

Date..... December 7, 2009

RESOLUTION APPROVING APPLICATION FOR TAX ABATEMENT  
FOR IMPROVEMENTS MADE DURING 2007, AND DENYING REQUEST  
TO HAVE THE TAX ABATEMENT APPLIED RETROACTIVELY  
(5449 SE 26<sup>th</sup> Court)

WHEREAS, Napoleon Alonzo filed the attached application for tax abatement with the City of Des Moines on November 18, 2009, seeking tax abatement for improvements made to his home at 5449 SE 26<sup>th</sup> Court during calendar year 2007, and he further requests that the tax abatement be applied retroactively to the property taxes due in the current fiscal year as if the application has been timely filed prior to February 1, 2008; and,

WHEREAS, the Iowa Urban Revitalization Act, Chapter 404, Code of Iowa (the "Act"), provides for partial exemption from property tax for the actual value added by improvements to property located in a designated Urban Revitalization Area which are consistent with the Urban Revitalization Plan for such Area; and

WHEREAS, Iowa Code §404.4 and the corresponding provisions in the City-wide Urban Revitalization Plan provide that any application for tax abatement received by the City after February 1, 2009, and before February 1, 2010, shall be reviewed by the City for approval and forwarded to the County Assessor by March 1, 2010, and shall be applied commencing with the property taxes due in FY 2011/12; and,

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that:

- 1) The attached application for tax abatement for improvements to 5449 SE 26<sup>th</sup> Court is hereby received.
- 2) The following findings are hereby adopted:
  - a) The attached application was not timely filed, but was received by the City of Des Moines on November 18, 2009, within the two year grace period for late filed applications.
  - b) The attached application is for a project located in the City-wide Urban Revitalization Area; the project is in conformance with the Urban Revitalization Plan for the City-wide Urban Revitalization Area; and the improvements described in the application was made during the time the applicable area was so designated.
  - c) The applicant is seeking to have the application retroactively applied as if it had been timely filed, but Iowa Code Ch 404 does not empower the City to approve such a request.

( continued )

★ **Roll Call Number**

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- 3) The attached application for tax abatement is hereby approved.
- 4) The City Clerk shall forward a certified copy of this resolution and the attached application to the applicant and the County Assessor.

( Council Communication No. 09- 860 )

MOVED by \_\_\_\_\_ to adopt and approve the application for tax abatement, and to deny the request to have it applied retroactively.

FORM APPROVED:

  
 Roger K. Brown  
 Assistant City Attorney

(Request Attached)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED

APPROVED

.....  
 Mayor

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
 City Clerk

A confirmation number will be issued by the City upon receipt of this application. This application is not effective and not be considered properly filed until the confirmation number has been issued.

Date Received: 11/18/09

By: [Signature] Confirmation Number 09-00240

Retain the confirmation as your proof of filing.

2009

Tax Abatement Application - Des Moines, Iowa

Property & Owner/ Authorized Agent Info	Address: 5449 SE 26th Ct.	
	Legal description: Lot 76 Easter Lake Estates Plat 7	
	Polk Co. Assessor's District & Parcel #	130 01301-075-071
	(Go to: <a href="http://www.assess.co.polk.ia.us/">http://www.assess.co.polk.ia.us/</a> ) district parcel #	
	Title holder or contract holder name: Alma J Castro-Agoirre & Napoleon Alonzo	
Address of owner if different than above: _____		
Authorized Agent: Pedro Parada		Phone #: (515) 202-9613
Property Use Classification	<input checked="" type="checkbox"/> Residential <b>Owner-Occupied?</b> <input checked="" type="checkbox"/> Single Family <input type="checkbox"/> Duplex or Triplex <input type="checkbox"/> Condo or Townhouse <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <b>Renter-Occupied?</b> <input type="checkbox"/> Single Family <input type="checkbox"/> Duplex or Triplex <input type="checkbox"/> Condo or Townhouse <input type="checkbox"/> Multi-Family	
Project Type	<input type="checkbox"/> New structure <input type="checkbox"/> Addition <input type="checkbox"/> Renovation	
On City Sewer	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Describe Improvements	New single family Dwelling	
Completion Date	3/2009 <input checked="" type="checkbox"/> Estimated date <input type="checkbox"/> Actual date <small>month / year</small> Your improvements will be assessed for tax abatement on Jan. 1, 2009 even if they are partially completed. This assessment will be reflected in your Sept. 2010 tax payment.	
Est. Cost of Improvements	\$ 206,000	
Abatement Schedule	<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4A <input checked="" type="checkbox"/> 4B    See reverse side for schedule information	
Tenant Information	If project was residential, were there tenants when project started? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "yes", complete "Tenant Relocation" information required on other page of this form.	

Mail or return to	Questions	Submitted by
City of Des Moines / Permit Center 602 Robert Ray Dr. Des Moines, IA 50309	Phil Poorman at 515-283-4751 or <a href="mailto:prpoorman@dmqov.org">prpoorman@dmqov.org</a>	I certify these statements are true to the best of my knowledge. [Signature] Date
10/1/09	BID 2006-03015 12/15/06	11-18-09

November 19, 2009

To Whom It May Concern:

In April 2007, I, Napoleon Alonzo and my partner Alma J Castro-Aguire decided to purchase a new house from Tom Connolly Homes. The house is located at 5449 SE 26<sup>th</sup> ST. in the city of Des Moines.

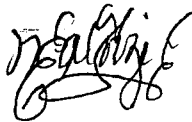
At the time one of the main incentives that drove us to purchase a new home, was the fact that we were promised no taxes for a period of the first 5 years. With our monthly expenses in mind, we made the commitment of paying all of our liabilities within the first five years in order to be prepared for the increase of our monthly payments.

A few weeks ago I was contacted by our mortgage lender to let me know that my monthly payments are going to increase by \$500 because our property taxes have increase dramaticly. I contacted the Polk County Assessors office to ask why my taxes were increased because I was promised 5 year tax abatement. Well, it results that the tax abatement was never requested.

The purpose of this letter is to request for the City Council to make my tax abatement effective as soon as possible. I am desperately seeking help. I am not in a finacial position to pay taxes. I was never advised about filling out any paperwork to request the tax abatement. As a home buyer, I wasn't even aware this had to be done.

Sincerely,

Napoleon Alonzo



Regarding the tax abatement for 5449 SE 26<sup>th</sup> Court:

- Iowa Code section 404.4 requires the owner of a property to file an application for abatement prior to the first year that they claim the exemption.
- Iowa law does not provide any mechanism for retro-application of tax abatement. The law does allow a 2-year grace period before the property owners begins to lose a year of abatement for each additional year the application is late. A Filing made within the 2-year grace period, as in this case, will receive the full scheduled amount of tax abatement, but the commencement of abatement is delayed.

The City has an informal agreement with Polk County Assessor that Polk County will, and frequently has, applied tax abatement retroactively when necessary to correct an error by the City in the administration of the program. In those cases, the retro-active application of tax abatement has operated to cause the tax abatement to be applied as if the City had timely processed the application in compliance with Iowa Code Chapter 404.

- The new home located at this site was completed in September 2007. The city received application for tax abatement on November 18, 2009. This application is within the two year grace period allowed by State Law. The applicant is eligible for the full 5 year tax abatement, commencing with the taxes due in FY 11/12.
- In this case, the owner acknowledges that their builder, Tom Connelly Homes, did not file the application while they owned the property. The home buyers also acknowledge that they failed to file an application until November, 2009.
- In order to audit the tax application process, the city has set up a procedure that provides immediate confirmation of receipt to the application by issuance of a dated case number. This enables the applicant to establish that appropriate materials have been presented, easily identify if an error has occurred on the part of the City. As stated above, no such error occurred in this instance.