



Public Service Improvements as "Additions" when Calculating Taxable Value

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A recent Michigan Supreme Court decision (*Toll Northville, Ltd. and Biltmore Wineman, LLC v Township of Northville*, 460 Mich 6, 743 NW2d 902 (2008)) has held as unconstitutional a provision of Michigan statute (MCL 211.34d(1)(b)(viii) which allowed assessors to treat public-service improvements, such as water, sewer or utility services, as "additions" for purposes of calculating taxable value.

Specifically, Petitioners were real estate developers who spent considerable sums to install physical infrastructure improvements to land such as access roads, streetlights, sewer, water, electrical, gas and telephone services, and sidewalks for a single-family residential development. Petitioners argued that this provision of Michigan statute was unconstitutional because they were being taxed on improvements that were ultimately dedicated to the municipality or given to public utilities rather than being attached to the individual lots. Both the circuit court and the Michigan Court of Appeals agreed with Petitioner that because title to these improvements would ultimately vest in a municipality or a utility company, such public-service improvements could not be treated as "additions" for taxable value purposes.

On February 21, 2008, the State Tax Commission issued a directive asking that all assessors review this decision in detail. Assessors must carefully review all open appeals and their 2008 assessments to ensure that these public service improvements are not treated as "additions" for purposes of calculating taxable value.