600 E. Boulevard Ave., Dept. 127
Bismarck, ND 58505-0599
taxinfo@nd.gov
701-328-7088
www.tax.nd.gov

County Information – State Board of Equalization Appeal

Please complete this form in its entirety. The information provided will be taken into consideration when investigating and reaching a conclusion regarding the appeal presented. To provide ample time for investigation, all information to support the appeal (property information, pictures, income information, etc.) must be received by August 1, 2026. Please provide one questionnaire per property.

Please email or mail any supporting documentation to:

propertytax@nd.gov
or
The Office of State Tax Commissioner, Attn: Property Tax, Dept. 127
600 E Boulevard Ave., Bismarck, ND 58505-0599.

Information for Property Referenced in Appeal:

Owner Name: Joseph & Rebecca Dufner
Address: 954 - 169th Ave NE, Buxton ND 58218
Township Name (if applicable): Buxton TWP
Parcel ID: 06-0000-00889-045
Legal Description: W 400' of E 400' of S 400' SE1/4 25-148-51 A-3.68
***This information should provide a calculated breakdown associated with the subject property.**

City/County Official Contact Information:

Name: Kayla Knudson
Address: PO Box 745, Hillsboro ND 58045
Phone Number: 701-636-5950
Email Address: kayla.knudson@co.traill.nd.us

Answer the questions below that apply to the appeal:

Was the appellant sent a notice of increase letter from the city/township? (use drop-down for all that apply)

Choose One Township/City Equalization Meeting
Choose One County Equalization Meeting
Choose One

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At which meeting(s) did the Appellant present the appeal? (choose all that apply)

☒ Township/City ☒ County ☐ N/A

**Please note NDCC § 57-13-04.3(a)(1)(2) requires appellants to appeal to the State Board of Equalization must have applied to both local and county boards.*

Minutes from all levels of equalization meetings: Choose One

Please attach or email (propertytax@nd.gov) the following:

1. All property record cards for the subject property (**This information should provide a calculated breakdown associated with the subject property.)*
2. Comparable property information and corresponding property record cards
3. Copies of the notice of increases with dates clearly noted
4. Any evidence to validate the assessment appealed
5. Minutes from all levels of equalization meetings as applicable

Appeal Process:

1.) Appellant notifies the Property Tax Division of intent to appeal.

2.) Submit this form and all applicable documentation to propertytax@nd.gov by the date specified above.

3.) The State Board of Equalization meets on the second Tuesday in August to examine and compare the returns of the assessment of taxable property as submitted by North Dakota counties. This is locally assessed property. The board equalizes the property so that all assessments of similar taxable property are uniform and equal throughout the state. During this meeting, tax directors or other representatives from a county will speak, along with city representatives, and individual taxpayers.

4.) After the State Board meeting, your case will be assigned, and staff will reach out to schedule an onsite review of the property (when deemed applicable). While an interior inspection of the property is not required, interior reviews may affect the consideration of value. If denied an interior review, we will assess from the exterior only. Staff will not be allowed to enter the property without the owner or a representative present.

5.) Generally, by the first Thursday of October, the property tax division staff will present their findings to the State Board of Equalization with a recommendation. The board deliberates and votes. You can attend this meeting; however, public comments are not accepted.

2026

Record of the Proceedings of the Township Board of Equalization

Of Buxton Township,

Traill County, North Dakota

The Board met at Buxton Firehall

on 4 / 8 / 26 at 6 am/pm.

Township

57-09-01. Membership of board - Meeting. 1. The township board of equalization consists of the members of the board of supervisors of each township, and the township clerk shall act as clerk of the board. The board shall meet in April each year at the usual place of meeting of the township board of supervisors. 2. If the same person performs the duties of assessor for two or more townships or cities, the township clerk may, after consultation with the assessor involved, designate the hour and day in the month of April at which the meeting provided for in subsection 1 must be held for each township board of equalization; provided, that notice of the hour and day must be published in the official newspaper of the political subdivisions involved and posted at the usual place of meeting by the township clerk at least ten days before the meeting.

57-09-02. Duties of clerk. The clerk shall keep an accurate record of the proceedings of the board of equalization, showing the facts and evidence upon which its action is based, a copy of which must be furnished to the assessor and filed by the assessor with the county auditor as part of the assessment returns.

57-09-03. Notice of meeting to be posted. Repealed by S.L. 1959, ch. 363, § 1.

57-09-04. Duties of board. The township board of equalization shall ascertain whether all taxable property in its township has been properly placed upon the assessment list and duly valued by the assessor. In case any real property has been omitted by inadvertence or otherwise, the board shall place the same upon the list with the true value thereof. The board shall proceed to correct the assessment so that each tract or lot of real property is entered on the assessment list at the true value thereof. [redacted]

57-09-05. Quorum - Time for completing equalization. Any two members of a three-member board of equalization and any three members of a five-member board of equalization are authorized to act at the meeting of the board, and they may adjourn from day to day, but the equalization must be completed within ten days.

ASSESSOR: Kayla Knudsen

BOARD PRESENT:

David Knudsvig, Ray Leddige, Jamie Kloster, ~~Alan Watson~~ Aaron Kennedy

PUBLIC IN ATTENDANCE:

Wanda Davis (phone call 4-6-26) 6-0-910-10

Joe & Becca Dufner + Attorney Mitchell from Ward Johnson law

MINUTES:

FARM EXEMPTIONS:

Active Farmers: Jerry Olson, Larry P Linneman, David Knudsvig, James Skarperud

Retired Farmers: Larry J Linneman, Ray Leddige, Richard Knudsvig

Farm Laborers:

Surviving Spouse:

Vacant Residence:

Denied Exemptions:

Motion to Approve Farm Exemptions as presented: Ray 2nd: Aaron

Additional Discussion:

GENERAL EXEMPTIONS:

None

Motion to Approve General Exemptions: N/A 2nd:

IMPROVEMENT EXEMPTIONS / COMMERCIAL EXEMPTIONS / REN ZONE: *Info only, no motions needed.*

None

ASSESSOR DISCUSSION:

No new structures noted this year. I have a question for Dave on whether his uncles house will be getting torn down – just keep us updated so we can remove it. I also have a question on the Schumacher property that just sold (section 4); are the outbuildings still being used as farm? When the surrounding ag land was owned by the same family as the one in the house, I just assumed they were still being utilized, but now the house has sold again. Fuglesten's shop was reassessed this year – I had that thing as more of an oversized garage rather than using a shop pricing. After seeing what it costs to put up a building that size with the finished interior, I made adjustments.

Land values were looked at and adjusted this year. I increased the first and 2nd acres and kept the tier system in place. The first acre is at 30K, the 2nd is 15K, 3-10 are at 5K, and any remainder is at 2500. In instances where the remainder acres are essentially a swamp, that 2500 is reduced on a case-by-case basis. That higher value on the first two acres is to account for things like water, electric, and septic. We come up with land values by looking at any vacant land sales that come up (not farmland), and by working backwards on properties that sell. The comp book has a sheet with some of the vacant land sales we've seen.

I adjusted the manual level across the county. The manual level essentially adjusts what we use as a price per square foot based on the type and style of structure. This increased structures by a couple percentage points; but I also bumped up the depreciation tables to the current year, so that added some extra depreciation to the structures. These two changes amounted to about a 2% increase on structure values.

Ag Values: NDSU value decreased from last year, by about 3%. The new soil survey was implemented from NRCS. With this soil survey, we had 14 soil types that changed PI ratings; some went up and some went down in their rating.

The townships ended at 91%, and the county overall ended at 91.1%.

There are homestead and vet credits available for people to apply for. The homestead credit is available to anyone 65 years of age or older or completely disabled. It is income based, so their income after deducting medical expenses must come under 70K. The vet credit is available to anyone who has a VA disability rating of 50% or greater (income and age don't matter). There is also the exemption for wheelchair bound or legally blind individuals. This takes a flat rate of 120K off the value of their house.

The state increased the amount of the primary residence credit to 1600. This is for anyone who owns the property they live in – age and income don't matter. It is applied for through the state, and the cutoff is April 1 – so it is too late to apply for this year, but I'm reminding everyone so they can get signed up next year. You are also able to combine the PRC with a homestead and/or vet credit.

Public Discussion: Per a phone call w/ Wanda Davis – she wants it noted the land value is too high. Michelle gave her examples of sales. She still wants it on record that it should be lowered. It's 9.5 acres w/ a driveway to a paved road.
did NOT attend

Dufner - building Should be Ag Not Commercial - moved bldg for marketing

Ray - Township wants to push to County

Motion to Approve Values as presented: Ray 2nd: ~~Aaron~~ David

FOLLOW UP ITEMS: per Dufners - meet with Charlie to discuss their file - KK Schedule

I herby certify that the following is a correct transcript ~~of the~~ proceedings of the Board of Equalization of Buxton City/Township, Traill County, ND.

In Testimony Whereof, I hereunto set my hand this 8 day of April 2025.

Aaron Kennedy Auditor/Clerk

The Board adjourned at: 640 am/pm

The Traill County Board of Equalization meeting came to order on June 2, 2026, at 9:09 a.m. with the following members present: Commissioners Thomas Eblen, Kurt Elliott, Ken Nesvig, Les Amb and Larry Young. Also in attendance: Auditor Heather Hovey, Tax Director Kayla Knudson, Tax Director Assistant Crissie Wilson, Joe, Becca and William Dufner, Jon Grindeland, Irene and Craig Richie, Laverne Koenig, Gregg Webster, Clerk of Court Jody Schill and Sheriff Steve Hunt.

Kayla Knudson, Tax Director presented the 2026 Taxable Value reports along with exemptions and special considerations for Commission approval.

PUBLIC COMMENT: Craig Richie spoke to the commission about his property being a 501 C3 organization that should be exempt from taxes based on its affiliation with a church. The City of Mayville exempted the property. Knudson stated that this property should be used to carry out the purpose of the charitable organization in addition to this purpose being the majority use of the property. Joe and Becca Dufner read a couple letters of support they had received from various individuals/entities regarding the ag classification of their building in Buxton Township. Knudson and County State's Attorney have drafted an AG opinion to clarify the classification on this property. Grindeland does not agree with the valuation of his property and has received a review from a real estate person that gave his property a lower value. Knudson stated she would review this document, when received from resident, against the property card to see if there are corrections that need to be done. LaVerne Koenig stated that there is land that is being taxed even though he cannot use it. Knudson stated that all land needs to taxed unless exempt. Webster wants his 2025 valuation on his farmstead. Knudson stated that the 2026 value had decreased slightly after the township board due to classification of one of the outbuildings. The board mentioned to all appellants that if more information is presented to Knudson that abatements can be filed at that time. Board also mentioned that all appellants can go to the State Board to further dispute these issues. (Please note that these minutes are legally required to be a summary of actions and decisions rather than a word-for-word transcript of the meeting.)

The following motions were made:

1. GENERAL EXEMPTIONS:
   On motion of Eblen, seconded by Nesvig and carried to allow the following general exemption which had been turned in after local equalization board met and application qualifies: (1) Basil Almquist (2) Harmonie DeFord both for wheelchair exemptions.

2. FARM EXEMPTIONS DENIED: On motion of Eblen, seconded by Nesvig and carried to deny the following farm resident exemptions for the 2026 tax year: (1) Greg Abentroth 02-0000-00229-020 (2) Jason Bring #11-0000-01767-010

3. FARM RESIDENT EXEMPTIONS APPROVED:
   APPROVED: On motion of Young, seconded by Nesvig and carried to approve the following 2026 tax year farm resident exemptions that were filed after township boards met, this list also includes an entire township that didn't meet for their local board:
   - Peter Thorseon – 17-0-2650-0 Retired
   - Sonja Hefta – 17-0-2715-10 Surviving Spouse
   - Brandon Nettum – 2-0-222-10 Active
   - Curtis Hovde - 22-0-3541-0 Active
   - Fugleberg Trust – 22-0-3602-0 Vacant
   - Steve Fugleberg – 22-0-3602-10 Active
   - Larry Syverson – 22-0-3575-1 Active
   - Kipp Knudson – 22-0-3616-0 Active
   - Ralph Chandler – 7-0-952-10 Retired
   - Luke Ressler – 16-0-2489-0 Active
   - Logan Boeddeker – 21-0-3451-0 Active
   - Ryan Bryl - 9-0-1338-25 Active
   - Glen Endrud - 25-0-4087-20 Retired
   - Dan Finstrom – 25-0-4135-0 Active

- Curtis Hovde – 24-0-4040-10 Vacant
- Neal Pulskamp – 8-0-1120-10 Active
- Connie & Roger Anderson – 8-0-1306-10 Retired
- Jake Rust – 3-0-345-10 Vacant
- Kevin Elliott – 20-0-3165-10 Active
- Levi Elliott – 20-0-3218-10 Active
- Seth Erickson – 20-0-3283-10 Active
- Kurt Elliott – 13-0-1963-10 Active
- Kevin Kyllo – 13-0-1961-10 Active
- Steven Kyllo -13-0-1961-20 Active
- Olav Aaarsvold – 13-0-1979-10 Vacant
- Paul Erickson – 13-0-2000-10 Retired
- James Halvorson – 13-0-2019-20 Active
- Joel Halvorson – 13-0-2022-0 Retired
- Reggie Tate – 13-0-2035-30 Active
- Robin Mitchell – 13-0-2066-11 Active
- Wesley Erickson – 13-0-2075-10 Active
- James Aarsvold – 13-0-1974-0 Farm Laborer
- Elliott Brothers – 13-0-2057-10 Vacant
- Mike Mitchell – 13-0-2066-20 Active
- Michael Bring – 11-0-1718-10 Vacant
- Michael Bring 11-0-1723-0 Active
- Lighthouse Associates – 11-0-1758-1 Vacant

4. On motion of Nesvig, seconded by Amb and carried to approve the valuations as presented by the Tax Director.

2026 ABSTRACT OF ASSESSMENT OF PROPERTY:

Townships	True & full Value	Assessed Value	Taxable Value
Belmont	29,294,400	14,649,200	1,435,361
Bingham	31,623,950	15,811,975	1,567,245
Blanchard	38,183,642	19,091,821	1,884,454
Bloomfield	45,136,900	22,568,450	2,190,111
Bohnsack	40,174,100	20,087,050	1,981,364
Buxton	32,909,500	16,454,750	1,600,056
Caledonia	34,447,105	17,223,553	1,684,298
Eldorado	102,850,861	51,425,431	5,099,325
Elm River	25,431,739	12,715,870	1,263,722
Ervin	46,409,957	23,204,980	2,254,362
Galesburg	29,838,060	14,919,030	1,473,433
Garfield	45,079,243	22,539,622	2,189,599
Greenfield	31,897,100	15,948,551	1,572,802
Herberg	33,622,322	16,811,162	1,657,010
Hillsboro	71,397,749	35,698,875	3,514,406
Kelso	33,403,600	16,701,800	1,650,385
Lindaas	43,631,058	21,815,531	2,147,180
Mayville	48,206,362	24,103,182	2,352,705
Morgan	35,459,600	17,729,800	1,728,841
Norman	28,209,990	14,104,995	1,395,835
Norway	45,967,500	22,983,750	2,225,850
Roseville	34,793,461	17,396,731	1,716,615
Stavanger	56,091,500	28,045,751	2,744,279
Viking	49,042,848	24,521,426	2,364,795

Wold	34,601,650	17,300,825	1,697,270
TOTAL TOWNSHIPS	1,047,708,197	523,854,111	51,391,303
Cities	True & full Value	Assessed Value	Taxable Value
Buxton	45,096,804	22,548,406	2,138,359
Clifford	5,699,438	2,849,719	279,481
Galesburg	16,706,198	8,353,101	809,758
Grandin	3,310,300	1,655,150	165,515
Hatton	52,020,210	26,010,106	2,398,639
Hillsboro	162,241,992	81,120,998	7,512,897
Mayville	156,597,644	78,298,824	7,280,452
Portland	48,425,676	24,212,840	2,232,713
Reynolds	19,402,261	9,701,134	899,167
TOTAL CITIES	509,500,523	254,750,278	23,716,981
GRAND TOTALS	1,557,208,720	778,604,389	75,108,284

There being no further business to be brought before the Tax Equalization board, the meeting was adjourned at 9:45 a.m.

ATTEST:
Glenda Haugen, Auditor

Kurt Elliott, Vice-Chairman

2026 Individual Considerations to review and approve for County Equalization June 2, 2026

Considerations listed below need to be noted and approved as presented by Tax Director:

1. General Exemption turned in after Local Equalization Board that needs to be approved:
    - *Basil Almquist - 10-0-01586-10 – wheelchair exemption*
    - *Harmonie DeFord - 22-0-3672-10 – wheelchair exemption*

2. Farm Resident Exemptions that need denying at the County Board – *Applicants did NOT turn in these applications/documentation needed for this exemption*
    - *Greg Abentroth - 02-0000-00229-020 – resident isn't laborer anymore*
        - *Parcel total: $234,000*
    - *Jason Bring - 11-0000-01767-010 – was not turned in*
        - *Parcel total: $305,000*

3. Farm Resident Exemptions that need approval from County Board- *late applicants denied at Township boards because items were missing at the time of the local board meetings – Greenfield Township did not meet for their local boards so all applications for this jurisdiction need approval*
    - *Peter Thorseon – 17-0-2650-0 Retired*
    - *Sonja Hefta – 17-0-2715-10 Surviving Spouse*
    - *Brandon Nettum – 2-0-222-10 Active*
    - *Curtis Hovde - 22-0-3541-0 Active*
    - *Fugleberg Trust – 22-0-3602-0 Vacant*
    - *Steve Fugleberg – 22-0-3602-10 Active*
    - *Larry Syverson – 22-0-3575-1 Active*
    - *Kipp Knudson – 22-0-3616-0 Active*
    - *Ralph Chandler – 7-0-952-10 Retired*
    - *Luke Ressler – 16-0-2489-0 Active*
    - *Logan Boeddeker – 21-0-3451-0 Active*
    - *Ryan Bryl - 9-0-1338-25 Active*
    - *Glen Endrud - 25-0-4087-20 Retired*
    - *Dan Finstrom – 25-0-4135-0 Active*
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    - *Neal Pulskamp – 8-0-1120-10 Active*
    - *Connie & Roger Anderson – 8-0-1306-10 Retired*
    - *Jake Rust – 3-0-345-10 Vacant*
    - *Kevin Elliott – 20-0-3165-10 Active*
    - *Levi Elliott – 20-0-3218-10 Active*
    - *Seth Erickson – 20-0-3283-10 Active*
    - *Kurt Elliott – 13-0-1963-10 Active*
    - *Kevin Kyllo – 13-0-1961-10 Active*
    - *Steven Kyllo -13-0-1961-20 Active*
    - *Olav Aaarsvold – 13-0-1979-10 Vacant*
    - *Paul Erickson – 13-0-2000-10 Retired*
    - *James Halvorson – 13-0-2019-20 Active*
    - *Joel Halvorson – 13-0-2022-0 Retired*
    - *Reggie Tate – 13-0-2035-30 Active*
    - *Robin Mitchell – 13-0-2066-11 Active*
    - *Wesley Erickson – 13-0-2075-10 Active*
    - *James Aarsvold – 13-0-1974-0 Farm Laborer*
    - *Elliott Brothers – 13-0-2057-10 Vacant*
    - *Mike Mitchell – 13-0-2066-20 Active*
    - *Michael Bring – 11-0-1718-10 Vacant*
    - *Michael Bring 11-0-1723-0 Active*
    - *Lighthouse Associates – 11-0-1758-1 Vacant*

4. Special considerations - *these are changes made after the local boards of equalization, no separate motion needed on these because the changes are already reflected in final valuation totals*
   a. Christian Sports Commission – Mayville City - #27-0001-04268-010
      a. City exempted this property but believe it should be taxed
         i. New total value: $283,700
      b. The property's use must be devoted to charitable purposes, and it must be used in carrying out the charitable purposes of the organization claiming exemption.
      c. This property's majority use is rental
   b. De Paolis, Richard and Mickie- Mayville City - #27-0002-06991-000
      a. Applied obs for basement condition – applied same as building next door with same issues
      b. New value $179,600, City approved value $185,800
   c. Dufner, Joe & Becca, #06-0-889-45
      a. Value: $860,300
   d. Northwood Elevator – Hatton City - #28-8010-00010-000
      a. Corrections to ages of structures
      b. New total value $2,271,364 from $2,464,308
   e. Tim & Sandra Wright – Hillsboro City - #26-8008-00026-000
      a. New total value $202,000, city approved value $249,200
   f. LaVerne Koenig – Blanchard Township - #03-0000-00401-010
      a. Adjustment made to residential acres- moved to 2 acres to account for improvements
      b. New total value: $182,800, old value $196,300
   g. Chad Hanson – Mayville Township - #18-0000-02856-040
      a. Adjustment made to comm acre prices – this property would sell as one (with house) so starting over on the top tier for the commercial building's land doesn't make sense
      b. New total value: $190,300, old value $205,000
   h. Naastad Acres – JoAnn Naastad -- Garfield Township - #12-0-1831-20
      a. Correction made to one building and applied obs to this property for over improved-
      b. New total value: Old value: 1,638,700
   i. James Miller – Eldorado Township – 8-0-1276-40
      a. Adjusted condition of building and 3rd tier of land rate
      b. New total value: $222,300, old value $268,600
   j. James Miller – Eldorado Township – 8-0-1276-50
      a. Adjusted tier on back acres due to flooding inability to improve
      b. New total value: $2,300, old value $4,600
   k. Gregg Webster – Eldorado Township- #8-0-1209-15
      a. Reclassified one of the outbuildings as a Quonset
      b. New total value: 412,900, old value: $433,000
   l. Abentroth – Bingham Township - # 2-0-229-20
      a. Does not qualify for FRE laborer
      b. New total value: 259,200, old value: $25,200
   m. Paul Mueller – Wold Township - #25-0-4171-10
      a. Previously exempt wetland mitigation
      b. New total value: $3,200, old value: $0
   n. Hamilton Enger – Lindaas Township - #17-0-2631-10
      a. Previously exempt wetland mitigation
      b. New total value:$3,100, old value: $0
   o. Hamilton Enger - Lindaas Township - #17-0-2632-20
      a. Previously exempt wetland mitigation
      b. New total value: $4,400, old value: $0
   p. Shane Vettel/Devin Abentroth – Bingham Township - #2-0-143-6
      a. Previously exempt wetland mitigation
      b. New total value:$1,400, old value: $0
   q. Shane Vettel/Devin Abentroth – Bingham Township - #2-0-145-6
      a. Previously exempt wetland mitigation
      b. New total value: $28,700, old value: $0
   r. Lori Belgarde – Hatton City - #28-9-8338-0
      a. Added some obso for basement issues
      b. New total value: 76,000, old value $104,200
   s. Dennis Heskin – Hatton City - # 28-5-7687-0
      a. Adjusted condition & removed bathroom.
      b. New total value 29,700, old value: $46,300
   t. Kleveland - Hatton City -#28-1-4299-0
      a. sq ft adjustment
      b. New total value: 279,700, old value: $290,400

u. Brett Kville – Mayville Township - #18-0-2760-10
   a. Removed two buildings as ag use.
   b. New total value 325,200, old value: $351,500
v. Tim Sorteberg – Mayville Township - #18-0-2798-40
   a. Adjusted size of deck
   b. New total value: 165,400, old value $170,300
w. Gary Vaagene – Garfield Township- #12-0-1840-30
   a. corrected building dimensions
   b. New total Value: 312,800, old value: $314,900
x. Russell Hanson – Hillsboro City - #26-38-1-0
   a. Turned in WC Exemption
   b. New total Value: 87,700, old value: $207,700
y. Ed Urban – Norway Township - #21-0-3305-10
   a. Adjusted land for wetland acres
   b. New total Value: 141,700, old value: $176,700
z. Chris Strand – Hatton City - #28-17-27-4
   a. Adjusted unimproved excess site area
   b. New total value 19,300, old value: $33,400
aa. Sven Mickels – Portland City - #29-4-9051-0
   a. Asked to have this reassessed prior to next year's re-assessment – no interior inspection –summer 26
   b. New total Value: $72,200, old value: $107,800
bb. Mary Whitaker – Mayville City -#(27-7-7362-0
   a. Did interior inspection – 2nd floor was only partially finished. Added obso for WIP
   b. New total value – 146,500, old value $149,300
cc. Allen's – Mayville City -#27-2-6725-0
   a. Inspected – adjusted condition and added obso
   b. New total Value: 59,300, old value $78,400
dd. Beck – Bloomfield Township -#4-0-601-10
   a. Inspected – changed condition up to normal, and added separate obso for the basement
   b. New total value is 219,200, old value: $318,700
ee. James Hime – Hatton City -#28-2-7600-0
   a. Inspected – adjusted condition and added obso for the area of no finishing on the 2nd floor
   b. New total Value: 277,400, old value: $297,700
ff. Bjerke – Mayville Township -#18-0-2855-5
   a. Concrete added to shop; increased basement finishing
   b. New total Value: 461,900, old value: $378,500
gg. Bonnema – Hillsboro City -#26-7-6573-0
   a. Updates to house – no Permit –
   b. New total value 169,100, old value: $160,700
hh. Monroe – Hillsboro City #26-17-3-10
   a. House updates <u>were</u> completed by 2/1
   b. New total value: 298,000 old value: $253,800
ii. Dale – Portland City -#29-2-8412-0
   a. lowered condition
   b. New total Value: 179,900, old value: $228,200
jj. Hatton EDC – Hatton City -#28-18-5-0
   a. house sold, no longer exempt, prorated value:
   b. New total value: $211,800, old value: 0
kk. Thompson – Hatton City -#28-5-7740-0
   a. inspected and added obso for foundation issues.
   b. New total value: 152,100, old value: $163,500
ll. Portland vacant lots changed to .45/sq ft

		New Value	Old Value
a.	29-2-8384-0	$13,500	$15,000
b.	29-2-8442-0	$5400	$2,000
c.	29-2-8444-0	$7800	$3,000
d.	29-2-8446-0	$3900	$5,200
e.	29-2-8488-0	$2900	$1,850
f.	29-2-8489-0	$2800	$1,750
g.	29-2-8509-0	$4100	$2,500
h.	29-2-8519-6	$5200	$3,253
i.	29-2-8527-0	$6300	$8,400
j.	29-2-8538-0	$9800	$10,900
k.	29-2-8548-2	$2600	$3,400
l.	29-2-8548-3	$2700	$1,750

m. 29-2-8890-0 $5600 $0
n. 29-2-8894-0 $4200 $2,630
o. 29-2-8956-0 $4000 $5,300
p. 29-2-8956-10 $3700 $5000
q. 29-2-8957-0 $6700 $8,900
r. 29-2-8961-10 $4700 $6,300
s. 29-2-9129-0 $8600 $12,000
t. 29-4-9142-0 $3200 $4,200
u. 29-4-9174-0 $3900 $7,800
v. 29-4-9207-10 $6300 $8,400
w. 29-4-9213-0 $3200 $8,800
x. 29-8011-10-0 $29600 $29,600
y. 29-8011-12-0 $28400 $28,400
z. 29-8011-13-0 $15300 $15,300

mm. Property Works Rental properties -removed usage obs.:

		New Value	Old Value
a.	27-2-7036-0	$107,400	$75,800
b.	27-2-6684-0	$79,100	$57,700
c.	27-2-6681-0	$70,800	$49,200

nn. Ridgeview Properties – Mayville City -#27-21-3-0
   a. Completely remodeled – no permits
   b. New total Value: 136,600, old value: $79,500

oo. Sola – Norway Township -#21-0-3298-10
   a. Removed a fireplace
   b. New total Value: 273,600, old value: $278,000

MOTIONS NEEDED FROM THE COUNTY BOARD OF EQUALIZATION

1. *Motion to approve general exemption*
2. *Motion to deny the farm exemptions as presented*
3. *Motion to approve the farm exemptions as presented*
4. *Motion to approve the valuations as presented by the Tax Director*

Parcel #06-0000-00889-045

W400' of E 400' of S 400' SE1/4 25-148-51 A-3.68

Dufner purchased this commercial parcel in January 2020 for $42,500 – tore the existing commercial building down and built this new one in question. Deed attached.

This building is owned by Joseph and Rebecca Dufner Trust. This building is labeled as Up North Organics. Up North Organics Secretary of State reports are attached.

This land has been used and taxed commercially for over 35 years. There was 3 years when a portion of this land was changed to ag land 2021-2023, but a portion still remained commercial. Since 2024, the entire parcel has been classified commercial after the township requested a review be done by the assessor. If the Board determines that the statutory factors should be considered, the parcel satisfies at least four of the relevant conditions supporting a conclusion that the property is not agricultural land.

a. "Agricultural property" means platted or unplatted lands used for raising agricultural crops or grazing farm animals as provided in this subsection. For platted lands:
    1. Lands platted and assessed as agricultural property prior to March 30, 1981, shall continue to be assessed as agricultural property until put to a use other than raising agricultural crops or grazing farm animals.
    2. Property platted on or after March 30, 1981, is not agricultural property when any four of the following conditions exist:
        a. The land is platted by the owner. **NO**
        b. Public improvements, including sewer, water, or streets, are in place. **YES**
        c. Topsoil is removed or topography is disturbed to the extent that the property cannot be used to grow crops or graze farm animals. **YES**
        d. Property is zoned other than agricultural. **UNDETERMINED**
        e. Property has assumed an urban atmosphere because of adjacent residential or commercial development on three or more sides. **YES**
        f. The parcel is less than ten acres [4.05 hectares] and not contiguous to agricultural property. **YES**
        g. The property sells for more than four times the county average true and full agricultural value. **YES – $1337.78**

This property is surrounded on three sides by commercial businesses. In fact, about 450 feet NW of this building is a storage building used for storing toted beans, owned by an elevator, that is taxed commercially. *There shall be a presumption that a unit of land is not a farm unless such unit contains a minimum of ten acres [4.05 hectares], and the taxing authority, in determining whether such presumption shall apply, shall consider such things as the present use, the adaptability to use, and how similar type properties in the immediate area are classified for tax purposes.*

Rather than classifying this as part of the farm plant, it should be "*Any structure or improvement used primarily in connection with a retail or wholesale business other than farming*".

Joe Dufner Farms takes his raw organic commodity to Cummings Ag, a third part processor to have them cleaned, sorted, and placed in labeled bulk totes. Century code doesn't allow us to have different rules for different commodities so we must make the determination if this is beyond the ordinary handling of a farmer prior to sale. Value-added doesn't have to be changing the form of the product, this can be any action that increases the market worth of the product. Mechanical color sorting is physically changing the raw commodity by removing the dirt, weeds, undersized beans and cracked hulls. After these processes, they are then placed in labeled toted bags giving them a definition of value-added market ready commodity. *"Business other than farming" includes processing to produce a value-added physical or chemical change in an agricultural commodity beyond the ordinary handling of that commodity by a farmer prior to sale.*

Preparation for Market/Advanced Post Harvest Activities

The activities performed by Cummings Ag are considered market preparation activities then the product is returned for storage and distribution. **(Boehm v Burleigh County).** This third-party vendor, Cummings Ag, gives value to this product and prepares it for wholesale distribution rather than immediate farm storage.

Morel v Thompson recognizes that agricultural products may undergo certain handling and processing activities, the facts here involve the use of a separate commercial facility to clean, sort and package the product before it is returned for storage and distribution. This case is critical when determining the difference between harvesting an agricultural organic crop and the processing of this organic crop.

The next step would be fulfilling the commercial supply chain according to **Butts Feed Lots v Board of County Commissioners**. This resident is paying Cumming Ag, off the farm plant, to have this product improved, regardless of the type of commodity or organic or not, this is not ordinary handling by a farmer. This step is considered the first step for any wholesale commercial business, especially for UpNorth Organics. Dufner farms depends on Cummings Ag to improve this commodity and prepare it for commercial sales. The ownership of the commodity is irrelevant as this product is clearly being improved from its raw state and prepared for commercial processes.

Character of the Land is Commercial

Eisenzimmer v Bell, requires the Board to examine both the character of the land and the nature of the structure. The building cannot qualify merely because it is owned by a farmer. The structure must be located on agricultural land and function as part of a farm plant. Following N.D.C.C. § 57-02-08(15), the exemption is intended for farm structures rather than buildings principally used for commercial logistics, inventory management, or wholesale distribution. The harvested commodities are transported to a separate commercial enterprise, where they are cleaned, sorted, conditioned, and packaged before being returned in a market-ready form for storage and fulfillment of wholesale customer contracts. These facts support the conclusion that the structure functions as part of a commercial distribution operation rather than a traditional farm building used to store raw commodities.

Actual Use of the Building

Rice vs Board of County Commissioners of Benson County directs the Board to examine the actual use of the structure. The building is used year-round to store market-ready inventory, support shipping and logistics activities, and fulfill wholesale B2B contracts associated with Up North Organics.

Additionally, N.D.C.C. § 57-02-08(15)(a) expressly provides that structures used primarily in connection with a retail or wholesale business other than farming are not exempt. The evidence demonstrates that this building is used to store market-ready inventory, coordinate logistics, and fulfill wholesale customer contracts through UpNorth Organics activities are indicative of a wholesale distribution operation and are consistent with the type of use specifically excluded from the farm-structure exemption by statute.

Burden of Proof & Literal Test

Fredrickson v Burleigh County establishes that tax exemptions must be strictly construed and that the claimant bears the burden of proving entitlement to the exemption. The case looks at the activities that might be done in this building, such as inventory management, organic food documentation, shipping logistics to B2B customers and fulfillment activities are indicative to that of a commercial operation rather than agriculture production.

The Board should distinguish between agricultural production and commercial inventory distribution. The commodities stored within this structure are not raw harvested crops delivered directly from the field for temporary storage awaiting sale. The building therefore functions as a storage and distribution point for processed inventory within a commercial supply chain rather than as a structure principally used in the production of agricultural commodities. If the functions of the building are clearly Commercial, the hours spent on these activities and earnings received from these activities would follow that same classification as opposed to them being considered agricultural.

North Dakota Department of Agriculture Letter

The appellant has submitted, or may submit, a letter of support from the North Dakota Department of Agriculture in support of agricultural classification of the structure.

While Buxton Township and Traill County respect the Department's expertise regarding agricultural production and agricultural businesses, the issue before the State Board of Equalization is a question of **property tax classification and statutory interpretation**, not agricultural policy.

The North Dakota Supreme Court has established the legal framework governing farm-structure exemptions and agricultural classification. Under **Eisenzimmer v. Bell**, the Board must first determine the character of the land itself. Under **Fredrickson v. Burleigh County**, tax exemptions are strictly construed and the burden of proving entitlement to the exemption rests with the claimant. Under **Rice v. Board of County Commissioners**, the Board must examine the actual use of the structure in question. These legal determinations are ultimately the responsibility of the assessing authorities and the courts.

A support letter expressing that the owner is engaged in agriculture, or that the commodities stored within the building originated from the owner's farming operation, do not resolve the legal questions before the Board:

1. Whether the parcel constitutes agricultural land under North Dakota law;
2. Whether the structure is used as part of a farm plant;
3. Whether the structure is used primarily in connection with a retail or wholesale business other than farming;
4. Whether the building's actual use is agricultural or commercial.

The Township and County do not dispute that the owner may be a farmer or that the commodities originated from agricultural production. The issue before the Board is whether this specific parcel and this specific structure qualify for favorable tax treatment under North Dakota law.

Furthermore, any opinion expressed by the Department of Agriculture should not outweigh the objective facts regarding the property's use. The evidence demonstrates that harvested crops are transported to a separate commercial enterprise, Cummings Ag, where they are cleaned, sorted, and packaged into bulk totes before being returned to the subject building. The owner pays for a third-party commercial business to perform these services. Once returned, the products are stored as market-ready inventory and used to fulfill wholesale business contracts throughout the year.

Under the analysis required by **Rice**, the Board should focus on the actual use of the structure. The evidence shows that the building functions as a storage, inventory, logistics, and distribution facility supporting a wholesale organic-products business rather than serving as a traditional machine shed or grain bin used for agricultural production.

Likewise, under **Eisenzimmer**, the Board must first determine the character of the land itself. The commercial history of the parcel, its 3.68-acre size, surrounding commercial development, topsoil being removed, public improvements, and selling price being more than 4 times the County average are all factors demonstrating that the parcel possesses the character of commercial property rather than agricultural land.

Finally, under **Fredrickson**, the burden remains on the claimant to establish entitlement to exemption, and exemptions must be strictly construed. A support letter from an agency charged with promoting agriculture does not relieve the claimant of that burden and cannot substitute for the statutory requirements established by the Legislature and interpreted by the North Dakota Supreme Court.

Accordingly, while the Department's views may be considered, they should not be afforded controlling weight. The Board should instead rely upon the statutory language, controlling North Dakota Supreme Court precedent, the established assessment history of the property, and the actual use of the land and structure when determining the proper classification of the property.

Conclusion

Buxton Township and Traill County respectfully maintain that the evidence supports a commercial classification of both the land and the structure. Under *Eisenzimmer v. Bell*, the parcel possesses the definitive character of commercial property. Under *Fredrickson v. Burleigh County*, the claimant bears the heavy burden of establishing entitlement to exemption, which must be strictly construed against them. Under *Rice v. Board of County Commissioners*, the actual use of the structure must be examined. The objective evidence demonstrates that harvested commodities are transported to a third-party commercial enterprise and returned to the structure as market-ready inventory.

The structure is then used year-round for inventory storage, regulatory audit trailing, logistics coordination, wholesale contract fulfillment, and distribution activities associated with UpNorth Organics. Additionally, N.D.C.C. § 57-02-08(15)(a) specifically excludes structures used primarily in connection with a retail or wholesale business other than farming, and the evidence demonstrates that this building falls within that exclusion.

Buxton Township and Traill County respectfully request that the State Board of Equalization affirm the commercial classification of this property.

OFFICE OF COUNTY RECORDER Fees: $20.00
State of North Dakota)
County of Traill)
I hereby certify that the within instrument was filed in this office for record on 1/6/2020 at 9:16 AM, and was duly recorded as Document Number **193296**

Marlene Ellen Recorder
Deputy

BRUDVIK LAW OFFICE 231 9TH AVENUE SE
PO BOX 547 MAYVILLE, ND 58257

COUNTY RECORDER TRAILL SEAL COUNTY STATE OF NORTH DAKOTA

WARRANTY DEED

This deed is made by **Terry Thoreson**, a married man, and **James A. Kirkeby**, a married man, Grantors, to **Joseph M. Dufner and Rebecca M. Dufner,** husband and wife, whose post office address is 964 169th Ave NE, Buxton, ND 58218, Grantees.

For valuable consideration, Grantors grant and convey to Grantees, as joint tenants, the following real property (the premises) located in Traill County, North Dakota:

The East 200 feet of the South 400 feet of the Southeast Quarter of Section Twenty-five, Township 148, Range Fifty-one, Traill County, North Dakota,

Subject to a 99-year easement to the City of Buxton for the right to erect, construct, reconstruct, replace, remove, maintain and use an illuminated sign structure for single and double faced signs located upon said premises.

AND Purchaser and all his successors in interest shall maintain the small cemetery located on said real property.

"The legal description was obtained from a previously recorded instrument."

Grantors covenant that they are well seized in fee of the premises, which they have the right to sell and convey, and which are free from encumbrances except those of record. Further, they covenant they will warrant and defend the premises in the quiet and peaceable possession of the Grantees.

State of North Dakota}
County of Traill}
Recorded: 1/6/2020 At 9:16 AM

Dated this 31 day of December, 2019.

GRANTORS

Terry Thoreson

James A. Kirkeby

STATE OF NORTH DAKOTA)
)ss.
COUNTY OF TRAILL)

On this 31st day of December, 2019, before me, a notary public, personally appeared Terry Thoreson, a married man and James A. Kirkeby, a married man, who acknowledged to me their execution of the foregoing instrument.

ROBIN L. AANSTAD
Notary Public
State of North Dakota
My Commission Expires May 2, 2023

Robin L. Aanstad
Notary Public

I certify that the full consideration paid for the property described in this deed as required under NDCC ~~11~~-18-02.2(1)(c) is $ 42,500.00.

Signed: Robin L. Aanstad Date: 12/31/19
Grantee or Agent

This deed was prepared by:
Robin L. Aanstad (ND#08385)
Brudvik Law Office, P.C.
PO Box 547
Mayville, ND 58257
(701)788-3251
robin@brudviklaw.com

SEAL OF THE COUNTY OF TRAILL STATE OF NORTH DAKOTA

AUDITOR'S OFFICE, TRAILL CO., N.D.
Delinquent Taxes and Special Assessments or Installments of Special Assessments paid and transfer entered 1-6 2020
Glenda Hanson Co. Auditor
By Michelle Morey, Deputy Deputy
Current taxes or current special assessments or installments of special assessments are unpaid in the amount of $ ~~~~

0007228814

B0832-8031 09/21/2025 Received by ND Secretary of State

BUSINESS LIMITED LIABILITY COMPANY ANNUAL REPORT

SECRETARY OF STATE

(See SFN 50060)

For Office Use Only
-FILED-
SOS Control ID#: 0000160574
Date Filed: 9/21/2025

Fee for current filing year:

- $50 if received on or before November 17; and
- $100 if received after November 17.

Annual Report Due Date
11/17/2025

Limited Liability Company Name
UPNORTH ORGANICS LLC
State or country of origin: NORTH DAKOTA

Principal Executive Office Address
954 169TH AVE NE
BUXTON, ND 58218-9225

Mailing Address
954 169TH AVE NE
BUXTON, ND 58218-9225

Registered Agent in North Dakota
REBECCA DUFNER
Registered Agent
Physical Address
954 169TH AVE NE
BUXTON, ND 58218-9225
Mailing Address
954 169TH AVE NE
BUXTON, ND 58218-9225

Character of the Business
Organically certified handler of Dry Beans, Grains, and Potatoes

Management
The limited liability company is member-managed.

Name of Member	Complete Mailing Address
Rebecca M Dufner	Becca 954 169th Ave NE Buxton, ND 58218

Signature

☒ I, the undersigned, am authorized to sign this Annual Report, know the contents, and believe the statements contained within to be true. I understand that if I make a false statement, I may be subject to criminal penalties.

Rebecca Dufner
Sign Here

09/21/2025
Date

0006838639

B0726-8650 10/06/2024 Received by ND Secretary of State

BUSINESS LIMITED LIABILITY COMPANY ANNUAL REPORT

SECRETARY OF STATE

(See SFN 50060)

For Office Use Only
-FILED-
SOS Control ID#: 0000160574
Date Filed: 10/6/2024

Fee for current filing year:

- $50 if received on or before November 15; and
- $100 if received after November 15.

Annual Report Due Date
11/15/2024

Limited Liability Company Name
UPNORTH ORGANICS LLC
State or country of origin: NORTH DAKOTA

Principal Executive Office Address
16195 13TH ST NE
BUXTON, ND 58218-9225

Mailing Address
954 169TH AVE NE
BUXTON, ND 58218-9225

Registered Agent in North Dakota
REBECCA DUFNER
Registered Agent
Physical Address
954 169TH AVE NE
BUXTON, ND 58218-9225
Mailing Address
954 169TH AVE NE
BUXTON, ND 58218-9225

Character of the Business
Certified handler of organic Beans, Grains, and Potatoes

Management
The limited liability company is member-managed.

Name of Member	Complete Mailing Address
Rebecca M Dufner	Becca 954 169th Ave NE Buxton, ND 58218

Signature

☒ I, the undersigned, am authorized to sign this Annual Report, know the contents, and believe the statements contained within to be true. I understand that if I make a false statement, I may be subject to criminal penalties.

Rebecca Dufner — Sign Here

10/06/2024 — Date

0006440820

BUSINESS LIMITED LIABILITY COMPANY ANNUAL REPORT

SECRETARY OF STATE

(See SFN 50060)

For Office Use Only
-FILED-
SOS Control ID#: 0000160574
Date Filed: 10/8/2023

B0618-6282 10/08/2023 Received by ND Secretary of State

Fee for current filing year:

- $50 if received on or before November 15; and
- $100 if received after November 15.

Annual Report Due Date
11/15/2023

Limited Liability Company Name
UPNORTH ORGANICS LLC
State or country of origin: NORTH DAKOTA

Principal Executive Office Address
16195 13TH ST NE
BUXTON, ND 58218-9225

Mailing Address
954 169TH AVE NE
BUXTON, ND 58218-9225

Registered Agent in North Dakota
REBECCA DUFNER
Registered Agent
Physical Address
954 169TH AVE NE
BUXTON, ND 58218-9225
Mailing Address
954 169TH AVE NE
BUXTON, ND 58218-9225

Character of the Business
Certified handler of organic Dry Beans and Grains

Management
The limited liability company is member-managed.

Name of Member	Complete Mailing Address
Rebecca M Dufner	Becca 954 169th Ave NE Buxton, ND 58218

Signature

☒ I, the undersigned, am authorized to sign this Annual Report, know the contents, and believe the statements contained within to be true. I understand that if I make a false statement, I may be subject to criminal penalties.

Rebecca M Dufner — Sign Here

10/08/2023 — Date

0006056841

B0516-4134 10/16/2022 Received by ND Secretary of State Alvin A. Jaeger

BUSINESS LIMITED LIABILITY COMPANY ANNUAL REPORT
SECRETARY OF STATE
(See SFN 50060)

For Office Use Only
-FILED-
SOS Control ID#: 0000160574
Date Filed: 10/16/2022

Fee for current filing year:

- $50 if received on or before November 15; and
- $100 if received after November 15.

Annual Report Due Date
11/15/2022

Limited Liability Company Name
UPNORTH ORGANICS LLC
State or country of origin: NORTH DAKOTA

Principal Executive Office Address
16195 13TH ST NE
BUXTON, ND 58218-9225

Mailing Address
954 169TH AVE NE
BUXTON, ND 58218-9225

Registered Agent in North Dakota
REBECCA DUFNER
Registered Agent
Physical Address
954 169TH AVE NE
BUXTON, ND 58218-9225
Mailing Address
954 169TH AVE NE
BUXTON, ND 58218-9225

Character of the Business
Certified Organic handler of dry beans and grains

Management
The limited liability company is member-managed.

Name of Member	Complete Mailing Address
Rebecca M Dufner	Becca 954 169th Ave NE Buxton, ND 58218

Signature

☒ I, the undersigned, am authorized to sign this Annual Report, know the contents, and believe the statements contained within to be true. I understand that if I make a false statement, I may be subject to criminal penalties.

Rebecca Dufner — Sign Here

10/16/2022 — Date

0005659683

B0413-1727 10/03/2021 Received by ND Secretary of State Alvin A. Jaeger

BUSINESS LIMITED LIABILITY COMPANY ANNUAL REPORT

SECRETARY OF STATE

(See SFN 50060)

For Office Use Only
-FILED-
SOS Control ID#: 0000160574
Date Filed: 10/3/2021

Fee for current filing year:

- $50 if received on or before November 15; and
- $100 if received after November 15.

Annual Report Due Date
11/15/2021

Limited Liability Company Name
UPNORTH ORGANICS LLC
State or country of origin: NORTH DAKOTA

Principal Executive Office Address
16195 13TH ST NE
BUXTON, ND 58218-9225

Mailing Address
954 169TH AVE NE
BUXTON, ND 58218-9225

Registered Agent in North Dakota
REBECCA DUFNER
Registered Agent
Physical Address
954 169TH AVE NE
BUXTON, ND 58218-9225
Mailing Address
954 169TH AVE NE
BUXTON, ND 58218-9225

Character of the Business
Certified Organic handler of Dry Beans and small Grains

Management
The limited liability company is member-managed.

Name of Member	Complete Mailing Address
Rebecca M Dufner	Becca 954 169th Ave NE Buxton, ND 58218

Signature

☒ I, the undersigned, am authorized to sign this Annual Report, know the contents, and believe the statements contained within to be true. I understand that if I make a false statement, I may be subject to criminal penalties.

Rebecca Dufner — Sign Here

10/03/2021 — Date

0005329944

BUSINESS LIMITED LIABILITY COMPANY ANNUAL REPORT

SECRETARY OF STATE

(See SFN 50060)

For Office Use Only
-FILED-
SOS Control ID#: 0000160574
Date Filed: 11/8/2020

B0329-2076 11/08/2020 Received by ND Secretary of State Alvin A. Jaeger

Fee for current filing year:

- $50 if received on or before November 16; and
- $100 if received after November 16.

Annual Report Due Date
11/16/2020

Limited Liability Company Name
UPNORTH ORGANICS LLC
State or country of origin: NORTH DAKOTA

Principal Executive Office Address
16195 13TH ST NE
BUXTON, ND 58218-9225

Mailing Address
954 169TH AVE NE
BUXTON, ND 58218-9225

Registered Agent in North Dakota
REBECCA DUFNER
Registered Agent
Physical Address
954 169TH AVE NE
BUXTON, ND 58218-9225
Mailing Address
954 169TH AVE NE
BUXTON, ND 58218-9225

Character of the Business
Marketing

Management
The limited liability company is member-managed.

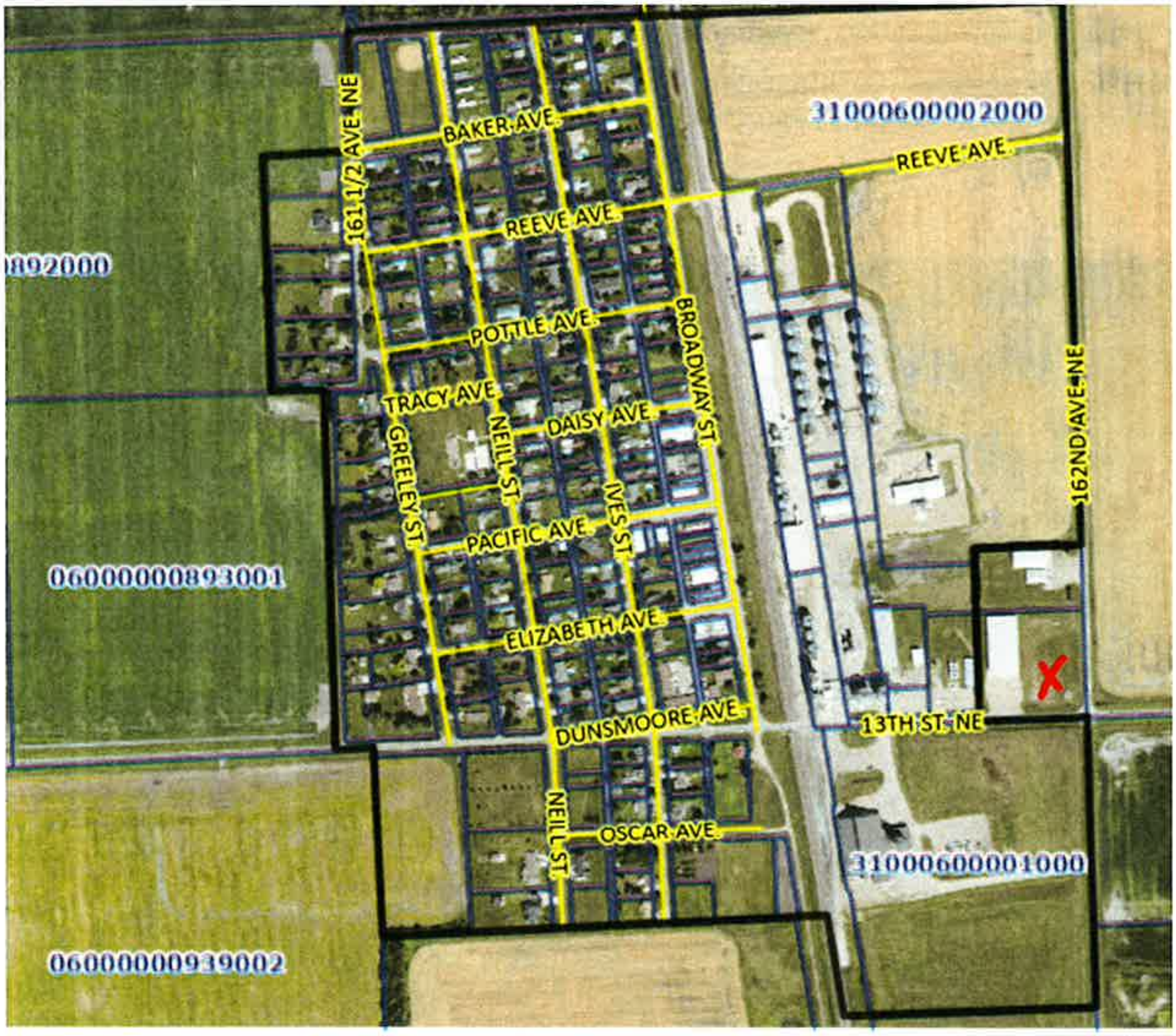
Name of Member	Complete Mailing Address
Rebecca M Dufner	Becca 954 169th Ave NE Buxton, ND 58218

Signature

☒ I, the undersigned, am authorized to sign this Annual Report, know the contents, and believe the statements contained within to be true. I understand that if I make a false statement, I may be subject to criminal penalties.

Rebecca Dufner — *11/08/2020*

Sign Here — Date

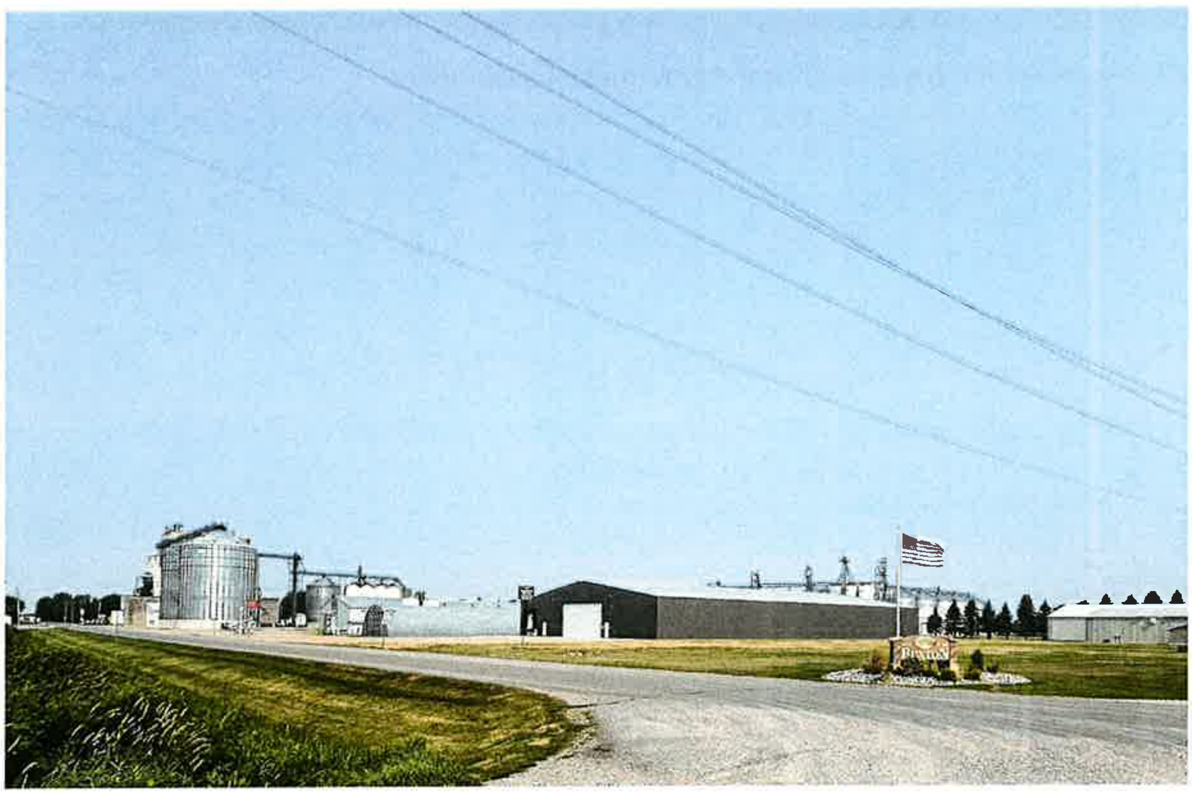


Black lines outline the incorporated City.

Red X marks the subject property. RED X marks property in question.

Prior to and at the time of the sale to Dufner, a vertical construction business, shown below, was located on this lot. This building was assessed commercially. After Dufner purchase in 2020, this commercial building was torn down and replaced with the current Up North Organics warehouse.

Photo above shows the building on the parcel at time of purchase by Dufners.



Views from SE

UpNorth Organics

Welcome to UpNorth Organics, your premium source for bulk organic commodities. Explore our range of Certified Organic beans, grains, and potatoes. We produce the highest quality products that nature has to offer.

https://www.upnorthorganicsnd.com/

View from SW

CUMMINGS AG

HOME SERVICES ABOUT CONTACT

Two Facilities

Our two, non-GMO, allergen- and gluten-free, state-of-the-art facilities in Cummings, North Dakota, save customers time and money by providing the Upper Midwest's most complete processing of beans and peas, including dry edible beans, field peas, split peas, lentil beans, dry bean splits and garbanzo beans. Learn More About Our Facilities

Packaging / Storage

In addition to our bean and pea processing abilities, we are equipped to help commercial customers with packaging and shipping processed product in bags, totes or in bulk via truck, container or rail. Ask a representative today, and we can detail our capabilities and pricing. We also feature 225,000 bushels of rental storage capacity. Learn More About Packaging/Storage

Cummings Ag | Bean And Pea Processing

https://www.cumningsag.com

CUMMINGS AG

HOME SERVICES ABOUT CONTACT

Creating Success Stories Since 1992

The Bjerke family started cleaning and processing grains and beans way back in 1992, and Cummings Ag has kept customers on the very edge of crop conditioning technology ever since. Cummings, North Dakota, may not be a big town (population 20, located between Grand Forks and Fargo on I-29) but that has never stopped us from doing big things. The professionals at Cummings Ag have turned millions of bushels of beans into millions of dollars in profit for customers.

Our customers include:

- Dry edible bean processing companies
- Brokers and traders
- Grain export terminals
- Grain elevators
- Flour and feed mills
- Malt, pulse and oilseed processors

In addition, Bjerke Brothers is a leading designer and supplier of grain and seed cleaning and processing equipment in the United States.

View Our Certifications

View Our Partners / Affiliates

The World's Most Advanced Bean & Pea Processing Equipment, All In One Place

Cummings Ag built 35,000 square feet of state-of-the-art facilities in Cummings, North Dakota, with a single purpose: to put customers in control of the bean and pea selling process by giving them access to the very best processing equipment on the market. Once your commodity is properly processed, you can focus on dollar yields and profits.

New South Line Features These Machines:

- Crippen 488 Air Screen Pre-Cleaner
- LMC Roca 48 Full Flow Destoner
- Oliver 3600 Primary Gravity Table with high side Crippen S420 Destoner.
- Crippen 688 Precision Air Screen Cleaner
- Oliver 240 Gravity Table
- Crippen 6Box Bean Polisher
- SunMag Magnetic Dirt/Rock Belt Sorters
- Satake EVO 8 Color Sorter with Shape Recognition.

PDF+PIN: **015+06-0000-00889-045** | Traill County, ND | **WORKING** | Tue, 7/28/2026, 7:39 AM | Page 1

13TH ST NE, BUXTON

Deed: **DUFNER, JOSEPH & REBECCA (TRUST)**
Contract:
CID#:
DBA: **UP NORTH ORGANICS**
MLS:

Map Area: **BUXTON TWP-COM**
Route: **DS0-000-000**
Tax Dist: **0603010000**
Plat Page:
Subdiv: **NONE**

Checks/Tags:
Lister/Date:
Review/Date:
Entry Status:

Rural / Commercial
Legal: W 400' OF E 400' OF S 400' SE1/4 25-148-51 A-3.68

Land

Land Basis	Front	Rear	Side 1	Side 2	R. Lot	SF	Acres
Acre X Rate						43,560.00	1.000
AC x Rate 2						43,560.00	1.000
AC x Rate 3						43,560.00	1.000
AC x Rate 4						29,620.80	0.680
Subtotal						160,300.80	3.680
Grand Total						160,300.80	3.680

	Street	**Utilities**	**Zoning**	**Land Use**
Acre X Rate	None	None	Not Applicable	Not Applicable

Sales

Date	$ Amount	NUTC	Recording
01/29/2021	$0	D000	195371
12/31/2019	$42,500	D000	193296

Building Permits

Date	Number	Tag	$ Amount	Reason

Values

Type	Appraised	B of R	St. Equalized	Pr Yr: 2026
Land	$51,700	$0	$0	$51,700
Dwlg		$0	$0	
Impr	$808,600	$0	$0	$808,600
Total	$860,300	$0	$0	$860,300

Precomputed Structure

Occ. Code	698
Occ. Descr.	Warehouse (Distribution)
Year Built	2020
EFF Age/Yr	6/ 2020
Condition	NML
Description	B1: 1 STY/ NO BSMT
Bldg Style	Metal - Steel
Stories	1
1st Flr Wall Ht	18
Base	22,000
Basement	0
1st Flr Inset Adj	0
GBA	22000

Verticals

Ftg & Fdtn							
Exterior wall							
Interior wall							
Pilasters							
Wall facing							
Windows							
Fronts/Doors							

Horizontals

Basement							
Roof							
Ceiling							
Struct. Floor							
Floor Cover							
Partitions							
Framing							
HVAC							
Electrical							
Sprinkler							

Plumbing	B	Ext

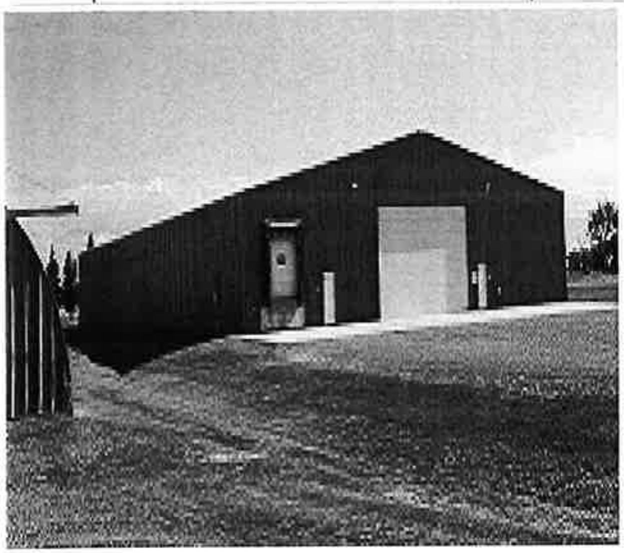
Adjustments

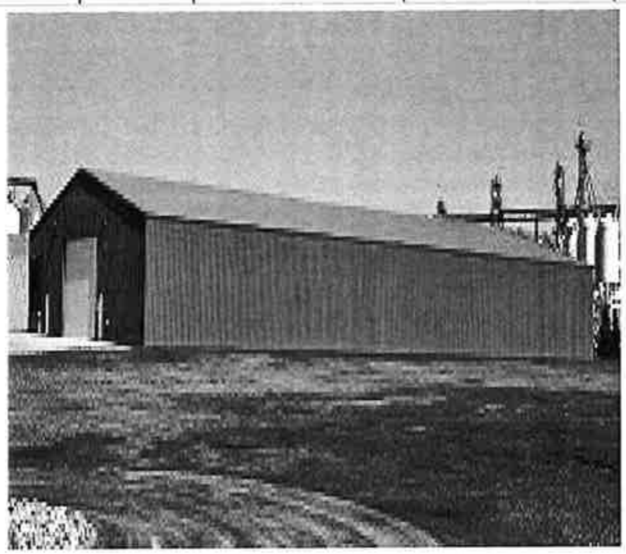
Heat - none	22,000	AVG
Insulation - none/roll	33,160	AVG
Office - internal w/heat	192	AVG

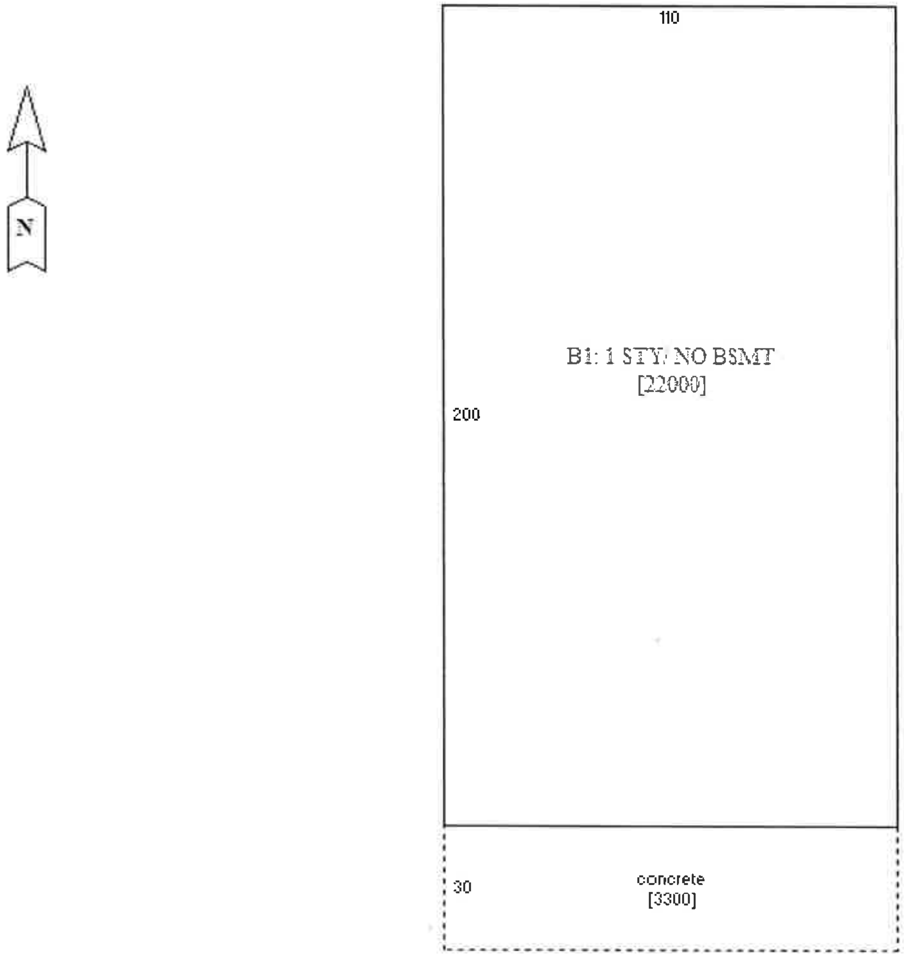
Bldg / Addn		Description	Units			Year						
	Bldg	O 698 —Warehouse (Distribution)										
	Pre	P 698 —Warehouse (Distribution)	22,000									
	Adj	Heat - none - AVG	22,000									
	Adj	Insulation - none/roll - AVG	33,160									
	Adj	Office - internal w/heat only - AVG	192									
1 of 4	Ex	Door O.H. - Door - Power, 36 Ft Wide, 16 Ft High	1			2020						
2 of 4	Ex	Door O.H. - Door - Power, 9 Ft Wide, 9 Ft High	1			2020						
3 of 4	Ex	Door Entry - Kalamein - 1 3/4", 36 Ft Wide, 80 Ft High	1			2020						
4 of 4	Ex	Dock Leveler Edge Hydraulic	1			2020						

	Description	Units		Cond	Year							
Yrd	1 — Paving - Concrete			NML	2020							
I	3,300 SF, Conc Apron, Avg Pricing											

Prior Year	Comment	Value Type	Location	Class	Land Value	Dwelling Value	Improvement Value	M & E Value	Total Value
2026	VAI Import 2026 file	Import	Rural	Comm	$51,700	$0	$808,600	$0	$860,300
2025	VAI Import from 2025 file	Import	Rural	Comm	$26,300	$0	$767,700	$0	$794,000
2024	VAI Import from 2024 file	Import	Rural	Comm	$29,200	$0	$837,900	$0	$867,100
2023	VAI Import from 2023 file	Import	Rural	Comm	$34,390	$0	$0	$0	$34,390
2022	VAI Import from 2022 file	Import	Rural	Comm	$34,190	$0	$0	$0	$34,190
2021		Import	Rural	Comm	$28,104	$0	$0	$0	$28,104


view from SW


view from SE


N
110
B1: 1 STY/ NO BSMT
[22000]
200
concrete
[3300]
30

NORTH DAKOTA
Brian Kroshus, Tax Commissioner

PROPERTY TAX EXEMPTION OF FARM BUILDINGS AND OTHER IMPROVEMENTS

General Provisions

1. Farm buildings and improvements located on agricultural lands are exempt from taxation provided they are used as part of a farm plant.

   The land must be used for raising agricultural crops or grazing farm animals and used as part of a farm plant. A farm plant is the entire farm enterprise operated as an economic unit. If the unit contains less than 10 acres of land, the taxing authority, in determining whether the unit is a farm, must consider such things as the present use, the adaptability to use, and how similar type properties in the immediate area are classified for tax purposes.

   Agricultural property includes land on which a greenhouse or other building is located if the land is used for a nursery or other purpose associated with the operation of a greenhouse.

2. A residence or other building located on agricultural land is exempt if used both in a farming and in a non-farming activity, provided the primary or dominant use of it is in farming.

3. Buildings and other improvements located on agricultural land in unplatted areas within the boundaries of an incorporated city are exempt, provided the buildings are used for agricultural purposes and are part of a farm plant.

4. A residence or other building located on platted land within the boundaries of an incorporated city or upon railroad operating property is not exempt as a farm building. An outlot (a lot included within the boundaries of an original or subdivision plat) is platted land.

* 5. A building located on platted land within an incorporated city is exempt if: (1) the building is used exclusively for the storage of harvested crops produced by the property owner or their direct relative;
   (2) the building is affixed to the platted land or; (3) the platted land was assessed as agricultural property prior to March 30, 1981.

6. Any building located on a farm and occupied or used by someone not engaged in farming is not exempt. (See number 9.)

7. A reasonable amount of land on which a non-exempt building is located must be assessed in the same classification as the building, either residential or commercial.

8. A vacant farm residence or building located on agricultural land is exempt, provided it was exempt as part of a farm plant or as a farm residence when it was last used. A vacant farm residence or building which was taxable because of a non-qualifying use should remain taxable until its active use has changed.

9. Buildings located on agricultural land used by a farmer to provide housing for that farmer's workers are exempt, provided they are used as part of a farm plant. (See number 6.)

10. Buildings and other improvements primarily used to feed chickens, turkeys or other poultry, cattle, pigs or other livestock are exempt if the enterprise is located on agricultural land.

    "Livestock" includes "nontraditional livestock", that is, any wildlife held in a cage, fence, enclosure, or other man-made means of confinement that limits its movement within definite boundaries, or an animal that is physically altered to limit movement and facilitate capture. [N.D.C.C. § 36-01-00.1].

11. Beekeeping is an agricultural practice. It includes extraction and storing of honey in containers. Buildings and improvements used in connection with a beekeeping operation are exempt. (N.D.C.C. § 4.1-16-18).

    Processing honey is a commercial operation. Buildings and improvements used in connection with commercial honey operations are not exempt. Processing honey is any procedure, including filtering or clarifying, which changes the natural state of honey. Morel v. Thompson, 225 NW 2d 584 (N.D. 1975).

12. "Farm buildings and improvements" includes a greenhouse or other building used primarily for the growing of horticultural or nursery products from seed, cuttings, or roots, if not used on more than an occasional basis for a showroom for the retail sale of horticultural or nursery products. A greenhouse or building used primarily for display of grown horticultural or nursery products is not a farm building or improvement.

    A commercial nursery is a farming operation; buildings and improvements used in the operation of a commercial nursery are exempt. Boehm v. Burleigh County, 130 NW 2d 170 (N.D. 1964).

13. The exemption is not limited to a single set of farm buildings. If a farmer has more than one set of farm buildings, all are exempt if the buildings are used as part of the farm plant.

Farm Residence Exemption

14. A residence is exempt if it is situated on a farm and is occupied or used by an individual who is a farmer. It does not need to be owned by the farmer.

    The term farm means a single tract or contiguous tracts of agricultural land containing a minimum of 10 acres which are normally used for farming or ranching.

    The term farmer means an individual who normally devotes the major portion of the individual's time to the activities of producing unmanufactured products of the soil (except for marijuana grown under N.D.C.C. Ch. 19-24.1), poultry, livestock or dairy products. The farmer and spouse, if married, must have received more than 66% of their combined annual gross income from farming activities in any one year of the two preceding calendar years, whether one or both are farmers. The term also includes an individual who is a retired farmer or beginning farmer. The farmer and spouse, if married, must have received more than 66% of their combined annual gross income, as described in N.D.C.C. § 57-02-08(15)(b)(3), from farming activities in any one year of the two preceding calendar years, whether one or both are farmers.

15. A retired farmer is an individual who quit farming because of illness or age and has not merely changed occupations. The local assessment officials have the responsibility to determine whether a farmer retired because of illness or age.

16. A beginning farmer is an individual who: 1) began occupancy and operation of a farm in either of the two preceding calendar years; 2) normally devotes the major portion of time to farming activities and; 3) who does not have a history of farm income from farm operations for each of the two preceding calendar years.

17. A residence occupied by the surviving spouse of a farmer who owned and occupied the residence as an active farmer at the time of death is exempt through the end of the fifth taxable year after the year of the farmer's death.

A residence occupied by the surviving spouse of a farmer who owned and occupied the residence as a retired farmer at the time of death remains exempt for as long as the residence is continuously occupied by the farmer's surviving spouse.

18. A residence located on a tract of agricultural land containing 10 acres or more, occupied by a farmer who also farms other noncontiguous land, qualifies for the exemption even though the particular tract of land upon which the residence is located does not produce 66% or more of the farmer's income.
19. A residence is not exempt if it is located on a tract or contiguous tracts of agricultural land, whether owned or rented, containing less than 10 acres.
20. A residence located on a tract or contiguous tracts of agricultural land containing 10 acres or more is not exempt if it is occupied or used by an individual who is not a farmer.
21. A mobile home, as described in N.D.C.C. § 57-57-01, qualifies as a farm residence, provided such mobile home is permanently attached to a foundation, N.D.C.C. § 57-55-10(2)(b).
22. A residence is exempt if it is situated on a farm and remains occupied by the retired farmer who owned and occupied it as a farmer at the time of retirement.
23. If the agricultural land acreage owned by the retired farmer diminishes to less than 10 acres after retirement, the residence may continue to be exempt, provided that the residence qualified for the exemption at the time the farmer retired.
24. "Gross income from farming activities" means gross income from farming as defined for purposes of determining if an individual is a farmer eligible to use the special estimated income tax payment rules for farmers under the Internal Revenue Code § 6654.
25. When an exemption application is filed by an occupant that claims to be an active farmer, the applicant shall provide to the assessor, for the year or years specified by the assessor, the Statement of Farm Gross Income and Application for Property Tax Exemption of a Farm Residence, as prescribed by the North Dakota Office of State Tax Commissioner.

    If the occupant is someone other than the property owner, the property owner will complete and submit the application for the exemption. The occupant must complete and submit the Statement of Farm Gross Income.
26. The completed Statement of Farm Gross Income should be submitted with the Application for Property Tax Exemption of a Farm Residence, which is due on or before February 1 of the year which the exemption is claimed. Or, the completed Statement of Farm Gross Income may be submitted separately from the application form, in which case it must be submitted no later than March 31 of the year for which the exemption is claimed. Use the most recent of the two calendar years preceding the year for which the exemption is being claimed to show compliance. See the Statement of Farm Gross Income for examples.
27. Income information provided to the assessor is confidential.
28. If a farmer operates a bed and breakfast facility in the farm residence occupied by that farmer, the residence is exempt provided the farmer and the residence meet the other qualifications for the exemption.

Boehm v. Burleigh County

Full Name: Boehm v. Burleigh County

Citation: 130 N.W.2d 170

Docket Number: 8150

Date: September 11, 1964

130 N.W.2d 170 (1964)

Nicholas M. BOEHM, Plaintiff and Respondent, v. BURLEIGH COUNTY, North Dakota, a political subdivision of the State of North Dakota, and C. L. Kleinschmidt as Treasurer of Burleigh County, Defendants and Appellants.

No. 8150.

Supreme Court of North Dakota.

September 11, 1964.

*172 Helgi Johanneson, Atty. Gen., Joseph R. Maichel, Sp. Asst. Atty. Gen., and Gerald G. Glaser, Asst. State's Atty., Bismarck, for defendants and appellants.

Rausch & Chapman, Bismarck, for plaintiff and respondent.

TEIGEN, Judge.

The defendant Burleigh County has appealed from a judgment adjudicating that the plaintiff's dwelling and other structures or buildings, located on a tract of land which he owns and operates as a nursery, are farm structures located on agricultural lands and, therefore, exempt from taxation under Section 57-02-08(15), N.D.C.C.

The facts are stipulated and the case involves the construction of the tax-exemption statute.

The plaintiff owns 20 acres of land described in the complaint. It is unplatted land located outside the limits of any town or city. On this land he operates a licensed nursery. The plaintiff is now and for many years has been engaged in "the growing, cultivating, raising and marketing of trees, shrubs, flowers and plants and uses the real property described in the complaint for said purpose and further maintains plows, cultivators and other farm machinery and equipment for said purposes."

"That the work and sole employment of plaintiff may be classified as a nursery operator including the cultivating of trees, plants and flowers with sowing of seed and propagation by grafting, budding and other methods using knowledge of plant germination, soil content and growing habits of plant life; that the same are products of the soil and that sales of said products are made to residents of the State of North Dakota; that the products above noted are subject to the same forces of nature as any other product of the soil; that the plaintiff employs labor in the performance of the work herein concerned."

It is also stipulated that plaintiff holds a sales tax permit and that the improvements upon the property which the plaintiff claims to be exempt from taxation include:

"a dwelling in which he and his family reside, together with other structures or buildings used in connection with the aforementioned purposes; * * *."

The sole issue is whether the dwelling, structures or other buildings located upon the land in question, used in connection with the above-described purposes, are exempt from taxation.

Our Constitution provides that all fixtures, buildings and improvements of every character whatsoever upon land shall be deemed personal property for tax-exemption purposes. Section 176, North Dakota Constitution. The exemption statute in question reads as follows:

"All property described in this section to the extent herein limited shall be exempt from taxation, that is to say: * * * * * * "15. All farm structures, and improvements located on agricultural lands. This subsection shall be construed to exempt farm buildings and improvements only, and shall not be construed to exempt from taxation industrial plants, or structures of any kind not used or intended for use as a part of a farm plant, or as a farm residence; * * *." Section 57-02-08, N.D.C.C.

The defendant county admits the land is classified as rural land but argues it does not, for this reason, necessarily fall within the classification of "agricultural lands" as that term is used in the statute. It also argues if the court should find the land is "agricultural lands" that, nevertheless, the buildings and improvements are not exempt from taxation because they do not meet the second condition of the statute for the reason they are not used nor intended to be used as a part of a "farm plant or as a farm residence."

*173 This statute was construed in Eisenzimmer v. Bell, 75 N.D. 733, 32 N.W.2d 891, not to apply to farm structures and buildings situated on a lot within the platted portion of an incorporated city and used to carry on farming operations. In that case we said:

"It was the intention of the legislature to encourage the construction of buildings and improvements on farms, and to that end classified this particular type of property as exempt from taxation. The act therefore must be interpreted in the light of existing laws and conditions."

We then said:

"The term `agricultural lands,' as used in this act, is descriptive of the land itself as a class, and is used merely to distinguish rural from urban or other properties. The first test is as to the character of the lands; and secondly, the nature of the structureswhether they are used or intended for use as part of the farm plant."

This land is rural land and, according to the above definition, is "agricultural lands."

The second test is the nature of the structures"whether they are used or intended for use as a part of the farm plant."

It is stipulated that the buildings and improvements, and the land, are all used for the same purpose. Thus the use of the land, and of the buildings and improvements, is for a common purpose and constitutes a unit or a plant.

The defendant contends that it would seem reasonable and logical that the legislature, when it first enacted the exemption law in 1919, had in mind land with buildings thereon used for agricultural purposes in the commonly accepted meaning of the term "agricultural"; that is, the land must be used for the purpose of raising crops or rearing farm animals and be of sufficient quantity so as to require the owner-farmer to devote the major part of his time to the operation of the farm with the expectation that the operator would or could derive his principal source of livelihood from the occupation of farming. It also argues that nursery stocks are not farm products and do not constitute a crop but rather are regarded as a stock of merchandise, and that the operator of a nursery is not regarded as a farmer but rather as a merchant connected with a retail or wholesale business. The defendant argues that agriculture is more comprehensive than farming and only in its broad sense applies to "horticulture," which is a term ordinarily applied to the cultivation of an orchard, garden or nursery.

It is well settled that the burden is on the claimant of a tax exemption to establish the exempt status of the property and that the laws under which a tax exemption is claimed will receive a strict construction against the claimant. North Dakota Society for Crippled Children and Adults v. Murphy, N.D., 94 N.W.2d 343.

The facts stipulated in this case do not indicate a greenhouse operation or the application of artificial conditions to produce or market the products. Therefore, Unemployment Compensation Division v. Valker's Greenhouses, 70 N.D. 515, 296 N.W. 143, does not govern. In that case this court held that labor rendered in a greenhouse on a tract of land cultivated in connection therewith was not agricultural labor under the provisions of the Unemployment Compensation Act which excepted therefrom "agricultural labor."

The sole remaining question in this case is whether the plaintiff's property is used as a farm plant. The question is made rather difficult by the fact that the term "farm" is inexact. It has been employed by the courts and legislatures many times but not always with the same meaning. Webster's Third New International Dictionary defines the word "farm" as:

"Any tract of land whether consisting of one or more parcels devoted to agricultural purposes generally under the *174 management of a tenant or the owner: any parcel or group of parcels of land cultivated as a unit."

Funk and Wagnalls New Standard Dictionary defines "farm" as:

"A tract of land under one control or forming a single property devoted to agriculture, stock-raising, dairy-produce, or some allied industry."

In 35 C.J.S. Farm page 947, it is stated that some centuries ago the word "farm" had a meaning very different from the meaning it has today. It states on page 948:

"In more modern times the word has received a more extended signification, and now denotes, in this country, both in a popular and legal sense, a considerable tract of land, devoted, in part at least, to cultivation, with suitable buildings, and under the supervision of a single occupant, regardless of the nature or extent of his tenure, and in the present day, both in England and the United States, a farm in its ordinary acceptation means any considerable tract of land, or a number of small tracts, devoted wholly or partially to agricultural purposes or pasturage of cattle."

On page 949 it states:

"The word `farm' implies some tillage of the soil under natural conditions, and also implies cultivation of land for the purpose of production, or use in aid thereof. "It has been said that what constitutes a farm must differ under the particular statute considered, or the circumstances in the particular case. The word has a suggestive significance apart from any explicit or restrictive meaning, and even in a popular sense is applied to land used for any one of a variety of purposes, and it is generally recognized that the term includes land and buildings, the real estate devoted to agricultural purposes, raising of cattle, dairying, and the like, and may and often does include not only cultivated land and pasture land, but also woodland."

In Township of Marple v. Lynam, 151 Pa.Super. 288, 30 A.2d 208, the Supreme Court of Pennsylvania construed a city zoning ordinance which provided:

"`A building may be erected, altered or used, and a lot or premises may be used for any of the following purposes and for no other. * * * Farm, private greenhouse, municipal recreational use, railway or bus passenger station, municipal administration building;' and `Accessory use on the same lot with and customarily incidental to any of the above permitted uses. * * *'"

to include a nursery where ornamental and other trees and shrubs are grown as a "farm" within the permitted uses of the ordinance.

In Dills v. Tennessee Nursery Co., 188 Tenn. 241, 218 S.W.2d 992, the court held a nursery company employee who planted trees, dug them up and got them ready for shipment to customers in various States, and who was killed while towing back a disabled truck from the company's farm, was a "farm or agricultural laborer" within the provisions of their Workmen's Compensation Act exempting therefrom "farm or agricultural laborers."

In re Bronxville Nurseries, 258 App.Div. 1019, 17 N.Y.S.2d 95, the court said that nursery employees engaged in growing of nursery stock or work incidental thereto were "farm laborers" and not "employees" within New York's Unemployment Insurance Law where the major operation of the nursery consisted of preparation, fertilization and cultivation of the soil, seeding, budding, grafting, transplanting and related operations. The court said the operation calls for a knowledge of modern scientific methods and the preparation for market of the finished product, whether it be trees, shrubs, bushes or plants, and that *175 the term "farm laborer" is sufficiently defined to include the activities of the respondent's employee.

In Ginn v. Forest Nursery Co., 165 Tenn. 9, 52 S.W.2d 141, the court held that where the nursery company had a nursery in the country and also some property in town used for nursery purposes, the nursery employee, who was injured while spading a shrub on the town property, was a "farm or agricultural laborer," and not entitled to compensation for injuries under their Compensation Act. The court said it was "agricultural labor" in a literal sense because the meaning of the word would not be justified in holding otherwise.

In Hill v. Georgia Casualty Co., Tex.Com.App., 45 S.W.2d 566, the Texas court said a nursery laborer was an "agricultural laborer" excluded under their Compensation Act. The court said:

"It is quite evident that there is no more reason for saying that the Legislature meant the term `farm laborers' to embrace `ranch laborers' than for saying that the term was intended to embrace horticultural or nursery laborers. It is a matter of common knowledge that the general character of work done in nursery operations is not materially different from work done in other agricultural operations; * * *"

In re Slade's Estate, 122 Cal. 434, 55 P. 158, involved an exemption statute which set apart certain personal property and farming utensils or implements of husbandry of a judgment debtor. The debtor owned 300 acres of land, 150 acres of which were devoted to growing orchard fruits and grapes, 10 acres for garden produce and the balance for hay. The court held that implements used for all of the purposes mentioned were within the definition of the statute exempting farming utensils and implements of husbandry. In that case the argument was that fruit growing was horticulture, grape growing was viticulture and, therefore, the hay tools were the only implements exempt as farm tools. The court reasoned that a farmer is one who is devoted to the tillage of the soil, and that persons who follow this occupation may call themselves horticulturists, viticulturists or gardeners but they are farmers.

In Unemployment Compensation Division v. Valker's Greenhouses, supra, we said on page 520 of 70 N.D., on page 145 of 296 N.W.:

"We customarily think of agriculture even in its broadest sense as pertaining to a farm."

We held that the enterprise of Valker's Greenhouses, consisting of the greenhouse and the land used in connection therewith, was not a farm for the reason that the products produced required the use and application of artificial conditions to the extent of approximately 50% of its activity, and found that the greenhouse was not merely an incident to the operation of a farm but it was the heart of the enterprise and, therefore, the labor for this enterprise was not "agricultural labor" within the definition of the North Dakota Unemployment Compensation Act. We quoted with approval from Park Floral Co. v. Industrial Commission, 104 Colo. 350, 91 P.2d 492, the following:

"By the evolutionary processes attendant on our present-day business methods, many activities formerly embraced in farming operations or in intimate connection therewith have become specialized and removed from the farm, and when this is accomplished such work may properly be regarded as thereby becoming industrial in nature, rather than agricultural in the common conception of that term."

It is obvious from the facts as stipulated in the instant case that the evolutionary processes referred to have not taken place in the plaintiff's operations of this nursery.

"The specific branch of agriculture to which the nursery industry belongs is denominated `horticulture.'" 67 C.J.S. Nursery page 2.

*176 The products of a nursery are "agricultural products." State v. Wertheimer Bag Co., 253 Ala. 124, 43 So. 2d 824.

The words used in any statute are to be understood in their ordinary sense, unless a contrary intention plainly appears or the words are explained. Section 1-02-02, N.D.C.C. The meaning of the words "farm" or "farm plant" must, therefore, be construed in their ordinary sense, as no contrary intention appears nor is the term explained by the statute. The definitions set forth above clearly demonstrate to us the ordinary meaning of the word. As ordinarily understood, we believe "farm," for tax-exemption purposes, may be defined as a rural tract or plot of ground with buildings and improvements devoted to agricultural purposes and implies the cultivation of the land under natural conditions for the purposes of production or use in aid thereof, and that the term "agriculture" is sufficiently broad to include "horticulture."

It is common knowledge that nurseries existed in this State at the time of the passage of the original legislation. A review of the laws on the statute books at that time illustrates that the Legislatures of that day were desirous of improving and beautifying farms and rural lands by the encouragement and incentive offered in various forms. The statutes provided for the payment of bounties for the planting and maintaining of trees, shrubs and hedges. Sections 2813 to 2816, C.L. of 1913 and amendments thereto. They provided for the inspection and regulation of nurseries under the direction of the director of the North Dakota Experimental Station. Sections 2824 to 2834, inclusive, C.L.1913. Farmers' institutes were provided to instruct farmers on the growing of fruits and forestry, among other things. Sections 1877 to 1880, C.L.1913 and amendments thereto. An agricultural, grass and tree experiment station was established at Mandan. Sections 1641 and 1642, C.L.1913. All of these facilities were operated in connection with either the North Dakota State University of Agriculture and Applied Science, formerly Agricultural College, or the

School of Forestry at Bottineau. There was also established the office of State Forester and a State nursery was established. Sections 1679a to 1679d, C.L.1913. Also, Chapter 136, S.L.1923, providing for the supervision and regulation of transporting of persons and property for compensation, excluded from the term "auto transportation companies" motor-propelled vehicles "operated exclusively in transporting agricultural, horticultural or dairy or other farm products from the point of production to the market," or any other carrier.

We believe the above statutes amply illustrate the State's interest in improving and promoting the use of nursery products and indicate the desire to encourage the establishment and maintenance of nurseries.

We are of the opinion that where the land, buildings and improvements, located in a rural area, are used solely for the purpose of growing, cultivating, raising and marketing trees, shrubs, flowers and plants, by the use of plows, cultivators and other farm machinery and equipment, and the work consists of sowing of seed and propagation by grafting, budding and other methods, using knowledge of plant germination, soil content and growing habits of plant life, which are made subject to the same forces of nature as any other product grown in soil without the use of specialized or artificial processes, constitutes a farm plant within the tax-exemption statute.

The judgment is affirmed.

MORRIS, C. J., and BURKE, STRUTZ and ERICKSTAD, JJ., concur.

JUSTIA

Morel v. Thompson

Full Name: Morel v. Thompson

Citation: 225 N.W.2d 584

Docket Number: 9057

Date: January 30, 1975

225 N.W.2d 584 (1975)

Edward F. MOREL, Plaintiff and Appellee, v. Bronald THOMPSON, et al., Defendants and Appellants.

Civ. No. 9057.

Supreme Court of North Dakota.

January 30, 1975.

*585 Mackoff, Kellogg, Kirby & Kloster, Dickinson, for plaintiff and appellee.

William G. Heth, Dickinson, for defendant and appellant, Edward Fetch.

David L. Evans, Workmen's Compensation Bureau, and Leonell W. Fraase, Sp. Asst. Atty. Gen., Bismarck, for defendant and appellant, North Dakota Workmen's Compensation Bureau.

ERICKSTAD, Chief Justice.

The issue in this case is whether Edward Fetch, doing business as Ed's Honey Company, was exempt as an employer from complying with the Workmen's Compensation statutes of the State.

On April 13, 1972, Edward F. Morel, while employed by Edward Fetch, doing business as Ed's Honey Company, suffered injury to his right hand when it was caught in the blades of a radial arm power saw. At that time both Morel and Fetch were engaged in sawing lumber to be used in conjunction with the construction of beehives. The accident occurred in a warehouse which Mr. Fetch rented on property formerly used by the Job Corps approximately three miles northeast of Dickinson.

At the Workmen's Compensation hearing, Fetch testified that he had been in the honey business for six years on his own and that prior thereto, he had been employed by the Woodworth Honey Company of Dickinson. He purchased approximately one thousand beehives at $9.50 per hive in January 1972 to be delivered in May of 1972. The beehives were placed in alfalfa and clover fields in the Dickinson area under arrangements with the farmers whereby the farmers would either receive cash or honey in exchange for the privilege of leaving the beehives on their land during the summer. (It is apparently the usual practice to take the bees south into Texas or to a warmer climate during the winter to avoid their death in the cold weather.) Under this arrangement, the farmer had a double benefit in that the farmer acquired a better pollinization of his alfalfa and clover and at the same time secured either honey or cash for permitting the beehives to be placed in his fields.

The honey was collected in the summer and fall and then heated slightly so that it could be liquefied and strained. It was then poured either in fifty-five gallon containers for shipment to large packing companies where it is filtered and clarified or it was poured into smaller containers for sale as raw honey in stores in Dickinson and Beulah and in towns between Dickinson and Beulah. Some honey was stored in the warehouse to supply the small-town stores in the nonproducing season and also honey was stored to feed the bees. Morel was involved in most of these activities during his various periods of employment by Fetch.

After the hearing the Bureau simply found that the keeping of bees and the collecting and selling of honey is an agricultural service and, accordingly, denied Morel's claim under § 65-01-02(4)(a)(1) inasmuch as Fetch had not elected to secure Workmen's Compensation Insurance under § 65-04-29 of the North Dakota Century Code.

Pertinent are the following statutes:

"65-01-05. Employment of those unprotected by insurance unlawfulEffect of failure to secure compensationPenaltyInjunction.It shall be unlawful for any person, firm, or corporation to employ anyone, or to receive the fruits of the labor of any person, in a hazardous employment as defined in this title, without first making application for workmen's compensation insurance coverage for the protection of such employees by notice to the bureau of the intended employment, *586 the nature thereof and the estimated payroll expenditure for the coming twelve month period. * * *" N.D.C.C. "65-01-02. Definitions. Whenever used in this title: * * * * * * "4. a. `Hazardous employment' shall mean any employment in which one or more employees are employed regularly in the same business or in or about the establishment except: "(1) Agricultural or domestic service; or" N.D.C.C. "65-04-29. Employers carrying on nonhazardous employment may come under lawEmployee's option.Any employer carrying on any employment not classed as hazardous under the definition of that term contained in section 65-01-02 who complies with the provisions of this title and who shall pay into the fund the premiums provided for under this chapter shall be covered under the fund and shall not be liable to respond in damages at common law or by statute for injuries to or the death of any employee, wherever occurring, during the period covered by such premiums. * * *" N.D.C.C.

On appeal to the district court, the judgment of the Workmen's Compensation Bureau dismissing Morel's claim was reversed. It is from the judgment of district court entered on June 7, 1974, that both the Workmen's Compensation Bureau and the employer, Mr. Fetch, appeal.

Notwithstanding that it is the findings of fact of the Bureau that we must sustain if supported by substantial evidence rather than the findings of fact of the trial court, we believe that since the facts are not disputed and the findings of the Bureau are so limited, the trial court's analysis of the facts as contained in its memorandum opinion is pertinent.

"In my opinion Ed's Honey is primarily a commercial operation and enterprise. The hives are put out on farm land in the spring and gathered in the fall. But there is much more going on for months in the building where the honey is processed. Many hives are constructed, the honey is taken out of the combs, it is filtered, heated, packaged and stored. It is sold and delivered. The bees are taken south for the winter."

The trial court stated that it was influenced in concluding that the activity was commercial rather than agricultural by an older decision of this court; to wit, Unemployment Compensation Division of Workmen's Compensation Bureau v. Valker's Greenhouses, Inc., 70 N.D. 515, 296 N.W. 143 (1941).

In Valker's, the issue was whether persons employed in conjunction with the operation of a greenhouse were employed in agricultural labor under the then existing Unemployment Compensation Act.

In attempting to determine this issue Justice Morris, writing for the Court, utilized the dictionary and found it of little help.

Our resort to the dictionary has also been rather unproductive. Note the definitions of "agriculture" and "apiculture" from three leading dictionaries in use today.

"agriculture, * * *. 1. The cultivation of the soil for food-products or any other useful or valuable growths of the field or garden; tillage; husbandry; also, by extension, farming, including any industry practiced by a cultivator of the soil in connection with such cultivation as forestry, fruit-raising, breeding and rearing of stock, dairying, market-gardening, etc. * * *. 2. The science that treats of the cultivation of the soil. 3. Polit. Econ. A branch of production treating of the laws and forces of nature, etc., involved in agricultural pursuits. * * *" Funk & Wagnalls New Standard Dictionary of the English Language, Copyright 1963. "agriculture * * *. The science, art, and business of cultivating the soil, *587 producing crops, and raising livestock useful to man; farming. * * *" The American Heritage Dictionary of the English Language, Copyright 1973. "agriculture * * *. la: the science or art of cultivating the soil, harvesting crops, and raising livestock: HUSBANDRY, FARMING b: the science or art of the production of plants and animals useful to man and in varying degrees the preparation of these products for man's use and their disposal (as by marketing) 2: FARMERS" Webster's Third New International Dictionary of the English Language, Unabridged, Copyright 1971. "apiculture, * * *. Bee-keeping; the care and management of bees. * * *" Funk & Wagnalls New Standard Dictionary of the English Language, Copyright 1963. "apiculture * * *. The raising and care of bees. * * *" The American Heritage Dictionary of the English Language, Copyright 1973. "apiculture * * *: beekeeping esp. when pursued on a large scale." Webster's Third New International Dictionary of the English Language, Unabridged, Copyright 1971.

That which apparently most influenced the trial court in the instant case was the statement of Judge Morris in Valker's as follows:

"To regard the production of all fruits of the soil, no matter under what conditions they are produced, as being agricultural rather than industrial, would place upon the term `agriculture' a broader meaning than that intended by the legislature. It would imply a broader meaning than that given to the term in its common usage. We customarily think of agriculture even in its broadest sense as pertaining to a farm." Unemployment Compensation Division of Workmen's Compensation Bureau v. Valker's Greenhouses, Inc., 70 N.D. 515, 296 N.W. 143 at 145 (1941).

It is interesting to note that in spite of some of the similarities between the operation of a greenhouse and the operation of a farm or ranch, the Court unanimously agreed in Valker's that the owner of a greenhouse was not exempt from the provisions of the Unemployment Compensation Act under the agricultural labor exemption.

We believe that in a case such as this where it is doubtful whether an exemption applies that the doubt should be resolved in favor of the laborer, since it was for him that the Workmen's Compensation Act was passed.

We think that what we said in Brown v. North Dakota Workmen's Compensation Bureau is appropriate in this case.

"The legislature, in establishing the Workmen's Compensation Bureau and the fund from which the benefits are paid, asserted that the prosperity of this state depends in a large measure upon the wellbeing of its wageworkers; and to secure this prosperity it provided sure and certain relief for workmen injured in hazardous employment and for their families and dependents." § 65-01-01, N.D. C.C. "As a corollary to the policy set forth in that section, this court has said that the workmen's compensation act must be liberally construed to promote the ends intended to be secured by its enactment. * * *" Brown v. North Dakota Workmen's Compensation Bureau, 152 N.W.2d 799 at 801 (N.D.1967).

We are not impressed by the argument of the appellants that beekeeping is regulated in North Dakota by the Commissioner of Agriculture under N.D.C.C., Chapter 4-12, or by the argument that the importation of bees into this country is under the control of the United States Secretary of Agriculture and the United States Secretary of the Treasury.

It is our view that the intent of the Legislature as indicated by the Workmen's Compensation statutes must prevail.

*588 Consistent with what we have said in this case is what was said by the Iowa Supreme Court (although applying a statute different in some respects from our Workmen's Compensation statute) when it was considering whether an employer was engaged in agriculture in the operation of a turkey packing plant. In that case, the employer had raised about 8,000 turkeys during the year, half of which were processed and the remainder sold live to packers. The claimant seeking Workmen's Compensation was injured while cleaning the floor in the packing plant.

In concluding that the employer was not engaged in agriculture, the Court quoted with approval from C.J.S. as follows:

"`a compensation statute is to be construed liberally and reasonably with the view of extending its beneficent provisions to all who can be fairly brought within them'; and the rule `applies in determining whether one is within the agricultural or farm worker exemption from the statute'. 99 C.J.S. Workmen's Compensation § 33, pages 190, 191." Crouse v. Lloyd's Turkey Ranch, 251 Iowa 156, 100 N.W.2d 115 at 119 (1959). The Iowa Court went on to say: "* * * in case of doubt we must construe the statute liberally and with a view to extend its aid to every employee who can fairly be brought within it. The purpose of the Workmen's Compensation Acts generally is to furnish a measure of protection to those who may be injured while employed;" Crouse v. Lloyd's Turkey Ranch, 251 Iowa 156, 100 N.W.2d 115 at 119 (1959).

We conclude that the findings of fact of the Workmen's Compensation Bureau are so insufficient that appropriate conclusions of law could not be drawn therefrom. This resulted in an erroneous conclusion of law being drawn by the Bureau. We have reviewed the findings of the trial court and conclude that they are supported by substantial evidence and the findings of fact support the conclusion of law. § 28-32-19, N.D.C.C. Accordingly, we affirm the judgment of the trial court and remand the case to the Workmen's Compensation Bureau for further proceedings not inconsistent with this opinion. Having so disposed of this case, we will not consider the contention belatedly raised in oral argument by Morel that the agricultural exemption denies him the equal protection of the laws guaranteed him under the Constitutions of the State of North Dakota and the United States of America.

SAND, PAULSON, PEDERSON and VOGEL, concur.

Butts Feed Lots v. Board of County Commissioners

Full Name: Butts Feed Lots v. Board of County Commissioners

Citation: 261 N.W.2d 667

Docket Number: 9393

Date: December 27, 1977

261 N.W.2d 667 (1977)

BUTTS FEED LOTS, INC., Appellant, v. BOARD OF COUNTY COMMISSIONERS OF FOSTER COUNTY, Appellee.

Civ. No. 9393.

Supreme Court of North Dakota.

December 27, 1977.

*668 Robert C. Heinley, Carrington, and David E. Nething, Jamestown, for Butts Feed Lots, Inc., appellant; argued by David E. Nething, Jamestown.

Fabian E. Noack, State's Atty., Carrington, for Board of County Commissioners of Foster County, appellee.

PEDERSON, Justice.

This is an appeal by Butts Feed Lots, Inc., (hereinafter Butts) from a decision of the district court which affirmed the denial by the Board of County Commissioners of Foster County (hereinafter Commissioners) of an application for abatement of taxes. The taxes in question were assessed against buildings and structures located on a 296-acre tract owned by Butts. Butts argued before the Commissioners, before the district court, and before this Court that the buildings and structures in question are farm structures and improvements and are, therefore, exempted from taxation as real property pursuant to § 57-02-08(15), North Dakota Century Code.[1]

The Commissioners rejected the application of Butts, stating:

"That the building structures and/or improvements. . . are not farm structures and/or improvements exempt from taxation . . . ."

This denial was appealed to the district court, where trial de novo was had. All of the facts were stipulated, and the entire stipulation is set forth in the findings of fact made by the district court. From those stipulated facts the trial court drew the following conclusions of law:

"1. "That the Court has jurisdiction over the subject matter and the parties hereto. *669 "2. "That the appellant is conducting a non-farming business operation and therefore, the structures and improvements are not exempt from taxation under the provisions of North Dakota Century Code 57-02-08. "3. "That the appeal of Butts Feed Lots, Inc. be dismissed in its entirety."

It is the second conclusion of law that is challenged on this appeal.

I.

The first question before the Court is the appropriate standard of review. The trial of this case having taken place entirely on the facts stipulated by the parties, we have before us precisely the same evidence as did the trial court. Although the trial court has properly followed Rule 52(a), NDRCivP, in preparing a memorandum opinion, findings of fact and conclusions of law, we have said that this Court is not bound by that Rule when the evidence before the trial court was documentary in nature. Dolajak v. State Auto. & Cas. Underwriters, 252 N.W.2d 180 (N.D.1977); E. E. Bach Millwork Co. v. Meisner & Co., 228 N.W.2d 904 (N.D.1975). See also, In re Koch Estate, 259 N.W.2d 655 (N.D.1977). In Dolajak, we quoted 5A Moore's Federal Practice (2d ed.), ¶ 52.04, p. 2677:

"`A number of courts likewise have held that findings of fact based . . . on stipulated facts . . . are not binding on the appellate court and will be given slight weight on appeal.'" 252 N.W.2d 182.

We comment on this standard not in regard to the findings of fact which are labeled as such, those facts being entirely stipulated to, but in regard to the first phrase of the second conclusion of law, that: "the appellant is conducting a non-farming business operation." We consider this phrase to be a finding of fact. In determining whether findings are of fact or of law, the label placed thereon by the trial court is not conclusive. Ferguson v. Ferguson, 202 N.W.2d 760 (N.D.1972). Because all of the facts were presented in documentary fashion, the trial court's finding that Butts "is conducting a non-farming business" will be given only slight weight on appeal. The legal conclusion therefrom that "the structures and improvements are not exempt from taxation under the provisions of North Dakota Century Code 57-02-08" is fully reviewable. Stockmen's Ins. Agcy., Inc. v. Guarantee Res. L. Ins. Co., 217 N.W.2d 455 (N.D.1974), cert. denied, 419 U.S. 869, 95 S. Ct. 127, 42 L. Ed. 2d 108 (1974).

Trial de novo having been obtained in the district court, we do not review the decision of the Commissioners.[2] See Evangelical Luth. G. Sam Soc. v. Board of Cty. Com'rs, 219 N.W.2d 900 (N.D.1974); Y. M. C. A. of N. D. State Univ. v. Board of County Com'rs, 198 N.W.2d 241 (N.D.1972). See also, §§ 11-11-42 and 11-11-43, NDCC.

II.

As a preliminary matter, and in reply to the contentions of the Commissioners, the fact that Butts is a corporation which claims an exemption for farm buildings or structures is not determinative of the issues of this case. Nothing in § 57-02-08(15), NDCC, indicates that ownership of the particular buildings or structures is determinative of the exemption. Particularly in reference to the house, there is no requirement that the owner live in an exempt farm home.[3]

In reaching these conclusions we are not ignoring the Corporate Farming Law, Ch. 10-06, NDCC. Possible issues under Ch. 10-06 are not now before this Court. If Butts is in violation of § 10-06-01 (which prohibits all corporations, except as otherwise *670 provided in Ch. 10-06, from engaging in the business of farming or agriculture), then it is the duty of the state's attorney of any North Dakota county in which real estate owned by Butts is located to institute an action to escheat title to that real estate to that county. That is the remedy provided by § 10-06-06, NDCC.[4] We will not subvert the right of Butts to due process, either by imposing a penalty not provided by Ch. 10-06, NDCC, or by imposing a penalty without even the initiation of an action as required by that same chapter.

In light of the constitutionally required procedures contained in Ch. 10-06, NDCC, we do not find persuasive the arguments by the Commissioners that Butts is estopped to claim an exemption for farm buildings and structures because corporations are prohibited from farming.

We are also not persuaded that § 57-02-08(15) was impliedly amended by the Corporate Farming Law so as to engraft a condition that the buildings and structures not be in corporate ownership in order that the exemption apply. While the Commissioners correctly point out the fact that Ch. 10-06, NDCC, was enacted after § 57-02-08(15), NDCC, an implied amendment requires much more than a subsequent statutory change in the same general subject area. We do not, however, deem it necessary to discuss those various requirements as § 57-02-08(15) has been amended and reenacted by Ch. 447, S.L.1973, with no mention of its nonapplicability to corporately held real estate.

While the fact that Butts is a corporation is not determinative of the major issue of this case, this Court cannot ignore the corporate form. In discussing the ownership of the livestock, the stipulated facts make reference to cattle owned by Butts, cattle owned by Lloyd Butts (individually), cattle owned by family members, and cattle owned by others. On oral argument Butts treats all cattle owned by Butts family members exactly as it does corporately owned cattle. We do not. For the purpose of arriving at percentages, we treat all cattle not owned by Butts as owned by others. We likewise differentiate between corporate and noncorporate ownership of land and leases insofar as the facts reveal that ownership.

III.

In determining whether the buildings and feed lot in question are "farm buildings and improvements" or whether they are "industrial plants, or structures of any kind not used or intended for use as a farm plant or a farm residence," we are aware that a modern farming operation may be invested with many of the hallmarks of an industrial plant. In Unemployment Compensation Division of Workmen's Comp. Div., Etc. v. Valker's Greenhouses, 70 N.D. 515, 296 N.W. 143 (1941), we quoted with approval from Park Floral Company v. Industrial Commission, 104 Colo. 350, 91 P.2d 492 (1939):

"`By the evolutionary processes attendant on our present-day business methods, many activities formerly embraced in farming operations or in intimate connection therewith have become specialized and removed from the farm, and when this is accomplished such work may properly be regarded as thereby becoming industrial in nature, rather than agricultural in the common conception of that term.'"

When the characteristics of an industrial operation predominate over the farm characteristics, we can no longer call the operation a farm. See Boehm v. Burleigh County, 130 N.W.2d 170, 175 (N.D.1964). This is consistent with an earlier case where this Court concluded that a greenhouse enterprise which relied upon artificial conditions to the extent of approximately fifty percent *671 of its activities was not a farm. Unemployment Compensation Division of Workmen's Comp. Div., Etc. v. Valker's Greenhouses, supra, 70 N.D. 515, 296 N.W. at 146. The previous efforts of this Court to determine the meaning of the term "farm" have resulted in a host of definitions,[5] all of which clearly demonstrate the ordinary meaning of the word while nonetheless leaving room for doubt when applied to a given set of circumstances. The definition now contained in § 57-02-08(15), NDCC:

". . . the term `farm' means a single tract or contiguous tracts of agricultural land containing a minimum of ten acres and which normally provides a farmer, who is actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, with not less than fifty percent of his annual net income,"

is largely intended to exclude hobby farms and rural residences from the exemption. It is of no help in drawing a line between farm buildings and industrial plants. Likewise of no help and largely for the same reasons is the following:

"57-02-01. Definitions. As used in this title, unless the context or subject matter otherwise requires: . . . . . "10. There shall be a presumption that a unit of land is not a farm unless such unit contains a minimum of ten acres, and the taxing authority, in determining whether such presumption shall apply, shall consider such things as the present use, the adaptability to use, and how similar type properties in the immediate area are classified for tax purposes."

From these definitions we find that, to come within the exemption provided in § 57-02-08(15), NDCC, the enterprise must, at a minimum, have the following: (1) a single tract or contiguous tracts of agricultural *672 land containing a minimum of ten acres, (2) devoted, at least in part, to cultivation, (3) which results in the raising and production of plant and animal life in an unprocessed state, (4) the fruits of which production normally contribute a substantial proportion of the net income of the beneficial owner of agricultural land, (5) with the buildings and structures situated on the land being those reasonable and conducive to the farming enterprise.

With these minimums in mind, placing on the claimant of the tax exemption the burden of establishing the exempt status of the property, and applying a strict construction against the claimant, we proceed to examine the facts. See North Dakota Soc. of Crippled Child. & Ad. v. Murphy, 94 N.W.2d 343, 345 (N.D.1959), and Lutheran Camp. Coun. v. Board of Co. Com'rs, Ward Co., 174 N.W.2d 362 (N.D. 1970).

FACTS

Butts owns a 296-acre tract of agricultural land in Foster County. Located on that land are a farm residence (occupied by members of the Lloyd Butts family who are shareholders in Butts), and other structures consisting of quonsets, grain storage facilities, and feeder pens. In 1971 (the first year in which the exemption is claimed), the pens took up approximately 40 acres, while in 1972 the pens were expanded to include approximately 65 acres. The other structures occupy approximately seven acres. In 1971, 157.8 acres of the tract were cropped and, in 1972, 119.3 acres were cropped. For the most part the crops were cut for forage and fed to cattle maintained in the pens.

Approximately eighteen percent of the total forage fed to the cattle came from the cropped portion of the tract and from another 320 acres which were leased by Butts. Eighty-two percent of the forage and nearly one hundred percent of other feeds were purchased from outside sources. Some grain was produced on the small portion of the 296-acre tract not devoted to structures or forage, but the amount is scant compared to some $700,000 worth of feed grain purchased in 1972 from non-family outside sources and "substantial" amounts of grain produced by family outside sources.

This forage and grain was fed, in 1971, to approximately 450 head of breeding heifers, the ownership of which was divided, in unspecified proportions, between Butts and others, and to feeder cattle numbering from a low of 1,500 to a high of 6,000 head, with from 50% to 60% being owned by Butts. In 1972 approximately 250 breeding heifers, again with the ownership divided in unspecified proportions between Butts and others, and feeder cattle numbering from a low of 1,500 to a high of 7,800 head, with from 50% to 60% being owned by Butts, all were housed and fed in the pens.

The pens, as they existed in 1972, had a capability of housing approximately 10,000 head of cattle.

DECISION

From the above facts it is easily determined that (1) only a small percentage of the feed used is actually produced by Butts, (2) only a small percentage of the cattle are actually produced by Butts, the greater number being purchased for feeding, and (3) slightly over half of the cattle fed are actually owned by Butts, with 40% to 50% being owned by others and fed on contract or by some other arrangement.

While the ownership of the cattle is not always determinative, we hold that the contract feeding of non-owned cattle, in a feed lot, is an enterprise of an industrial nature. While the fattening of cattle may generally be considered an agricultural activity, "by the evolutionary processes attendant on our present-day business methods, many activities formerly embraced in farming operations . . . have become specialized and removed from the farm, and when this is accomplished such work may properly be regarded as thereby becoming industrial in nature." Park Floral Company v. Industrial Commission, 91 P.2d at 495, supra.

*673 We have thus determined that nearly one-half of the activities of Butts are industrial in nature. That rationale does not apply to those cattle owned by Butts, but another rationale does.

All the cattle, however owned and whether kept as feeders or breeders, are fed largely on purchased feed. The fact that the feed is purchased rather than grown by Butts makes the operation more one of processing than of farming. As we earlier stated, farming is production, not processing.

Most of the feed is purchased rather than grown, and most of the cattle are purchased rather than produced in the feed lot. Taking the year most favorable to Butts, 1971, there were never more than 450 breeding heifers, however owned, present in the lot. The production of these heifers could not have amounted to any significant percentage of the feeder cattle production, either in 1971 or 1972.

What Butts actually accomplishes in its enterprise is the fattening of cattle, about half of which are owned by Butts and nearly half of which are owned by others, but fed on contract with feed which is nearly all purchased from outside sources. This is not farming; it is the operation of a beef factory. The industrial nature of the operation clearly predominates over the farm nature. We therefore hold that Butts is conducting a non-farming business operation and that it has failed to meet its burden of showing the exempt status of the buildings and structures in question.

The judgment of the district court is affirmed.

ERICKSTAD, C. J., and PAULSON, VOGEL and MUGGLI, JJ., concur.

The Honorable PAUL M. SAND, deeming himself disqualified, did not participate; the Honorable NORBERT J. MUGGLI, District Judge of the Sixth Judicial District, sitting in his place.

NOTES

[1] Section 57-02-08(15), NDCC, has been amended since Butts made its application. Our decision is based upon the statute as it read at the time of the application:

"57-02-08. Property exempt from taxation. All property described in this section to the extent herein limited shall be exempt from taxation, that is to say:

. . . . .

"15. All farm structures, and improvements located on agricultural lands. This subsection shall be construed to exempt farm buildings and improvements only, and shall not be construed to exempt from taxation industrial plants, or structures of any kind not used or intended for use as a part of a farm plant, or as a farm residence. Any structure or structures used in connection with a retail or wholesale business other than farming, even though situated on agricultural land, shall not be exempt under this subsection;"

[2] A contrary rule prevails on appeals originating with decisions of agencies subject to the Administrative Agencies Practice Act, Ch. 28-32, NDCC. The applicable scope of review is set out at §§ 28-32-19 and 28-32-21, NDCC.

[3] The amended form of § 57-02-08(15), NDCC, now requires ownership and occupancy if a retired farmer wishes to claim the exemption for his residence.

[4] The Supreme Court of the United States, in Asbury Hospital v. Cass County, 326 U.S. 207, 66 S. Ct. 61, 90 L. Ed. 6 (1945), affirmed this Court's statements found in Asbury Hospital v. Cass County, 72 N.D. 359, 7 N.W.2d 438, 454-455 (1943), and reiterated in Asbury Hospital v. Cass County, 73 N.D. 469, 16 N.W.2d 523, 525 (1944), that the requirements of due process were fulfilled by the statutory requirement of an action and judgment to effect the escheat.

[5] Fredrickson v. Burleigh County, 139 N.W.2d 250 (N.D.1965), contains the following at 253:

"The word `farm' has had many and varied meanings ascribed to it down through the years. Webster's Third New International Dictionary defines the word `farm' as:

"`Any tract of land whether consisting of one or more parcels devoted to agricultural purposes generally under the management of a tenant or the owner; any parcel or group of parcels of land cultivated as a unit.'

"Funk and Wagnalls New Standard Dictionary says a `farm' is:

"`A tract of land under one control or forming a single property devoted to agriculture, stock-raising, dairy-produce, or some allied industry.'

"From 35 C.J.S. Farm page 948:

"`The word "farm" is defined as meaning a body of land, usually under one ownership, devoted to agriculture, either to the raising of crops, or pasture, or both; a considerable tract of land, cultivated or used in some one of the usually recognized ways of farming; an indefinite quantity of land, some of which is cultivated, whether it is large or small, isolated, or made up of many parcels, for a farm may be of any size, of any shape, of any boundaries, and may include less than one lot, or comprise several lots or parts of lots.

"`The term is further defined to mean a tract of land devoted to agricultural purposes, generally under the management of a tenant or owner; a tract of land devoted to agriculture, stock raising, or some allied industry; a parcel or tract of land consisting usually of grassland, meadow, pasture, tillage, and woodland, cultivated by one man, and usually owned by him in fee; any parcel or group of parcels of land cultivated as a unit; one or more tracts of land devoted to agricultural purposes including the production of crops and the raising of domestic and other animals; a tract of land used for raising crops or rearing animals; * * *.'

* * * * * *

"`The word has a suggestive significance apart from any explicit or restrictive meaning, and even in a popular sense is applied to land used for any one of a variety of purposes, and it is generally recognized that the term includes land and buildings, the real estate devoted to agricultural purposes, raising of cattle, dairying, and the like, and may and often does include not only cultivated land and pasture land, but also woodland.'

"As we said in the Boehm case, supra:

"`The definitions set forth above clearly demonstrate to us the ordinary meaning of the word. As ordinarily understood, we believe "farm," for tax-exemption purposes, may be defined as a rural tract or plot of ground with buildings and improvements devoted to agricultural purposes and implies the cultivation of the land under natural conditions for the purposes of production or use in aid thereof * * *.'"

JUSTIA

Fredrickson v. Burleigh County

Full Name: Fredrickson v. Burleigh County

Citation: 139 N.W.2d 250

Docket Number: 8152

Date: December 30, 1965

139 N.W.2d 250 (1965)

Olga FREDRICKSON, by her Attorney, Harold T. Fredrickson, Plaintiff and Appellant, v. BURLEIGH COUNTY, North Dakota, a Municipal Corporation, Groes Broste, Chairman, and R. C. Nelson, Jacob Swenson, E. A. Carroll, and Theo, Klein, Members of the Burleigh County Board of Commissioners, and Lloyd Omdahl, North Dakota State Tax Commissioner, Defendants and Respondents.

No. 8152.

Supreme Court of North Dakota.

December 30, 1965.

*251 Fleck, Smith, Mather & Strutz, Bismarck, for plaintiff and appellant.

Helgi Johanneson, Atty. Gen., Joseph R. Maichel, Sp. Asst. Atty. Gen., and Gerald G. Glaser, Asst. State's Atty., Bismarck, for defendants and respondents.

M. C. FREDRICKS, District Judge.

Plaintiff here seeks an abatement for real estate taxes levied and assessed for the year 1961 in the amount of $139.74. Her application therefor was made to the Burleigh County Board of County Commissioners and in it plaintiff contended that her dwelling, and other structures or buildings, located on an 80-acre tract of land owned by her are farm structures located on agricultural lands and exempt from taxation under the terms of Subsec. 15 of Sec. 57-02-08 N.D.C.C. The application was denied by the County Commissioners. She appealed such decision to the District Court which affirmed the action taken by the Board.

The judgment of the lower court is appealed by the plaintiff who demands trial de novo in this court.

No facts are at issue here, same having been stipulated by counsel. The issue involves construction of Sec. 57-02-08(15) N.D.C.C., the statute under which the exemption from taxation is claimed. The facts pertinent and related to the issue are as follows:

Plaintiff owns 80 acres of land in Burleigh County which was deeded to her in December, 1960, by her husband and one Carl J. Reff with whom the husband jointly owned an adjoining and abutting 320-acre tract of land. The deed was recorded in January, 1961, and was joined in by the spouses of the grantors, one of whom was the plaintiff. The 80-acre tract in question is located about six miles east of the city of Bismarck, in Burleigh County, and is not a platted part, or contiguous or adjacent to, any municipality, and receives no utilities, service, or protection, from the city of Bismarck, or any other municipality. Plaintiff and her husband live in the home on the 80-acre tract the year round and do not own, rent, or use any other living quarters. On the tract where they live is a dwelling house, a barn and pasture, and six acres of alfalfa. Plaintiff is a full-time resident on the premises and is a housewife and helps her husband with the outside work which has to be done in connection with the keeping of sheep and other livestock. Plaintiff's husband is an accountant employed in the city of Bismarck, and he also manages and takes care of the 80-acre tract in question as well as the abutting 320 acres. There are 243 acres of cultivated land on the two tracts. Other than a tractor which was acquired in 1963 no farm equipment or implement is owned by the plaintiff and her husband, he, as manager, deeming it more economical to rent whatever equipment is needed rather than own it. Some years the husband would hire the crops put in and harvested. At other times he *252 would rent out the land on a crop-share basis. The two tracts of land consisting of 400 acres are fenced and cross-fenced. In the year 1961 the improvements on the 80-acre tract were taxed and plaintiff subsequently applied for abatement and settlement of same.

For the purposes of tax exemptions Sec. 176 of the North Dakota Constitution provides that all fixtures, buildings, and improvements of every character whatsoever upon land shall be deemed personal property.

We are dealing here with Subsec. 15 of Sec. 57-02-08 N.D.C.C., which reads as follows:

"All property described in this section to the extent herein limited shall be exempt from taxation, that is to say: * * * * * * "15. All farm structures, and improvements located on agricultural lands. This subsection shall be construed to exempt farm buildings and improvements only, and shall not be construed to exempt from taxation industrial plants, or structures of any kind not used or intended for use as a part of a farm plant, or as a farm residence; * * *."

The foregoing statute was construed in Eisenzimmer v. Bell, 75 N.D. 733, 32 N.W.2d 891, in which we stated:

"The term `agricultural lands,' as used in this act, is descriptive of the land itself as a class, and is used merely to distinguish rural from urban or other properties. The first test is as to the character of the land; and secondly, the nature of the structures whether they are used or intended for use as part of the farm plant."

It is conceded by the defendant-respondent, Burleigh County, that the land in the tract in question is rural and is agricultural in nature. Even without the benefit of such concession we would be constrained to find this to be true in the light of the above definition.

The parting of the ways arises by virtue of the position taken by the County to the effect that the improvements do not meet the second test in that they are not used or intended for use as a farm residence or as part of a farm plant.

We have consistently held that the person who claims his property as being exempt from taxation has the burden of establishing that it is exempt and that the laws under which he claims such exemption will be strictly construed against him. Boehm v. Burleigh County, N.D., 130 N.W.2d 170; North Dakota Society for Crippled Children and Adults v. Murphy, N.D., 94 N.W.2d 343; In re McKee's Estate, 71 N.D. 545, 3 N.W.2d 797.

Further, our decisions down through the years have not deviated from the obviously sensible principle which says that there is no room for rules of construction where the words of a statute are plain and unambiguous. "It is not the duty of this Court to legislate nor to search for a hidden meaning of plain and hitherto unambiguous words employed by the Legislature. We are not free to enter into the realm of speculation. * * * The duty of the court ends when it determines the legal meaning of the words employed. If the words are not ambiguous there is no room for construction." State of North Dakota ex rel. Farmers' State Bank et al. v. Wallace, 48 N.D. 803, 187 N.W. 728.

Our view of the facts as herein stipulated by the parties to the action discloses clearly that the property owned by the plaintiff comes within the contemplation of the statute in question. As we have indicated previously there is no need for construction here. The words of the statute are plain and clearly understandable. Secs. 1-02-02, 1-02-03, 1-02-05 N.D.C.C.

*253 The plaintiff is the taxpayer. She is the one who owned the land as of April 1, 1961, the date of the assessment. She had no other income in her own right. She lives on the premises all of the time, does the housework, and helps with the outside work just as does any other woman living on a farm. Her husband owes her the duty of support. 14-07-03 N.D.C.C. She may have separate propertysuch as this tract. Even if she desired to do so, she could not, under the law, exclude him from residing in the dwelling located thereon, 14-07-04 N.D.C.C. By law she is permitted to enter into transactions or contracts with her husband as if unmarried. 14-07-06 N.D.C.C.

The word "farm" has had many and varied meanings ascribed to it down through the years. Webster's Third New International Dictionary defines the word "farm" as:

"Any tract of land whether consisting of one or more parcels devoted to agricultural purposes generally under the management of a tenant or the owner; any parcel or group of parcels of land cultivated as a unit."

Funk and Wagnalls New Standard Dictionary says a "farm" is:

"A tract of land under one control or forming a single property devoted to agriculture, stock-raising, dairy-produce, or some allied industry."

From 35 C.J.S. Farm page 948:

"The word `farm' is defined as meaning a body of land, usually under one ownership, devoted to agriculture, either to the raising of crops, or pasture, or both; a considerable tract of land, cultivated or used in some one of the usually recognized ways of farming; an indefinite quantity of land, some of which is cultivated, whether it is large or small, isolated, or made up of many parcels, for a farm may be of any size, of any shape, of any boundaries, and may include less than one lot, or comprise several lots or parts of lots. "The term is further defined to mean a tract of land devoted to agricultural purposes, generally under the management of a tenant or owner; a tract of land devoted to agriculture, stock raising, or some allied industry; a parcel or tract of land consisting usually of grassland, meadow, pasture, tillage, and woodland, cultivated by one man, and usually owned by him in fee; any parcel or group of parcels of land cultivated as a unit; one or more tracts of land devoted to agricultural purposes including the production of crops and the raising of domestic and other animals; a tract of land used for raising crops or rearing animals; * * *." * * * * * * "The word has a suggestive significance apart from any explicit or restrictive meaning, and even in a popular sense is applied to land used for any one of a variety of purposes, and it is generally recognized that the term includes land and buildings, the real estate devoted to agricultural purposes, raising of cattle, dairying, and the like, and may and often does include not only cultivated land and pasture land, but also woodland."

As we said in the Boehm case, supra:

"The definitions set forth above clearly demonstrate to us the ordinary meaning of the word. As ordinarily understood, we believe `farm,' for tax-exemption purposes, may be defined as a rural tract or plot of ground with buildings and improvements devoted to agricultural purposes and implies the cultivation of the land under natural conditions for the purposes of production or use in aid thereof * * *."

*254 At the time of the assessment of the tax here in question, and at the time this case was tried before the lower court there existed no test or standard of income with respect to the definition of "farm" or "farmer." Therefore, we are not at liberty to invoke or apply such a test or standard in this case now, although such action is urged upon us by the defendant and was to a great extent the basis of the lower court's decision in its favor. Were we to do so we would be departing from our judicial purpose and function and encroaching into that field reserved exclusively for the legislative body. The solution here lies in legislative action and this is and has been recognized by the fact that in its 1963 session the legislature added subsection 10, defining a farm, to Section 57-02-01. This reads as follows:

"There shall be a presumption that a unit of land is not a farm unless such unit contains a minimum of five acres which normally provides the owner, lessee, or occupant farming the land with not less than fifty per cent of his annual income."

We are of the opinion that plaintiff is entitled to the tax exemption which she seeks under the provision of subsection 15, Section 57-02-08, N.D.C.C. The 80-acre tract qualifies by itself. It is also an integral part of the larger unit, which land is managed as a farm by her husband who resides with her on the smaller 80-acre tract.

If plaintiff were single, or her husband were deceased, all other facts being the same, there would be no question as to the exempt status of her property. The fact that she has a husband or someone else residing with her, who happens to work in town and has other income, should make no difference whatsoever.

The judgment appealed from is reversed.

ERICKSTAD, STRUTZ and TEIGEN, JJ., concur.

BURKE, C. J., did not participate.

MORRIS, J., deeming himself disqualified did not sit, Honorable M. C. FREDRICKS, District Judge, sitting in his stead.

KNUDSON, J., not being a member of the Court at the time of submission of this case, did not participate.