

LETTER OPINION
71-383

January 12, 1971 (OPINION)

The Honorable E. N. Dornacker
House of Representatives
North Dakota Legislative Assembly
Bismarck, ND

RE: Taxation - Assessment - Value at Time of Assessment

This is in response to your letter of January 6, 1971, wherein you make inquiry of this office concerning our opinion regarding assessed valuation. You submit the following in your letter:

"I would like to have your opinion on the following: Under our laws shall property be assessed at the value of the time it is assessed or on a preceding (sic) 5 years average of its value?"

We would note that the subject of your inquiry appears to be governed by the provisions of Section 57-02-01 of the North Dakota Century Code, as amended, which provides in part:

"DEFINITIONS. As used in this title, unless the context or subject matter otherwise requires:

1. through 3.* * *
4. 'True and full value' means the usual selling price at the place where the property to which the term is applied shall be at the time of the assessment, that being the price at which it could be obtained at private sale and not at a forced public auction sale. In arriving at the true and full value, consideration may be given to the earning or productive capacity, if any, the market value, if any, and all other matters that affect the actual value of the property to be assessed.
5. through 10.* * *" (Emphasis supplied)

Accordingly, it would appear that the assessment shall be at the value as of the time of assessment rather than by any other formula respecting time.

Since we are unaware of any statute relating to the establishment of value by assessment which relates to a formula founded in averaging over a period of years, we can only conclude that property shall be assessed at the value of the time it is assessed rather than by averaging the preceding five year valuations of such property.

I trust that the foregoing will adequately set forth my position on the matter.

HELGI JOHANNESON

Attorney General