

Michigan Township **INSIGHTS**

Weekly News and Information from the Michigan Townships Association | May 27, 2016

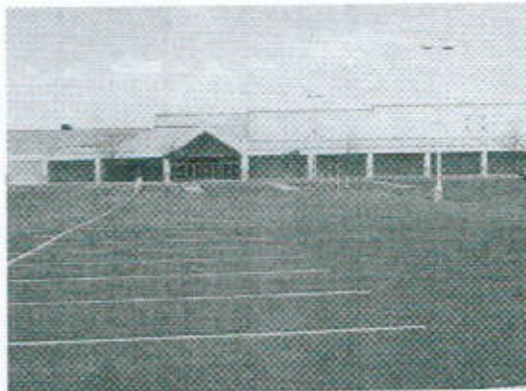
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LEGISLATIVE UPDATE

Major court victory in 'dark store' issue

The fight to restore fairness to Michigan's property tax system took a leap forward this week. In a ruling issued this week, the Michigan Court of Appeals overturned a Michigan Tax Tribunal (MTT) decision that had cut an Escanaba Menard's property tax assessment by more than half using the "dark store" theory.



The ruling substantiates the case against the "dark store" assessment method and the need for an immediate legislative fix through HB 5578, sponsored by Rep. David Maturen (R-Brady Twp.), which currently awaits action by the House. In the Escanaba case, MTT had agreed with the big box store's argument using the sales approach--with the majority of comparables being deed-restricted properties that are no longer used for their original purpose. "The tribunal committed an error of law requiring reversal when it rejected the cost-less-depreciation approach and adopted a sales-comparison approach that failed to fully account for the effect on the market of the deed restrictions in those comparables," the Court of Appeals said in the ruling. "The decision validates local governments' long-standing concerns with past Michigan Tax Tribunal 'dark store' rulings," MTA Government Relations Director Judy Allen said of the case. "As the court confirmed in its ruling, deed-restricted properties unfairly drag down the true cash value when they're used as comparables in the assessing process. In the end, small businesses and homeowners are the ones left to pick up the tax burden." The case is an MTA Legal Defense Fund case, and MTA filed an *amicus* brief in support of the city's position in the litigation. The MTT must now reconsider the case and review additional evidence. HB 5578 currently

MTA QUICK LINKS

[Members-only Website](#)
[Training](#)
[Answer Center](#)
[Advocacy](#)
[MTA Store](#)
[Township Governance Academy](#)
[Allied Service Providers](#)
[Classified Ads](#)
[NATaT](#)
[MTA Webcasts](#)
[MTA Publications Catalog](#)

UPCOMING MTA EVENTS

[**UP North Summit](#)

ALLIED SERVICE PROVIDERS



Michigan Township Participating Plan
www.thepartplan.com



www.mersofmich.com

[* Asphalt Materials, Inc.](#)

[* Bauckham, Sparks, Thall, Seeber & Kaufman, PC](#)

[* Consumers Energy](#)

[* Fahey Schultz Burzych Rhodes PLC](#)

awaits action by the full House. **Your advocacy is crucial in moving this bill forward.** MTA asks that you contact your state [representative](#) and [senator](#) today and urge them to support this important legislation.

* [Foster, Swift, Collins & Smith, P.C.](#)

* [ITC Holdings Corp.](#)

* [Mika Meyers, PLC](#)

* [Ted Hartleb Agency](#)

* [Wightman & Associates, Inc.](#)

Bills would circumvent local zoning

All school property used for a "public school purpose" would be considered unzoned property and exempt from zoning ordinances under pending legislation. MTA opposes SBs [953](#) and [955](#), which could potentially allow any kind of commercial activity on property owned or leased by a school and would exempt it from local land use controls, regardless of how it was zoned or where it was located. This week, the Senate Transportation Committee heard testimony on the bills, both sponsored by Sen. Tom Casperson (R-Wells Twp.). MTA planned to testify in opposition, but was unable to do so due to time constraints. Proponents of the bills say the intent is to allow schools to place billboards on properties along expressways for financial benefit. However, the broad language of the bills would significantly impact local zoning, leaving the door open for strip malls, gas stations, fast food restaurants, cell towers or virtually any other commercial business to open on school property. Additionally, school districts could buy or lease land that's highly valued for commercial development—all outside the local master plan and local zoning. No vote was taken this week, and MTA expects to testify at the next hearing. MTA will continue to work with the sponsor to narrowly address the intent of the legislation.



Bill extends deadline for multi-line phone 911 upgrade



There would be more time to comply with a state rule that aims to better pinpoint the location of a 911 call, under a bill reported by the Senate Commerce Committee this week. The current rule requires multi-line phone systems to be upgraded in addressed buildings with more than 7,000 square feet of occupied space by Dec. 31, 2016. [SB 878](#), sponsored by Sen. Mike Shirkey (R-Clark Lake), extends the compliance deadline three years—to Dec. 31, 2019. The rule is intended to allow 911 operators to pinpoint caller location in the event of an emergency,

better directing first responders to a specific area within the building. MTA will continue monitoring the bill as it moves to the full Senate for consideration.

Water, sewer lien bill gets House approval

Sewer and water liens could soon be enforced for a longer period of time under [HB 5113](#), which was passed by the House this week. The bill, sponsored by Rep. Laura Cox (R-Livonia), initially would have extended municipal water liens from three years to 10 years; however, a floor amendment changed the time period to five years. Under current law, if a property receives municipal sewer and water services, the municipality can place an immediate lien against the property to ensure that any charges or assessments will be paid. MTA supports the bill's extension of the enforceable period, which could allow more debt to be collected and increase township funds. The bill now moves to the

Township immunity would be expanded in sewage disposal system events

Townships would have greater immunity in negligence liability claims in cases of a sewage disposal system event under [HB 5282](#). The MTA-supported bill, sponsored by Rep. Michael Webber (R-Rochester Hills), was reported by the House Local Government Committee this week. HB 5282 expands immunity in multiple ways. First, it clarifies that a sewage disposal system event does not exist if the area received at least 1.7 inches of rain in an hour or 3.3 inches in a continuous 24-hour period. Second, it would also add language stating that a sewage system does not have a design or construction defect if it meets state standards or requirements that were in place when the part was built or improved. Last, in order to be compensated, a claimant must show that the governmental agency was the appropriate agency, the sewage disposal had a defect, the governmental agency knew or should have known about the defect and didn't fix it, the defect was the cause of the event and damage, and proof that the claimant owned the damaged property. The bill will next be considered by the full House.



More money could be kept in budget stabilization funds

Townships can soon keep more money in savings under [SB 569](#). The bill, sponsored by Sen. Mike Nofs (R-Battle Creek), received final passage this week with MTA's support. Current law limits municipalities to keeping 15 percent of their most recent general fund budget in a budget stabilization fund. SB 569 increases that amount to 20 percent. As is currently required, any money in excess of that percentage would be appropriated to the next general fund budget.

Grant money could help cover cost of sewer infrastructure projects



Grant funding could help pay for certain sewer and water projects in some communities once [HB 5395](#) becomes law. The bill, sponsored by Rep. Joel Johnson (R-Clare), was monitored by MTA and received final passage this week. Once enacted, HB 5395 will expand the possible uses for Strategic Water

Quality Initiatives Fund grants to include up to half the cost of projects to

address a public health risk from sewer system failure. While introduced to address one specific community, the bill would allow townships that meet criteria developed by the Department of Environmental Quality (DEQ) to save half of the cost of such projects. The DEQ has stated they are aware of at least one township eligible for grant funding when the bill becomes law.

Green lights now option for snow plows

Township snow plows can now have green, rather than amber, lights, under a bill on its way to Gov. Rick Snyder's desk. [HB 5247](#), sponsored by Rep. Robert VerHeulen (R-Walker), was monitored by MTA and is meant to help improve visibility in white-out snow conditions. The bill does not prohibit fire services from using a flashing, rotating or oscillating green light.

Some regulations for small mines allowed under bill

A bill reported by the House Natural Resources Committee this week would give townships a limited voice in regulating small mining operations during overnight hours, but only if the mine is close to a residential building. [SB 591](#), sponsored by Sen.



Tom Casperson (R-Wells Twp.), applies to copper mines that generate between 10,000 and 75,000 tons of waste rock or disturbs up to 10 acres of land. As introduced, the bill would not have allowed any local unit of government to regulate the mining operations. However, MTA negotiated an amendment allowing townships to regulate the hours of blasting, crushing and grinding between 9 p.m. and 6 a.m. if there's a residential building within 1/8 of a mile. MTA was also successful in having language added to require a baseline water quality sample to be submitted by the owner/operator before mining operations begin. A local unit of government could then request additional water quality sampling from the Department of Environmental Quality if there's a substantiated concern of water contamination. Because of these positive changes, MTA took a neutral position on the bill, which now moves to the full House for consideration.

Logging truck bill no longer preempts township ordinances

An amended bill passed by the Senate this week would continue to allow township ordinances impacting truck traffic. [SB 706](#), sponsored by Sen. Tom Casperson (R-Wells Twp.), was initially opposed by MTA due to its original language banning ordinances and regulations regarding logging trucks, as long as the vehicle didn't exceed state size, weight or load limits. However, MTA worked with Sen. Casperson to remove the

word "ordinances" from the bill. This change returns the bill to its original intent of applying to a narrow issue impacting county road commissions. As a result, MTA is now neutral on the bill as it moves to the House for consideration.

Aggressive panhandling could become civil infraction

Aggressive panhandling would become a civil infraction, while public begging would no longer be a crime, if two bills become law. HBs [5103](#) and [5104](#), sponsored by Rep. Michael McCreedy (R-Bloomfield Hills), were reported by the House Criminal Justice Committee this week and are being monitored by MTA. If enacted, HB 5103 would allow a local government to adopt or enforce a local ordinance relating to aggressive solicitation in a public area, including unwanted physical contact, soliciting even after people say they don't want to be solicited, and intentionally blocking the path of the person being solicited. Violators would be subject to a fine of up to \$100, but the person could still be charged with another law violation arising from the same incident. HB 5104 would delete language making it a misdemeanor offense to beg in a public place. The bills now move to the full House for consideration.

MTA closed Memorial Day

The MTA office will be closed Monday in observance of Memorial Day. We will resume normal business hours on Tuesday. MTA thanks all who gave their lives in service to our country!

Federal update for week of May 23

Check out the National Association of Towns and Townships' [e-newsletter](#) for an update of federal actions impacting townships.

Additional news you can use

Grants available to townships

- Federal grants are available for maritime education and preservation projects through the [National Maritime Heritage Grants](#) program. Applicants must register on the [grants.gov](#) website to submit their applications, which are due by Aug. 5.
- The National Park Service is accepting applications for its [Underrepresented Community Grants](#). Projects must support the survey, inventory and designation of historic properties that are associated with communities currently underrepresented in the National Register of Historic Places and among National Historic Landmarks. Applications are due July 15.