

# MICHIGAN REAL PROPERTY REVIEW

REAL PROPERTY LAW SECTION

STATE BAR OF MICHIGAN

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The prophecies of what the courts will do in fact, and  
nothing more pretentious, are what I mean by the law.

Oliver Wendell Holmes

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## THE JURISDICTIONAL TIME PERIODS AND PREREQUISITES FOR FILING AND AMENDING PETITIONS BEFORE THE MICHIGAN TAX TRIBUNAL

by  
Robert E. McCarthy

This article addresses the time constraints and jurisdictional prerequisites for filing petitions and amending petitions before the Michigan Tax Tribunal (MTT). These issues are of concern to the property tax petitioner because failure to comply with these requirements will likely result in the dismissal of a petition. A summary of the jurisdictional requirements follows this article.

### I. The Initial Petition

The time periods for filing an initial petition before the MTT are set forth in MCLA 205.735(2); MSA 7.650(35)(b). That statute provides in pertinent part:

The jurisdiction of the tribunal in an assessment dispute shall be invoked by the filing of a written petition by a party in interest, as petitioner, not later than June 30 of the tax year involved. In all other matters the jurisdiction of the tribunal shall be invoked by the filing of a written petition by a party in interest, as petitioner, within 30 days after the final decision, ruling, determination, or order which the petitioner seeks to review. An appeal of a contested tax bill shall be made within 60 days after mailing by the assessment district treasurer and the appeal shall be limited solely to correcting arithmetic errors or mistakes and shall not be a basis of appeal as to disputes of valuation of the property, its exempt status, or the equalized value resulting from equalization of its assessment by the county board of commissioners or the state tax commission.

In short, there are three filing periods:

1. Property assessment, property valuation and exempt status disputes must be filed no later than June 30 of the tax year involved.
2. Appeals of contested tax bills involving arithmetic errors must be filed within 60 days after mailing by the assessment district treasurer of the tax bill.
3. In all other matters, the petition must be filed within 30 days after the final decision, ruling, determination or order sought to be reviewed.

#### A. The June 30 Deadline

The first sentence of MCLA 205.735(2); MSA 7.650(35)(b) states that the jurisdiction of the MTT in assessment disputes shall be invoked by a written petition filed not later than June 30 of the tax year involved.

The phrase "in assessment disputes" was found not to apply to special assessment disputes in *Sisbarro v City of Fenton*, 90 Mich App 675, 678; 282 NW2d 443 (1979). That phrase (and therefore the June 30 filing deadline) applies to assessment disputes concerning the valuation of property or where an exemption is claimed.

The June 30 deadline is jurisdictional and must be strictly complied with. In *GMC v Detroit*, 141 Mich App 630; 368 NW2d 739 (1985), the Court of Appeals affirmed a dismissal when petitioners filed their petitions one day late.

If the taxpayer fails to be sent the required notice of assessment increase from the taxing authority, such fact may delay the June 30 deadline, and may negate the effect of the increase. *W & E Burnside, Inc v Bangor Township*, 402 Mich 950L (1978); and *Henal Realty v Brownstown Township*, 90 Mich App 374; 282 NW2d 325 (1979). See *Peter Paisley, et ux v Mullett Twp.*, MTT #100389, entered September 23, 1986, for a thorough discussion of this subject. Where the June 30 filing date is applicable, the petitioners are also required to protest their assessment before the board of review. MCLA 205.735(1); MSA 7.650(35)(1).

#### B. 60-Day Filing Deadline

Appeals to the MTT which involve simply arithmetic errors or mistakes are commenced by petition filed within 60 days after mailing of the contested tax bill. MCLA 205.735(2); MSA 7.650(35)(2) states that this type of appeal shall not be used

to dispute the valuation of the property, its exempt status or its equalized value resulting from equalization of its assessment by the county board of commissioners or the state tax commission.

For appeals involving clerical errors and mutual mistakes of fact, see MCLA 211.53a; MSA 7.97(1) concerning going back three years to correct those mistakes.

There is no requirement to take an arithmetic error appeal to the board of review. MCLA 205.735(1); MSA 7.650(35)(1).

### C. The 30-Day Deadline

Jurisdiction of the MTT in all matters other than assessment disputes relating to the valuation of property, exempt status of property or mathematical miscalculations of property tax must be filed within 30 days after the final decision, ruling, determination or order which petitioner seeks to review. MCLA 205.735(2); MSA 7.650(35)(2).

In a special assessment case, the Michigan Supreme Court in *Szymanski v Westland*, 420 Mich 301; 362 NW2d 224 (1984), recently affirmed a dismissal of an appeal for failure to file the same within the jurisdictional 30-day time period. The petitioner in this action could point to no specific period of limitation which expanded the 30-day requirement.

In *Durkee Lake Land Co v Clinton Township*, 112 Mich App 595; 316 NW2d 496 (1982), the Court of Appeals also affirmed an MTT decision dismissing petitioner's cause of action because it was not filed within the 30-day limitation.<sup>1</sup>

The time period for filing an intra-county<sup>2</sup> equalization appeal is 30 days after the state equalization is finalized if that is when the unit (township) was first aggrieved. See the unpublished opinion in *Moore's Township v Sanilac County Board of Directors*, Court of Appeals No. 65974, dated July 28, 1983.

The exception to the 30-day rule is stated in *Wikman v Novi*, 413 Mich 617; 322 NW2d 103 (1982). In this five-to-two decision, the court found that the 30-day limitation would not apply where plaintiff relied on a provision of the charter of the city of Novi which permitted actions within 60 days of the confirmation of the special assessment rule. The court stated:

In light of the existence of longer periods of limitations, the reasonableness of relying on such provisions and the severe consequence to aggrieved taxpayers from a determination that the limitation periods were repealed by implication, we hold that the provisions of §35 do not supersede the other applicable periods of limitation. 413 Mich at 652-653.

### D. Appeal to the Board of Review

Protest before the board of review is a prerequisite to the filing of a petition in a property assessment dispute or in a claimed exemption case. MCLA 205.735(1); MSA 7.650(35)(1) states in part:

In the case of an assessment dispute as to the valuation of the property or where an exemption is claimed, the assessment must be protested before the board of review before the tribunal may acquire jurisdiction of the dispute under subsection (2), except as provided by subsection (3) and section (37)(5). (Emphasis supplied.)

The Subsection (3) exception concerns jurisdiction over residential and small claims division cases. The Section 37(5) exception permits the taxpayer in residential property and small claims cases, while the appeal is pending, to amend his petition to include subsequent tax years without the necessity of appearing before the board of review.

Failure to protest before the board of review is generally determined to be a jurisdictional defect.<sup>3</sup>

In *Rochester Meadows Apartments v City of Rochester*, 112 Mich App 319, 324; 316 NW2d 242 (1982), the court stated:

The tribunal was correct in holding that it had no jurisdiction over an assessment dispute not previously protested to the board of review.

In *Oakwood Farms v Oxford Township*, 107 Mich App 602; 309 NW2d 685 (1981), a nonresident property owner protested an assessment by letter to the board of review, but the letter was received after the dates noticed for hearing by the board of review. The protest was untimely, and therefore petitioner did not fulfill the requirement of protesting before the board of review.

## II. Motions to Amend Petitions to Include Subsequent Tax Years

In a pending MTT case involving a property assessment or valuation dispute or the exempt status of property, the petitioner often files a motion to amend its petition to include the tax years after the filing of the original petition. The issues then raised are whether petitioner is required to file this petition before June 30 of the tax year involved and whether protest before the board of review is again required.

### A. Filing the Motion to Amend Before June 30

Where a taxpayer has filed a petition for a previous year, he cannot amend his petition to include subsequent tax years unless he does so by June 30 of the tax year to be included.<sup>4</sup> MCLA 205.737(4); MSA 7.650(37)(4) provides:

**If subsequent to the filing of the petition the taxpayer paid additional taxes as a result of the unlawful assessments on the same property, or if in subsequent years unlawful assessments were made against the same property, the taxpayer after protest before the board of review and not later than the filing deadline as prescribed by section 25(2), . . . may amend his or her petition to join all of his or her claims for lawful assessment determination and for refund by reason of payments based on the unlawful assessments. (Emphasis supplied.)**

### B. Filing a Motion to Amend — Protest Before Board of Review

MCLA 205.737(4); MSA 7.650(37)(4) specifically requires protest before the board of review before a motion to amend a petition to include additional tax years can be granted.<sup>5</sup> There are certain statutory exceptions for small claims and residential cases discussed *supra*.

A recent Court of Appeals decision held that protest before the board of review was not required for a motion to amend a petition where that protest would simply be a futile effort. *Little Friends v Escanaba*, 138 Mich App 302; 360 NW2d 602 (1984), leave denied, 422 Mich 979 (1985). Therein, the petitioner protested and filed an appeal for 1981 taxes. In February, 1982, petitioner was notified of an increase. Petitioner, instead of protesting with the board of review, amended his then pending appeal. The MTT dismissed the 1982 appeal for failure to protest. The Court of Appeals stated:

This Court has recognized that failure to exhaust administrative remedies is excused where appearance before the board of review would be futile. *Turner v Lansing Twp*, 108 Mich App 193, 108-109; 310 NW2d 287 (1981), lv den 413 Mich 871 (1982). Although we do not imply that had petitioner again protested before the board of review, the board would have failed in the performance of its duty, *id.*, p 110, it is reasonable to assume that the board's finding that petitioner was not entitled to tax-exempt status in one year would not be reversed in a subsequent year, particularly where the previous year's dispute is pending before the MTT. Moreover, the City of Escanaba would not be prejudiced by allowance of the association's 1982 claim since the evidence introduced pertained to that year as well. Accordingly, we hold that on remand the MTT has jurisdiction to consider the association's challenge to the 1982 and 1981 tax assessments.

The Supreme Court, by denying leave to appeal in the *Little Friends* decision, gave credence to the "futile effort" argument. This weakens the statutory requirement of protest before the board of review for pending MTT cases. However, the prudent counsel will continue to protest before the board of review while their petition before the MTT is pending.

<u>Type of Suit</u>	<u>Deadline for Filing Petition</u>	<u>Authority for Filing Deadline</u>	<u>Board of Review Appeal</u>	<u>Authority for Board of Review Requirement</u>
Residential or Small Claims Division tax appeal.	June 30 of the tax year involved.	MCLA 205.735(2); 7.650(35)(b).	Board of review protest is required.	MCLA 205.735(1); MSA 7.650(35)(1).
Property assessment dispute involving the valuation of real or personal property.	June 30 of the tax year involved.	MCLA 205.735(2); MSA 7.650(35)(2).	Board of review protest is required.	MCLA 205.735(1); MSA 7.650(35)(1).

Type of Suit	Deadline for Filing Petition	Authority for Filing Deadline	Board of Review Appeal	Authority for Board of Review Requirement
Property assessment dispute in which an exemption is claimed.	June 30 of the tax year involved.	<b>Sisbarro v City of Fenton</b> , 90 Mich App 675, 678; 282 NW2d 443 (1979).	Board of review protest is required.	MCLA 205.735(1); MSA 7.650(35)(1).
Contested tax bill. (This type of appeal is limited to correcting arithmetic errors or mistakes.)	The petition must be filed within 60 days after mailing of the bill by the assessment district treasurer.	MCLA 205.735(2); MSA 7.650(35)(2).	No board of review protest is required.	MCLA 205.735(1); MSA 7.650(35)(1).
Special assessment dispute.	30 days after the final decision which petitioner seeks to have reviewed. (In a special assessment that is generally the confirmation of the special assessment roll.)	MCLA 205.735(2); MSA 7.650(35)(2). <b>Szymanski v Westland</b> , 420 Mich 301, 302; 362 NW2d 224 (1984).	No board of review protest is required.	
	The 30-day time period can be extended if petitioner can show another specific period of limitation is applicable (e.g., a city charter provision permitting a 60-day rather than 30-day appeal period).	<b>Wikman v Novi</b> , 413 Mich 617, 651; 322 NW2d 103 (1982).		
Intra-county equalization.	30 days after the decision sought to be reviewed.	<b>DeWitt Twp v State Tax Commission</b> , 397 Mich 576; 244 NW2d 920 (1976);	No board of review protest required.	
	The township or individual contesting equalization should file within 30 days of the decision increasing the factor.	<b>Moore Twp v Sanilac County Board of Commissioners</b> , COA Docket No. 65974, dated July 28, 1983.		

**FOOTNOTES**

1. The MTT has also determined that the 30-day limitation is a jurisdictional requirement in **L & C Development Co v Torch Lake Twp**, 1 MTTR 91 (Docket No. 3665, May 20, 1975); **Lake Geneva Associates, Ltd v Oakland County**, 1 MTTR 95 (Docket No. 3799, May 15, 1975); and **Schimmel v Oakland County Tax Allocation Board**, 1 MTTR 61 (Docket No. 3674, May 6, 1975).

## IOLTA UPDATE

by

Linda K. Rexer

By now, most Michigan lawyers know that in December, 1986, Michigan became the 44th state to adopt an Interest on Lawyer Trust Account (IOLTA) program as part of recent Supreme Court amendments to DR 9-102 requiring lawyers to convert traditional non-interest-bearing client trust accounts to interest-bearing ones, effective January 1, 1988. The purpose of this article is to explain the current status of IOLTA in Michigan.

While Supreme Court rules have always required lawyers to keep client funds in trust accounts, most small funds which cannot earn enough income to offset the cost of calculating the earnings and crediting them to the client are commingled in non-interest-bearing accounts. Income from such pooled funds benefits primarily the financial institutions holding them. With the advent of NOW and Super NOW accounts, that income could be applied to worthwhile public purposes, especially helping to fund legal services for the poor, through IOLTA programs.

IOLTA'S pioneer, Florida, continues to provide leadership. On June 19, 1987, the United States Court of Appeals for the Eleventh Circuit upheld the constitutionality of their IOTA program in *Cone v The Florida Bar*. The court held that IOTA did not violate the Fifth Amendment because short term and nominal deposits could not net individual client's interest without IOTA and therefore did not deprive the plaintiff of property without due process.

Michigan's IOLTA program at Section (C)(1) of DR 9-102 requires a lawyer or law firm to pool client funds expected to earn less than \$50.00 in interest for the period held in interest-bearing trust accounts subject to withdrawal upon request. The interest earned on such commingled funds is to be paid to the Michigan State Bar Foundation, which will administer the program and use the income generated for its public interest purposes, primarily helping to fund legal services for the poor.

Other sections of DR 9-102 allow interest from these or other client funds to be paid to the client if a separate trust account for that client or pooled trust account with sub-accounting to track an individual client's interest income is used. Since the administrative costs of such arrangements generally exceed the interest earned by the small deposits contemplated in DR 9-102 (C)(1), most lawyers who hold client funds will have IOLTA accounts.

IOLTA programs have been made workable only if NOW and Super NOW accounts are available, since such funds must be readily available for withdrawal. Normally, such accounts cannot be used by law firms operating as professional corporations or for the deposit of funds belonging to corporate clients. However, most IOLTA programs have obtained the necessary Federal Reserve rulings permitting the use of such accounts by law firms. Such rulings are also being sought for the Michigan program.

Another initial barrier to implementation in other states was the federal income tax law. Under the so-called "assignment of income doctrine," if individual clients had the power to elect whether to participate in the program, the interest generated was deemed taxable to the client even though funds in the IOLTA accounts do not actually net any income for the client after administrative and bank charges. At the date of this writing, the Michigan Order contains an "opt-out election" for clients which we have asked the court to delete, per the advice of tax counsel.

IOLTA compliance, therefore, will not likely cause substantial administrative burdens on attorneys or law firms since the program will not change most long standing client trust account practices that law offices now follow.

Computing, reporting and remitting the interest income will be done by the financial institution. If the interest income is not attributable to the client, no Form 1099's or W-9's are needed. At the outset, however, lawyers will need to enter into an agreement with their banks to establish or convert an existing client trust account to an IOLTA account. Forms and instructions for such agreements are being developed cooperatively with statewide banking associations. They will be mailed to every State Bar member in advance of the new implementation deadline of January 1, 1988 by the Michigan State Bar Foundation IOLTA Office located in the State Bar Building in Lansing. Lawyers may write to the Lawyer Trust Account Program, 306 Townsend Street, Lansing, Michigan 48933 or call (517) 371-6907 with questions.

Clearly, the IOLTA concept is no longer unique. It is recognized as a simple and effective way to raise much needed funding for law-related programs, particularly for civil legal services for the poor at a time of diminishing funding for those services. It is estimated that the funds generated in Michigan could be one to three million dollars annually for such purposes, simply by making use of those client trust deposits which would otherwise be sitting idle in interest-free checking accounts.

2. The MTT has no jurisdiction over inter-county equalization but has exclusive jurisdiction over intra-county equalization appeals. MCLA 205.741; MSA 7.650(41); **Emmet County v State Tax Commission**, 397 Mich 550; 244 NW2d 909 (1976); **Sessa v State Tax Commission**, 134 Mich App 767; 351 NW2d 863 (1984).
3. The following appellate decisions have upheld the jurisdictional requirement of protesting before the board of review: **Northwood Apartments v Royal Oak**, 98 Mich App 721; 296 NW2d 639 (1980); **W & E Burnside v Bangor Township**, 77 Mich App 618, 620-621; 261 NW2d 22 (1977), reversed on other grounds, 402 Mich 950L (1978); **Sisters of Mercy v Pennfield Township**, 91 Mich App 470, 472-473; 283 NW2d 645 (1978); and **Consumers Power v Big Prairie Township**, 81 Mich App 120, 158; 265 NW2d 182 (1978).
4. Several MTT decisions support this mandatory reading of the requirement that the petition to amend be filed by June 30 of the tax year to be included. See **Bloomfield Hills Christian v Bloomfield Hills** (Docket No. 14783, July 7, 1978); and **Blodgett Memorial Medical Center v East Grand Rapids**, 1 MTTR 576, 579 (Docket No. 14781, December 29, 1978).
5. The MTT has held that protest is a prerequisite to adding additional years to an assessment appeal. **Blodgett Memorial v East Grand Rapids**, *supra*; and **Bloomfield Hills Christian v Bloomfield Hills**, *supra*.

## REAL PROPERTY LAW SECTION ANNUAL REPORT

by  
Gary A. Taback

The Real Property Law Section has been particularly active and productive this year. The Section now numbers in excess of 3200. The Section's business is directed by fifteen elected and two appointed members of the Council. The Council is most fortunate and appreciative of the active participation of its past chairpersons, Maurice S. Binkow, Stephen A. Bromberg, James W. Draper, William B. Dunn, Patrick J. Keating, Richard E. Rabbideau, Allen Schwartz and David S. Snyder.

The Council members and former chairpersons serve as Council coordinators for 24 regular committees in areas of real property law, including Bankruptcy, Commercial Leasing, Condemnation, Condominium, Construction, Construction Liens, Environmental Law, Taxation, Legal Forms, Mortgages, Oil and Gas, Partnerships, Residential Transactions, Title Examinations, Water Law, and Zoning. Joseph A. Lloyd reports in each **Michigan Real Property Review** on recent court decisions in the real property area, and Gregory L. McClelland advises the Council monthly of the introduction, legislative progress, and passage of legislation affecting real property law.

The Council undertakes a monthly review of all case law and legislative bills, directing some matters to its Committees for analysis and reports; and, under certain conditions, in areas of substantial import, following State Bar procedures, file amicus curiae briefs, testify and otherwise participate in the legislative process, and even occasionally draft and seek to have bills introduced in the Legislature.

This year the Section was authorized by the State Bar and proceeded in its own name to file an amicus brief with the Michigan Supreme Court in the petition concerning the constitutionality of Public Act 281 of 1986, known as the "Local Development Financing Act." The Act is believed to be a wide departure from historical condemnation rights in that it provides that the creation of jobs and the promotion of economic growth are essential governmental functions and constitute essential public purposes, thereby permitting a municipality to take property under the Uniform Condemnation Procedures Act.

The Section has been involved in the Legislative process with respect to HB5596 concerning tax titles, HB5152 regarding proposed revisions to the Subdivision Control Act, and HB5119 on land contracts. Finally, the Council is seeking to obtain permission from the State Bar and to have introduced: (1) legislation supplementing the present provisions of MCLA §555.11 and 555.23, authorizing a trustee by recorded affidavit to spread on the record only those powers contained in the trust instrument which will sufficiently permit the trustee to sell, convey or otherwise act with respect to real property (which would overcome the present mandate of Michigan Land Title Standard 8.3 that requires the entire trust instrument to be recorded in order to validate the acts of the trustee with respect to real property); and (2) amendatory legislation to MCLA §438.101, the interest on interest provisions, encouraging more institutions to enter the Michigan commercial mortgage loan market.

The Title Standards Committee of the Real Property Section, chaired by Section Secretary Janet L. Kinzinger, has undertaken the monumental task of compiling another complete edition to the Michigan Land Title Standards. The Committee, under its able and dedicated Chairperson and sub-committees, is actively (feverishly!) engaged in the project.

The Continuing Legal Education Committee of the Real Property Section, under the capable leadership of its Chairperson, Stephen Dawson, presented: (1) eight "Homeward Bound" programs in Troy, as well as in Grand Rapids, concerning new developments in Federal taxation affecting real estate, insuring of real property interests, UCC for real estate attorneys, real estate brokerage law, AIA contracts, environmental considerations affecting real estate transactions, securities laws for real estate attorneys and fundamentals of condominium approvals; (2) a spectacularly successful Winter Conference in Maui, Hawaii, entitled "Advanced Real Estate Techniques," chaired by the most able James M. Tervo; and (3) a rousing Summer Conference at the Grand Hotel, Mackinac Island, chaired by the Section's noted past Chairperson, Allen Schwartz. Special note must be given to the Section's new administrative assistant, Arlene Rubinstein. Her participation and efforts have helped to move the CLE programs to a new plateau.

Nyal D. Deems, Council Coordinator, and Ronald T. Barrows, Water Law Committee Chairperson, have coordinated the Real Property Section's co-sponsorship of the Great Lakes Water Conference, set for September 30, October 1 and October 2 in Michigan, as well as the Real Property Section's theme issue on water law in the September State Bar Journal.

The Real Property Section's **Review** continues to publish outstanding articles under the awesome leadership of George Siedel, the Section's Publication Chairman. The **Review** is one of the finest publications published by real estate practitioners, providing articles on issues of current interest, updating pending legislation, and digesting current cases.

There were many important activities by many of the committees and the chairpersons thereof, so numerous that constraints of this article preclude its use to publicly acknowledge and individually thank each of them for a job well done. The Section is so fortunate to have an outstanding Council that combines irreverence, argumentativeness, tenacity, goodwill and a willingness to invest substantial energy, time and time again, to the needs of the Section. The adage "a busy man always has time" is proven over and over again by these devoted practitioners. The unstinting efforts of Janet L. Kinzinger, Secretary of the Section, and James R. Brown, Treasurer of the Section, were immeasurable. Finally, special recognition is given to Peter Nathan, Chairperson-Elect, and Carl Hasselwander, Vice-Chairperson, for their wisdom, leadership and untiring efforts on behalf of the Section, and its most appreciative Chairperson.

**LEGISLATIVE STATUS REPORT**  
**ACTION ON LEGISLATION OVER LAST THREE MONTHS**  
 by  
**Gregory L. McClelland**

- HB 4070** Allows modifications of condominium unit for handicapper accessibility notwithstanding prohibitions or restrictions contained in condominium documents, and requires submission of plans for such modification to homeowners' association — 2/10/87, Committee on Urban Affairs; 3/12/87, 2nd reading; 3/17/87, 3rd reading; 3/19/87, passed; 3/24/87, Committee on Local Government & Veterans; 4/28/87, general orders; 5/7/87, 3rd reading; 5/12/87, passed; 5/12/87, ordered enrolled; 5/18/87, presented to Governor; 5/26/87, approved by Governor as Public Act No. 31.
- HB 4110** Provides general amendments to solid waste management act — 2/12/87, Committee on Conservation & Environment; 5/11/87, 2nd reading with substitute; 5/13/87, 3rd reading with substitute; 5/19/87, passed; 5/20/87, Committee on Natural Resources & Environmental Affairs; 6/3/87, general orders with substitute; 6/11/87, 3rd reading with substitute as amended; 6/16/87, amended, passed; 6/23/87, Senate substitute nonconcurrent in.
- HB 4218** Establishes criminal penalties for the poisoning of water supply — 2/26/87, Committee on Judiciary; 6/17/87, 2nd reading with substitute; 6/29/87, 3rd reading with substitute as amended; 6/30/87, passed.
- HB 4220** Allows group self-insurers to provide employer's liability insurance — 2/26/87, Committee on Labor; 6/11/87, 2nd reading; 6/16/87, 3rd reading; 6/17/87, passed; 6/18/87, Committee on Human Resources & Senior Citizens.
- HB 4381** Amends liquor control act to define "professional account" and delete definition of "citizen" — 3/24/87, Committee on Liquor Control; 4/2/87, 2nd reading; 4/8/87, 3rd reading; 4/9/87, passed; 4/9/87, Committee on Regulatory Affairs; 5/27/87, general orders; 5/28/87, 3rd reading; 6/2/87, passed; 6/2/87, ordered enrolled; 6/8/87, presented to Governor; 6/21/87, approved by Governor as Public Act No. 51.
- HB 4398** Amends single business tax act to clarify meaning of "fairly represent" — 3/25/87, Committee on Taxation; 4/1/87, 2nd reading; 4/2/87, 3rd reading with amendment(s); 4/8/87, passed; 4/9/87, Committee on Finance; 5/20/87, general orders with substitute; 5/27/87, 3rd reading with substitute; 5/28/87, passed; 6/2/87, Senate substitute concurred in, ordered enrolled; 6/3/87, presented to Governor; 6/8/87, approved by Governor as Public Act No. 39.
- HB 4505** Provides general amendments to state housing development authority act of 1966 — 4/15/87, Committee on Urban Affairs; 5/19/87, 2nd reading with substitute; 5/27/87, 3rd reading with substitute as amended; 5/28/87, passed; 6/2/87, Committee on Finance; 6/3/87, laid on table with amendment(s); 6/4/87, taken from table, general orders with amendment(s); 6/10/87, 3rd reading with amendment(s); 6/11/87, passed; 6/18/87, Senate amendment(s) nonconcurrent in; 6/30/87, Senate requests return; 6/30/87, request granted; 6/30/87, vote reconsidered, 3rd reading with substitute, passed; 6/30/87, Senate substitute concurred in, ordered enrolled; 6/30/87, presented to Governor.
- HB 4518** Provides general amendments to hazardous waste management act, revises certain penalties and provides for limited storage facility fee — 4/15/87, Committee on Conservation & Environment; 6/11/87, 2nd reading with amendment(s); 6/17/87, amended; 6/29/87, 3rd reading with amendment(s), passed; 6/30/87, Committee on Natural Resources & Environmental Affairs.
- HB 4519** Revises provisions in hazardous waste management act pertaining to the siting of certain hazardous waste facilities — 4/15/87, Committee on Conservation & Environment; 6/11/87, 2nd reading with amendment(s); 6/29/87, 3rd reading with amendment(s), passed; 6/30/87, Committee on Natural Resources & Environmental Affairs.
- HB 4527** Allows cities or villages which have a population of less than 5,000 to allow by ordinance that certain city boards serve as its planning commission — 4/15/87, Committee on Towns & Counties; 5/19/87, Committee on Economic Development & Energy; 5/27/87, 2nd reading with substitute; 5/28/87, 3rd reading with substitute; 6/2/87, passed; 6/3/87, Committee on Criminal Justice, Urban Affairs, & Economic Development; 6/4/87, general orders; 6/10/87, 3rd reading with amendment(s); 6/11/87, passed; 6/15/87, Senate amendment(s) concurred in, ordered enrolled; 6/17/87, presented to Governor; 6/23/87, approved by Governor as Public Act No. 65.

- HB 4528** Amends downtown development authority act to provide place on agenda for planning commission business — 4/15/87, Committee on Urban Affairs; 5/11/87, Committee on Economic Development & Energy; 5/27/87, 2nd reading with substitute; 5/28/87, 3rd reading with substitute; 6/2/87, passed; 6/3/87, Committee on Criminal Justice, Urban Affairs & Economic Development; 6/4/87, general orders; 6/10/87, 3rd reading; 6/11/87, passed; 6/11/87, ordered enrolled; 6/17/87, presented to Governor; 6/23/87, approved by Governor as public Act No. 66.
- HB 4529** Amends economic development corporations act to provide place on agenda for planning commission business — 4/15/87, Committee on Economic Development & Energy; 5/27/87, 2nd reading with substitute; 5/28/87, 3rd reading with substitute; 6/2/87, passed; 6/3/87, Committee on Criminal Justice, Urban Affairs, & Economic Development; 6/4/87, general orders; 6/10/87, 3rd reading; 6/11/87, passed; 6/11/87, ordered enrolled; 6/17/87, presented to Governor; 6/23/87, approved by Governor as Public Act No. 67.
- HB 4530** Amends tax increment finance authority act to provide place on agenda for planning commission business — 4/15/87, Committee on Economic Development & Energy; 5/27/87, 2nd reading with substitute; 5/28/87, 3rd reading with substitute; 6/2/87, passed; 6/3/87, Committee on Criminal Justice, Urban Affairs & Economic Development; 6/4/87, general orders; 6/10/87, 3rd reading; 6/11/87, passed; 6/11/87, ordered enrolled; 6/17/87, presented to Governor; 6/23/87, approved by Governor as Public Act No. 68.
- HB 4592** Amends urban cooperation act of 1967 to authorize tax revenue sharing agreement — 5/7/87, Committee on Taxation; 5/27/87, 2nd reading with amendment(s); 5/28/87, 3rd reading with amendment(s); 6/2/87, passed; 6/3/87, Committee on Finance.
- HB 4601** Exempt persons appraising, offering to appraise, or testifying concerning value in connection with proceedings before the tax tribunal from real estate licensing section of occupational code — 5/11/87, Committee on State Affairs; 5/19/87, 2nd reading; 5/20/87, 3rd reading; 5/21/87, passed; 5/27/87, Committee on Finance; 6/2/87, general orders; 6/10/87, 3rd reading with amendment(s); 6/11/87, passed; 6/15/87, Senate amendment(s) concurred in, ordered enrolled; 6/17/87, presented to Governor; 6/23/87, approved by Governor as Public Act No. 63.
- HB 4605** Amends general property tax act to permit local tax collecting unit by resolution of the legislative body to provide for and apply the 10/20 homeowner tax credit as a reduction in property taxes — 5/11/87, Committee on Taxation; 6/17/87, 2nd reading; 6/23/87, 3rd reading, passed; 6/25/87, Committee on Finance.
- HB 4613** Amends income tax act of 1967 to provide for the 10/20 homeowner tax credit for certain taxpayers (equal to the first 10 mills on the first \$20,000 market value) — 5/11/87, Committee on Taxation; 6/17/87, 2nd reading with substitute; 6/23/87, 3rd reading with substitute, as amended, passed; 6/25/87, Committee on Finance.
- HB 4662** (Same as SB 145) Exempts bed and breakfast establishments from food service establishment law if 15 rooms or less — 5/21/87, Committee on Tourism & Recreation; 6/18/87, 2nd reading with substitute; 6/18/87, 3rd reading with substitute; 6/18/87, rules suspended, general orders; 6/3/87, 3rd reading; 6/23/87, passed; 6/23/87, ordered enrolled; 6/29/87, presented to Governor.
- HB 4665** (Same as SB 149) Removes bed and breakfast establishments from commercial hotel construction code and defines as private residences — 5/21/87, Committee on Tourism & Recreation; 6/18/87, 2nd reading with substitute; 6/18/87, 3rd reading with substitute, passed; 6/18/87, rules suspended, general orders; 6/23/87, 3rd reading, 6/23/87, passed; 6/23/87, ordered enrolled; 6/29/87, presented to Governor.
- HB 4701** Creates the mortgage brokers, lenders, and servicers licensing act — introduced by Rep Bennett on 5/28/87 and referred to the Committee on Corporations & Finance; 6/3/87, 2nd reading with amendment(s); 6/4/87, 3rd reading with amendment(s); 6/9/87, passed; 6/10/87, Committee on Commerce & Technology.
- HB 4702** Amends the real estate licensing section of the occupational code to exempt certain persons regulated under the mortgage brokers, lenders, and servicers licensing act — introduced by Rep Bennett, et al on 5/28/87 and referred to Committee on Corporations & Finance; 6/3/87, 2nd reading; 6/4/87, 3rd reading; 6/9/87, passed; 6/10/87, Committee on Commerce & Technology.

- HB 4703** Amends the uniform securities act to exempt certain persons licensed under the mortgage broker, lenders, and servicers licensing act — introduced by Rep Bennett, et al on 5/28/87 and referred to Committee on Corporations & Finance; 6/3/87, 2nd reading; 6/4/87, 3rd reading; 6/9/87, passed; 6/10/87, Committee on Commerce & Technology.
- HB 4706** Raises rate of interest that may be agreed upon in writing from 7 percent to 12 percent and provides that such rate shall be inclusive of certain finance charges — introduced by Rep Power on 5/28/87 and referred to Committee on Corporations & Finance.
- HB 4724** (Same as SB 346) Clarifies status of mobile home commission — 6/3/87, Committee on Urban Affairs; 6/15/87, 2nd reading with substitute; 6/16/87, 3rd reading with substitute; 6/17/87, amended, passed; 6/18/87, Committee on Commerce & Technology, general orders, 3rd reading; 6/23/87, passed; 6/23/87, ordered enrolled; 6/26/87, presented to Governor.
- HB 4727** Clarifies that biweekly mortgage loans are not in violation of compensating balance prohibition — introduced by Rep Keith on 6/3/87 and referred to Committee on Corporations & Finance.
- HB 4779** Amends single business tax act to make floor plan interest exclusion permanent — introduced by Rep Jondahl on 6/15/87 and referred to Committee on Taxation.
- HB 4781** Amends real estate licensing section of occupational code to provide for issuance of a temporary salesperson license within two weeks after meeting licensure requirements — introduced by Rep Martin, et al on 6/15/87 and referred to Committee on State Affairs.
- HB 4787** Amends inland lakes and streams act of 1972 to allow permit for construction of seawalls for certain property owners — introduced by Rep Porreca, et al on 6/15/87 and referred to Committee on Marine Affairs & Port Development.
- HB 4816** Excludes interest in small business corporation from definition of intangible personal property — introduced by Rep Gubow, et al on 6/15/87 and referred to Committee on Taxation.
- HB 4820** Amends occupational code to revise licensing fees for certain occupations — introduced by Rep Griffin on 6/15/87 and referred to Committee on State Affairs.
- HB 4830** Clarifies state escheat of unredeemed returnable beverage container deposits — introduced by Rep Harrison, et al on 6/17/87 and referred to Committee on Taxation.
- HB 4831** Amends single business tax act to provide credit for certain distributors and dealers of returnable beverage containers regulated by law — introduced by Rep Harrison on 6/17/87 and referred to Committee on Taxation.
- HB 4849** Amends commercial redevelopment act to prohibit future establishment of commercial redevelopment districts — introduced by Rep Strand, et al on 6/29/87 and referred to Committee on Economic Development and Energy.
- HB 4850** Prohibits future development of plant rehabilitation districts and exemption certificates — introduced by Rep Strand, et al on 6/29/87 and referred to Committee on Economic Development and Energy.
- HB 4852** Prohibits and establishes as a felony the disposing of oil field brine in any river, lake, stream, or other water source — 4852 introduced by Rep Nye, et al on 6/29/87 and referred to Committee on Conservation and Environment.
- HB 4860** Amends worker's disability compensation act of 1969 to include real estate appraisers within exemption from act — introduced by Rep Keith on 6/29/87 and referred to Committee on Labor.
- HB 4863** Amends solid waste management act to prohibit development of new landfills within five miles of existing site and allows municipalities to grant exceptions to the five mile limitation — introduced by Rep Niederstadt on 6/29/87 and referred to Committee on Conservation and Environment.

- HB 4869** Amends general property tax act to include adult foster care family homes and small group home within elderly and handicap exemption — introduced by Rep Webb on 6/29/87 and referred to Committee on Taxation.
- HB 4871** Amends general property tax act to eliminate valuation by state tax commission of real property assessed to DNR — introduced by Rep W. Bullard on 6/29/87 and referred to Committee on Taxation.
- HB 4872** Provide for local assessing officer to assess real property owned by the state and controlled by DNR — introduced by Rep W. Bullard on 6/29/87 and referred to Committee on Taxation.
- HB 4873** Establishes environmental contamination rehabilitation act to provide for the establishment of environmental contamination rehabilitation districts and for the issuance of exemption certificates for persons willing to clean environmentally contaminated sites — introduced by Rep Palamara, et al on 6/29/87 and referred to Committee on Conservation and Environment.
- HB 4874** Amends Goemaere — Anderson wetland protection act to require purchase of wetland property at fair market value — introduced by Rep Weeks, et al on 6/29/87 and referred to Committee on Appropriations.
- HB 4890** Amends general property tax act truth in taxation provision — introduced by Rep W. Bullard on 6/30/87 and referred to Committee on Taxation.
- HB 4892** Revises petition and notice requirements of drain code — introduced by Rep Barns, et al on 6/30/87 and referred to Committee on Towns and Counties.
- HB 4912** Shortens certain time periods for tax sales of abandoned property — introduced by Rep Hertel on 6/30/87 and referred to Committee on Taxation.
- SB 40** Amends the state revenue sharing act of 1971 to include certain special assessments within the definition of “local taxes”— 2/10/87, Committee on Finance; 2/11/87, general orders; 2/12/87, 3rd reading; 2/17/87, passed; 2/17/87, Committee on Appropriations; 3/12/87, 2nd reading with substitute; 3/19/87, 3rd reading with substitute, passed; 3/26/87, House substitute nonconcurrent in; 4/9/87, referred to Conference Committee; 6/18/87, Conference report adopted; 6/23/87, Conference report adopted; 6/25/87, ordered enrolled.
- SB 139** Allows township planning commission to adopt plan for less than entire township in certain circumstances — 3/17/87, Committee on Local Government & Veterans; 4/7/87, general orders; 4/8/87, 3rd reading; 4/9/87, passed; 4/9/87, Committee on Towns & Counties; 6/2/87, 2nd reading with amendment(s); 6/4/87, 3rd reading with amendment(s); 6/9/87, passed; 6/16/87, House amendment(s) concurred in, ordered enrolled; 6/22/87, presented to Governor.
- SB 140** Amends township, rural zoning act to require compliance with other townships planning documents before approval of township site plan — 3/17/87, Committee on Local Government & Veterans; 4/7/87, general orders with amendment(s); 4/8/87, 3rd reading with amendment(s); 4/9/87, passed; 4/9/87, Committee on Towns & Counties; 6/2/87, 2nd reading with amendment(s); 6/4/87, 3rd reading with amendment(s); 6/10/87, passed; 6/16/87, House amendment(s) concurred in, ordered enrolled; 6/22/87, presented to Governor.
- SB 146** (Same as HB 4663) Exempts bed and breakfast establishments from hotel law — 3/18/87, Committee on Local Government & Veterans; 4/28/87, general orders; 5/7/87, 3rd reading; 5/12/87, passed; 5/12/87, Committee on Tourism & Recreation; 6/18/87, 2nd reading with amendment(s); 6/18/87, 3rd reading with amendment(s), passed; 6/23/87, House amendment(s) concurred in, ordered enrolled.
- SB 147** (Same as HB 4664) Includes bed and breakfast establishments in act giving hotelkeepers a lien for goods and services — 3/18/87, Committee on Local Government & Veterans; 4/28/87, general orders; 5/7/87, 3rd reading; 5/12/87, passed; 5/12/87, Committee on Tourism & Recreation; 6/18/87, 2nd reading with amendment(s); 6/18/87, 3rd reading with amendment(s), passed; 6/23/87, House amendment(s) concurred in, ordered enrolled.

- SB 148** (Same as HB 4661) Includes bed and breakfast establishments within act limiting liability of innkeeper for guests' property — 3/18/87, Committee on Local Government & Veterans; 4/28/87, general orders; 5/7/87, 3rd reading; 5/12/87, passed; 5/12/87, Committee on Tourism & Recreation; 6/18/87, 2nd reading with amendment(s); 6/18/87, 3rd reading with amendment(s), passed; 6/23/87, House amendment(s) concurred in, ordered enrolled.
- SB 198** Amends business corporation act to eliminate requirement that businesses file certain financial information with the corporations and securities bureau — 4/7/87, Committee on Commerce & Technology; 5/21/87, general orders; 5/27/87, 3rd reading; 5/28/87, passed; 5/28/87, Committee on Corporations & Finance.
- SB 227** Provides that certain nonprofit research and development enterprises be exempt from ad valorem real and personal property taxes — 4/28/87, Committee on Finance; 5/13/87, general orders; 5/21/87, 3rd reading with amendment(s); 6/4/87, passed; 6/4/87, Committee on Economic Development & Energy; 6/16/87, Committee on Taxation.
- SB 232** Provides procedure for acceptance of federal cession of jurisdiction over lands to state — 4/29/87, Committee on State Affairs, Tourism & Transportation; 6/2/87, general orders; 6/3/87, 3rd reading; 6/4/87, passed; 6/4/87, Committee on State Affairs.
- SB 255** Provides general amendments to banking code of 1969 — 4/30/87, Committee on Commerce & Technology; 5/13/87, general orders with substitute; 5/14/87, 3rd reading with substitute; 5/19/87, passed by 2/3 vote; 5/19/87, Committee on Corporations & Finance; 6/11/87, 2nd reading with substitute; 6/15/87, 3rd reading with substitute; 6/16/87, passed by 2/3 vote; 6/17/87, House substitute concurred in, ordered enrolled.
- SB 258** Provides general amendments to savings and loan act of 1980 — 5/5/87, Committee on Commerce & Technology; 5/7/87, general orders with amendment(s); 5/14/87, 3rd reading; 5/19/87, passed; 5/19/87, Committee on Corporations & Finance; 6/11/87, 2nd reading with substitute; 6/15/87, 3rd reading with substitute; 6/16/87, passed; 6/18/87, House substitute concurred in, ordered enrolled; 6/26/87, presented to Governor.
- SB 322** Amends the Michigan liquor control act regarding purchase, consumption, or possession of alcoholic beverages by persons less than 21 — introduced by Sen Barcia, et al on 5/28/87 and referred to Committee on State Affairs, Tourism & Transportation.
- SB 324** Amends use tax act to exempt property used in the treatment of hazardous waste — introduced by Sen Cherry, et al on 5/28/87 and referred to Committee on Finance.
- SB 325** Amends general sales tax act to exempt property used in the treatment of hazardous waste — introduced by Sen Cherry, et al on 5/28/87 and referred to Committee on Finance.
- SB 326** Amends state housing development authority act of 1966; mandate multifamily housing program and housing credit application procedures and extends sunsets — introduced by Sen Engler on 5/28/87 and referred to Committee on Finance; 6/3/87, laid on table with amendment(s); 6/4/87, taken from table, general orders with amendment(s); 6/10/87, 3rd reading with amendment(s); 6/11/87, passed; 6/11/87, Committee on Urban Affairs.
- SB 346** (Same as HB 4724) Clarifies status of mobile home commission — introduced by Sen Cropsey on 6/4/87 and referred to to Committee on State Affairs, Tourism & Transportation.
- SB 348** Creates uniform transboundary pollution reciprocal process act — introduced by Sen DeGrow on 6/9/87 and referred to Committee on Natural Resources & Environmental Affairs.
- SB 357** Provides use tax exemption for MLS-realtor board computer access equipment — introduced by Sen. DiNello, et al on 6/16/87 and referred to Committee on Finance.
- SB 358** Provides sales tax exemption for certain magazines produced by MLS-realtor board and MLS-realtor board computer access equipment — introduced by Sen DiNello, et al on 6/16/87 and referred to Committee on Finance.

- SB 360** Excludes interest in small business corporation or partnership from definition of intangible personal property — introduced by Sen Posthumus, et al on 6/16/87 and referred to Committee on Finance.
- SB 367** Revises fire safety standards for hotels — introduced by Sen Fessler on 6/17/87 and referred to Committee on State Affairs, Tourism, & Transportation.
- SB 375** Prohibits adverse possession claim on state lands — introduced by Sen Ehlers, et al on 6/23/87 and referred to Committee on Natural Resources & Environmental Affairs.
- SB 376** Establishes hazardous waste environmental contamination rehabilitation districts and provides exemption certificates for persons willing to clean environmentally contaminated sites — introduced by Sen Dingell, et al on 6/23/87 and referred to Committee on Natural Resources & Environmental Affairs.
- SB 395** Amends general property tax act to grant exemptions for certain homeowners adding improvements and allows for residential property tax exemption districts — introduced by Sen DiNello, et al on 6/29/87 and referred to Committee on Finance.
- SB 399** Amends use tax act to provide for exemption for purchase of mobile homes — introduced by Sen Pollack on 6/29/87 and referred to Committee on Finance.
- SB 400** Amends general property tax act to provide for the elimination of exemptions for certain mobile homes and special tools as of December 31, 1990 — introduced by Sen Pollack on 6/29/87 and referred to Committee on Finance.
- SB 401** Amends general sales tax act to provide exemption for mobile homes — introduced by Sen Pollack on 6/29/87 and referred to Committee on Finance.
- SB 410** Provides for the establishment of civil or criminal penalties for violations of county land use ordinances — introduced by Sen Conroy on 6/30/87 and referred to Committee on Local Government & Veterans.
- SB 411** Provides for the establishment of civil or criminal penalties for violations of township land use ordinances — introduced by Sen Conroy on 6/30/87 and referred to Committee on Local Government & Veterans.
- SB 412** Provides for the establishment of civil or criminal penalties for violations of city and village land use ordinances — introduced by Sen Conroy on 6/30/87 and referred to Committee on Local Government & Veterans.
- SB 413** Creates the waste reduction assistance act which provides statewide plan for development and disposal of hazardous waste and creates and provides incentives for manufacturers to reduce volume of hazardous waste they produce — introduced by Sen Ehlers, et al on 6/30/87 and referred to Committee on Natural Resources & Environmental Affairs.
- SB 414** Creates handicapper business opportunity act to provide competitive opportunity and state procurement of goods, services, and construction for handicapper owned businesses — introduced by Sen Sederburg on 6/30/87 and referred to Committee on Government Operations.
- SB 417** Provides general amendments to solid waste management act and increases penalties and remedies for violations — introduced by Sen Pollack, et al on 6/30/87 and referred to Committee on Natural Resources & Environmental Affairs.
- SB 418** Provides general amendments to air pollution act and increases penalties for violations — introduced by Sen Pollack, et al on 6/30/87 and referred to Committee on Natural Resources & Environmental Affairs.
- SB 419** Provides general amendments to hazardous waste management act and provides for penalties and remedies for violations — introduced by Sen Pollack, et al on 6/30/87 and referred to Committee on Natural Resources & Environmental Affairs.
- SB 432** Requires that decisions of residential property and small claims division of tax tribunal be in writing within reasonable period of time and include concise statement of facts and conclusions of law — introduced by Sen Cropsy, et al on 6/30/87 and referred to Committee on Local Government & Veterans.

**RECENT DECISIONS**  
by  
**Joseph Lloyd**  
**Lloyd, Rutzky & Dodge**

**Foote v City of Pontiac**, \_\_\_\_\_ Mich App \_\_\_\_\_, \_\_\_\_\_ NW2d \_\_\_\_\_ (No 92830, June 16, 1987)

Abatement of Nuisance — Rights of Second Mortgagee to notice

The Plaintiff was a second mortgagee of a property in the City of Pontiac. The mortgage had been recorded. Because of the condition of the property, the city commenced proceedings to require either that it be improved to City standards or that it be torn down. The Plaintiff had some notice that the proceedings were underway, but did not receive written notice of prospective action. The property was visibly posted, however, and the title holder was given written notice. Eventually, because of failure to repair the property, it was torn down. The Plaintiff brought an action for damages, claiming that the city had taken the property without due process. The trial court granted summary judgment against the Plaintiff and the Court of Appeals affirmed.

The Court of Appeals reasoned that, under MCLA 125.540; MSA 5.2891(20), the land was required to be posted and the title holder was required to be notified. There was no requirement that a mortgagee in the chain of title be given written notice. The court observed that the mortgage was a mere chose in action and not an estate in land. It determined that whether to require notice to a mortgagee was a policy decision for the legislature and failure to do so was not unconstitutional.

**Electro Tech, Inc v Campbell**, \_\_\_\_\_ Mich App \_\_\_\_\_, \_\_\_\_\_ NW2d \_\_\_\_\_ (No 86471, July 20, 1987)

Municipal Failure to approve building permit — damages

Electro Tech applied to the city of Westland for a building permit to construct additional manufacturing space at the rear of the lot on which it did business. The City would not grant the permit unless the company dedicated a 27 foot strip of land for municipal use. The Company refused and the permit was not granted. The City then attempted to buy the 27 foot strip, but its proposed price was not acceptable to the Company. Eventually the 27 foot strip was condemned and the city paid approximately four times the originally proposed purchase price.

Electro Tech brought an action under 42 USC 1983 for failure to issue the building permit, claiming that the refusal to do so deprived the company of its property without due process of law. At the trial level the jury heard testimony of the business opportunities lost when the company was unable to expand and awarded a judgment of \$433,000. The Court of Appeals reversed the decision and granted a directed verdict to the city. The Court held that the appropriate remedy for the Plaintiff was to seek a writ of mandamus or make other direct appeal of the decision rather than an action for damages.

**Toles v Maneikis**, \_\_\_\_\_ Mich App \_\_\_\_\_, \_\_\_\_\_ NW2d \_\_\_\_\_ (No 91705, August 3, 1987)

Oil Leases — Construction — Abandonment

The parties entered into an oil and gas lease in standard form in 1956. The lessee commenced production, but by the 1970's production had become sporadic. Production was wholly discontinued in June, 1980. For five years thereafter the lessee did not remove its pipes, tanks, etc. When it thereafter sought to do so, the lessor claimed that they had been abandoned.

The lease gave the lessee the right to remove its equipment "at any time." The court of appeals affirmed the trial court, in holding that the lease terminated when production ceased. From that point the tenant had to remove its equipment "within a reasonable time." The court declined to define the limits of "a reasonable time" but clearly held that 5 years was excessive. The trial court's ruling, therefore, that the property was abandoned was affirmed.

## REPORT OF THE COMMITTEE ON CONTINUING LEGAL EDUCATION

by  
**Stephen E. Dawson**  
Chairman

The Real Property Law Section of the State Bar of Michigan is pleased to announce its eleventh season of "Homeward Bound" Seminars — eight monthly seminars presented for attorneys by attorneys for the 1987-88 season.

The first seminar scheduled for October is "Federal Regulations and Acts" which will be presented by David K. McDonnell, Robert E. Kass and John A. Libby of Barris, Sott, Denn & Driker. In November, "Bankruptcy" will be presented by the current chairman of the Real Property Law Section, Peter A. Nathan of Hertzberg, Jacob & Weingarten, along with Louis P. Rochkind of Jaffe, Snider, Raitt & Heuer and Bankruptcy Judges from the Eastern and Western Districts of Michigan. "Zoning Disputes" is the December seminar and will be conducted by Gerald A. Fisher of Kohl, Secrest, Wardle, Lynch, Clark & Hampton. All promise to be interesting and informative seminars.

Please note that for the first time, our Homeward Bound seminars will be presented by videotape at locations in Detroit, Lansing, Ann Arbor, Bay City, Kalamazoo, Traverse City and Marquette. Continuation of the videotape presentations in future years will depend in part on registrations for the 1987-88 season, so sign up if you can.

A full series subscription for the 1987-88 Homeward Bound seminars is \$265 for non-Section members and \$225 for members of the Real Property Law Section. Individual registrations for seminars is \$45 for non-section members and \$40 for Section members. Register now for the full series and save \$95! There is a registration form for your convenience located elsewhere in this issue.

We are very excited about the topic and location of the Eleventh Annual Winter Conference. The topic of the Conference is "Sophisticated Financing Techniques." The featured speaker will be Thomas A. Kasper, a principal with Morgan Stanley and Co., Inc. in New York. Some of the topics to be discussed include the structure, operation and use of various interest options; pre-payment mechanisms associated with each; swaps, hedges, locks, caps, collars and other "synthetic securities"; structure and practice commitments; avoidance of issues arising during documentation; and special problems, including environmental impairment and exceptions to traditional non-recourse loans. The Conference will be held this year on the beautiful island of St. Maarten on March 5-9, 1988. Register early for this Conference with the registration form located elsewhere in this issue.

### COURSE CALENDAR

Set forth below is a schedule of continuing legal education courses sponsored or co-sponsored by The Real Property Law Section through January, 1988:

Key: HB = Homeward Bound  
ICLE = Courses co-sponsored by The Institute of Continuing Legal Education

Date	Location	Program	Topic
October 13	Amway Grand Grand Rapids	HB	Federal Regulations and Acts
October 15	Management Education Center, MSU — Troy	HB	Federal Regulations and Acts
October 19	Amway Grand Grand Rapids	ICLE	Michigan Condominium Law
October 27	Ramada Inn Southfield	ICLE	Michigan Condominium Law

November 17	Amway Grand Grand Rapids	HB	Bankruptcy
November 19	Management Education Center, MSU — Troy	HB	Bankruptcy
December 8	Amway Grand Grand Rapids	HB	Zoning Disputes
December 10	Management Education Center, MSU — Troy	HB	Zoning Disputes
January 19	Amway Grand Grand Rapids	HB	Transfer of Assets of a Liquor License
January 21	Management Education Center, MSU — Troy	HB	Transfer of Assets of a Liquor License

## SECTION NEWS

### About the authors:

**Robert E. McCarthy** is an associate in the East Lansing law firm of Lester N. Turner, P.C. He has a general civil practice specializing in real estate-related matters. Mr. McCarthy is an Adjunct Professor at Thomas M. Cooley Law School. He holds a B.A. degree from Wittenberg University, and a J.D. degree from Thomas M. Cooley Law School.

**Linda K. Rexer** is the Executive Director of the Lawyer Trust Account Program. She came to IOLTA from private practice in Kalamazoo, where she was a managing attorney for Legal Aid and a CLE administrator as well as a leader in various professional and community organizations.

**“HOMEWARD BOUND”  
CONTINUING LEGAL EDUCATION PROGRAMS  
Real Property Law Section  
State Bar of Michigan  
1987-1988**

Grand Rapids (GR) seminars on Tuesdays at the Amway Grand  
Troy (T) seminars on Thursdays at the Management Education Center  
MSU, 811 West Square Lake Road, Troy (New Location)

**FEDERAL REGULATIONS AND ACTS**

October 13, 1987 (GR) October 15, 1987 (T)  
Presented by David K. McDonnell, Robert E. Kass and John A. Libby of Barris, Sott, Denn & Driker

**BANKRUPTCY**

November 17, 1987 (GR) November 19, 1987 (T)  
Presented by Peter A. Nathan of Hertzberg, Jacob & Weingarten, Louis P. Rochkind of Jaffe, Snider, Raitt & Heuer and  
Bankruptcy Judges from Eastern and Western Districts of Michigan

**ZONING DISPUTES**

December 8, 1987 (GR) December 10, 1987 (T)  
Presented by Gerald A. Fisher and John M. Donohue of Kohl, Secrest, Wardle, Lynch, Clark & Hampton and Joseph F.  
Galvin of Schlusser, Lifton, Simon, Rands, Galvin & Jackier, P.C.

**TRANSFER OF ASSETS OF A LIQUOR LICENSE**

January 19, 1988 (GR) January 21, 1988 (T)  
Presented by Stanley G. Thayer of Sullivan, Ward, Bone, Tyler, Fiott & Asher, P.C.

**JOINT REAL ESTATE AND TAX SECTION SEMINAR**

February 16, 1988 (GR) February 18, 1988 (GR)  
Presented by William B. Acker of Kemp, Klein, Endelman & Beer, PC and Roger Cook of Honigman Miller Schwartz & Cohn

**USURY**

March 22, 1988 (GR) March 24, 1988 (T)  
Presented by William B. Dunn of Clark, Klein & Beaumont and Robert R. Nix II of Kerr, Russell & Weber

**WORKOUTS**

April 19, 1988 (GR) April 21, 1988 (T)  
Presented by Stanley B. Bernstein of Dickinson, Wright, Moon, Van Dusen & Freeman

**COMMERCIAL FORECLOSURE AND DEEDS IN LIEU OF FORECLOSURE**

May 17, 1988 (GR) May 19, 1988 (T)  
Presented by Gary A. Taback of Taback & Hall, PC and Robert W. Scott of Miller, Johnson, Snell & Cummiskey

----- (tear off and mail) -----

**TROY LOCATION REGISTRATION FORM ONLY  
“Homeward Bound” Continuing Legal Education Programs**

TO: Real Property Law Seminars, P.O. Box 473, Birmingham, MI 48012

Please register me for the 1987-1988 “Homeward Bound Series.” I am a member of the Real Property Law Section and my  
check for \$225 is enclosed.

I am not a member of the Real Property Law Section and my check for \$265 is enclosed.

I would like to become a member of the Section. Enclosed is \$20 membership fee; Please send application.

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Phone \_\_\_\_\_

For Grand Rapids registration, please contact ICLE, 1020 Greene, Ann Arbor, MI 48109 or call 1-313-764-0533.

### “Homeward Bound” Video Series

The Continuing Legal Education Committee of the Real Property Law Section in cooperation with the Institute of Continuing Legal Education is pleased to announce that the 1987-88 Homeward Bound series will be videotaped and presented at 7 locations throughout the State of Michigan. Registration for individual seminars is \$45 (Real Property Law Section members: \$40). Series registrants \$265 (Real Property Law Section members: \$225). For further information write ICLE, 1020 Greene, Ann Arbor, MI 48109 or call 1-313-764-0533.

### “Homeward Bound” Continuing Legal Education Programs

— LOCATIONS AND DATES —

Grand Rapids: Amway Grand — 3:00 - 6:00 p.m.

Troy: Management Education Center, MSU — 3:30 - 6:30 p.m.

“Homeward Bound Series” 1987 - 1988	Federal Regulations and Acts	Bankruptcy	Zoning Disputes	Transfer of Assets of a Liquor License	Joint Real Estate & Tax Section Seminar	Usury	Workouts	Commercial Foreclosure & Deeds in Lieu of Foreclosure
<b>Troy</b> Management Education Center, MSU 811 W. Square Lake Road (313) 879-2456	10/15	11/19	12/10	1/21/88	2/18	3/24	4/21	5/19
<b>Grand Rapids</b> Amway Grand Pearl at Monroe (616) 774-2000	10/13	11/17	12/8	1/19/88	2/16	3/22	4/19	5/17

### “Homeward Bound” Video Series — 7 Locations: 1:00 - 4:00 p.m.

<b>Ann Arbor</b> ICLE 1020 Greene (313) 764-0533	11/10	12/8	1/4/88	1/27	3/2	3/31	4/27	5/25
<b>Bay City</b> Bay Valley Inn 2470 Old Bridge Road (517) 686-3500	11/6	12/14	1/8/88	1/29	2/26	4/15	5/13	6/10
<b>Detroit</b> Detroit College of Law 130 E. Elizabeth (313) 965-0150	11/4	12/9	1/6/88	2/3	2/24	3/30	4/27	5/25
<b>Kalamazoo</b> Kalamazoo Center Hilton Inn 100 W. Michigan Avenue (616) 381-2130	11/18	12/17	1/14/88	2/10	3/9	4/6	5/11	6/1
<b>Lansing</b> Cooley Law School 217 S. Capital (517) 371-5140	11/20	12/18	1/15/88	2/12	3/11	4/8	5/13	6/3
<b>Marquette</b> Northern Michigan Univ. Cohodas Bldg., Rm. 410B (906) 227-2101	11/12	12/22	1/14/88	2/5	3/1	4/5	5/3	6/7
<b>Traverse City</b> Northwestern Community College Continuing Education Bldg. (616) 922-1194	11/12	12/18	1/15/88	2/5	3/11	4/8	5/6	6/3

**For More Information:**  
**Contact ICLE**  
**1020 Greene Street**  
**Ann Arbor, MI 48109**  
**or Call 1-313-764-0533**

**REAL PROPERTY LAW SECTION TRAVELS TO ST. MAARTEN!**

**ELEVENTH ANNUAL WINTER CONFERENCE**

Cupecoy and Treasure Island Resort and Casino

St. Maarten

March 5 - 9, 1988

**“SOPHISTICATED FINANCING TRANSACTIONS”**

The beautiful half Dutch, half French island of St. Maarten will be the location of the Eleventh Annual Winter Conference sponsored by the Continuing Legal Education Committee of the Real Property Law Section, State Bar of Michigan.

Conference Chairperson, Lawrence D. McLaughlin of Honigman Miller Schwartz & Cohn has chosen a timely and informative program entitled “Sophisticated Financing Transactions.” Featured speaker for the program will be Thomas A. Kasper, a principal with Morgan Stanley and Co., Inc. who will provide insight into the financial aspects of loan transactions. Some of the topics to be discussed include the structure, operation and use of various interest rate options; pre-payment mechanisms associated with each; swaps, hedges, locks, caps, collars and other “synthetic securities;” structure and practice of commitments; avoidance of issues arising during documentation; and special problems, including environmental impairment and exceptions to traditional non-recourse loans.

**Accommodations**

Elkin Travel, Inc. has prepared a basic package which includes round trip airfare to St. Maarten and 5 days and 4 nights at the lovely Cupecoy and Treasure Island Resort and Casino, the location of the Section’s seminars. Two alternate add-ons to the basic package are available. Extend your stay at the Cupecoy or travel to St. Thomas. Elkin will also work with you to put together your own package if you have other thoughts or ideas. Contact the Group Department at Elkin Travel, 968-7800, toll free in Michigan 1-800-445-2024 or write 25950 Greenfield, Oak Park, MI 48237 or call Arlene Rubinstein at 313/644-7378 for brochure and further information.

----- (tear off and mail) -----

**Eleventh Annual Winter Conference Registration Form**

TO: Real Property Law Seminars  
P.O. Box 473  
Birmingham, Michigan 48012

FEES: Before October 1, 1987	Section members: \$100.00
	Non-members: \$125.00
After October 1, 1987	Section members: \$150.00
	Non-members: \$175.00

Please send membership application \_\_\_\_\_

Name \_\_\_\_\_ Spouse \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_