



Equalization Department

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Staff Report for Abatement 4563

Wednesday, September 4, 2024

City: West Fargo

Appellant: NDAC Real Estate, LLC – Rammie Olson

Location: 647 13th Ave E (ND Autism Center)

Parcel Number: 02-0882-00020-000

Issue: Applicant is requesting a 4-year exemption of property (2023 – 2026)

Summary

The ownership of the building that the North Dakota Autism center is in is considered for-profit, due to a loan that was taken out to acquire the building. The use of the facility is strictly non-profit. At the August 19th commission meeting the West Fargo commission denied the abatement at the advice of their attorney. For a full summary, please review applicants letter on the following page.

Analysis

North Dakota statute has set precedence in the past for exempting non-profits when ownership is for-profit (§NDCC 57-02-08(36)), but that is currently only available for daycare exemptions. I discussed this matter with our State's Attorney's Office, and they agree with the advice given by the West Fargo Attorney.

Suggested motion

Deny the request for abatement

History of North Dakota Autism Center Inc & NDAC Real Estate LLC

Fifteen years ago, Western State Bank in West Fargo, ND was willing to give NDAC a loan for a building as the community desperately needed autism services and NDAC was among the first to bring these services to the area. Western State Bank didn't want the risk associated with a start-up non-profit, so they required NDAC to create a real estate holding entity so they could do an SBA loan (which are not for non-profit entities) that provided a 90% government guarantee and also allowed them to require two personal guarantees, our founder Sandy Smith, and her husband Gene (non-profit lending does not normally require personal guarantees). After covid and Sandy's desire to retire, we refinanced the SBA note into a conventional note (non-SBA) and removed Sandy and Gene Smith's personal guarantees. If we would've had stronger leadership and capacity at that time, we would've dissolved the real estate holding entity immediately but covid created challenges, so we put it on the backburner. Our loan is now financed at 3.99% until 2026, so dissolving the real estate entity (which is the borrower for the property loan) at this time doesn't make financial sense since the loan would have to reprice to current rates. When the loan matures in 2026, it is our intention to dissolve the real estate holding entity and no longer have this property tax exemption issue. In the past the property tax exemption was never an issue because NDAC also ran a daycare called The Puzzle Place. The daycare automatically qualified us for the property tax exemption, but after covid hurt the daycare operation, we had to close the daycare in 2022.

With leadership turnover, an application for 2023 was never filed and the application for 2024 is now in consideration. Our hope is that with an approval of the 2024 application, an abatement can be ran for 2023 as well since the story is the same for both of these years. We will make sure an application is submitted timely for 2025 & 2026, however if you think the county may consider a 4-year approval (2023, 2024, 2025, 2026) that may make things easier for all involved.

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

File with the County Auditor on or before November 1 of the year following the year in which the tax becomes delinquent.

State of North Dakota _____ Assessment District West Fargo City
County of Cass _____ Property I.D. No. 02-0882-00020-000
Name NDAC Real Estate LLC _____ Telephone No. (701) 277-8844
Address 647 13th Ave E, West Fargo ND 58078

Legal description of the property involved in this application:

Lot: 2 Block: 1 KASS 3RD ADDN LT 2 BLK 1

Total true and full value of the property described above for the year 2023 is:

Land \$ 629,400
Improvements \$ 879,300
Total \$ 1,508,700
(1)

Total true and full value of the property described above for the year 2023 should be:

Land \$ 629,400
Improvements \$ 0
Total \$ 629,400
(2)

The difference of \$ 879,300.00 true and full value between (1) and (2) above is due to the following reason(s):

- 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
- 2. Residential or commercial property's true and full value exceeds the market value
- 3. Error in property description, entering the description, or extending the tax
- 4. Nonexisting improvement assessed
- 5. Complainant or property is exempt from taxation. Attach a copy of Application for Property Tax Exemption.
- 6. Duplicate assessment
- 7. Property improvement was destroyed or damaged by fire, flood, tornado, or other natural disaster (see N.D.C.C. § 57-23-04(1)(g))
- 8. Error in noting payment of taxes, taxes erroneously paid
- 9. Property qualifies for Homestead Credit (N.D.C.C. § 57-02-08.1) or Disabled Veterans Credit (N.D.C.C. § 57-02-08.8). Attach a copy of the application.
- 10. Other (explain) _____

The following facts relate to the market value of the residential or commercial property described above. For agricultural property, go directly to question #5.

1. Purchase price of property: \$ 457,000 Date of purchase: December 2012
Terms: Cash _____ Contract Trade _____ Other (explain) _____
Was there personal property involved in the purchase price? no Estimated value: \$ _____
yes/no
2. Has the property been offered for sale on the open market? no If yes, how long? _____
yes/no
Asking price: \$ _____ Terms of sale: _____
3. The property was independently appraised: yes Purpose of appraisal: bank financing
yes/no
Market value estimate: \$ 1,350,000
Appraisal was made by whom? Appraisal Services Inc, Fargo ND
4. The applicant's estimate of market value of the property involved in this application is \$ 629,400
5. The estimated agricultural productive value of this property is excessive because of the following condition(s): _____

Applicant asks that Property taxes be adjusted to exclude the building value as this property should be tax exempt.

See attached history of why this property was financed with a LLC instead of the non-profit corporation.

By filing this application, I consent to an inspection of the above-described property by an authorized assessment official for the purpose of making an appraisal of the property. I understand the official will give me reasonable notification of the inspection. See N.D.C.C. § 57-23-05.1.

I declare under the penalties of N.D.C.C. § 12.1-11-02, which provides for a Class A misdemeanor for making a false statement in a governmental matter, that this application is, to the best of my knowledge and belief, a true and correct application.

Signature of Preparer (if other than applicant) _____

Date _____

Signature of Applicant _____

6/3/2024

Date _____

Ramencie Olson
NDAC Board Chair

RECEIVED
COUNTY AUDITOR
JUL 03 2024 AM 08:28

RECEIVED
JUL 03 2024
By: _____

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of West Fargo

On 8/19/24 the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be Denied

Dated this 20 day of August 2024

[Signature]
City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached.

Dated _____

County Auditor _____ Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor

Date

Application For Abatement
Or Refund Of Taxes

NDAC

Name of Applicant

4563

County Auditor's File No.

6/28/24

Date Application Was Filed With The County Auditor

7/1/24

Date County Auditor Mailed Application to Township Clerk or City Auditor

(must be within five business days of filing date)