



Pennington County Equalization Office

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Rapid City Council

July 22, 2015

Council Members,

You have a request for abatement of property taxes from Lorraine Windenburg. I am sending this to be attached as my recommendation to you to deny the request.

The property in question, tax parcel 26097, has been sold by the Windenburgs and is currently owned by Randy Sullivan. Mrs. Windenburg contacted our office on April 17th of this year regarding a discrepancy in our property data with respect to total living area. The office appraiser that she spoke with offered to meet her at the property and obtain the correct information, but she refused. We have since looked at the property and attempted to contact the new owner to verify our data.

The reason for my recommendation of your denial of this request is that the property owner argues an assessed value question that should have been appealed through the local board of equalization. The abatement process cannot be used as a means to circumvent the statutory assessment appeal process. This reasoning has been well substantiated by opinions from the South Dakota Attorney General as well as the South Dakota Supreme Court. The Windenburgs received their assessment notice every year that they owned the property, including this past March, and did not appeal the valuation. Even through discussions with their real estate agent and listing their property for sale prior to both the assessment notice and appeal deadlines, they declined to appeal their assessment.

The South Dakota Attorney General has offered opinions to counties with questions regarding abatement requests very similar to this situation. An opinion published on March 17, 1947 is the exact same situation with an incorrect size for a residential structure on the part of the county assessor. Another opinion published on August 25, 1955 is very similar with an addition to a residence that was assessed but never built. In both opinions, the Attorney General explained that these errors in data are not errors in assessed value or tax that are abatable under state law. The purpose of the assessment notice and appeal process is to allow correction of incorrect assessments, but if the assessed value is presumed correct or if the appeal process is not utilized, an abatement cannot be granted.

Sincerely,

Shannon Rittberger
Pennington County Director of Equalization