

E CENTURY AV

E CENTURY

N ARLINGTON DR

GATES DR

LEXINGTON DR

YORKTOWN DR

BERKSHIRE DR

MARLINTON DR

DRAKE DR

CLARIDGE LP

CAMDEN LP

BUNKER DR

STARLINGTON DR

PATRIOT DR

CUMBERLAND LP

REBEL DR

COLONIAL DR

LAFAYETTE DR

TRENTON DR

I-94

STONEWALL DR

MEADE CT

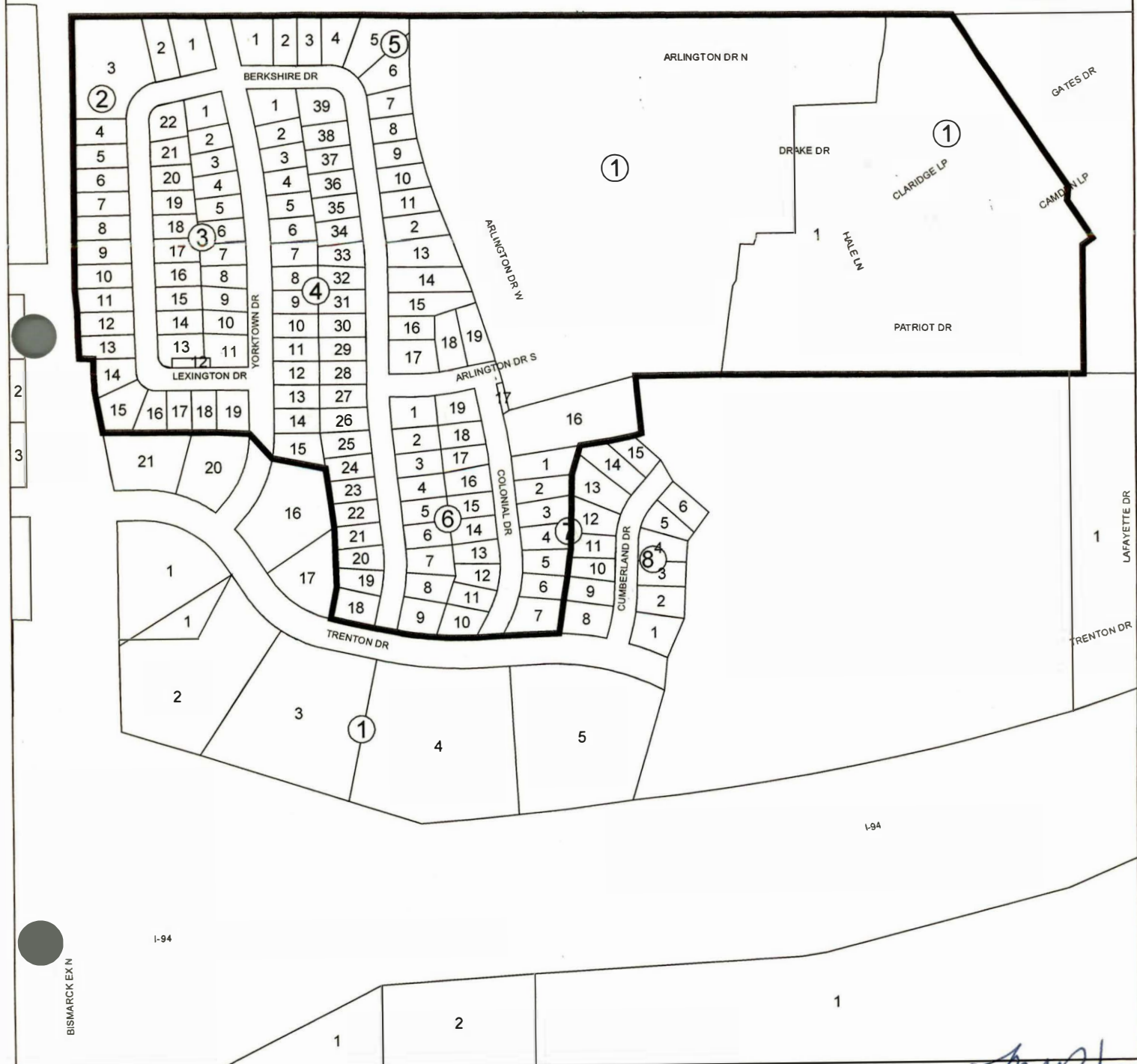
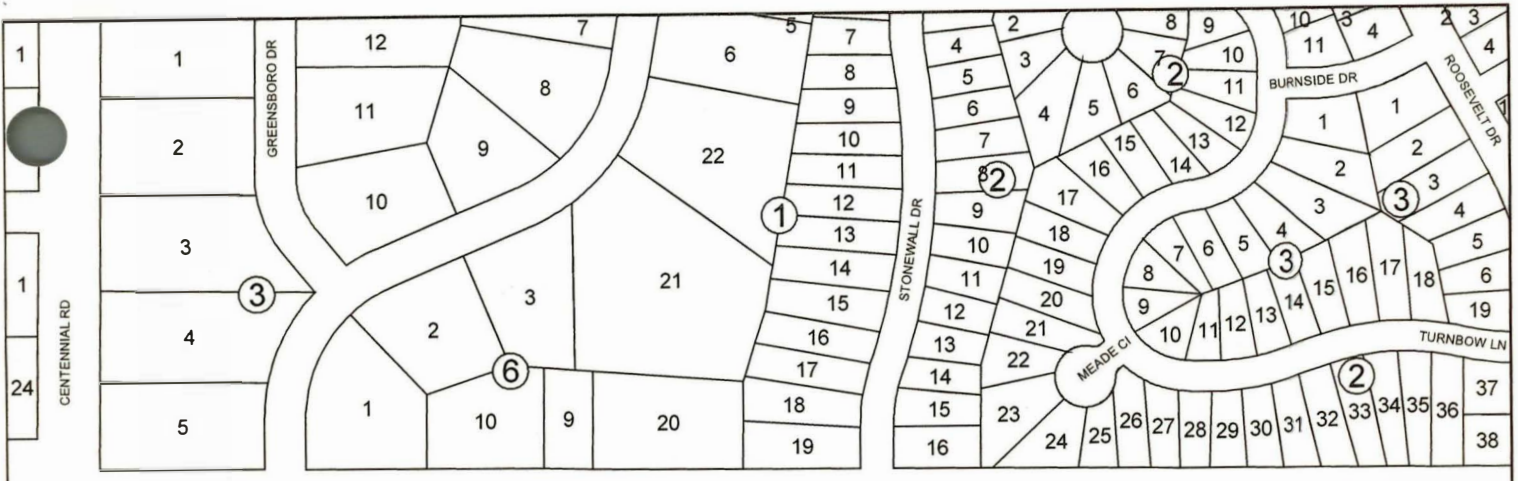
TURNBOW LA

ROOSEVELT DR

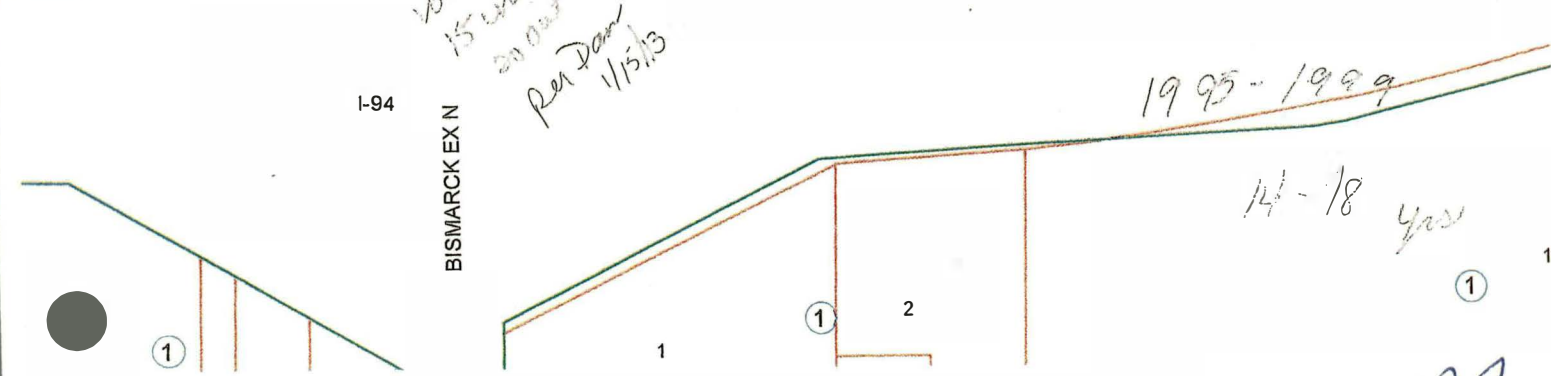
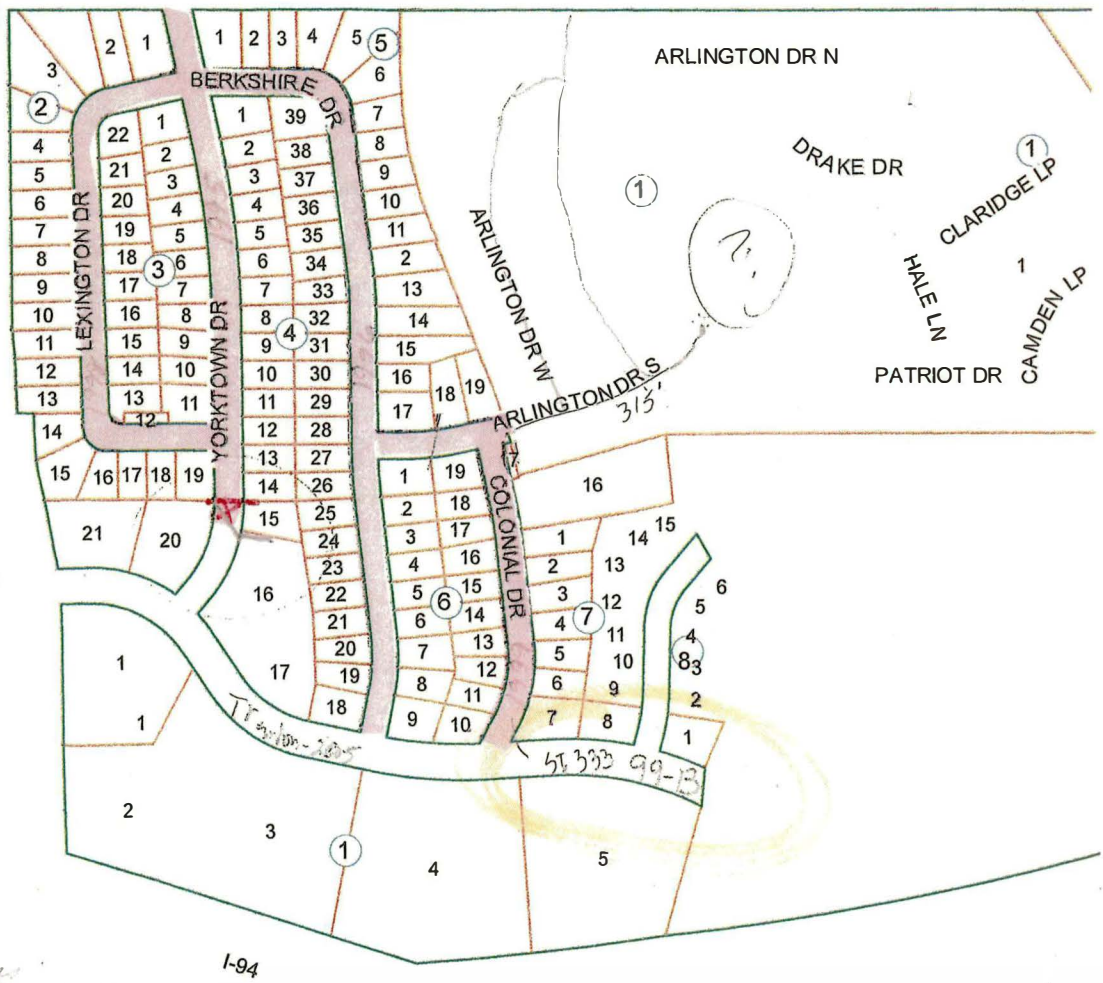
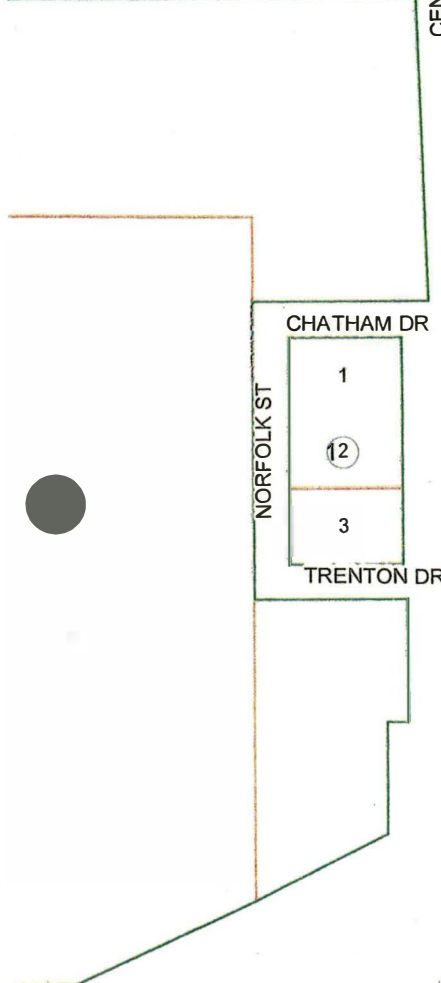
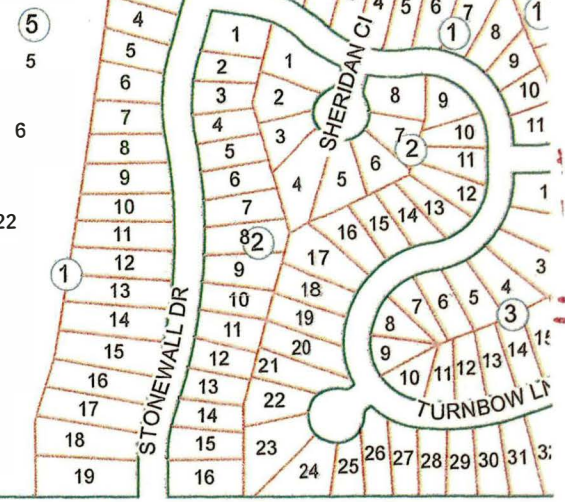
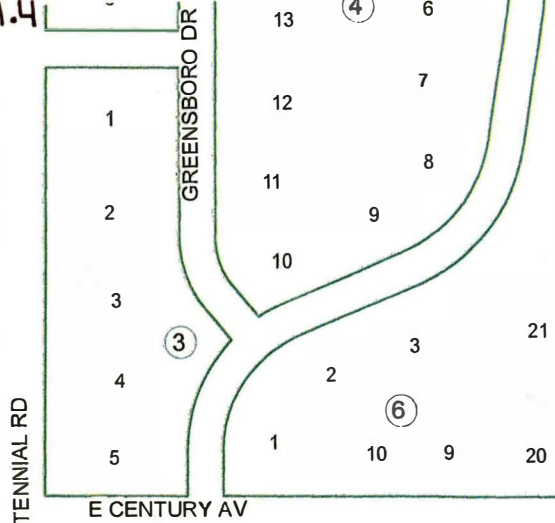
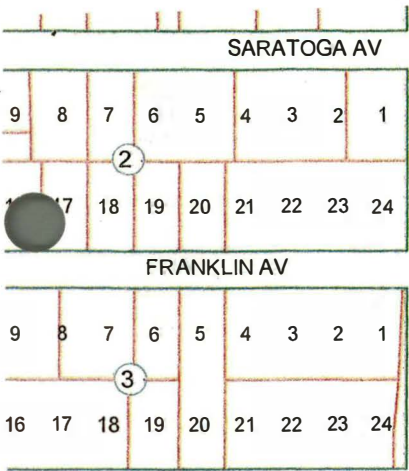
KOST DR

BRITISH DR

SI 459 UNIT 2



MAP 1



*10R
15' on
on Out
Per Dam
1/15/13*

1995-1999

14-18 Yes

MAP 2
UNIT #2

1.5



map 3

((187955.07-187955.07)) 25%subsidy Concrete Concrete Off Total LETTERS

Property_Id_Ni	Property_Address	Land_F	Owner_Name	Bldg	Zoning	Lot_Front	Lot_SF	H/med	FF	2 or 1	Adj	Factor	\$	118,173.62	\$	0.75	\$	7,309.39	1.14699	Assessment	Range to +	\$	1.25
1054	RESID	25	2,500	0.40	2	1	0.81	\$	998.90	\$	749.18	\$	749.18	\$	900	\$	1,125						
1054	RESID	123	47,993	1.98	2	1	3.97	\$	4,914.60	\$	3,685.95	\$	3,685.95	\$	4,400	\$	5,500						
1150	MOI RES N	315	1,559,171	5.08	2	1	10.16	\$	12,586.17	\$	9,439.63	\$	9,439.63	\$	11,300	\$	14,125						
1054	SING RESID	93	14,259	1.50	1	1	1.50	\$	1,857.96	\$	1,393.47	\$	1,705.98	\$	1,700	\$	2,125						
1054	SING RESID	67.15	11,236	1.08	1	1	1.08	\$	1,341.53	\$	1,006.14	\$	1,006.14	\$	1,200	\$	1,500						
1054	SING RESID	62	19,117	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	928.98	\$	1,100	\$	1,375						
1054	SING RESID	61	18,810	0.98	1	1	0.98	\$	1,218.66	\$	914.00	\$	914.00	\$	1,100	\$	1,375						
1054	SING RESID	56	9,353	0.90	1	1	0.90	\$	1,118.77	\$	839.08	\$	839.08	\$	1,000	\$	1,250						
1054	SING RESID	64	8,439	1.03	1	1	1.03	\$	1,278.60	\$	958.95	\$	958.95	\$	1,100	\$	1,375						
1054	SING RESID	62	7,910	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	928.98	\$	1,100	\$	1,375						
1054	SING RESID	62	7,890	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	1,443.67	\$	1,100	\$	1,375						
1054	SING RESID	62	7,870	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	928.98	\$	1,100	\$	1,375						
1054	SING RESID	62	7,850	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	928.98	\$	1,100	\$	1,375						
1054	SING RESID	62	7,829	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	928.98	\$	1,100	\$	1,375						
1054	SING RESID	62	7,809	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	928.98	\$	1,100	\$	1,375						
1054	SING RESID	62	7,789	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	928.98	\$	1,100	\$	1,375						
1054	SING RESID	62	7,769	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	1,010.50	\$	1,100	\$	1,375						
1054	SING RESID	62	7,529	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	928.98	\$	1,100	\$	1,375						
1054	SING RESID	69	8,338	1.11	1	1	1.11	\$	1,378.49	\$	1,033.86	\$	1,033.86	\$	1,200	\$	1,500						
1054	SING RESID	63	12,032	1.02	1	1	1.02	\$	1,258.62	\$	943.96	\$	943.96	\$	1,100	\$	1,375						
1054	SING RESID	60	7,801	0.97	1	1	0.97	\$	1,198.68	\$	899.01	\$	1,691.79	\$	1,100	\$	1,375						
1054	SING RESID	65	7,044	1.05	1	1	1.05	\$	1,298.57	\$	973.93	\$	973.93	\$	1,200	\$	1,500						
1054	SING RESID	65	7,053	1.05	1	1	1.05	\$	1,298.57	\$	973.93	\$	973.93	\$	1,200	\$	1,500						
1054	SING RESID	85	9,408	1.37	1	1	1.37	\$	1,698.13	\$	1,273.60	\$	1,273.60	\$	1,500	\$	1,875						
1054	SING RESID	85	8,713	1.37	1	1	1.37	\$	1,698.13	\$	1,273.60	\$	1,273.60	\$	1,500	\$	1,875						
1054	SING RESID	62.01	7,002	1.00	1	1	1.00	\$	1,238.64	\$	929.13	\$	929.13	\$	1,100	\$	1,375						
1054	SING RESID	62	7,078	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	928.98	\$	1,100	\$	1,375						
1054	SING RESID	62	7,256	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	1,638.24	\$	1,100	\$	1,375						
1054	SING RESID	62	7,325	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	3,118.02	\$	1,100	\$	1,375						
1054	SING RESID	60.97	7,168	0.98	1	1	0.98	\$	1,218.06	\$	913.55	\$	913.55	\$	1,100	\$	1,375						
1054	SING RESID	61	7,149	0.98	1	1	0.98	\$	1,218.66	\$	914.00	\$	914.00	\$	1,100	\$	1,375						
1054	SING RESID	62.14	7,334	1.00	1	1	1.00	\$	1,241.44	\$	931.08	\$	931.08	\$	1,100	\$	1,375						
1054	SING RESID	60	7,155	0.97	1	1	0.97	\$	1,198.68	\$	899.01	\$	899.01	\$	1,100	\$	1,375						
1054	SING RESID	60	7,061	0.97	1	1	0.97	\$	1,198.68	\$	899.01	\$	899.01	\$	1,100	\$	1,375						
1054	SING RESID	85	9,467	1.37	1	1	1.37	\$	1,698.13	\$	1,273.60	\$	1,273.60	\$	1,500	\$	1,875						
1054	SING RESID	63	8,186	1.02	1	1	1.02	\$	1,258.62	\$	943.96	\$	1,324.65	\$	1,100	\$	1,375						
1054	SING RESID	62	7,440	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	928.98	\$	1,100	\$	1,375						
1054	SING RESID	62	7,440	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	1,523.64	\$	1,100	\$	1,375						
1054	SING RESID	62	7,440	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	928.98	\$	1,100	\$	1,375						
1054	SING RESID	62	7,431	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	928.98	\$	1,100	\$	1,375						
1054	SING RESID	62	7,237	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	928.98	\$	1,100	\$	1,375						
1054	SING RESID	63	7,080	1.02	1	1	1.02	\$	1,258.62	\$	943.96	\$	943.96	\$	1,100	\$	1,375						
1054	SING RESID	63	7,014	1.02	1	1	1.02	\$	1,258.62	\$	943.96	\$	1,398.11	\$	1,100	\$	1,375						
1054	SING RESID	66	7,001	1.06	1	1	1.06	\$	1,318.55	\$	988.91	\$	1,070.43	\$	1,200	\$	1,500						
1054	SING RESID	91	8,888	1.47	1	1	1.47	\$	1,818.00	\$	1,363.50	\$	1,363.50	\$	1,600	\$	2,000						
1054	SING RESID	91	10,672	1.47	1	1	1.47	\$	1,818.00	\$	1,363.50	\$	1,363.50	\$	1,600	\$	2,000						
1054	SING RESID	64.68	7,713	1.04	1	1	1.04	\$	1,292.18	\$	969.14	\$	969.14	\$	1,200	\$	1,500						
1054	SING RESID	61	7,320	0.98	1	1	0.98	\$	1,218.66	\$	914.00	\$	1,088.11	\$	1,100	\$	1,375						
1054	SING RESID	61	7,276	0.98	1	1	0.98	\$	1,218.66	\$	914.00	\$	1,383.41	\$	1,100	\$	1,375						
1054	SING RESID	61	7,356	0.98	1	1	0.98	\$	1,218.66	\$	914.00	\$	1,245.79	\$	1,100	\$	1,375						
1054	SING RESID	61	7,562	0.98	1	1	0.98	\$	1,218.66	\$	914.00	\$	1,057.12	\$	1,100	\$	1,375						
1054	SING RESID	61	7,624	0.98	1	1	0.98	\$	1,218.66	\$	914.00	\$	1,663.00	\$	1,100	\$	1,375						
1054	SING RESID	60.79	7,442	0.98	1	1	0.98	\$	1,214.47	\$	910.85	\$	910.85	\$	1,100	\$	1,375						
1054	SING RESID	62	7,440	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	928.98	\$	1,100	\$	1,375						
1054	SING RESID	62	7,440	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	928.98	\$	1,100	\$	1,375						
1054	SING RESID	62	7,440	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	928.98	\$	1,100	\$	1,375						
1054	SING RESID	62	7,440	1.00	1	1	1.00	\$	1,238.64	\$	928.98	\$	928.98	\$	1,100	\$	1,375						

Enclosure

1.6

BASIS OF SPECIAL ASSESSMENTS

Special Assessments is the method the City uses to pay for public improvements that affect benefiting properties. The costs of the improvement are allocated to the parcels/lots that benefit from these improvements.

1. Special Assessment Districts

A. Storm Water

- Cost allocation based on parcel/lot Square Footage.
- District boundaries are determined by watershed areas.
- Coulees, Detention Ponds, and other nondevelopable lots are not assessed for storm water.
- For Regional Storm Water, Utility assumes cost for unannexed property via assessment to City owned parcel. This cost is held in abeyance and assessed in a continuous district to previously unannexed land when the land is subsequently annexed. (See Continuous Districts below).
 - Factor applied to unannexed property should coincide with the Comprehensive Land Use Plan.

B. Street Lights

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn to include properties that abut the improvement.
- City considers installing street lights when 50% of lots developed or sooner if transportation safety issues exists.
- Corner lots only pay a 1/2 street light assessment for each side of the lot.

C. Streets

1. Local Streets

- a. *New Pavement/Reconstruction/Resurfacing - patch, level, mill & overlay, chip seal*
- Cost allocation based on parcel/lot Front Footage.
 - Boundaries are drawn to include properties that abut the improvement.
 - Corner lots are assessed based on one side frontage and are assessed at a rate of 1/2 if only one street abutting the lot is being improved.

2. Collector Streets

- a. *New Pavement/Reconstruction/Resurfacing - patch, level, mill & overlay, chip seal*
- Cost allocation based on parcel/lot Front Footage.
 - Boundaries are drawn to include properties that abut the improvement.
 - Corner lots are assessed based on one side frontage and are assessed at a rate of 1/2 if only one street abutting the lot is being improved.
 - In non-commercial zoned areas, city assumes cost to construct a street wider than 37 feet and thicker than local roadway design.
 - Balance is assessed.

BASIS OF SPECIAL ASSESSMENTS (CONTINUED)**3. Arterial Streets****a. New Pavement/Reconstruction**

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn to include abutting properties (direct benefit) and those in the area half way to the next arterial (secondary benefit).
- Direct benefit would be an assessment equivalent to new pavement assessment on a local street plus a share of secondary benefit as all parcels/lots pay for a local street plus a portion of an arterial street.
- Secondary benefit would be proportionate amount of the direct benefit.
- Corner lots are assessed based on one side frontage and are assessed at a rate of 1/2 if only one street abutting the lot is being improved.
- In non-commercial zoned areas, city assumes cost to construct a street wider than 37 feet and thicker than local roadway design. Commercial zoned areas are assessed full width and depth costs.
- Balance of cost less assessments funded by other City resources.

b. Resurfacing - patch, level, mill & overlay, chip seal

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn to include properties that abut the improvement.
- Assessment to be proportionate with assessment for typical local street resurfacing assessment. (i.e. 60% of typical local street resurfacing assessment due to arterials requiring resurfacing more frequently than local streets.)
- Corner lots are assessed based on one side frontage and are assessed at a rate of 1/2 if only one street abutting the lot is being improved.
- In non-commercial zoned areas, city assumes cost to construct a street wider than 37 feet and thicker than local roadway design.
- Balance of cost less assessments funded by other City resources.

4. Hard Surface Street Projects - Revised 2/12/13

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn to include properties that abut the improvement.
- City subsidy of 55% provided.

5. Pavement Reconstruction with Ground Water Projects (with Subbase Drainage System) - Revised 2/12/13

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn in accordance with applicable street classification.
- City subsidy of 75% provided.
- Commercial zoned areas are assessed at two times the residential rate, plus a proportionate amount for full-width and extra-depth costs, where applicable.
- Balance of cost less assessments funded by other City resources.

BASIS OF SPECIAL ASSESSMENTS (CONTINUED)**6. Alleys (public alleys with existing asphalt or concrete pavement) - 2/12/13**

- The full cost to pave, resurface, or reconstruct public alleys will be assessed proportionately, without subsidy, based on lot frontage/width, to properties that either abut the alley or have access to their property via the public alley.

D. Concrete Curb & Gutter/Sidewalk/Driveways (New and Repairs)

- Total cost assessed directly to individual parcels/lots.

E. Federal Aid Projects

- Parcels/lots included in Federal Aid projects are to be assessed equivalent to what they would have paid if federal funding not involved. (See Arterial Streets above.)

F. Water Mains

- Cost allocation based on parcel/lot Front Footage.
- Half the cost to install 8" water main for residential or 12" for commercial is calculated and then allocated to all parcels on the one side of improvement proportionately based on lot frontages. Same is done for the other side of improvement.
- City assumes cost of over size main installation.

G. Sewer Mains

- Cost allocation based on parcel/lot Front Footage.
- Half the cost to install 8" sewer main for residential or 10" for commercial is calculated and then allocated to all parcels on one side of improvement proportionately based on lot frontages. Same is done for the other side of improvement.
- City assumes cost of over size main installation.

2. Continuous Districts**A. Trunk Line Fees****a. *Formula for Assessment***

- Intended to recover the costs that Water and Sewer Utilities have assumed for over size mains and other general infrastructure such as treatment plants, pump stations, reservoirs, and trunk water and sewer mains already in place to serve unannexed property.
- Base fee is determined annually. R5 zoning is assessed base fee. R10 zoning and < 10,000 SF is base fee. R10 zoning and > 10,000 SF and < 20,000 SF is 2 times the base fee. R10 or higher zoning and > 20,000 SF are at base fee times ratio of SF divided by 10,000 SF.

B. Main Lines Built by City Prior to Annexation (Not over sized mains) - Revised 2/12/13

- Costs held in abeyance to be assessed upon annexation of parcels.
- a. *Water*
 - Assessed only if a parcel has the ability to tap directly into the water line and has not already paid for a watermain.
- b. *Sewer*
 - Criteria to assess is based on a parcel having ability to directly tap into the sewer line.

BASIS OF SPECIAL ASSESSMENTS (CONTINUED)c. *Cost allocation based on parcel/lot Front Footage.*

- Assessment is triggered by annexation, prospectively from 2007 annexations on.
- If a specific utility or assessment district was created to install water or sewer main, that cost is used.
- If an over size main was installed, an average per foot cost of the prior years three-way agreements or assessment districts is calculated by engineering to apply to now annexed property.

C. Storm Water

- Costs held in abeyance to be assessed upon annexation of parcels.
- Cost allocation based on parcel/lot square footage.

3. Factors - Revised 2/14/12 & 3/11/14

A. The following factors are applied in all assessment districts except water and sewer mains and Continuous Districts:

- Factors applied: Commercial - 2.0; Residential - 1.0
 - Park Property - if it holds a revenue producing facility (i.e. pool) then Commercial - 2.0; otherwise same as Residential - 1.0.
 - Schools & Churches - always Commercial - 2.0.
- Storm Water Lots - 0.5
 - Storm water lots are subject only to paving and street lighting assessments with a factor of .5 applied to lot frontages.

B. *Parcels with Access via Private Drives or Access Easements - 3/11/14*

- Private drives are roadways, whether named or not, that lead from a public street to more than one private residential property and are owned and maintained by private individuals or organizations rather than the city.
- An access easement allows owners of property that does not have direct access to a public street to pass through the adjoining land to access their property.
- Commercial properties that gain access to their property from a public street via a private drive or an access easement are assessed for pavement and street lighting improvements to the public street based on their lot width or adjusted lot width, if applicable.
- Residential properties that gain access to their property from a public street via a private drive or an access easement are assessed for pavement and street lighting improvements to non-arterial public streets based on 50% of their lot width or adjusted lot width, if applicable.
- Actual costs of concrete repairs to curb & gutter, driveway aprons, or sidewalk on the shared access will be assessed proportionately to all parcels sharing the access.

4. Adjustments

- Adjustments are made where warranted and may include the following:
 - A comparison of lot square footage to lot frontage is done to determine if frontage adjustments are necessary.
 - Adjustment is made for lots on curves or cul-de-sacs as their frontages are disproportionately larger or smaller than standard lots. A 35' set back measurement from the lot line is measured and actual front footage is replaced by adjusted front footage.
 - Adjustments are made for larger/odd shaped lots that abut more than one street.
 - ● If a lot takes up a whole block, compare it to the sum total assessment of all the parcels on an entire block in the neighborhood and adjust frontage to make it comparable.
 - Also use frontage that abuts the improvement; reduce frontage by 1/2 of median lot size. Therefore, not penalizing them for corner lot, but paying more because larger lot.
 - A reduction to lot square footage may be made when assessing storm water costs to undeveloped land to account for future streets.
 - Adjustments to parcel/lot square footage may be warranted when assessing storm water costs based on the characteristics of the parcel/lot in relation to the project.

RH ASSOCIATES INC.
dba Riviera Heights MHC
369 E. Kellogg Blvd.
Saint Paul, MN 55101-1411

February 6, 2015

My Name is Bill Block originally from Mandan, ND. I own eleven manufactured home communities in the Midwest, five of which are in North Dakota. I am a member of the NDMHA. The North Dakota State Legislature will be acting on Bill Number HB 1392 in the near future. This bill has to do with how Cities in North Dakota assess Manufactured Home Communities for projects that benefit the Manufactured Home Community.

My North Dakota communities are located in West Fargo, Fargo (2), Hillsboro and Grand Forks. I would like to provide an example of a recent assessment at my community, Riviera Heights in Fargo, which should make it easy for you to understand the need for action by the Legislature. The City of Fargo considers Manufactured Home Communities to be commercial property as opposed to residential property even though all residents of the Manufactured Home Community own their homes but lease the lot upon which they are placed. In the eyes of the City of Fargo Riviera Heights is no different than a Walmart.

The project that generated the assessment was a street improvement project (32nd Avenue North). Residential property was assessed at 10¢/square foot and commercial property at 20¢/square foot. The average residential lot size in the assessment district was 12000 square feet. Therefore at 10¢/square foot the assessment was approximately \$1200. Riviera Heights was assessed \$217,200, which at 20¢/square foot equates to 24.9 acres. Riviera Heights consists of 163 lots. Therefore, the assessment per lot was \$1332. The average lot size at Riviera Heights is 4800 square feet, 40% of the size of a residential lot and yet the assessment per manufactured home community lot was more than a residential lot.

The assessment is to be paid off over 25 years with interest. My cost as owner amounts to \$90 per lot per year. I increased the lot rent by \$10/month, \$7.50 of which goes to the City of Fargo to pay the annual principal and interest payment on the assessment. Had Riviera Heights been treated as residential, the assessment would have been $163(4800)(0.2) = \$78240$ rather than \$217200... a huge difference.


The City of Fargo argues that apartments are also treated as commercial, therefore it would not be fair to consider Manufactured Home Communities as residential. Fargo zoning allows 25 apartments per acre. Therefore the assessment per apartment would amount to $43560(0.2) = 8712/25 = \$348/\text{apartment}$. Clearly the comparison of apartment versus Manufactured Home Communities is not arguable due to the difference in densities, IE 25/acre for apartments and say 6/acre for Manufactured Home Communities.

The point is that Manufactured Home Communities provide the most affordable, non-subsidized housing in North Dakota cities. Residents of Manufactured Home Communities should not be saddled with Walmart rates. They should be treated as all other residential properties.

Thank you for your assistance in passing Bill number HB 1392.

If you have questions regarding this correspondence please contact the undersigned.

Respectfully,



William R. Block

William R. Block, President
651-290-1692 Fax 651-310-1526 wrb@samar.com

**Testimony in Support of
HOUSE BILL NO. 1392**

Senate Finance and Taxation Committee

March 11, 2015

Chairman Cook, and Senate Finance and Taxation Committee members, for the record my name is Todd D. Kranda. I am an attorney with the law firm of Kelsch, Kelsch, Ruff & Kranda in Mandan and I appear before you today as a lobbyist on behalf of the North Dakota Manufactured Housing Association to support HB 1392.

The North Dakota Manufactured Housing Association (NDMHA) is a state trade association representing all segments of the manufactured housing industry, including manufactured home builders, suppliers, retailers, community developers, owners and managers, insurers and financial services companies. The NDMHA works to promote fair laws and regulations, increase and improve financing options, promote a positive image of manufactured housing, provide technical analysis and counsel, promote industry professionalism and remove zoning barriers to the use of manufactured housing. Through these various programs and activities, the NDMHA seeks to promote the use of manufactured housing to consumers, developers, lenders, community operators, insurers, the media and public officials, so that more Americans will be able to realize their dream of affordable home ownership.

The NDMHA supports HB 1392 because it is necessary to establish a fair, reasonable and consistent treatment of manufactured home park property when special assessments are being made within the cities across North Dakota. The NDMHA recently became aware of different treatment of manufactured home property in different cities across the state. Attached is a copy of a Memo which

1.2
HB 1392
3.11.15

reviews the special assessment occurring in the cities of Fargo, West Fargo, Grand Forks, Dickinson, Minot, Williston and Mandan. In some cities manufactured home property has special assessments that are charged double the rate of single family residential property. While in many other cities they are treating the manufactured home park property in a fair and reasonable fashion the same as single family residential property.

HB 1392 simply tries to create a fair, reasonable and consistent approach across the state for special assessment of manufactured home park property, applying the same rate as with single family residential property. Attempts made to challenge and correct this inconsistency and problem with unfair assessments have failed. HB 1392 still allows the city to fully recover for any specials but it requires that the mobile home park property is treated the same with an assessment as single family residences. Several NDMHA members are here to testify and explain their experience and the reason why HB 1392 is fair, reasonable and necessary.

I would urge a **DO PASS** recommendation for **HB 1392**. I would be happy to try to answer any questions.

1.3
HB1392
3.11.15



MEMO

To: Myron Atkinson - Tatley Meadows
 Tim Atkinson - Tatley Meadows

From: Amanda E. Peterson, Attorney

Date: November 28, 2014

Re: Statewide Special Assessment Research
 Our File No. 048042,14000

ATTORNEY CLIENT PRIVILEGED
MATERIALS AND
COMMUNICATION

Pursuant to your request, my office has conducted a state-wide survey of special assessment procedures throughout North Dakota. Specifically, we have spoken with individuals in various departments handling special assessments in the following cities:

- Fargo
- West Fargo
- Grand Forks
- Dickinson
- Minot
- Williston
- Mandan

In an attempt to determine how the City of Bismarck's special assessment policy compares with other jurisdictions throughout the state, we requested information from each of these municipalities regarding their treatment of mobile homes for purposes of allocation of public improvement costs. Specifically, we asked each municipality to address the following topics:

- Whether the municipality has its own written special assessment policy
- Whether different classifications of properties within a special assessment district are treated differently for purposes of public improvement cost allocations

1.4
HB 1392
3.11.15

- If assessments are allocated differently dependent upon the type of property, whether this is true for all improvement projects or only applies to certain types of public improvements such as storm water projects
- If assessments are allocated differently to different types of property, how are those classifications determined/defined
- If assessments are allocated differently, how are mobile home parks treated

The following summarizes the information we have received:

Dickinson

Although Dickinson does have a written policy applicable to special assessments, that policy does not contain any information about how different classifications of property will be treated for purposes of cost allocation within a special assessment district.

My office was advised by the City of Dickinson that public improvement costs are not allocated differently amongst different types of property. Costs are allocated depending upon the linear feet or square footage of the property and the benefit to be received by the property from the specific public improvement. No consideration is given to whether the property is considered residential, commercial, industrial, etc. or the type of development found on a particular parcel of property.

Mandan

Mandan does not have a written special assessment policy and are guided solely by the North Dakota Century Code's provisions on special assessments. Mandan is currently trying to put together a written policy but nothing has been finalized yet.

My office was advised that the City of Mandan tries to follow the Century Code's provisions regarding allocation of costs based on benefit received. Consideration is given to the distance of the property from the area of improvement and calculations may be on a per lot basis, according to the front footage or square footage of the parcel, or any combination thereof. The manner in which costs are allocated can differ depending upon the type of improvement.

Specifically with regard to the classifications of property, Mandan is a bit unique in the way that they assess costs. Storm sewer projects are always assessed on a "per square foot" basis, where every parcel of property is assessed costs proportionate to the square footage of the property. No consideration is given to the classification or use of the property. Most other projects, however, are assessed by taking into account the number of units on the property. A base unit cost is determined and then properties are assessed using a multiplier equal to the number of units on the property. This calculation does not consider the size of the unit or the size of the parcel of property.

For example, if a street is being resurfaced or sewer lines are being put in, the costs associated with the project will be assessed by first determining a "per unit" assessment value. Each parcel of property is allocated a portion of the total cost depending on how many living units are on that

1.5
HB 1392
3.11.15

parcel. A residential lot containing one single family home will be assessed one "unit" of cost. A residential lot containing a duplex will be assessed two "units" of cost. A multi-family lot with a 12 unit apartment building may be assessed up to 12 "units" of cost. Projects are analyzed on a case-by-case basis to determine the actual multiplier for each parcel, meaning that the 12-plex *could* be assessed by a factor of 12, but *may* be assessed a smaller amount, depending on the type of project.

The justification that has been given for this type of system is as follows: If there are 12 individuals or families living on one parcel of property, they will be placing more of a burden upon the property (for example: more burden upon the streets). Similarly, there will be more individuals who are receiving a benefit from the improvement.

When asked about mobile home parks, the engineering project manager advised that she had not been involved with any assessments made against this type of property. However, she assumed the standard "per unit" calculation would be used, regardless of the size of the lots or the size of the parcel.

West Fargo

West Fargo does not have a written policy and special assessments within the municipality are strictly guided by the North Dakota Century Code. The City Engineer, who calculates all of the special assessments, explained that the City tries to be as fair as possible in assessing projects and they do that by being consistent in the manner in which costs are assessed.

Public improvement costs are allocated against properties "across the board" and the city does not differentiate between commercial vs. residential properties. The classification of property is irrelevant to a determination of special assessment values, as the allocation is entirely dependent upon property size. Depending on the type of project, costs for public improvements are assessed in one of three ways - amount per front foot, amount per square foot, or amount per "unit".

For the third type of assessment, the City determines what the basic "unit" size will be and then divides each parcel of property into a number of units. The total cost of the project is then divided by the total number of units within the assessment district to determine the "unit cost". Finally, each parcel of property will be assessed its proportionate share of the total cost depending on the number of units within the parcel.

For example, for a specific project all parcels less than 7,500 square feet may be considered one unit. Anything above that will be divided by 7,500 to determine the total number of its within the parcel. A parcel of property that is 75,000 square feet would thus be considered 10 units for assessment purposes. The City then spreads the total cost of the project evenly amongst the units in the district. If the total project was \$1M and the district contained 10,000 units, each unit would be assessed \$100 per unit. Thus, the parcel of property that is 7,500 square feet would be assessed \$100 while a 75,000 square foot property would be assessed \$1,000.

This calculation is done without consideration of the property's use, the number of people actually living within the property, or the number of houses/apartments/mobile homes on the property.

1.6
HB 1392
3.11.15

When specifically asked about mobile homes, the West Fargo engineer explained that the mobile home park owner in the City is always unhappy about the way that special assessments are allocated against the park. However, this disagreement is more about the fact that the park does not receive the same amount of City services (i.e. street cleaning, snow removal, etc.), not because they are assessed at a higher rate than other residential areas. Proportionately speaking, mobile home parks are assessed the same amount as other residential properties within a district and are not treated differently simply because of the nature of the property.

Fargo

Fargo has a rather detailed Infrastructure Funding Policy which sets forth the specific manner in which each type of public improvement will be funded. This policy outlines the amount to be assessed against each type of property based upon 1) the type of improvement and 2) whether the project involves new development or replacement/rehabilitation of existing development.

Some public improvements are assessed against parcels of property in exactly the same manner, at the same rate, regardless of the properties' use or classification as commercial, residential, etc. For example, sanitary sewer, water main, storm sewer, street light and sidewalk projects are all assessed by treating property the same, regardless of its classification.

Other improvements are assessed differently amongst the different classifications of property. One type of project in which this occurs is paving and road improvement. New construction of streets is assessed equally amongst the benefitted property. Improvements to existing roads, on the other hand, are assessed at different rates depending upon the properties land use classification. For this type of project, properties fall within one of the following classifications: single family, multi family, commercial, industrial, institutional, retail/sales/service. The city's planning department determines each type of property's classification.

In Fargo mobile home parks are considered commercial, for purposes of taxes and special assessments, purely because they are considered "for profit" properties. Our office was advised by the Special Assessment Coordinator for the City of Fargo that commercial property is defined as any property that operates "for a profit" regardless of the size of the parcel or the type of property that is rented. As such, mobile home parks are treated differently for some, but not all, special assessments.

Interestingly, when speaking with the Fargo Special Assessment Coordinator my office was advised that they have very recently run into the issue of protests from mobile home park owners. It sounded like a nearly identical problem to the one occurring in Bismarck.

Williston

Williston does not have a written special assessment policy and simply tries to follow the minimal guidelines contained in the North Dakota Century Code. As a general rule, no distinction is made between the classification or use of property for purposes of allocating public improvement costs.

J.7.
HB1392
3.11.15

All properties are assessed at the same rate unless the particular project justifies some sort of deviation.

For example, last year three districts were created within residential areas for certain improvements necessitated by the new development within those areas. There was a large amount of protest from existing homeowners in the area, as the improvements were not necessary until new development occurred and the existing homeowners were receiving very little benefit from the projects. As such, the City made an exception to their general rule and exempted residential lots with pre-existing development.

Mobile home parks would not be assessed any differently, in a general sense, than any other residential, commercial or industrial area.

Minot

Minot does have a special assessment policy geared by the North Dakota Century Code. Pursuant to this policy, properties are assessed differently depending on the type of project and the type of property. This seems to be similar to the manner in which the City of Fargo determines assessments, as certain projects are assessed across the board with no deviation for different types of property, while others assess different types of property at a higher rate depending on the property use.

For those projects which are assessed differently, the following classifications are used: single family homes are assessed at a rate of 1.0; multifamily home, apartment complexes and condo associations are assessed at a rate of 1.5; and commercial and industrial properties are assessed at a rate of 2.0. To determine a property's classification, the city will look to the property's zoning and how each property owner describes the property use. The individual in the engineering department was not sure how mobile home parks would be treated, but believed they would be assessed in the same category as apartment complexes and condo associations.

Grand Forks

The City of Grand Forks has a very new policy that is being implemented now. This policy, however, is only applicable to certain types of special assessments and will not encompass all public improvement costs.

Up until very recently, Grand Forks made no distinctions between any types of property and all parcels were allocated at the same rate. In 2013 the engineering department recommended a change in the method of assessments for storm sewer and storm water management ponds. Prior to June 2013, the City assessed storm sewer and storm water ponds on a square foot basis, allocating costs to properties served by the systems based upon the size of the parcel. The City found this policy worked well in districts that consisted of solely single family residential properties, multi-family properties or commercial properties, an imbalance was found in areas with mixed residential and commercial properties. Higher amounts of impervious surfaces allowed in high density residential,

1.8
HB1392
3,145

commercial and school areas increased the size of pipes and ponds needed in those areas well above that of the lower impervious areas allowed for one and two family residential lots.

As such, the City very recently adopted a new policy under which properties are assessed at different factors, depending upon the use classification. The following assessments are currently used in Minot for storm water projects: One and two family residential properties are assessed at a factor of 0.5, multi-family residential and schools are assessed at a factor of 0.75, commercial and business properties are assessed at a rate of 1.0 and parks are assessed at a rate of 0.33.

Unfortunately, the policy does not contain definitions and is not clear as to how mobile home parks, specifically, would be treated. Because this policy is so new, the City has not been faced with this particular issue and the individual in charge of special assessments did not know how they would be treated.

**Testimony in Support of
HOUSE BILL NO. 1392**

Senate Finance and Taxation Committee

March 11, 2015

From: Mbma1951@aol.com [mailto:Mbma1951@aol.com]

Subject: Proposed legislation to correct unfair tax assessments HB 1392

About a month ago I wrote an outline of the experience mobile home parks are having in Bismarck. In special assessments they are being charged double the rate of single family property. An effort to have the Bismarck City Commission change this policy was not successful.

We understand several other cities are doing the same thing although many are treating the mobile home park property in a fair fashion as single family property. The attorneys who represented the Bismarck parks completed a survey of the eight major cities and this was sent to each party who was involved.

The only way this is going to change is if the North Dakota legislature passes a law in effect stating that for tax purposes the land in mobile home parks will be treated as single family residential land. That seems reasonable as the Bismarck policy burdens the mobile home owner who at some point is going to be paying the taxes in the form of rent.

If this is going to be successful some action is going to have to take place at this time. The legislature is moving along rapidly and in just a few more weeks it will be too late to introduce new legislation.

At the meeting of the Association this week we hope this matter will be considered and positive action taken to introduce and support the proposed legislation.

Thank you for your consideration and concern.

Myron Atkinson
Tatley Meadows, Bismarck, N.Dak.

No virus found in this message.
Checked by AVG - www.avg.com
Version: 2013.0.3267 / Virus Database: 3161/6209 - Release Date: 03/27/13
Internal Virus Database is out of date.

3.

**Testimony in Support of
HOUSE BILL NO. 1392**

RH ASSOCIATES INC.
dba Riviera Heights MHC
369 E. Kellogg Blvd.
Saint Paul, MN 55101-1411

Senate Finance and Taxation Committee

March 11, 2015

My Name is Bill Block originally from Mandan, ND. I own eleven manufactured home communities in the Midwest, five of which are in North Dakota. I am a member of the NDMHA. The North Dakota State Legislature will be acting on Bill Number HB 1392 in the near future. This bill has to do with how Cities in North Dakota assess Manufactured Home Communities for projects that benefit the Manufactured Home Community.

My North Dakota communities are located in West Fargo, Fargo (2), Hillsboro and Grand Forks. I would like to provide an example of a recent assessment at my community, Riviera Heights in Fargo, which should make it easy for you to understand the need for action by the Legislature. The City of Fargo considers Manufactured Home Communities to be commercial property as opposed to residential property even though all residents of the Manufactured Home Community own their homes but lease the lot upon which they are placed. In the eyes of the City of Fargo Riviera Heights is no different than a Walmart.

The project that generated the assessment was a street improvement project (32nd Avenue North). Residential property was assessed at 10¢/square foot and commercial property at 20¢/square foot. The average residential lot size in the assessment district was 12000 square feet. Therefore at 10¢/square foot the assessment was approximately \$1200. Riviera Heights was assessed \$217,200, which at 20¢/square foot equates to 24.9 acres. Riviera Heights consists of 163 lots. Therefore, the assessment per lot was \$1332. The average lot size at Riviera Heights is 4800 square feet, 40% of the size of a residential lot and yet the assessment per manufactured home community lot was more than a residential lot.

The assessment is to be paid off over 25 years with interest. My cost as owner amounts to \$90 per lot per year. I increased the lot rent by \$10/month, \$7.50 of which goes to the City of Fargo to pay the annual principal and interest payment on the assessment. Had Riviera Heights been treated as residential, the assessment would have been $163(4800)(0.2) = \$78240$ rather than \$217200... a huge difference.

The City of Fargo argues that apartments are also treated as commercial, therefore it would not be fair to consider Manufactured Home Communities as residential. Fargo zoning allows 25 apartments per acre. Therefore the assessment per apartment would amount to $43560(0.2) = 8712/25 = \$348/\text{apartment}$. Clearly the comparison of apartment versus Manufactured Home Communities is not arguable due to the difference in densities, IE 25/acre for apartments and say 6/acre for Manufactured Home Communities.

The point is that Manufactured Home Communities provide the most affordable, non-subsidized housing in North Dakota cities. Residents of Manufactured Home Communities should not be saddled with Walmart rates. They should be treated as all other residential properties.

Thank you for your assistance in passing Bill number HB 1392.

If you have questions regarding this correspondence please contact the undersigned.

Respectfully,


William R. Block

William R. Block, President
651-290-1692 Fax 651-310-1526 wrb@samar.com

4.
3.11.15

BILL #1392

- Tatley Meadows is an attractive mobile home community that was designed and built to provide those who otherwise likely could not afford to own their own home, with the opportunity to do so, and to build value in their property.
- It is unfair to charge assessments to mobile home park residents at a higher rate than to other residential homes. Mobile home communities provide people with the opportunity to build equity in a home they own in the most affordable way. In Bismarck, mobile home parks are zoned residential, not commercial. Mobile homes in modern communities rarely are moved from the park. The beneficiary of the assessments is the homeowner, not the park owner.
- Many mobile home owners are at the lower end of the income scale, are disabled, or are elderly. Mobile home communities provide high quality, affordable housing for them. It is unfair to ask them to pay special assessments at a higher rate than that paid by other homeowners, who might even be just across the street.
- Operating costs incurred by mobile home parks are ultimately passed on to the residents, as with any business. The costs aren't likely to be passed along immediately or exactly, but, like any other business or with the government, increased operating costs are paid for by the end-user in more expensive product or service costs, or in taxes. Special assessments are like any other operating costs; they are passed along to the end-user or the business (or government) goes 'out of business'.
- No one is making a case that mobile home parks, and ultimately the homeowners, should not be fairly charged special assessments. But it is unfair to charge mobile home communities with a rate that is different, and often higher, than other residential neighborhoods in a community. The special assessments rates charged should be on the same scale as the other residential properties.

Bill 1398

5.
3.11.15
HB 1392

We have low income, elderly, and disabled people who enjoy owning their own homes in a mobile home park, where they can have their own yards and pets; and the unfairness of charging special assessments there that are significantly more for the same area than expensive single family housing in the same residential area.

Mobile Home Parks are zoned Residential, in a residential neighborhood, and do not conduct any other business activities there; no home rentals, no storage units, no sales.

Other cities often seem to try to load up specials and other charges on Commercial properties (which mobile home parks are NOT), because they do not want to upset the residential voters. There is no logical reason for charging mobile home parks at a higher rate than other residential neighborhoods. This is not about not paying specials; it's about fairness and the cities taking advantage of those who are often less able to stand up for themselves.

Bill 1392

6.
HB 1392
3.11.15

BASIS OF SPECIAL ASSESSMENTS

Special Assessments is the method the City uses to pay for public improvements that affect benefiting properties. The costs of the improvement are allocated to the parcels/lots that benefit from these improvements.

1. Special Assessment Districts

A. Storm Water

- Cost allocation based on parcel/lot Square Footage.
- District boundaries are determined by watershed areas.
- Coulees, Detention Ponds, and other nondevelopable lots are not assessed for storm water.
- For Regional Storm Water, Utility assumes cost for unannexed property via assessment to City owned parcel. This cost is held in abeyance and assessed in a continuous district to previously unannexed land when the land is subsequently annexed. (See Continuous Districts below).
 - Factor applied to unannexed property should coincide with the Comprehensive Land Use Plan.

B. Street Lights

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn to include properties that abut the improvement.
- City considers installing street lights when 50% of lots developed or sooner if transportation safety issues exists.
- Corner lots only pay a 1/2 street light assessment for each side of the lot.

C. Streets

1. Local Streets

a. *New Pavement/Reconstruction/Resurfacing - patch, level, mill & overlay, chip seal*

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn to include properties that abut the improvement.
- Corner lots are assessed based on one side frontage and are assessed at a rate of 1/2 if only one street abutting the lot is being improved.
- City subsidy of 25% is provided for resurfacing projects.

2. Collector Streets

a. *New Pavement/Reconstruction/Resurfacing - patch, level, mill & overlay, chip seal*

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn to include properties that abut the improvement.
- Corner lots are assessed based on one side frontage and are assessed at a rate of 1/2 if only one street abutting the lot is being improved.
- In non-commercial zoned areas, city assumes cost to construct a street wider than 37 feet and thicker than local roadway design.
- Balance is assessed.
- City subsidy of 25% is provided for resurfacing projects.

6.2
HB 1392
3.11.15

3. Arterial Streets

a. New Pavement/Reconstruction

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn to include abutting properties (direct benefit) and those in the area half way to the next arterial (secondary benefit).
- Direct benefit would be an assessment equivalent to new pavement assessment on a local street plus a share of secondary benefit as all parcels/lots pay for a local street plus a portion of an arterial street.
- Secondary benefit would be proportionate amount of the direct benefit.
- Corner lots are assessed based on one side frontage and are assessed at a rate of 1/2 if only one street abutting the lot is being improved.
- In non-commercial zoned areas, city assumes cost to construct a street wider than 37 feet and thicker than local roadway design. Commercial zoned areas are assessed full width and depth costs.
- Balance of cost less assessments funded by other City resources.

b. Resurfacing - patch, level, mill & overlay, chip seal

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn to include properties that abut the improvement.
- Assessment to be proportionate with assessment for typical local street resurfacing assessment. (i.e. 60% of typical local street resurfacing assessment due to arterials requiring resurfacing more frequently than local streets.)
- Corner lots are assessed based on one side frontage and are assessed at a rate of 1/2 if only one street abutting the lot is being improved.
- In non-commercial zoned areas, city assumes cost to construct a street wider than 37 feet and thicker than local roadway design.
- Balance of cost less assessments funded by other City resources.
- City subsidy of 25% is provided for resurfacing projects.

4. Hard Surface Street Projects - Revised 2/12/13

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn to include properties that abut the improvement.
- City subsidy of 55% provided.

5. Pavement Reconstruction with Ground Water Projects (with Subbase Drainage System) - Revised 2/12/13

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn in accordance with applicable street classification.
- City subsidy of 75% provided.
- Commercial zoned areas are assessed at two times the residential rate, plus a proportionate amount for full-width and extra-depth costs, where applicable.
- Balance of cost less assessments funded by other City resources.

6.3
HB 1392
3.11.15

6. Alleys (public alleys with existing asphalt or concrete pavement) - 2/12/13

- The full cost to pave, resurface, or reconstruct public alleys will be assessed proportionately, without subsidy, based on lot frontage/width, to properties that either abut the alley or have access to their property via the public alley.

D. Concrete Curb & Gutter/Sidewalk/Driveways (New and Repairs)

- Total cost assessed directly to individual parcels/lots.

E. Federal Aid Projects

- Parcels/lots included in Federal Aid projects are to be assessed equivalent to what they would have paid if federal funding not involved. (See Arterial Streets above.)

F. Water Mains

- Cost allocation based on parcel/lot Front Footage.
- Half the cost to install 8" water main for residential or 12" for commercial is calculated and then allocated to all parcels on the one side of improvement proportionately based on lot frontages. Same is done for the other side of improvement.
- City assumes cost of over size main installation.

G. Sewer Mains

- Cost allocation based on parcel/lot Front Footage.
- Half the cost to install 8" sewer main for residential or 10" for commercial is calculated and then allocated to all parcels on one side of improvement proportionately based on lot frontages. Same is done for the other side of improvement.
- City assumes cost of over size main installation.

2. Continuous Districts

A. Trunk Line Fees

a. Formula for Assessment

- Intended to recover the costs that Water and Sewer Utilities have assumed for over size mains and other general infrastructure such as treatment plants, pump stations, reservoirs, and trunk water and sewer mains already in place to serve unannexed property.
- Base fee is determined annually. R5 zoning is assessed base fee. R10 zoning and < 10,000 SF is base fee. R10 zoning and > 10,000 SF and < 20,000 SF is 2 times the base fee. R10 or higher zoning and > 20,000 SF are at base fee times ratio of SF divided by 10,000 SF.

B. Main Lines Built by City Prior to Annexation (Not over sized mains) - Revised 2/12/13

- Costs held in abeyance to be assessed upon annexation of parcels.

a. Water

- Assessed only if a parcel has the ability to tap directly into the water line and has not already paid for a watermain.

b. Sewer

- Criteria to assess is based on a parcel having ability to directly tap into the sewer line.

6.4
MS 1392
3.11.15

c. *Cost allocation based on parcel/lot Front Footage.*

- Assessment is triggered by annexation, prospectively from 2007 annexations on.
- If a specific utility or assessment district was created to install water or sewer main, that cost is used.
- If an over size main was installed, an average per foot cost of the prior years three-way agreements or assessment districts is calculated by engineering to apply to now annexed property.

C. Storm Water

- Costs held in abeyance to be assessed upon annexation of parcels.
- Cost allocation based on parcel/lot square footage.

3. Factors - Revised 2/14/12 & 3/11/14

A. The following factors are applied in all assessment districts except water and sewer mains and Continuous Districts:

- Factors applied: Commercial - 2.0; Residential - 1.0
 - Park Property - if it holds a revenue producing facility (i.e. pool) then Commercial - 2.0; otherwise same as Residential - 1.0.
 - Schools & Churches - always Commercial - 2.0.
- Storm Water Lots - 0.5
 - Storm water lots are subject only to paving and street lighting assessments with a factor of .5 applied to lot frontages.

← COURTS ARE ZONED AS RESIDENTIAL BUT ASSESSED AS COMMERCIAL.

B. *Parcels with Access via Private Drives or Access Easements - 3/11/14*

- Private drives are roadways, whether named or not, that lead from a public street to more than one private residential property and are owned and maintained by private individuals or organizations rather than the city.
- An access easement allows owners of property that does not have direct access to a public street to pass through the adjoining land to access their property.
- Commercial properties that gain access to their property from a public street via a private drive or an access easement are assessed for pavement and street lighting improvements to the public street based on their lot width or adjusted lot width, if applicable.
- Residential properties that gain access to their property from a public street via a private drive or an access easement are assessed for pavement and street lighting improvements to non-arterial public streets based on 50% of their lot width or adjusted lot width, if applicable.
- Actual costs of concrete repairs to curb & gutter, driveway aprons, or sidewalk on the shared access will be assessed proportionately to all parcels sharing the access.

CATCH →

6.5
HB 1392
3.11.15

4. Adjustments

- Adjustments are made where warranted and may include the following:
 - A comparison of lot square footage to lot frontage is done to determine if frontage adjustments are necessary.
 - Adjustment is made for lots on curves or cul-de-sacs as their frontages are disproportionately larger or smaller than standard lots. A 35' set back measurement from the lot line is measured and actual front footage is replaced by adjusted front footage.
 - Adjustments are made for larger/odd shaped lots that abut more than one street.
 - If a lot takes up a whole block, compare it to the sum total assessment of all the parcels on an entire block in the neighborhood and adjust frontage to make it comparable.
 - Also use frontage that abuts the improvement; reduce frontage by 1/2 of median lot size. Therefore, not penalizing them for corner lot, but paying more because larger lot.
 - A reduction to lot square footage may be made when assessing storm water costs to undeveloped land to account for future streets.
 - Adjustments to parcel/lot square footage may be warranted when assessing storm water costs based on the characteristics of the parcel/lot in relation to the project.

1
 HB 1392
 3.11.15

Fargo Infrastructure Funding Policy
 Approval Date (TBD)
 Revised 12/02/13

I. SANITARY SEWER	Amount Special Assessed	City & Federal Funds
<u>A. New Development</u>		
1. Sewer Mains • Lift Stations	100% Special Assessed 100% Special Assessed	N/A N/A
2. Trunk Mains ≤ 24" Diameter > 24" Diameter • Lift Stations	100% Special Assessed Assess equivalent 24" Balance assessed to the Area 100% Special Assessed	N/A Sewer Utility Deferrals will be funded with Utility \$
<u>B. Replacement/Rehabilitation</u>		
1. Sewer Mains Applies to local & trunk sewers	Capped at equivalent for new development \$40/FF Only direct frontage assessments No side benefit assessments	Balance - Sewer Utility, or Sales Tax
2. Lift Stations	50% Special Assessed	50% Sewer Utility
3. Sewer Services • Service replacement only (To boulevard on Street Recon Projects)	Capped at \$2,000	Balance - Sewer Utility
• Wye connection only -Sewer Main and Street Recon Projects	Capped at \$500	Balance - Sewer Utility
• Private sewer repair (SR-Owner Occupied)*	50% of first \$4,000 25% of amount over \$4,000	Balance - Sewer Utility
<u>*Owner can Petition cost to be special assessed</u>		
• Private sewer repair (Non Owner Occupied)	N/A-Privately Financed	

7.2
 HAS1392
 3.11.15

Fargo Infrastructure Funding Policy
 Approval Date (TBD)
 Revised 12/02/13

II. WATER MAIN	Amount Special Assessed	City & Federal Funds
<u>A. New Development</u>		
1. Local Mains Oversized Mains (10">)	100% Special Assessed Direct Assessment 10" equivalent Oversize to District	N/A
2. Trunk mains 16" on Section lines (1 mile spacing) 12" on Quarter lines (1/2 mile spacing) >16" on Section lines	100% Special Assessed 100% Special Assessed Assess equivalent 16"	N/A N/A Balance - Water Utility
3. Feeder mains (no local connections)	N/A	100% Water Utility
4. Fire flow benefit (no domestic service)	60% Special Assessed	40% Water Utility
5. Mains on jurisdictional boundaries	50% Special Assessed	50% Water Utility
6. Towers	N/A	100% Water Utility
<u>B. Replacement</u>		
1. Water mains Applies to local & trunk mains	10" equivalent cost \$40/FF	Balance - Water Utility
2. Water Services • Service replacement-Main to stopbox-With City led main replacement project	N/A	100% Water Utility
Stop Box to Building (SR-Owner Occupied)*	Private funded	N/A
*Owner can Petition cost to be special assessed		
<u>C. System Expansion</u>		
Towers, treatment, intake structures	100% City funds	100% Water Utility

7.3
 HB 1392
 3.11.15

III. STORM SEWER	Amount Special Assessed	City & Federal Funds
<u>A. New Development</u>		
1. Mains	100% Special Assessed	N/A
2. Outfalls	100% Special Assessed	N/A
3. Detention/Retention basins	100% Special Assessed	N/A
4. Lift stations	100% Special Assessed	N/A
<u>B. Replacement/Rehabilitation</u>		
1. Mains	50% Special Assessed	50% Storm Sewer Utility or Sales Tax
2. Outfalls	50% Special Assessed	50% Storm Sewer Utility or Sales Tax
3. Detention/Retention basins	50% Special Assessed	50% Storm Sewer Utility or Sales Tax
4. Lift stations	50% Special Assessed	50% Storm Sewer Utility or Sales Tax
<u>C. Capacity Expansion</u>		
1. Relief sewers Detention/Retention basins }	Capped at \$0.10/SF	Balance - Storm Sewer Utility/Sales Tax
1. Flood Risk Reduction (Levees/Floodwalls, etc.)	Direct benefit capped at \$0.50/SF Secondary benefit capped at \$0.10/SF	Balance -Sales Tax
2. Flood Risk Reduction Lift stations	Capped at \$0.10/SF	Balance -Sales Tax
3. Comprehensive Flood Risk Reduction Plan	N/A	100% Sales Tax/NDSWC

NOTE: All City owned Retention/Detenion facilities that receive direct assesments for infrastructure improvements will be capped at a 2 lot equivalent with the balance spread to the lots that receive benefit from the facilities.

7A
 HB 1392
 3/1/15

Fargo Infrastructure Funding Policy
 Approval Date (TBD)
 Revised 12/02/13

IV. PAVING	Amount Special Assessed	City & Federal Funds
<u>A. New Development</u>		
1. Local streets	100% Special Assessed	N/A
2. Collector streets	100% Special Assessed	N/A
3. Arterial streets*	Arterial street assessment bands	
	Direct frontage benefit	
	• Single family	\$188/FF Balance - Federal & Sales Tax
	• Multi family	\$313/FF Balance - Federal & Sales Tax
	• Commercial, Industrial, Institutional	\$313/FF Balance - Federal & Sales Tax
	• DMU, Arterials with Retail, Sales, and Service	\$375/FF
	Secondary benefit**	
	Assessments capped by zoning class	Balance - Federal & Sales Tax
	• Single family	\$30/FF
	• Multi family	\$45/FF
	• Commercial, Industrial, Institutional	\$45/FF
	• DMU, Arterials with Retail, Sales, and Service	\$60/FF
	**SF Computation where applicable	
<u>B. Reconstruction</u>		
1. Local & collector streets	Assessments capped per zoning class	Balance - Street Rehab
	• Single family Local -	\$75/FF
	• Multi family	\$188/FF
	• Commercial, Industrial, Institutional	\$188/FF
	• DMU, Arterials with Retail, Sales, and Service	\$250/FF

FARGO'S
 ASSESSMENTS
 ARE BASED ON
 ZONING NOT
 STATE TAX
 CLASSIFICATION



*Costs include final paving, traffic Signals, seal coat, and street lights

7.5
 HB 1392
 3.11.15

Fargo Infrastructure Funding Policy
 Approval Date (TBD)
 Revised 12/02/13

2. Arterial streets

Arterial Street Assessment bands		
Direct frontage benefit		
Assessments capped by land use		Balance - Federal & Sales Tax
• Single family	\$50/FF	
• Multi family	\$188/FF	
• Commercial, Industrial, Institutional	\$188/FF	
• DMU, Arterials with Retail, Sales, and Service	\$250/FF	
Secondary benefit**		
Assessments capped by zoning class		
• Single family	\$15/FF	Balance - Federal & Sales Tax
• Multi family	\$30/FF	
• Commercial, Industrial, Institutional	\$30/FF	
• DMU, Arterials with Retail, Sales, and Service	\$60/FF	
**SF Computation where applicable		

C. Street Rehabilitation

1. Mill & overlay	50% Special Assessed	50% Sales Tax/Street Rehab
2. Seal coat only	N/A	100% Sales Tax/Street Rehab

D. Structures

Interchanges, Bridges, Overpasses, Underpasses	• Multi family	\$0.015/SF	Federal, Sales Tax
	• Limited/General Commercial/DMU	Capped at \$0.03/SF	Federal, Sales Tax

7.6
HB 1392
3.11.15

~

V. STREET LIGHTS	Amount Special Assessed	City & Federal Funds
<u>A. New Development</u>		
	100% Special Assessed	N/A
<u>B. Replacement</u>		
1. With street reconstruction	50% Special Assessed	50% Sales Tax, Street Rehab
2. Street light replacement only	100% Special Assessed	N/A

7.7
HB 1392
3.11.15

Fargo Infrastructure Funding Policy
Approval Date (TBD)
Revised 12/02/13

VI. SIDEWALKS	Amount Special Assessed	City & Federal Funds
<u>A. New Development</u>		
1. Collector	100% Special Assessed	
2. Local streets front yard	Private Installation or 100% special assessed on City Order Contract	
3. Local streets side/rear yard	100% with paving	
<u>B. Reconstruction</u>		
1. Front yards	100% Special Assessed	
2. Rear yard and side yard		
Single Family	N/A	Sales Tax, Street Rehab
All Others	100% Special Assessed	N/A
3. Curb approach walks at public Cross Walks	N/A	Sales Tax, Street Rehab

7.8
HB 1392
3.11.15

Fargo Infrastructure Funding Policy
Approval Date (TBD)
Revised 12/02/13

VII. SHARED USE PATHS	Amount Special Assessed	City & Federal Funds
<u>A. New Development</u>		
1. New Construction-Shared Use Path	Direct Assess equivalent to sidewalk Balance Assessed to the Area	N/A
2. Special trails	Funding set up on a per District or area basis sources to include assessments	Federal, Sales Tax
<u>B. Reconstruction</u>		
	N/A	100% Federal, Sales Tax, Street Rehab
<u>C. Structures, Bridges, Underpass, etc.</u>		
1. River Crossings	N/A	Federal, Sales Tax
	Funding set up on a per District or area basis sources to include assessments (up to 100% of local share).	
2. Non River Crossings		Federal, Sales Tax, Street Rehab

7.9
HB 1392
3.11.15

Fargo Infrastructure Funding Policy
Approval Date (TBD)
Revised 12/02/13

VIII. TRAFFIC SIGNALS	Amount Special Assessed	City & Federal Funds
<u>A. Independent Project</u>	70% Special Assessed	30% Sales Tax/Street Rehab
<u>B. As Part of Street Construction & Reconstruction</u>	N/A	Federal & Sales Tax
<u>C. Pedestrian Cross Walk and Other Safety Improvements</u>	up to 100% Special Assessment	Federal & Sales Tax (if available)

7.10
HB 1392
3.11.15

Fargo Infrastructure Funding Policy
Approval Date (TBD)
Revised 12/02/13

IX. TREE PLANTING	Amount Special Assessed	City & Federal Funds
<u>A. Local/Collector Streets</u>	N/A Privately installed & financed per ordinance	N/A
<u>B. Arterial Streets</u>	N/A	100% Sales Tax

7.11
HBI 392
3.11.15

Fargo Infrastructure Funding Policy
Approval Date (TBD)
Revised 12/02/13

X. ALLEY PAVING	Amount Special Assessed	City & Federal Funds
<u>A. New Pavement</u>	100% Special Assessed by Petition	N/A
<u>B. Alley Rehab or Replacement</u>	Capped at cost of New Pavement	Street Rehab, Sales Tax

1.12
HHS 1392
3.11.15

Fargo Infrastructure Funding Policy
Approval Date (TBD)
Revised 12/02/13

XI. RAIL ROAD CROSSING IMPROVEMENTS	Amount Special Assessed	City & Federal Funds
<u>A. Reconstruction</u>	N/A	Street Rehab
<u>B. Quiet Zone</u>	Direct Benefit to Commercial & MR capped at \$0.05	Balance Street Rehab or Sales Tax
	Direct Benefit to SR capped at \$0.03 Secondary Benefit all uses capped at \$0.01	Balance Street Rehab or Sales Tax
		Balance Street Rehab or Sales Tax

8
461392
3.11.15

yellow - Court
blue - approx district
Policy - you pay for
the maint of 1/2 of
the street.

- NO IMPROVEMENTS WITHIN THE COURT.
- IF COURT HAD BEEN A SF SUBDIVISION THEY WOULD NOT
- DISTRICT BOUNDARY WAS MANIPULATED TO INCLUDE COURT. - 315'
- THE DOUBLING FACTOR ALLOWED EVEN MORE OF THE COST TO BE TRANSFERRED
- CENTURY AVE



Testimony of Bill Wocken
House Bill 1392
Senate Finance and Taxation Committee
March 11, 2015

Mr. Chairman and Members of the Senate Finance and Taxation Committee:

My name is Bill Wocken. I am City Administrator for the City of Bismarck. I am speaking in opposition to House Bill 1392 with the consent of the Bismarck City Commission.

House Bill 1392 seeks to amend the special assessment portion of the Century Code to specify that property within a mobile home park may not be assessed for an improvement at a rate greater than single family residential property in that same improvement district.

There are basically two types of special assessments to which this would apply: stormwater districts and surface improvement districts (road, curb and gutter, lighting, etc.) Let's look first at the stormwater districts. They are assessed on the basis of the square footage of the property. Square footage is used as an assessment basis since rain is presumed to fall evenly over a large area. In Bismarck commercial property is assessed at a "two times" factor while single family residences are assessed at a "one times" factor. The commercial rate is twice the residential rate.

Property that fits into the commercial category includes businesses, multi-family housing and mobile home parks. This classification mirrors the state law classification of properties for taxation purposes. The reason the "two times" factor is applied to the commercial property is because of the coverage of the land by impervious surfaces. There is much more impervious surface in a commercial lot than in a single family residential lot where lot coverage is a maximum of 30% of the site. Simply put, the open space on the residential lot stores some of the stormwater so that it reaches ponds and catch basins much later than runoff from roofs and parking lots, if it gets there at all. The cost of stormwater management is largely related to the size of the facilities constructed. Commercial lots add to that size requirement dramatically due to their characteristic rapid runoff.

9.2
HB 1392
3.11.15

Surface improvements like roads are assessed on a front foot basis (frontage of the lot). Bismarck chooses this assessment metric since special assessments must be levied against property, not people. The commercial assessment rate is based on the frontage of the entire property on the improvement, like a road, that is being constructed. The density of a multiple family area or a mobile home park means there will be more use of the improvement per acre from commercially classified areas than from less densely developed single family zones.

In a recent district involving a mobile home park and a single family neighborhood the mobile home park was assessed an amount that would equate to \$1,174.88 per lot while a smaller single family lot in the district paid \$1,380.82 for a 73 foot frontage and an 80.5 foot lot was assessed \$1,845.11. Mobile home parks have small private streets so the lower cost for the mobile home park property is not of concern to the city. Mobile homes are not assessed directly.

On the process side, the City of Bismarck has a written set of policies used to levy its special assessments. Each winter we review the policies and ask the City Commission to review areas that might be adjusted for better and more equitable assessments. If a citizen is unhappy with their special assessment we first offer to meet with them as staff. If that is not successful they are free to appear before the Special Assessment Commission to discuss the equity of the district's assessments. If the citizen is not satisfied with the Special Assessment Commission's judgment they can appear before the City Commission. Judicial remedies exist beyond the Commission.

Mr. Chairman and Committee Members, the city requests a "Do Not Pass" recommendation on House Bill 1392. I believe I have shown that we have a universal process that is followed for all parcels in the city. I believe the formula in the process offers equity to all classes of lots and I believe the appeal process is fair and easy to access. I think in this case the city is better able to guarantee equity than a state statute that singles out one class of property for special treatment. I am not sure which class of property will ask for special treatment next but passage of this legislation is likely to set a precedent. I would ask you for a "Do Not Pass" recommendation on House Bill 1392 and I will stand for questions from the committee.

9.3
HB 1392
3.11.15

Testimony of Bill Wocken
House Bill 1392
Senate Finance and Taxation Committee
March 11, 2015

Mr. Chairman and Members of the Senate Finance and Taxation Committee:

My name is Bill Wocken. I am City Administrator for the City of Bismarck. I am speaking in opposition to House Bill 1392 with the consent of the Bismarck City Commission.

House Bill 1392 seeks to amend the special assessment portion of the Century Code to specify that property within a mobile home park may not be assessed for an improvement at a rate greater than single family residential property in that same improvement district.

There are basically two types of special assessments to which this would apply: stormwater districts and surface improvement districts (road, curb and gutter, lighting, etc.) Let's look first at the stormwater districts. They are assessed on the basis of the square footage of the property. Square footage is used as an assessment basis since rain is presumed to fall evenly over a large area. In Bismarck commercial property is assessed at a "two times" factor while single family residences are assessed at a "one times" factor. The commercial rate is twice the residential rate.

Property that fits into the commercial category includes businesses, multi-family housing and mobile home parks. This classification mirrors the state law classification of properties for taxation purposes. The reason the "two times" factor is applied to the commercial property is because of the coverage of the land by impervious surfaces. There is much more impervious surface in a commercial lot than in a single family residential lot where lot coverage is a maximum of 30% of the site. Simply put, the open space on the residential lot stores some of the stormwater so that it reaches ponds and catch basins much later than runoff from roofs and parking lots, if it gets there at all. The cost of stormwater management is largely related to the size of the facilities constructed. Commercial lots add to that size requirement dramatically due to their characteristic rapid runoff.

9.4
HB 1392
3.11.15

Surface improvements like roads are assessed on a front foot basis (frontage of the lot). Bismarck chooses this assessment metric since special assessments must be levied against property, not people. The commercial assessment rate is based on the frontage of the entire property on the improvement, like a road, that is being constructed. The density of a multiple family area or a mobile home park means there will be more use of the improvement per acre from commercially classified areas than from less densely developed single family zones.

In a recent district involving a mobile home park and a single family neighborhood the mobile home park was assessed an amount that would equate to \$1,174.88 per lot while a smaller single family lot in the district paid \$1,380.82 for a 73 foot frontage and an 80.5 foot lot was assessed \$1,845.11. Mobile home parks have small private streets so the lower cost for the mobile home park property is not of concern to the city. Mobile homes are not assessed directly.

On the process side, the City of Bismarck has a written set of policies used to levy its special assessments. Each winter we review the policies and ask the City Commission to review areas that might be adjusted for better and more equitable assessments. If a citizen is unhappy with their special assessment we first offer to meet with them as staff. If that is not successful they are free to appear before the Special Assessment Commission to discuss the equity of the district's assessments. If the citizen is not satisfied with the Special Assessment Commission's judgment they can appear before the City Commission. Judicial remedies exist beyond the Commission.

Mr. Chairman and Committee Members, the city requests a "Do Not Pass" recommendation on House Bill 1392. I believe I have shown that we have a universal process that is followed for all parcels in the city. I believe the formula in the process offers equity to all classes of lots and I believe the appeal process is fair and easy to access. I think in this case the city is better able to guarantee equity than a state statute that singles out one class of property for special treatment. I am not sure which class of property will ask for special treatment next but passage of this legislation is likely to set a precedent. I would ask you for a "Do Not Pass" recommendation on House Bill 1392 and I will stand for questions from the committee.

9.5
HB 1392
3.11.15

Testimony of Bill Wocken
House Bill 1392
Senate Finance and Taxation Committee
March 11, 2015

Mr. Chairman and Members of the Senate Finance and Taxation Committee:

My name is Bill Wocken. I am City Administrator for the City of Bismarck. I am speaking in opposition to House Bill 1392 with the consent of the Bismarck City Commission.

House Bill 1392 seeks to amend the special assessment portion of the Century Code to specify that property within a mobile home park may not be assessed for an improvement at a rate greater than single family residential property in that same improvement district.

There are basically two types of special assessments to which this would apply: stormwater districts and surface improvement districts (road, curb and gutter, lighting, etc.) Let's look first at the stormwater districts. They are assessed on the basis of the square footage of the property. Square footage is used as an assessment basis since rain is presumed to fall evenly over a large area. In Bismarck commercial property is assessed at a "two times" factor while single family residences are assessed at a "one times" factor. The commercial rate is twice the residential rate.

Property that fits into the commercial category includes businesses, multi-family housing and mobile home parks. This classification mirrors the state law classification of properties for taxation purposes. The reason the "two times" factor is applied to the commercial property is because of the coverage of the land by impervious surfaces. There is much more impervious surface in a commercial lot than in a single family residential lot where lot coverage is a maximum of 30% of the site. Simply put, the open space on the residential lot stores some of the stormwater so that it reaches ponds and catch basins much later than runoff from roofs and parking lots, if it gets there at all. The cost of stormwater management is largely related to the size of the facilities constructed. Commercial lots add to that size requirement dramatically due to their characteristic rapid runoff.

9.6
HB1392
3.11.15

Surface improvements like roads are assessed on a front foot basis (frontage of the lot). Bismarck chooses this assessment metric since special assessments must be levied against property, not people. The commercial assessment rate is based on the frontage of the entire property on the improvement, like a road, that is being constructed. The density of a multiple family area or a mobile home park means there will be more use of the improvement per acre from commercially classified areas than from less densely developed single family zones.

In a recent district involving a mobile home park and a single family neighborhood the mobile home park was assessed an amount that would equate to \$1,174.88 per lot while a smaller single family lot in the district paid \$1,380.82 for a 73 foot frontage and an 80.5 foot lot was assessed \$1,845.11. Mobile home parks have small private streets so the lower cost for the mobile home park property is not of concern to the city. Mobile homes are not assessed directly.

On the process side, the City of Bismarck has a written set of policies used to levy its special assessments. Each winter we review the policies and ask the City Commission to review areas that might be adjusted for better and more equitable assessments. If a citizen is unhappy with their special assessment we first offer to meet with them as staff. If that is not successful they are free to appear before the Special Assessment Commission to discuss the equity of the district's assessments. If the citizen is not satisfied with the Special Assessment Commission's judgment they can appear before the City Commission. Judicial remedies exist beyond the Commission.

Mr. Chairman and Committee Members, the city requests a "Do Not Pass" recommendation on House Bill 1392. I believe I have shown that we have a universal process that is followed for all parcels in the city. I believe the formula in the process offers equity to all classes of lots and I believe the appeal process is fair and easy to access. I think in this case the city is better able to guarantee equity than a state statute that singles out one class of property for special treatment. I am not sure which class of property will ask for special treatment next but passage of this legislation is likely to set a precedent. I would ask you for a "Do Not Pass" recommendation on House Bill 1392 and I will stand for questions from the committee.

10.
NB1392
3.11.15

Northeast Bismarck Special Assessment
Street Maintenance project
Patch, overlay, chipseal
Costs assessed based on front footage of lots

An aerial map of the project area is provided to show the physical layout of the area and how the mobile home court streets flow into the streets in the area.

Map 1 shows the district boundaries for Unit 2. These boundaries were chosen because they logically define who uses the streets in this area. Streets to be included in the project were chosen by age of paving and condition. Please note, as a person moves east they are increasingly unlikely to use the west entrance to the mobile home park. Therefore, the east end of the park was not included in this district. The east end of the park will be assessed as other public streets leading to that end of the park are maintained.

Map 2 shows the work performed under this project. The pink colored streets were all maintained with patch, overlay and chipseal as their conditions warranted.

On Map 3 you will note the mobile home court was not charged for the frontage of all its streets but only for 315 feet of frontage. That is the distance from the edge of the public street, South Arlington Drive, east of Colonial Drive to the main mobile home court street, Patriot Drive. This distance was chosen to make the assessment for the court reasonable for its use.

Enclosure 4 shows the benefiting properties included in this district. I have masked the owners and addresses but each entry in column 1 is a distinct ownership. Please note the mobile home park has only one entry. It is the third parcel from the top of the page. Please note the average frontage of the single family lots (mostly 60-65 foot frontages).

Enclosure 4 shows the computation used to derive the total special assessments for individual properties (third last column on the right). Please note the city underwrites 25% of the district cost to reduce the impact of these projects.

Enclosure 5 is the city special assessment policy. Page 5 of 5 describes the adjustment principle used to arrive at the 315 foot frontage used for the mobile home cost computation.

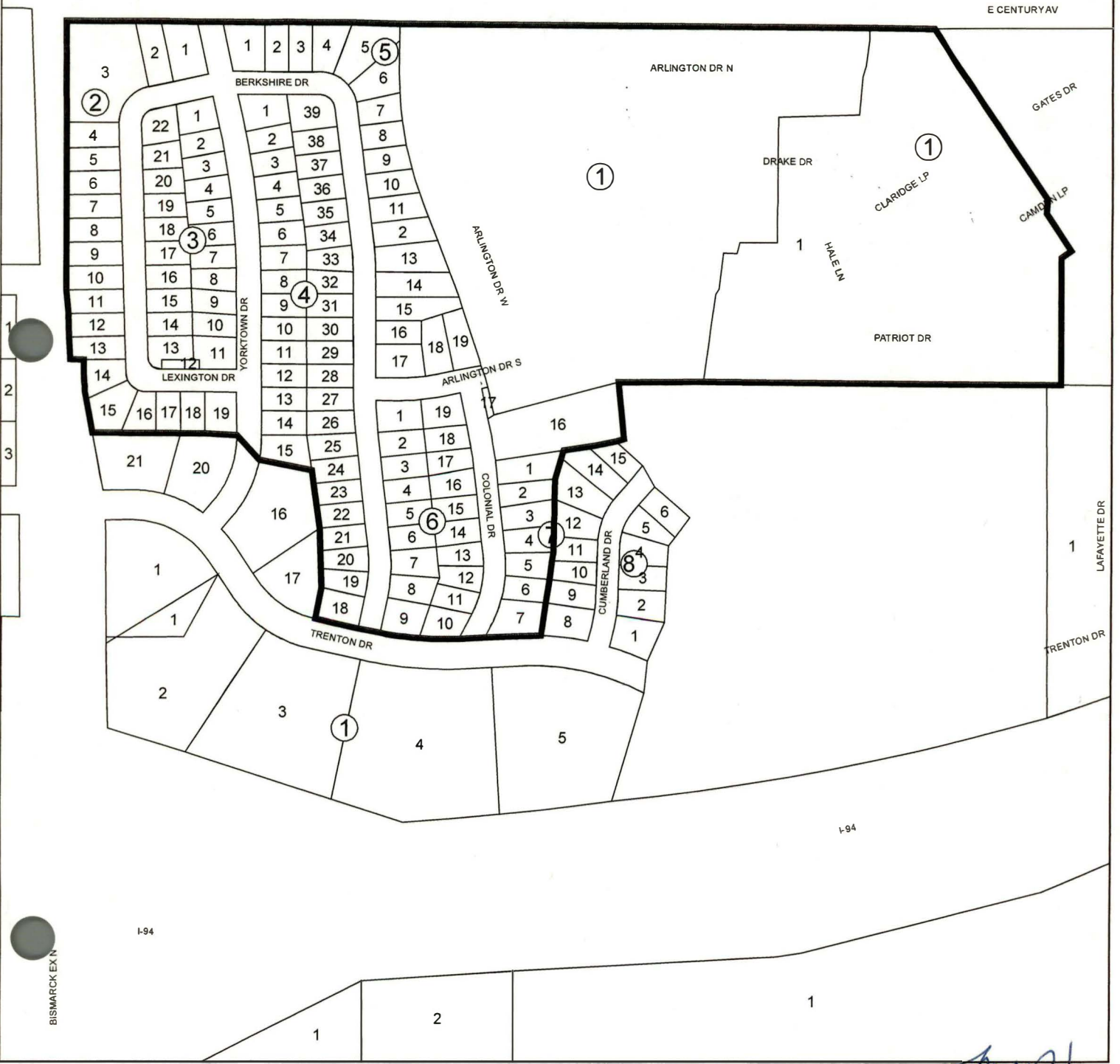
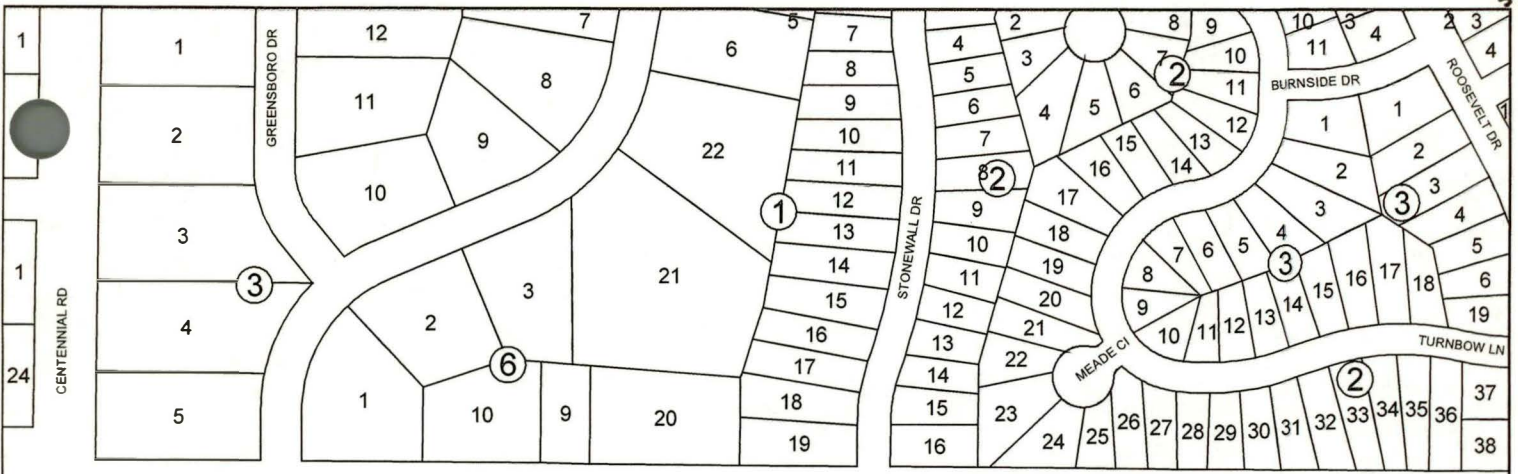
Costs: Average small single family residential lot with 60 feet of frontage = \$899.01
Cost for the mobile home court = \$9,439.63 (when split for 183 units = \$51.58 each)

10.2
HB
1392
3.11.5

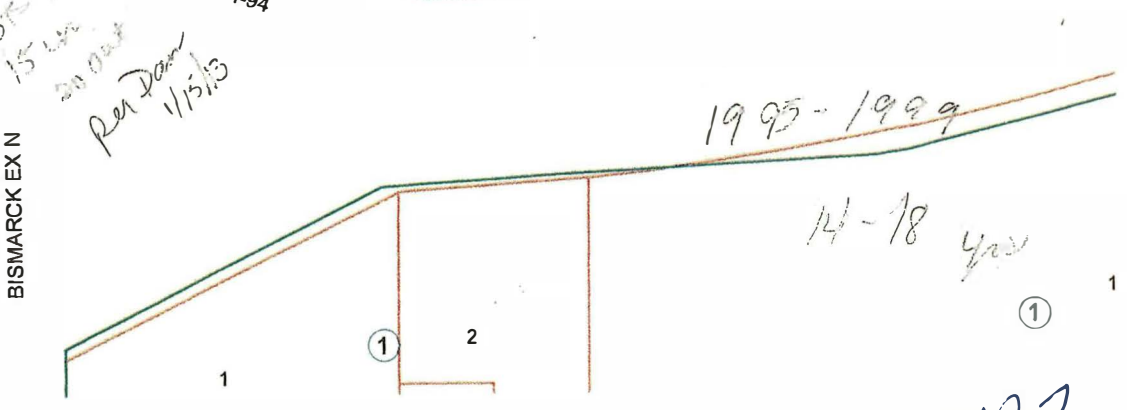
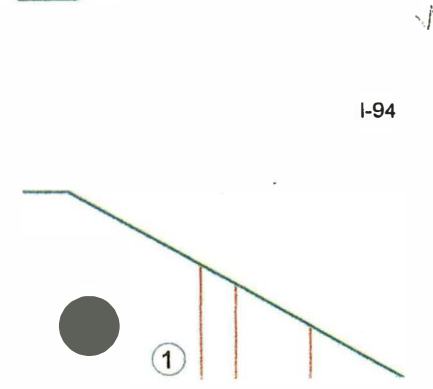
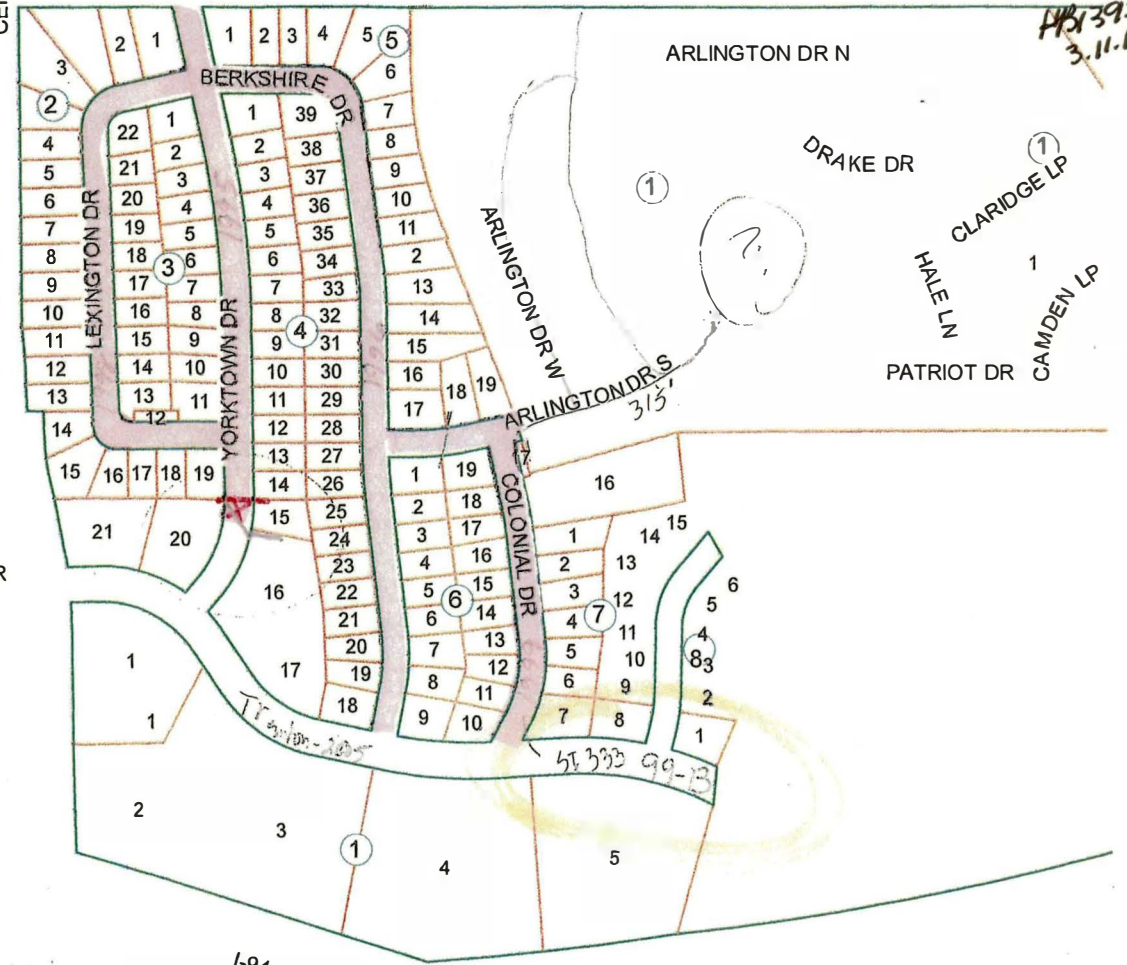
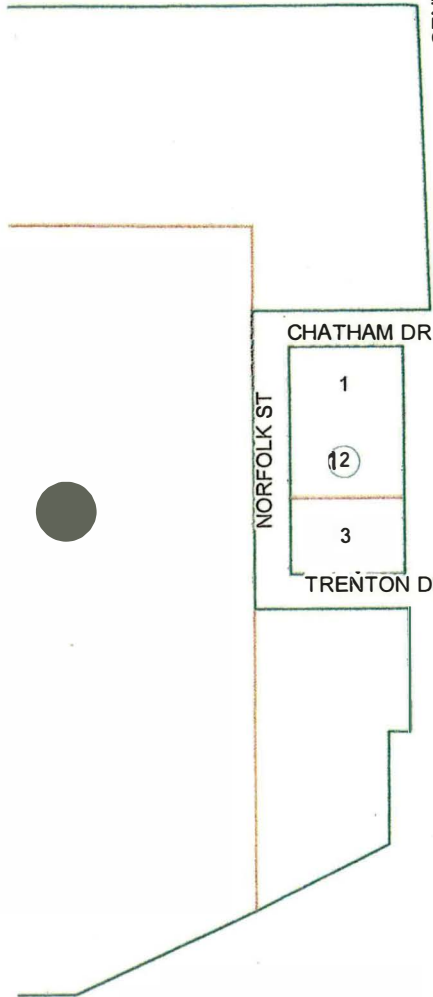
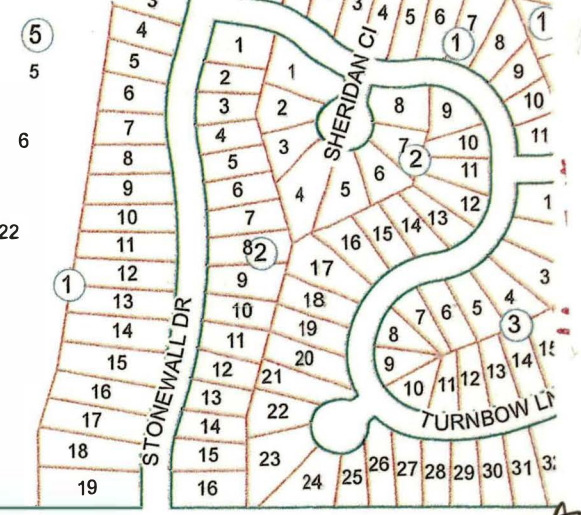
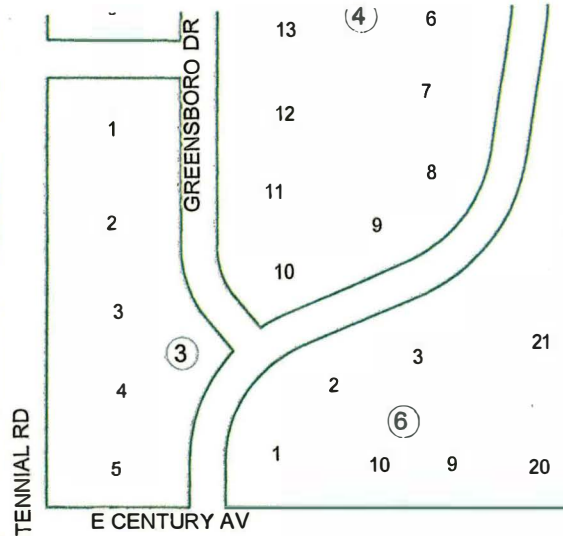
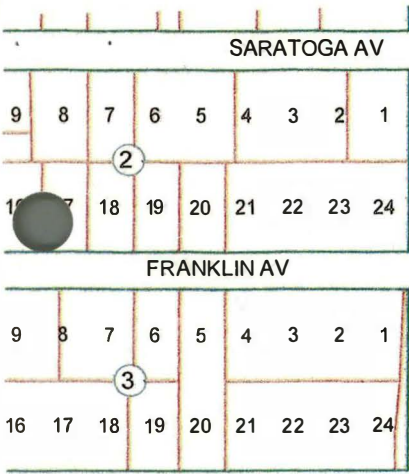


SI 459 UNIT 2

10.3
MS 1392
3.11.05

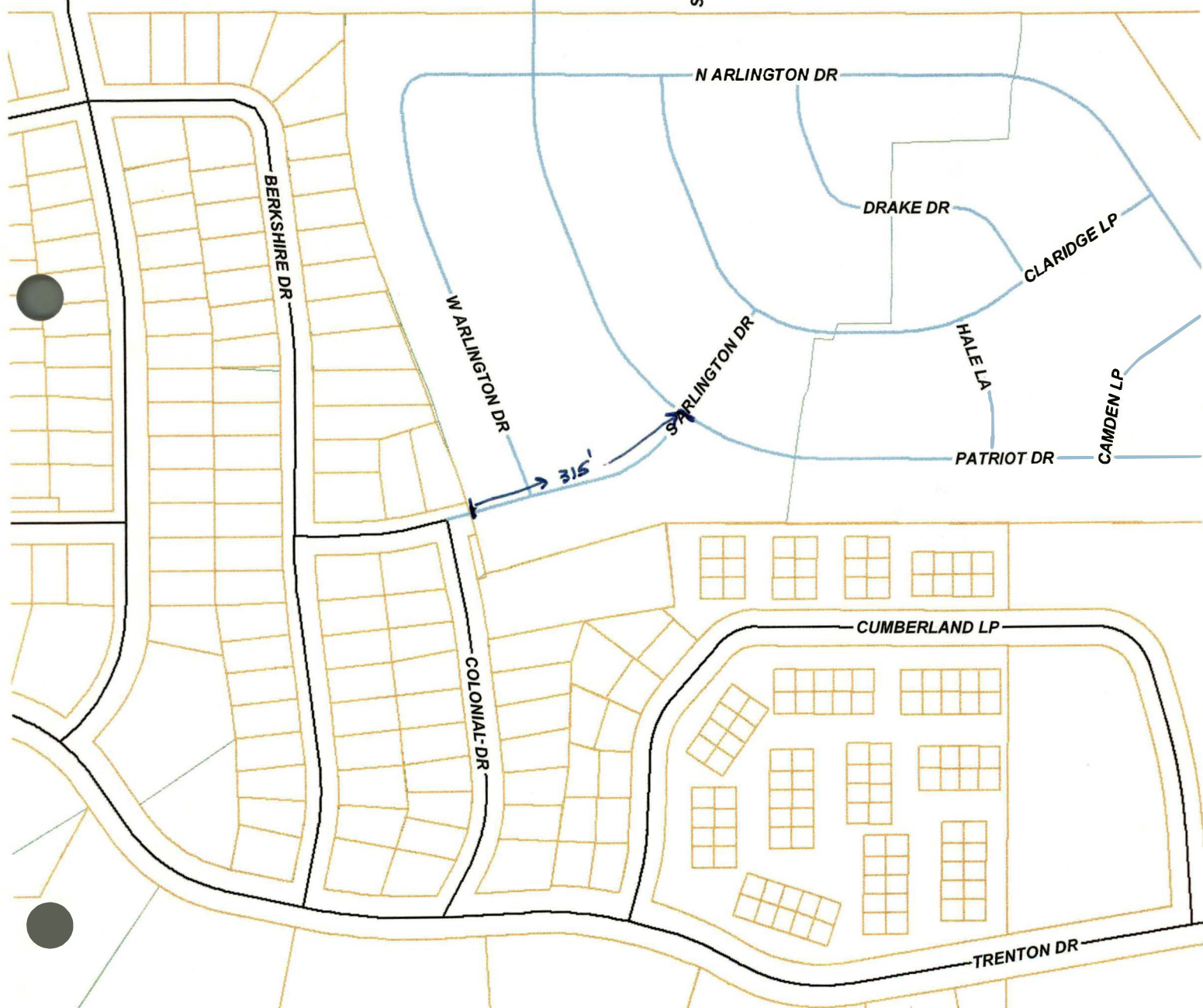
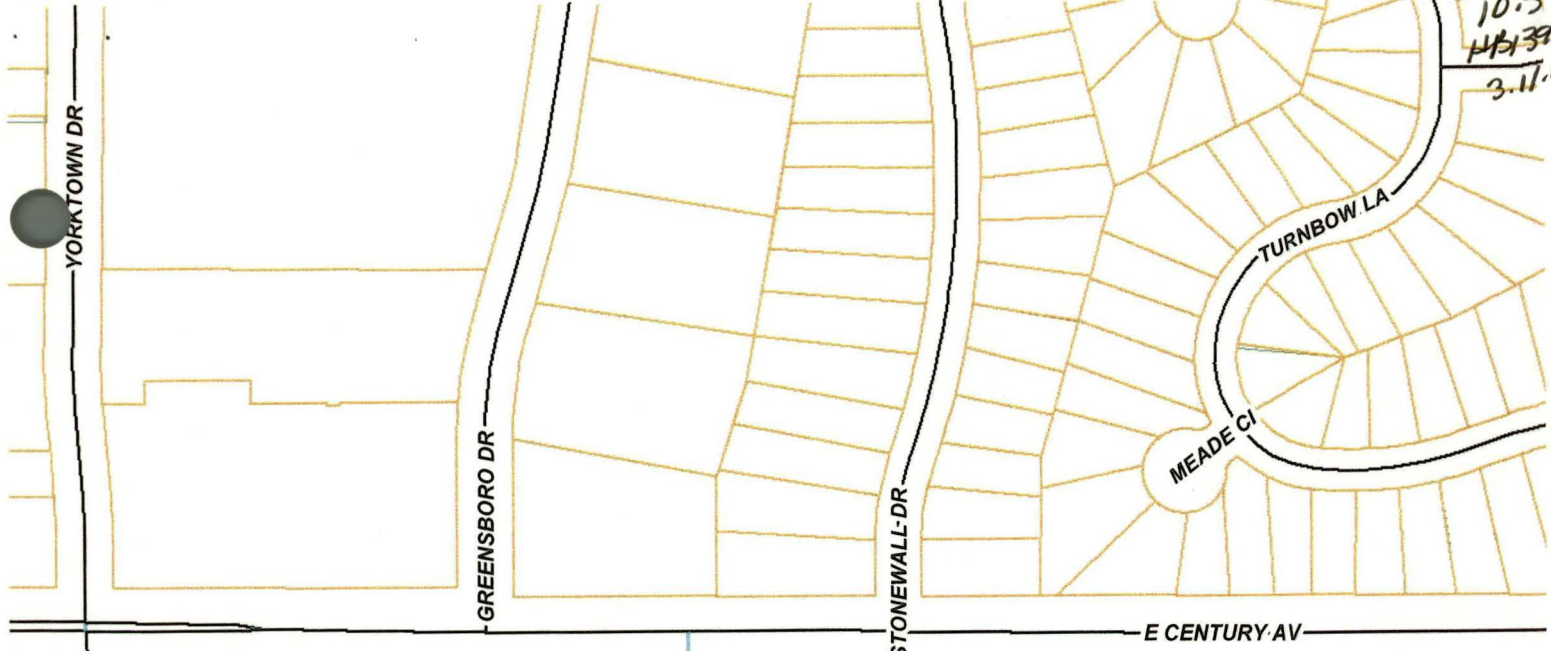


MAP 1



MAP 2
Unit # 2

10.5
H1392
3.11.15



map 3

10.6
 MS 1312
 3.11.15

Property_Id_Ni	Property_Address	Land_F	Owner_Name	Bldg	Zonin	Lot_Front	Lot_SF	R/medFF	2 or1	Adj	Factor	118,173.62	25% subsidy	Concrete	Concrete Off	Total	LETTERS	
													0.75	7,309.39	1.14699	Assessment	Range to +	1.25
1054				RESID	25	2,500		0.40	2	1	0.81	\$ 998.90	\$ 749.18			\$ 749.18	\$ 900	\$ 1,125
1054				RESID	123	47,993		1.98	2	1	3.97	\$ 4,914.60	\$ 3,685.95			\$ 3,685.95	\$ 4,400	\$ 5,500
1150				MOI RES V	315	1,559,171		5.08	2	1	10.16	\$ 12,586.17	\$ 9,439.63			\$ 9,439.63	\$ 11,300	\$ 14,125
1054				SINC RESID	93	14,259		1.50	1	1	1.50	\$ 1,857.96	\$ 1,393.47	\$ 272.46	\$ 312.51	\$ 1,705.98	\$ 1,700	\$ 2,125
1054				SINC RESID	67.15	11,236		1.08	1	1	1.08	\$ 1,341.53	\$ 1,006.14			\$ 1,006.14	\$ 1,200	\$ 1,500
1054				SINC RESID	62	19,117		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98			\$ 928.98	\$ 1,100	\$ 1,375
1054				SINC RESID	61	18,810		0.98	1	1	0.98	\$ 1,218.66	\$ 914.00			\$ 914.00	\$ 1,100	\$ 1,375
1054				SINC RESID	56	9,353		0.90	1	1	0.90	\$ 1,118.77	\$ 839.08			\$ 839.08	\$ 1,000	\$ 1,250
1054				SINC RESID	64	8,439		1.03	1	1	1.03	\$ 1,278.60	\$ 958.95			\$ 958.95	\$ 1,100	\$ 1,375
1054				SINC RESID	62	7,910		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98			\$ 928.98	\$ 1,100	\$ 1,375
1054				SINC RESID	62	7,890		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98	\$ 448.73	\$ 514.69	\$ 1,443.67	\$ 1,100	\$ 1,375
1054				SINC RESID	62	7,870		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98			\$ 928.98	\$ 1,100	\$ 1,375
1054				SINC RESID	62	7,850		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98			\$ 928.98	\$ 1,100	\$ 1,375
1054				SINC RESID	62	7,829		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98			\$ 928.98	\$ 1,100	\$ 1,375
1054				SINC RESID	62	7,809		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98			\$ 928.98	\$ 1,100	\$ 1,375
1054				SINC RESID	62	7,789		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98			\$ 928.98	\$ 1,100	\$ 1,375
1054				SINC RESID	62	7,769		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98	\$ 71.07	\$ 81.52	\$ 1,010.50	\$ 1,100	\$ 1,375
1054				SINC RESID	62	7,529		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98			\$ 928.98	\$ 1,100	\$ 1,375
1054				SINC RESID	69	8,338		1.11	1	1	1.11	\$ 1,378.49	\$ 1,033.86			\$ 1,033.86	\$ 1,200	\$ 1,500
1054				SINC RESID	63	12,032		1.02	1	1	1.02	\$ 1,258.62	\$ 943.96			\$ 943.96	\$ 1,100	\$ 1,375
1054				SINC RESID	60	7,801		0.97	1	1	0.97	\$ 1,198.68	\$ 899.01	\$ 691.18	\$ 792.78	\$ 1,691.79	\$ 1,100	\$ 1,375
1054				SINC RESID	65	7,044		1.05	1	1	1.05	\$ 1,298.57	\$ 973.93			\$ 973.93	\$ 1,200	\$ 1,500
1054				SINC RESID	65	7,053		1.05	1	1	1.05	\$ 1,298.57	\$ 973.93			\$ 973.93	\$ 1,200	\$ 1,500
1054				SINC RESID	85	9,408		1.37	1	1	1.37	\$ 1,698.13	\$ 1,273.60			\$ 1,273.60	\$ 1,500	\$ 1,875
1054				SINC RESID	85	8,713		1.37	1	1	1.37	\$ 1,698.13	\$ 1,273.60			\$ 1,273.60	\$ 1,500	\$ 1,875
1054				SINC RESID	62.01	7,002		1.00	1	1	1.00	\$ 1,238.84	\$ 929.13			\$ 929.13	\$ 1,100	\$ 1,375
1054				SINC RESID	62	7,078		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98			\$ 928.98	\$ 1,100	\$ 1,375
1054				SINC RESID	62	7,256		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98	\$ 618.37	\$ 709.26	\$ 1,638.24	\$ 1,100	\$ 1,375
1054				SINC RESID	62	7,325		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98	\$ 1,908.51	\$ 2,189.04	\$ 3,118.02	\$ 1,100	\$ 1,375
1054				SINC RESID	60.97	7,168		0.98	1	1	0.98	\$ 1,218.06	\$ 913.55			\$ 913.55	\$ 1,100	\$ 1,375
1054				SINC RESID	61	7,149		0.98	1	1	0.98	\$ 1,218.66	\$ 914.00			\$ 914.00	\$ 1,100	\$ 1,375
1054				SINC RESID	62.14	7,334		1.00	1	1	1.00	\$ 1,241.44	\$ 931.08			\$ 931.08	\$ 1,100	\$ 1,375
1054				SINC RESID	60	7,155		0.97	1	1	0.97	\$ 1,198.68	\$ 899.01			\$ 899.01	\$ 1,100	\$ 1,375
1054				SINC RESID	60	7,061		0.97	1	1	0.97	\$ 1,198.68	\$ 899.01			\$ 899.01	\$ 1,100	\$ 1,375
1054				SINC RESID	85	9,467		1.37	1	1	1.37	\$ 1,698.13	\$ 1,273.60			\$ 1,273.60	\$ 1,500	\$ 1,875
1054				SINC RESID	63	8,186		1.02	1	1	1.02	\$ 1,258.62	\$ 943.96	\$ 331.90	\$ 380.69	\$ 1,324.65	\$ 1,100	\$ 1,375
1054				SINC RESID	62	7,440		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98			\$ 928.98	\$ 1,100	\$ 1,375
1054				SINC RESID	62	7,440		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98	\$ 518.45	\$ 594.66	\$ 1,523.64	\$ 1,100	\$ 1,375
1054				SINC RESID	62	7,440		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98			\$ 928.98	\$ 1,100	\$ 1,375
1054				SINC RESID	62	7,431		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98			\$ 928.98	\$ 1,100	\$ 1,375
1054				SINC RESID	62	7,237		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98			\$ 928.98	\$ 1,100	\$ 1,375
1054				SINC RESID	63	7,080		1.02	1	1	1.02	\$ 1,258.62	\$ 943.96			\$ 943.96	\$ 1,100	\$ 1,375
1054				SINC RESID	63	7,014		1.02	1	1	1.02	\$ 1,258.62	\$ 943.96	\$ 395.95	\$ 454.15	\$ 1,398.11	\$ 1,100	\$ 1,375
1054				SINC RESID	66	7,001		1.06	1	1	1.06	\$ 1,318.55	\$ 988.91	\$ 71.07	\$ 81.52	\$ 1,070.43	\$ 1,200	\$ 1,500
1054				SINC RESID	91	8,888		1.47	1	1	1.47	\$ 1,818.00	\$ 1,363.50			\$ 1,363.50	\$ 1,600	\$ 2,000
1054				SINC RESID	91	10,672		1.47	1	1	1.47	\$ 1,818.00	\$ 1,363.50			\$ 1,363.50	\$ 1,600	\$ 2,000
1054				SINC RESID	64.68	7,713		1.04	1	1	1.04	\$ 1,292.18	\$ 969.14			\$ 969.14	\$ 1,200	\$ 1,500
1054				SINC RESID	61	7,320		0.98	1	1	0.98	\$ 1,218.66	\$ 914.00	\$ 151.80	\$ 174.11	\$ 1,088.11	\$ 1,100	\$ 1,375
1054				SINC RESID	61	7,276		0.98	1	1	0.98	\$ 1,218.66	\$ 914.00	\$ 409.26	\$ 469.42	\$ 1,383.41	\$ 1,100	\$ 1,375
1054				SINC RESID	61	7,356		0.98	1	1	0.98	\$ 1,218.66	\$ 914.00	\$ 289.27	\$ 331.79	\$ 1,245.79	\$ 1,100	\$ 1,375
1054				SINC RESID	61	7,562		0.98	1	1	0.98	\$ 1,218.66	\$ 914.00	\$ 124.78	\$ 143.12	\$ 1,057.12	\$ 1,100	\$ 1,375
1054				SINC RESID	61	7,624		0.98	1	1	0.98	\$ 1,218.66	\$ 914.00	\$ 653.02	\$ 749.01	\$ 1,663.00	\$ 1,100	\$ 1,375
1054				SINC RESID	60.79	7,442		0.98	1	1	0.98	\$ 1,214.47	\$ 910.85			\$ 910.85	\$ 1,100	\$ 1,375
1054				SINC RESID	62	7,440		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98			\$ 928.98	\$ 1,100	\$ 1,375
1054				SINC RESID	62	7,440		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98			\$ 928.98	\$ 1,100	\$ 1,375
1054				SINC RESID	62	7,440		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98			\$ 928.98	\$ 1,100	\$ 1,375
1054				SINC RESID	62	7,440		1.00	1	1	1.00	\$ 1,238.64	\$ 928.98			\$ 928.98	\$ 1,100	\$ 1,375

Enclosure

10.7
HB 1392
3.11.15

BASIS OF SPECIAL ASSESSMENTS

Special Assessments is the method the City uses to pay for public improvements that affect benefiting properties. The costs of the improvement are allocated to the parcels/lots that benefit from these improvements.

1. Special Assessment Districts

A. Storm Water

- Cost allocation based on parcel/lot Square Footage.
- District boundaries are determined by watershed areas.
- Coulees, Detention Ponds, and other nondevelopable lots are not assessed for storm water.
- For Regional Storm Water, Utility assumes cost for unannexed property via assessment to City owned parcel. This cost is held in abeyance and assessed in a continuous district to previously unannexed land when the land is subsequently annexed. (See Continuous Districts below).
 - Factor applied to unannexed property should coincide with the Comprehensive Land Use Plan.

B. Street Lights

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn to include properties that abut the improvement.
- City considers installing street lights when 50% of lots developed or sooner if transportation safety issues exists.
- Corner lots only pay a 1/2 street light assessment for each side of the lot.

C. Streets

1. Local Streets

- a. *New Pavement/Reconstruction/Resurfacing - patch, level, mill & overlay, chip seal*
- Cost allocation based on parcel/lot Front Footage.
 - Boundaries are drawn to include properties that abut the improvement.
 - Corner lots are assessed based on one side frontage and are assessed at a rate of 1/2 if only one street abutting the lot is being improved.

2. Collector Streets

- a. *New Pavement/Reconstruction/Resurfacing - patch, level, mill & overlay, chip seal*
- Cost allocation based on parcel/lot Front Footage.
 - Boundaries are drawn to include properties that abut the improvement.
 - Corner lots are assessed based on one side frontage and are assessed at a rate of 1/2 if only one street abutting the lot is being improved.
 - In non-commercial zoned areas, city assumes cost to construct a street wider than 37 feet and thicker than local roadway design.
 - Balance is assessed.

10.8
HB 1392
3.11.15

3. Arterial Streets

a. New Pavement/Reconstruction

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn to include abutting properties (direct benefit) and those in the area half way to the next arterial (secondary benefit).
- Direct benefit would be an assessment equivalent to new pavement assessment on a local street plus a share of secondary benefit as all parcels/lots pay for a local street plus a portion of an arterial street.
- Secondary benefit would be proportionate amount of the direct benefit.
- Corner lots are assessed based on one side frontage and are assessed at a rate of 1/2 if only one street abutting the lot is being improved.
- In non-commercial zoned areas, city assumes cost to construct a street wider than 37 feet and thicker than local roadway design. Commercial zoned areas are assessed full width and depth costs.
- Balance of cost less assessments funded by other City resources.

b. Resurfacing - patch, level, mill & overlay, chip seal

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn to include properties that abut the improvement.
- Assessment to be proportionate with assessment for typical local street resurfacing assessment. (i.e. 60% of typical local street resurfacing assessment due to arterials requiring resurfacing more frequently than local streets.)
- Corner lots are assessed based on one side frontage and are assessed at a rate of 1/2 if only one street abutting the lot is being improved.
- In non-commercial zoned areas, city assumes cost to construct a street wider than 37 feet and thicker than local roadway design.
- Balance of cost less assessments funded by other City resources.

4. Hard Surface Street Projects - Revised 2/12/13

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn to include properties that abut the improvement.
- City subsidy of 55% provided.

5. Pavement Reconstruction with Ground Water Projects (with Subbase Drainage System) - Revised 2/12/13

- Cost allocation based on parcel/lot Front Footage.
- Boundaries are drawn in accordance with applicable street classification.
- City subsidy of 75% provided.
- Commercial zoned areas are assessed at two times the residential rate, plus a proportionate amount for full-width and extra-depth costs, where applicable.
- Balance of cost less assessments funded by other City resources.

10.9
HB 1392
3.11.15

6. Alleys (public alleys with existing asphalt or concrete pavement) - 2/12/13

- The full cost to pave, resurface, or reconstruct public alleys will be assessed proportionately, without subsidy, based on lot frontage/width, to properties that either abut the alley or have access to their property via the public alley.

D. Concrete Curb & Gutter/Sidewalk/Driveways (New and Repairs)

- Total cost assessed directly to individual parcels/lots.

E. Federal Aid Projects

- Parcels/lots included in Federal Aid projects are to be assessed equivalent to what they would have paid if federal funding not involved. (See Arterial Streets above.)

F. Water Mains

- Cost allocation based on parcel/lot Front Footage.
- Half the cost to install 8" water main for residential or 12" for commercial is calculated and then allocated to all parcels on the one side of improvement proportionately based on lot frontages. Same is done for the other side of improvement.
- City assumes cost of over size main installation.

G. Sewer Mains

- Cost allocation based on parcel/lot Front Footage.
- Half the cost to install 8" sewer main for residential or 10" for commercial is calculated and then allocated to all parcels on one side of improvement proportionately based on lot frontages. Same is done for the other side of improvement.
- City assumes cost of over size main installation.

2. Continuous Districts

A. Trunk Line Fees

a. Formula for Assessment

- Intended to recover the costs that Water and Sewer Utilities have assumed for over size mains and other general infrastructure such as treatment plants, pump stations, reservoirs, and trunk water and sewer mains already in place to serve unannexed property.
- Base fee is determined annually. R5 zoning is assessed base fee. R10 zoning and < 10,000 SF is base fee. R10 zoning and > 10,000 SF and < 20,000 SF is 2 times the base fee. R10 or higher zoning and > 20,000 SF are at base fee times ratio of SF divided by 10,000 SF.

B. Main Lines Built by City Prior to Annexation (Not over sized mains) - Revised 2/12/13

- Costs held in abeyance to be assessed upon annexation of parcels.
- a. *Water*
 - Assessed only if a parcel has the ability to tap directly into the water line and has not already paid for a watermain.
- b. *Sewer*
 - Criteria to assess is based on a parcel having ability to directly tap into the sewer line.

BASIS OF SPECIAL ASSESSMENTS (CONTINUED)

10.10
HB 1392
3.11.15

c. *Cost allocation based on parcel/lot Front Footage.*

- Assessment is triggered by annexation, prospectively from 2007 annexations on.
- If a specific utility or assessment district was created to install water or sewer main, that cost is used.
- If an over size main was installed, an average per foot cost of the prior years three-way agreements or assessment districts is calculated by engineering to apply to now annexed property.

C. Storm Water

- Costs held in abeyance to be assessed upon annexation of parcels.
- Cost allocation based on parcel/lot square footage.

3. Factors - Revised 2/14/12 & 3/11/14

A. The following factors are applied in all assessment districts except water and sewer mains and Continuous Districts:

- Factors applied: Commercial - 2.0; Residential - 1.0
 - Park Property - if it holds a revenue producing facility (i.e. pool) then Commercial - 2.0; otherwise same as Residential - 1.0.
 - Schools & Churches - always Commercial - 2.0.
- Storm Water Lots - 0.5
 - Storm water lots are subject only to paving and street lighting assessments with a factor of .5 applied to lot frontages.

B. *Parcels with Access via Private Drives or Access Easements - 3/11/14*

- Private drives are roadways, whether named or not, that lead from a public street to more than one private residential property and are owned and maintained by private individuals or organizations rather than the city.
- An access easement allows owners of property that does not have direct access to a public street to pass through the adjoining land to access their property.
- Commercial properties that gain access to their property from a public street via a private drive or an access easement are assessed for pavement and street lighting improvements to the public street based on their lot width or adjusted lot width, if applicable.
- Residential properties that gain access to their property from a public street via a private drive or an access easement are assessed for pavement and street lighting improvements to non-arterial public streets based on 50% of their lot width or adjusted lot width, if applicable.
- Actual costs of concrete repairs to curb & gutter, driveway aprons, or sidewalk on the shared access will be assessed proportionately to all parcels sharing the access.

11.
3.11.15

House Bill 1392
Senate Finance and Taxation Committee
March 10, 2015

Mr. Chairman Cook and members of the Committee, my name is Dan Eberhardt; I am the Special Assessment Coordinator for the City of Fargo. I want to thank you for the opportunity to provide testimony in opposition of House Bill 1392.

A mobile home park typically consists of a single commercial lot with multiple spaces available for rent and owned by a single entity (for profit). Pursuant to our policies this large tract of land would be zoned as commercial and also have a land use categorization as commercial.

The City has an established infrastructure policy. When a reconstruction or rehabilitation improvement is proposed, the City of Fargo uses zoning and/or land use as criteria for the establishment of a capped assessed cost. The balance of costs is funded through other non-assessed sources. A mobile home park taxes the infrastructure more than a single residential property requiring more frequent maintenance and rehabilitation. This is accounted for with the fore-mentioned policies of a commercial designation.

We use longevity, consistency and uniformity as a basis for our special assessments. Longevity means standing the test of time and staying the course of state laws and local policies. Consistency means using the state laws and local policies in the same manner in every improvement district that is initiated in our municipality, and to uniformly assess costs across all improvement districts.

To single out an entity that has all the characteristics of a particular group and assess them differently would violate established policies and procedures that have taken years to establish and defend. A mobile home park has all the characteristics of a commercial entity and should be treated as such.

We respectfully request a DO NOT PASS vote on proposed House Bill 1392.

March 11, 2015

SENATE FINANCE AND TAXATION COMMITTEE
HB 1392

CHAIRMAN COOK AND MEMBERS OF THE COMMITTEE

For the record my name is Blake Crosby. I am the Executive Director of the North Dakota League of Cities representing the 357 cities across the State.

I am testifying in opposition to HB 1392. The bill is basically asking for a change in how a business enterprise, engaged in a specific housing type, is special assessed as opposed to a residential property. It would not be prudent to open this Pandora's Box so that different business types start requesting special assessment rates based on that business specialty. You are either a business or you're not. Should a strip mall be assessed differently than a grocery store differently than a gas station? They all likely have different square footage and front footage but they all are a business.

Another concern is that special assessments are a local issue and should be dealt with on that level. Some of the mobile home park owners in Bismarck have made their case before 3 different city bodies and they did not like the results. If they believe there is a legal issue, or they have not been afforded due process, they should be pursuing remedy in a court of law...not in the Legislature.

In reading testimony from House Finance and Taxation there was mention that mobile home parks and I quote "dealing with more of the economically challenged people". So, should an apartment building that has some arbitrary percent of low wage earners also be given a special assessment break?

On behalf of the North Dakota League of Cities; I respectfully ask for a Do-Not-Pass on HB 1392.

THANK YOU FOR YOUR TIME AND CONSIDERATION. I will try to answer any questions.

Please Support H.B. 1392

1.
3.30.15

OAKLAND COMMUNITIES OF MINOT, LLC
1325 27TH ST SE #1
Minot, ND 58701

Phone: (701) 838-5081

Fax: (701) 839-3402

March 24, 2015

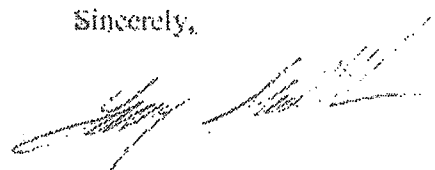
Dear Senators,

I am writing to address HB 1392 and ask for your support. My name is Larry Gullickson. I am the General Manager of Oakland Communities of Minot, LLC. I have been in the manufactured housing industry for 25 years.

I attended the meeting on February 3rd at the Capitol along with Jim Farnsworth, Tom Erie, Todd Kranda, Mark Swenson and Donna Barnhardt. I have seen letters that have been sent to you from other supporters of this bill. I don't wish to be redundant. I would just like to emphasize that this is not just a Bismarck issue. Ward County is showing a much emphasized difference in unfairness to manufactured homes and communities. My opinion is that Ward County is keeping a close eye on how this bill turns out before continuing with their taxations.

If you would like to speak with me regarding this issue, feel free to contact me at 701-240-6044 or lgullickson@oaklandcompanies.com.

Sincerely,



Larry Gullickson
General Manager

1.
4.1-15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1392

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 40-22 of the North Dakota Century Code, relating to municipal ordinances establishing special assessment determination methods for allocation of assessments among and within classes of property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 40-22 of the North Dakota Century Code is created and enacted as follows:

Municipal ordinance providing special assessment determination methods for allocation of assessments among and within classes of property.

By December 31, 2015, the governing body of each city with a population exceeding ten thousand shall establish by ordinance its policy and procedures that will be applied for cost allocation among properties benefited by a special assessment project. Ordinances established under this section must provide separately the policy and procedures that will be applied for cost allocation for each kind of special assessment district and, within each kind of special assessment district, the cost allocation method for residential, commercial, agricultural, and mobile home park property and for any property subject to separate or special assessment factors or assessment rates."

Renumber accordingly

2.
4.1.15
HB 1392

LETTER OPINION
2014-L-13

September 11, 2014

Mr. Jacob T. Rodenbiker
McKenzie County State's Attorney
201 5th St NW Ste 550
Watford City, ND 58854-7129

Dear Mr. Rodenbiker:

Thank you for your letter requesting my opinion regarding whether a county's "control" of a dissolved city's real property allows the county to sell the property.¹ For the reasons stated below, it is my opinion that the meaning of the word "control" is too ambiguous to conclude that it encompasses the sale and transfer of the real property of a city dissolved by petition.

ANALYSIS

You indicate that McKenzie County acquired control of real property the city of Rawson had owned when it dissolved pursuant to a petition and election in 2002. The county is now contemplating selling some of that property.

State law provides that a city may be dissolved in two ways: by petition and a majority vote of the electors, or by a district court upon application of the county state's attorney.²

When a city is dissolved pursuant to a petition and a majority vote of the city's electors, as Rawson was, "the board of county commissioners shall assume control of all property belonging to the dissolved city and shall employ a qualified person to manage and operate the property and to collect all charges due from the operation of such property."³ State law also provides that the money received from the operation of the property, if not needed to pay employees to operate the property or to pay bonded indebtedness, shall be deposited in the county's general fund.⁴

The dissolution statute does not specifically provide that the county may sell or transfer the real property of a dissolved city.⁵ The legislative history of the chapter relating to dissolution of

¹ The county may transfer property pursuant to N.D.C.C. ch. 11-27.

² See N.D.C.C. ch. 40-53.1.

³ N.D.C.C. § 40-53.1-07 (emphasis added).

⁴ See N.D.C.C. § 40-53.1-08.

⁵ See N.D.C.C. § 40-53.1-07.

2.2
HB 1392
4-1-15

cities⁶ does not provide insight on this issue. Also, there are no North Dakota Supreme Court cases or Attorney General opinions that specifically address this issue.

A review of the alternative process in N.D.C.C. ch. 40-53.1, whereby a district court dissolves a city, provides insight on whether the county's control of a dissolved city's real property allows the county to sell the property. State law provides that if the district court finds that a city should be dissolved, the court shall order the sale of the city's assets, including any real property and, after the payment of debts, any surplus monies are to be deposited in the county's general fund.⁷ The fact that the court could order the sale of a dissolved city's real property suggests that, when the petition and election process is used, it would be prudent to have the district court approve any subsequent sale by the county.

In enacting a statute, a reasonable result is intended.⁸ Therefore, it would be unreasonable to conclude that the real property could never be sold, and since the county has control of the property, the county is the logical entity to have the authority to sell the property. However, without a clear meaning of "control," the county may not be able to convey good title to a buyer. Thus, because a court order is required for disposition of assets under the judicial method for dissolution of a city, a court order authorizing the sale of the assets of a city dissolved by petition would also be prudent.

In conclusion, it is my opinion that although a county has the general authority to buy and sell real property, there is insufficient authority for me to conclude that a county's "control" of a dissolved city's real property allows the county to convey good title.⁹ It is my further opinion, however, that the term "control" as used in N.D.C.C. § 40-53.1-07 affords the county color of title sufficient to pursue a quiet title action on property affected by the statute in question.

Sincerely,

Wayne Stenehjem
Attorney General

vkk

This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.¹⁰

⁶ N.D.C.C. ch. 40-53.1.

⁷ See N.D.C.C. § 40-53.1-13.

⁸ See N.D.C.C. § 1-02-38.

⁹ This result is consistent with N.D.A.G. 2003-L-58, which found that the dissolved city did not hold title to the real property, but did not address whether the county had good title.

¹⁰ See State ex rel. Johnson v. Baker, 21 N.W.2d 355 (N.D. 1946).

2.3
4.1-15
HB1392

40-53.1-07. Dissolution -- Care of property -- Manager -- Disposition of funds.

If a city is dissolved, the board of county commissioners shall assume control of all property belonging to the dissolved city and shall employ a qualified person to manage and operate the property and to collect all charges due from the operation of such property or dispose of the property in accordance with Chapter 11-27. The person employed shall execute a bond to the county in an amount determined by the board of county commissioners, conditioned that that person will faithfully perform that person's duties and will promptly pay all money that person receives to the county treasurer monthly on the first day of each month. The bond shall be executed by the person employed and a surety company authorized to do business in the state. The premium on the bond shall be paid by the board of county commissioners from city funds, if any, and if none, from county funds.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1392

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 40-22 of the North Dakota Century Code, relating to adoption of municipal policy establishing special assessment determination methods for allocation of assessments among and within classes of property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 40-22 of the North Dakota Century Code is created and enacted as follows:

Municipal policy providing special assessment determination methods for allocation of assessments among and within classes of property.

By December 31, 2015, the governing body of each city with a population exceeding ten thousand shall adopt written policies, after a public hearing for consideration of the policies, which will be applied for cost allocation among properties benefited by a special assessment project. Policies established under this section must provide separately the policy that will be applied for cost allocation for each kind of special assessment district and, within each kind of special assessment district, the cost allocation method for residential, commercial, agricultural, and mobile home park property and for any property subject to separate or special assessment factors or assessment rates."

Renumber accordingly

April 13, 2015

HB 1392
4-14-15

1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1392

That the Senate recede from its amendments as printed on pages 1449 and 1450 of the House Journal and pages 1201 and 1202 of the Senate Journal and that House Bill No. 1392 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 40-22 of the North Dakota Century Code, relating to adoption of municipal policy establishing special assessment determination methods for allocation of assessments among and within classes of property; to amend and reenact section 40-53.1-07 of the North Dakota Century Code, relating to the disposition of the property of a dissolved city by a county.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 40-22 of the North Dakota Century Code is created and enacted as follows:

Municipal policy providing special assessment determination methods for allocation of assessments among and within classes of property.

Within five months of this section becoming applicable to a city, the governing body of each city with a population exceeding ten thousand shall adopt written policies, after a public hearing for consideration of the policies, which will be applied for cost allocation among properties benefited by a special assessment project. Policies established under this section must provide separately the policy that will be applied for cost allocation for each kind of special assessment and the cost allocation method for residential, commercial, and agricultural property and for any property subject to separate or special assessment factors or assessment rates.

SECTION 2. AMENDMENT. Section 40-53.1-07 of the North Dakota Century Code is amended and reenacted as follows:

40-53.1-07. Dissolution - Care of property - Manager - Disposition of funds.

If a city is dissolved, the board of county commissioners shall assume control of all property belonging to the dissolved city and shall employ a qualified person to manage and operate the property and to collect all charges due from the operation of such property or dispose of the property in accordance with chapter 11-27. The person employed shall execute a bond to the county in an amount determined by the board of county commissioners, conditioned that that person will faithfully perform that person's duties and will promptly pay all money that person receives to the county treasurer monthly on the first day of each month. The bond shall be executed by the person employed and a surety company authorized to do business in the state. The premium on the bond shall be paid by the board of county commissioners from city funds, if any, and if none, from county funds."

Renumber accordingly