

**MINUTES  
LANCASTER COUNTY BOARD OF EQUALIZATION  
COUNTY-CITY BUILDING, ROOM 112  
TUESDAY, APRIL 16, 2019  
IMMEDIATELY FOLLOWING THE LANCASTER COUNTY  
BOARD OF COMMISSIONERS MEETING**

*Advance public notice of the Board of Commissioners meeting was posted on the County-City Building bulletin board and the Lancaster County, Nebraska, web site and emailed to the media on April 12, 2019.*

Commissioners present: Jennifer Brinkman, Chair; Sean Flowerday, Deb Schorr and Rick Vest

Commissioners absent: Roma Amundson, Vice Chair

Others present: Rob Ogden and Scott Gaines, Assessor/Register of Deeds Office; Kerry Eagan, Chief Administrative Officer; Ann Ames, Deputy Chief Administrative Officer; Jenifer Holloway, Deputy County Attorney; Dan Nolte, County Clerk; Cori Beattie, Deputy County Clerk; and Monét McCullen, County Clerk's Office

*The meeting was called to order at 9:35 a.m., the location of the Nebraska Open Meetings Act was announced.*

**1) MINUTES:**

**A. Approval of the minutes of the Board of Equalization meeting held on Tuesday, April 2, 2019.**

**MOTION:** Vest moved and Schorr seconded approval of the minutes. Schorr, Flowerday, Vest and Brinkman voted yes. Amundson was absent. Motion carried 4-0.

**2) ADDITIONS AND DEDUCTIONS TO THE TAX ASSESSMENT ROLLS**

**MOTION:** Schorr moved and Vest seconded approval of the additions and deductions. Vest, Schorr, Flowerday and Brinkman voted yes. Amundson was absent. Motion carried 4-0.

**3) APPEAL ON NOTICE OF TAXABLE STATUS FOR THE BOARD OF REGENTS**

Scott Gaines, Deputy County Assessor/Register of Deeds, said governmental entities are required by State statute to notify the Assessor/Register of Deeds Office when leasing property to others. The exemption standard for governmental owned property is that it must be used for a public purpose. Once it is used for commercial purposes or for a profited entity that is direct in competition with other similar vendors, then the taxable status applies.

Stacia Palser, University of Nebraska Deputy General Counsel, appeared on behalf of the University and requested the property remain tax exempt. The space in question is within the Student Union. She clarified the agreements with the food vendors are licenses not leases. The operation of the space remains for a public purpose and as licensees, the food vendors do not have exclusive rights and do not meet the definition of a lease (Exhibit A).

Brinkman asked for clarification on the difference between a license and lease. Palser explained in this case the food vendors do share some common areas. They are all responsible for maintaining the dining area and do not have exclusive property rights and therefore they do not fall within a lease under the statute.

Gaines stated a lease versus a license is not the driving factor, it is the actual use of the space as a commercial food vendor open to the public.

Flowerday said he agreed with the Assessor's Office and felt this is a basic issue of fairness and taxation.

**MOTION:** Flowerday moved and Schorr seconded to deny the appeal based on the recommendation of the County Assessor/Register of Deeds.

Brinkman said she feels there is a difference when a vendor is limited with certain conditions of a lease. She noted she does recognize that the vendors being licensees is a valid argument.

**ROLL CALL:** Vest, Schorr and Flowerday voted yes. Brinkman voted no. Amundson was absent. Motion carried 3-1.

#### **4) APPEAL ON NOTICE OF TAXABLE STATUS FOR THE STATE OF NEBRASKA**

Greg Hood, State Building Division Leasing Manager, said they have a coffee kiosk located on the first floor of the State Office Building. The area is approximately 250 square feet. Originally this was bid as a service contract and not disclosed as being a lease. The vendor is limited to the business hours of the building. The public can make purchases but there is no advertising for the services.

Dale Shotkoski, Department of Administrative Services Interim General Counsel, explained how the State acquires services and commodities. He said the building has designated space for vendors and for services. The State's request for proposal included limitations to the services provided. He noted the coffee kiosk is available to the general public but the bulk of the traffic is State employees.

Vest asked if there was any significant difference between the State's issue and the University's issue. Gaines said they are very similar situations and added the coffee kiosk is still open to the public and not limited to State employees.

**MOTION:** Schorr moved and Flowerday seconded to deny the appeal based on the recommendation of the County Assessor/Register of Deeds. Flowerday, Vest and Schorr voted yes. Brinkman voted no. Amundson was absent. Motion carried 3-1.

#### **5) NOTICE OF ASSESSED VALUATION CHANGE FOR PROPERTY TAXATION PURPOSES FOR VLADIMIRS REAL ESTATE SERVICES INC.**

Gaines said this was a clerical error where the building improvements inadvertently appeared twice.

**MOTION:** Vest moved and Flowerday seconded to send the notice of assessed valuation change. Schorr, Flowerday, Vest and Brinkman voted yes. Motion carried 4-0.

**6) PUBLIC HEARINGS:**

**A. Notice of Proposed Change in Exemption Status (See correlating item 7)**

ARC Housing Development Corporation of Lincoln	Centerpointe Inc
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The Chair opened the public hearing

Gaines was administered the oath and said these two properties were previously granted exemption and have now been sold to private entities.

No one appeared in opposition or in a neutral position.

The Chair closed the public hearing.

The Board voted on correlating item 7.

**B. Review of 2019 451 Tax Exemption Application for Lincoln Monthly Meeting Society (See correlating item 8)**

The Chair opened the public hearing.

Gaines said this property was previously granted a 100% exemption. The entity notified the Assessor's Office that a portion of the property is now being used as a residence for the property's caretaker. The recommendation is to reduce the building exemption from 100% to 40%.

Tom Hinshaw, Lincoln Monthly Meeting Society Resident Caretaker, was administered the oath and said currently the caretaker of the church property lives on the second floor of the building as the church does not have a priest and someone is needed to tend to the property.

Gaines clarified that this change would only apply to the building and the land would remain exempt.

Vest asked if an exemption is granted when a pastor lives on church property. Gaines said some situations can be granted exemptions if certain requirements are met.

Hinshaw said the church has not wanted to go through employment taxation and regulation requirements, but if the property tax amount would exceed the employment tax amount he felt the church would be willing to explore that option.

No one appeared in a neutral position.

The Chair closed the public hearing.

The Board voted on correlating item 8.

**C. 2019 451 Tax Exemption Applications (See correlating item 9)**

<b>Dimensions Educational Research Foundation</b>	<b>Bryan Medical Center (2)</b>
<b>Dialysis Center of Lincoln, Inc.</b>	<b>Christ Lutheran Church</b>
<b>First Presbyterian Church of Lincoln Nebraska</b>	<b>HopeSpoke (5)</b>
<b>League of Human Dignity Inc (2)</b>	<b>Hickman Presbyterian Church</b>
<b>Midwest Dharma Wheel Contemplative &amp; Healing Arts, Inc.</b>	<b>Mosaic</b>
<b>Nebraska Communities Playhouse</b>	<b>VSL Lincoln Sumner, LLC</b>
<b>Autism Center of Nebraska, Inc.</b>	<b>Lincoln Memorial Cemetery</b>
<b>United Methodist Church of Martell</b>	<b>East Lincoln Christian Church</b>
<b>Madonna Rehabilitation Hospital</b>	<b>Nebraska Wesleyan University</b>

The Chair opened the public hearing.

Gaines recommended approval of all applications with two exceptions – Lincoln Memorial Cemetery and Midwest Dharma Wheel Contemplative & Healing Arts, Inc. He noted the Assessor’s Office is recommending denial of the Lincoln Memorial Cemetery application as this is used for profit and would not qualify for tax exemption. The Assessor’s Office is recommending that action be delayed on the Midwest Dharma Wheel application as they recently submitted additional information which needs to be reviewed.

Susan Napolitano, Berry Law Firm, representing Midwest Dharma Wheel, was administered the oath and explained this is a Buddhist organization that is used daily for religious practices.

Brinkman asked if there was any objection regarding the delay. Napolitano said there is no objection on postponing action for review purposes.

No one appeared in a neutral position.

The Chair closed the public hearing.

The Board voted on correlating item 9.

**D. Motor Vehicle Tax Exemption Applications (See correlating item 10)**

The Chair opened the public hearing.

<b>Connection Pointe Church of the Nazarene</b>	<b>Bryan Medical Center</b>
<b>Lincoln Medical Education Partnership</b>	<b>Nebraska Wesleyan</b>
<b>Catholic Bishop of Lincoln</b>	<b>First Lutheran Church</b>

No one appeared in support, opposition or in the neutral position.

The Chair closed the public hearing.

The Board voted on correlating item 10.

**7) ACTION ON THE NOTICES OF PROPOSED CHANGE IN EXEMPTION STATUS**

**MOTION:** Schorr moved and Flowerday seconded to send the notices of proposed change in exemption status. Vest, Schorr, Flowerday and Brinkman voted yes. Amundson was absent. Motion carried 4-0.

**8) ACTION ON 2019 451 EXEMPTION APPLICATION FOR LINCOLN MONTHLY MEETING SOCIETY**

**MOTION:** Vest moved and Flowerday seconded to approve the exemption based on the recommendation of the Assessor/Register of Deeds. Vest, Schorr, Flowerday and Brinkman voted yes. Amundson was absent. Motion carried 4-0.

**9) ACTION ON 2019 451 TAX EXEMPTION APPLICATIONS**

**MOTION:** Vest moved and Schorr seconded to approve the applications with two exceptions, one is to deny the application from Lincoln Memorial Cemetery and the second is to delay for further review the application from Midwest Dharma Wheel Contemplative & Healing Arts, Inc. Flowerday, Vest, Schorr and Brinkman voted yes. Amundson was absent. Motion carried 4-0.

**10) ACTION ON MOTOR VEHICLE TAX EXEMPTION APPLICATIONS**

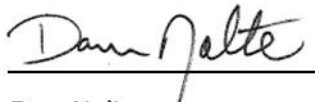
**MOTION:** Vest moved and Schorr seconded to approve the motor vehicle tax exemption applications. Schorr, Flowerday, Vest and Brinkman voted yes. Amundson was absent. Motion carried 4-0.

**11) PUBLIC COMMENT: Those wishing to speak on items relating to County Board of Equalization business not on the agenda may do so at this time.**

No one appeared for public comments.

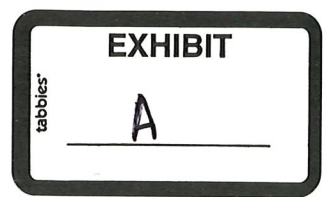
**12) ADJOURNMENT**

**MOTION:** Schorr moved and Vest seconded to adjourn the Lancaster County Board of Equalization meeting at 10:10 a.m. Vest, Schorr, Flowerday and Brinkman voted yes. Amundson was absent. Motion carried 4-0.



Dan Nolte  
Lancaster County Clerk





Madam Chair and Members of the Board, thank you for this opportunity to appear before you. My name is Stacia Palser. I am Deputy General Counsel for the University of Nebraska and I am here on behalf of the University to provide information in support of the University's request that the property at 1400 R Street remain exempt from taxation.

The property in question here is the space within the University of Nebraska-Lincoln's student union that is licensed to food vendors. I would like to clarify a misstatement within the protest letter filed with the Board on April 1, 2019 where the licenses were referred to as leases. The property is, in fact, licensed at fair market value, with licensees selected and terms determined through a competitive bid process, and the operation of the space remains a public purpose. As licensees, the food vendors do not have the exclusive right to possess, use or enjoy the property and therefore do not meet the definition of lease contained within Title 350. This is an important distinction and I appreciate the opportunity to clarify this. I am happy to provide copies of the licenses if the Board would like.

The property is owned by the University, a public corporate entity of the state, and therefore, the property is tax exempt to the extent used for a public purpose. The statutory definition of public purpose includes the general operation of public education as well as carrying out the duties and responsibilities of the state as conferred by law, with or without consideration. The powers granted to the Board of Regents of the University of Nebraska pursuant to state statute are not only those directly related to the Board's function of higher education, but those necessary to the carrying out of this function to provide the greatest possible benefit of the people of the state.

In addition, the definition of public education found within Title 350 also contemplates not only teaching, instructional and research activities, but also includes public service activities.

UNL, like other public universities, has a long-standing tradition of providing a student union for the public purpose of providing a meeting and eating place for its students, staff and faculty. UNL owned and operated its own cafeteria in the student union for many years. However, through the evolution of the more traditional student dining experience, and in an effort to satisfy student requests for brand name vendors, the cafeteria style food was replaced with fast food restaurant concessions. Even though these are brand name vendors, their operations are centered around UNL's academic schedule and the operating hours of the student union. The general public, typically visitors to the University, can eat at these establishments as well, but such use is incidental to the primary public purpose.

In considering whether a use is for a public purpose, we can also look to the determination of the Internal Revenue Service. Monies the University receives are evaluated by the Internal Revenue Service – if the income received is not related to the University's educational purpose, the University is then required to pay unrelated business income tax on this income. The IRS has determined that these rental payments for restaurants within the student union are related to the University's public purpose and are therefore not taxable as unrelated business income.

This Board has previously reviewed and evaluated the tax exempt status of the food vendor licenses in the student union and determined they were tax exempt. No substantial changes to the University's form student union license agreement have been made since the previous evaluation. Therefore, the University respectfully requests that the Board affirm its previous tax exempt determination for the student union property.