

**MICHAEL J. WALTON**  
**COUNTY ATTORNEY**  
Scott County Courthouse  
416 West Fourth Street  
Davenport, Iowa 52801-1104  
Telephone: (563) 326-8600  
Facsimile Transmission (563) 326-8763  
[robert.cusack@scottcountyiowa.com](mailto:robert.cusack@scottcountyiowa.com)  
**WEB SITE** - [www.scottcountyiowa.com](http://www.scottcountyiowa.com)



Item #14  
10/16/18

---

Robert L. Cusack, Assistant County Attorney (563) 326-8231

October 9, 2018

Memo regarding tax abatement request of North Ridge Community Church

Background: On January 5, 2018, North Ridge Community Church ("the Church") purchased Parcel No. 932451201 located at 1700 E. Blackhawk Trail, Eldridge. On or about January 19, 2018, the Church applied for tax exempt status pursuant to §427.1(8). The filing deadline for 2018 was February 1, 2018, therefore, the Church's application was timely. The Church, at the real estate closing, correctly prorated the taxes for the 1<sup>st</sup> installment of 2017 taxes.

Analysis: The 1<sup>st</sup> installment for 2017 in the amount of \$8,388.00 is due and owing October 1, 2018. The Church has received a credit in this amount from the previous owner and is going to make this payment.

#### 2017 Tax Year

1 <sup>st</sup> installment	July 1, 2017-December 31, 2017	Due: October 1, 2018
2 <sup>nd</sup> installment	January 1, 2018-June 30, 2018	Due: April 1, 2019

The issue arises regarding the 2<sup>nd</sup> installment for 2017. Those taxes accrued beginning January 1, 2018 through June 30, 2018 and are due April 1, 2019. The Church has requested that these taxes be abated.

Scott County General Policy 15 prohibits tax abatement retroactively and for property owners that do not make timely filings under state law. This is not a request for retroactive abatement as the 2<sup>nd</sup> installment for 2017 is not yet due.<sup>1</sup> Further, the Church did make a timely filing for exemption from property taxes, therefore, the Board is not in violation of Policy 15 in granting an exemption for the 2<sup>nd</sup> installment of 2017 taxes. Unlike previous cases, the Church is requesting an abatement for taxes that accrued during the time period when it actually filed for exemption.

Most importantly, this is not a request for abatement pursuant to §427.3 which pertains to filings for property transferred after the February 1<sup>st</sup> deadline. Rather, I interpret this as a request under §427.19 which states that credits and exemptions shall be granted for the fiscal year in which the application is filed. The application in this case was filed in January, 2018, which was still actually fiscal year 2017 for the purposes of the 2<sup>nd</sup> installment of taxes.

---

<sup>1</sup> Previous requests were for tax abatements for years prior to the year the property owner filed for exemption. In other words, they were untimely requests and were usually cases where past taxes were incorrectly prorated at closing.

Conclusion: Because the application was timely filed in the fiscal year in which the taxes accrued, the Board should abate the 2<sup>nd</sup> installment of the 2017 tax year<sup>2</sup> pursuant to Iowa Code §427.19.

Bottom line: General Policy 15 does not apply in this case. The real reason this is coming up is our taxing system is usually 18 months behind and, along with fiscal year versus calendar year, there is confusion. The property owner and attorney in this case did everything right and this abatement is really just the process of the system correcting itself.

Please feel free to contact me if you have any questions.

Sincerely,

Rob Cusack

---

<sup>2</sup> It is up to the powers-that- be whether to tax for the five days up to when the Church bought the property on January 5, 2018. In reviewing the closing statement, the taxes were prorated from 7/1/17 through 1/5/18.

**PASTRNAK LAW FIRM, P.C.**

**Attorneys at Law**  
**313 W. 3rd Street**  
**Davenport IA 52801**  
**Phone: (563) 323-7737, Ext. 220**  
**Fax: (563) 323-7739**  
**E-mail: [tpastrnak@pastrnak.com](mailto:tpastrnak@pastrnak.com)**

Thomas J. Pastnak\*  
Candy K. Pastnak\*

Troy D. Venner\*\*

Thomas R. Schulz – Of Counsel\*  
Gregory S. Jager – Of Counsel\*\*  
Dee A. Runnels – Of Counsel \*

\*Attorneys Admitted in Iowa and Illinois

\*\*Attorneys Admitted in Iowa

ILLINOIS OFFICE:  
6300 75<sup>th</sup> Ave., Suite A  
Milan, IL 61264

File No. 3482.001

September 19, 2018

Scott County Board of Supervisors  
Attn: Tony Knobbe, Chair  
600 W. 4<sup>th</sup> Street  
Davenport, IA 52801

Re: Abatement Request for North Ridge Community Church ("Church")  
Parcel No. 932451201 ("Property")

Dear Mr. Knobbe:

Please be apprised that the undersigned represents the Church which closed on the Property on January 5, 2018. Based on this closing a prorate of the real estate taxes occurred, resulting with the Church receiving a credit for 2017 taxes in the sum of \$8,730.25. A copy of the closing statement showing the tax prorate is provided for your review.

It would appear based upon Iowa Code §427 and Scott County's regulations, that abatement of taxes may be granted by the Board of Supervisors for that first interim period that occurs once the Property is properly rendered and classified exempt. Request is hereby made for the abatement of second installment of 2017 taxes after applying all credits received from the Seller for the tax prorate, which included payment of the 1st installment of 2017 taxes for the Property.

**PASTRNAK LAW FIRM, P.C.**

Scott County Board of Supervisors – Mr. Tony Knobbe, Chair  
September 19, 2018  
Page 2 of 2

Your consideration and relief from this obligation would be greatly appreciated. If oral hearing is needed to further advise of the issues, please don't hesitate to contact me and we'll gladly make ourselves available for discussion or hearing before the Board of Supervisors.

Very truly yours,

  
**PASTRNAK LAW FIRM, P.C.**

Thomas J. Pastrnak

TJP/jlr

Cc: Pastor Douglas J. Evenhouse  
Kent Wiersema  
Robert Cusack

THE COUNTY AUDITOR'S SIGNATURE CERTIFIES  
THAT THIS RESOLUTION HAS BEEN FORMALLY  
APPROVED BY THE BOARD OF SUPERVISORS ON

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SCOTT COUNTY AUDITOR

## R E S O L U T I O N

### SCOTT COUNTY BOARD OF SUPERVISORS

October 18, 2018

#### APPROVING PARTIAL ABATEMENT OF PROPERTY TAXES FOR PROPERTY AT 1700 E. BLACKHAWK TRAIL, ELDRIDGE IA

WHEREAS, the North Ridge Community Church purchased property at 1700 E. Blackhawk Trail in Eldridge for use as a church;

WHEREAS, the property was purchased on January 5, 2018 and they timely requested Iowa Property Tax Exemption and correctly prorated the 1<sup>st</sup> installment of 2017 taxes however the 2<sup>nd</sup> installment didn't begin accruing until January 1, 2018 and wouldn't be due until April 1, 2019; and

WHEREAS, Iowa Code Section 427.19 permits the Board of Supervisors to abate taxes levied against the property within the year of the exemption was applied for.

NOW THEREFORE, BE IT RESOLVED BY the Scott County Board of Supervisors as follows:

Section 1. That upon determination by the County Assessor that the property located at 1700 E. Blackhawk Trail, Eldridge, IA qualifies as exempt pursuant to applicable state law, that the 2<sup>nd</sup> installment of the 2017 property taxes are hereby abated.

Section 2. This resolution shall take effect immediately.