

Michigan Township Focus

NOVEMBER 2015

OFFICIAL PUBLICATION OF THE MICHIGAN TOWNSHIPS ASSOCIATION

IN THE DARK: Unfair assessing theory costs locals millions



BIG BOX



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In 1953, attorney John Bauckham helped incorporate a new statewide association for township government—the Michigan Townships Association. We look back at the life of the “grand poobah of township law” in Michigan.

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Archaic state laws sow confusion and unnecessary conflict for townships

Every year, the Michigan Townships Association handles about 8,000 member inquiries. While we strive to provide clear answers sought by our members, many common questions defy a simple answer, such as:



Can we pay for a recognition dinner for our valued volunteers?

Who is responsible for ensuring that ordinances are enforced in our general law township?

Who makes the decision to cancel a board meeting?

What's the difference between a superintendent and a manager?

How many votes are required for a township board to take action and what actions require a resolution?

If our supervisor is not our assessor, who supervises the assessor?

Unfortunately, all of these questions simply do not have straightforward answers—and unfortunately, they are just the tip of the iceberg. Township laws are rife with ambiguities, contradictions and omissions because most statutes defining roles and responsibilities originated when townships were exclusively agricultural and with few residents. They provided for an elected official responsible for each statutory duty and a township board that met quarterly and paid its bills at the annual “Settlement Day” meeting.

In the ensuing years, new township laws—often unclear as to intent or inconsistent with existing laws—proliferated in piecemeal fashion. And today, with township population growth and economic development, every township is a complex organization requiring an effective administrative and governance structure for efficiency and accountability, and to minimize and resolve conflicts. Officials in townships both large and small are daily tasked with ordinance enforcement, personnel and volunteer issues, risk management, land use questions, legal compliance questions, and requests to spend taxpayer money. It is next to impossible to find a township unengaged with regional development agencies, interlocal authorities and county government departments; overseeing fire and other public safety departments; and contracting for roads and managing infrastructure.

While township statutes fail to reflect the realities of current township government, many townships have nonetheless crafted their own administrative systems with common-sense solutions built on trust, mutual respect, and a commitment to set aside political agendas and put public service first. Others, however, have come to accept conflict as the normal state of affairs or have developed an indifference to compliance with statutes that defy comprehension. When poorly written laws foster confusion and conflict that generate unfavorable publicity and cause dysfunction, township government’s credibility is damaged and the public is not properly served.

In 2009, MTA convened a number of member focus groups that identified township laws causing uncertainty and conflict. From those insights, MTA began a project to rewrite township statutes consistent with the following objectives:

- Enable conscientious township officials to confidently act and provide programs and services without fear of exceeding their statutory authority
- Respect the township board’s governance authority
- Avoid altering the existing balance of power and authority among township offices
- Simplify the rules on township board voting
- Minimize conflicts among township leaders caused by overlapping authority, poor or nonexistent accountability, and ambiguous terms
- Give townships a structure to clarify administrative roles and responsibilities consistent with the competency and trust earned by officials and based on the township’s specific needs

The MTA Board of Directors in 2012 gave its approval to initiate legislative approval of the “recodification” project. While working with the Legislature on developing new statutory language, MTA staff have presented overviews of the recodification project to members at our “On the Road” regional meetings and at other member meetings, and found general support for these objectives.

As we finalize drafting the bills and prepare for legislative introduction, the December *Township Focus* will provide an overview of the recodification project. While recognizing that change is always challenging, we encourage members to learn more about the recodification and share with us their perspectives, with an eye toward how statutory clarity can enable every township to best work for the public’s interest.



THE FIND OF A LIFETIME

Township site of significant prehistoric discovery

A Washtenaw County township received national attention this fall, following an incredibly unusual discovery.

When digging in a soybean field, a farmer in **Lima Township** unearthed one of the most complete sets of woolly mammoth bones ever found in the state.

The find drew hundreds of spectators to watch the excavation of the bones, thought to be 10,000 to 15,000 years old. The news quickly spread across the state, and the entire nation, with reports appearing on *ABC News*, the *Washington Post* and many more news outlets.

The farmer, Jim Bristle, originally thought the mud-covered, wood-like object poking out of the ground was a fence post, only to quickly realize that it was actually a massive mammoth rib bone. Bristle called the University of Michigan, which sent a team of paleontologists and researchers to the site. The U of M team spent a busy day excavating rib bones, vertebrae, tusks, pelvic bones and the mostly intact skull of the mammoth, thought to have been 40 to 50 years old at the time of its death and to have stood 10 feet tall at the shoulder.

U of M researchers rated the find one of the 10 more significant mammoth finds in Michigan in recorded history, and said that the discovery, which included a small stone flake that may have been used as a cutting tool, might provide clues about the lives of early humans in the region.

Roughly 30 mammoths have been found in the state, though few were as extensive as the Lima Township find. Discoveries of mastodons—another elephant-like prehistoric creature—are slightly more common, with 300 recorded finds in Michigan. In fact, in 1969, just down the street from Bristle's farm, 12,000-year-old mastodon bones were unearthed.

Bristle donated the mammoth bones to U of M, where they will be displayed and studied.

ATTENTION TREASURERS

Reminder for tax collection office hours

The township treasurer must be in his or her office from 9 a.m. to 5 p.m. to receive tax payments on the last day taxes are due and payable before being returned as delinquent under MCL 211.55. (MCL 211.44(2)(b)) MCL 211.55 refers to the last day of February as the last day that taxes are due and payable before being returned as delinquent to the county treasurer, and provides for the unpaid taxes to be returned as delinquent to the county treasurer the next day.

In addition, the treasurer must be in his or her office from 9 a.m. to 5 p.m. one day between Dec. 25 and Jan. 1.

However, the requirement to hold hours in December is waived if the township has an

agreement with a local financial institution to collect taxes on behalf of the township, and the township provides timely notification to the taxpayers of their ability to pay their taxes at this financial institution.

In 2015, the available days for required December office hours are Friday, Dec. 25 through Thursday, Dec. 31.

Treasurers **must** choose one day (unless a bank assists in collection). (MCL 211.44(2))

In 2016, the last day to pay 2015 property taxes without incurring any interest or penalty is Tuesday, Feb. 16. (Feb. 14 is a Sunday and Monday, Feb. 15 is Presidents Day). (MCL 211.44) Treasurers **may** choose to hold office hours. In 2016, the last day to pay 2015 property taxes before they are returned as delinquent is Monday, Feb. 29 (the last day of February). (MCL 211.45) Treasurers **must** hold office hours.

*Need a tax collecting refresher? Check out MTA's "Taxation" webcasts! Explore all our offerings, including Tax Collecting 101, Tips for Treasurers and Taxation Trouble Spots, on MTA's Online Learning Portal, found at <http://eo2.commpartners.com/users/mta/>, or access under the "MTA Products and Services" tab on www.michigantownships.org. Save 50 percent on MTA webcasts this month during MTA's "Give Thanks" promotion! (Use the promo code: **Thanks** when registering; see inside back cover for more details.)*





COLOR TOUR

M-22 named 'Best Scenic Autumn Drive'

The beauty of Northern Michigan has once again put the region in the national spotlight, after the M-22 route was named "Best Scenic Autumn Drive in the U.S." by *USA Today Travel*. The route winds through numerous townships in Manistee, Benzie and Leelanau Counties.

Readers voted over a four-week period for the most picturesque drive. M-22 was competing with 19 other locations from around the country, including Maine's Historic Route 1 and the Blue Ridge Parkway in North Carolina and Virginia.

In announcing the winner, *USA Today* noted, "The M-22 route along Lake Michigan is one of America's most beautiful tours, and it gets even better in the fall. This 116-mile road brings visitors through the peaceful countryside and along the shore, past small businesses, wineries, galleries and, of course, countless colorful trees. Visitors can stop and visit points of interest along the way and meet some locals, making this fall leaves trip a little bit wildlife and a little bit small town, all in one."

Another beautiful Michigan drive also recently received some national attention. The U.S. Highway 41 route leading into Copper Harbor on the Keweenaw Peninsula in Michigan's Upper Peninsula was featured in *Architectural Digest's* spotlight on "Fall Foliage Trips in North America."



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ADDITIONAL AFFORDABLE CARE ACT CHANGES

Veterans receiving VA benefits not counted in total employee count for ACA

This summer, the federal Hire More Heroes Act was signed into law by President Obama. As part of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, the law affects rules regarding how to count employees under the Affordable Care Act (ACA) as well as health savings account eligibility for individuals receiving care through the Department of Veterans Affairs (VA).

The Surface Transportation and Veterans Health Care Choice Improvement Act amends the Internal Revenue Code to exclude individuals covered for medical care under TRICARE or the Department of Veterans Affairs from the determination of whether an employer is an applicable large employer. In addition, the law allows eligible veterans to contribute to a health savings account, as long as they are receiving medical care under the Department of Veterans Affairs for a service-related disability.

Townships are encouraged to discuss applicable ACA requirements with their benefits plan provider to ensure compliance with the federal law.

Watch future issues of *Township Focus* for more on the ACA or visit MTA's Affordable Care Act Web page on the members-only section of www.michigantownships.org.

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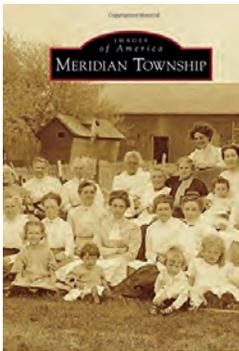



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A PAGE-TURNER

New book captures township's history

A new book chronicling the origins of one mid-Michigan township has joined the volumes of the national *Images of America* book series, which details the history of small towns and communities across the country. Each book features more than 200 vintage images, capturing often forgotten bygone times and bringing to life the people, places and events that defined a community.



Meridian Charter Township (Ingham Co.) is the latest community to be enshrined in the pages of this extensive collection of American history. **Jane Rose**, executive director of the Meridian Historical Society, authored the book, tapping on her knowledge about the local area as well as the Friends of Historic

Meridian archives to capture the history and lore of the community.

The 128-page book explores the early days of the township, which began as a collection of small pioneer communities. Lake Lansing, the largest body of water in Ingham County, drew settlers to the area. Rose explained, "Dirt Indian trails had been worn by foot traffic throughout the township, including along the western edge of the lake, which provided access to an area replete with wild game and fish. Other settlers bought land along the major waterway south of the lake along what would become known as the Red Cedar River."

Rose continued, "The Lake Lansing area in the 19th century was as popular as Traverse City and Charlevoix are today. People didn't have automobiles and smooth highways to travel 'up north' so they traveled to the township to enjoy the cool breezes on the lake."

Several other Michigan townships have also been profiled by the *Images of America* series, including **Alpine Township** (Kent Co.), **Bedford Township** (Monroe Co.), **Chesterfield Charter Township** (Macomb Co.), **Ira Township** (St. Clair Co.), **Salem Township** (Allegan Co.), **Victory Township** (Mason Co.) and more. You can learn more about the series at www.arcadiapublishing.com.

Share your township's story!

At *Township Focus*, one of the biggest (and best!) parts of our job is to tell your township's story—your successes, your innovations, your solutions to overcoming challenges. Your experiences can help your fellow township officials learn and grow as they endeavor to best serve their communities. Got a story you'd like us to share with *Focus* readers? Let us know! Contact Editor Jenn Fiedler at jenn@michigantownships.org or call (517) 321-6467. We're waiting to hear from you!

MTA's Online Township Salary Survey

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- Download township-specific data in an Excel spreadsheet format.
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Any township board member or the manager/superintendent can access the survey to enter data or get reports.



Log in to the members-only section of www.michigantownships.org, and select "MTA Township Salary Survey Launch Page" on the "Answer Center" menu.

THE SEARCH IS ON

Is your township owed unclaimed property?

Michigan's Uniform Unclaimed Property Act, Public Act 2 of 1995, MCL 567.221, *et seq.*, requires holders of unclaimed property, including uncashed checks or forgotten bank accounts, to report and remit property belonging to owners who cannot be located or for whom there is no known address.

Townships holding unclaimed property are required to comply by providing the Michigan

Department of Treasury's Unclaimed Property Division with complete and accurate information on an annual unclaimed property report.

Even townships may be owed unclaimed property! A quick search of the Unclaimed Property online database for "Twp" and "Township" shows that more than 800 townships have unclaimed money waiting for them. Is your township one of them?

Visit the Unclaimed Property Division's Web page to learn how to report or claim unclaimed property. Go to www.michigan.gov/treasury and click on "Unclaimed Property."



LOCAL UPDATES FROM ACROSS MICHIGAN

Township happenings

Residents in **Ada Township** (Kent Co.) went on a "wild journey" when the township parks and recreation department recently hosted classes on foraging from local plants for food and herbal medicine. The course also covered ethics, sustainability and safety.

Bay Township (Charlevoix Co.) was the first township in the county to take part in the Wreaths Across America project, which dedicates a wreath on each veteran's grave in the township. The township, which is implementing plans to improve and beautify its cemeteries, also hosts a well-attended Memorial Day event to honor its area veterans.

Construction of an additional five paved miles of the Kalamazoo River Valley Trail in **Comstock Charter Township** (Kalamazoo Co.) began over the summer. An added feature along the route will be a splash pad and new playground at River Oaks County Park.

Grayling Charter Township (Crawford Co.) will be home to the world's largest particleboard factory, thanks to a \$325 million investment being made by a Chilean lumber processing plant. Groundbreaking is expected to take place in late 2016 for the facility, where up to 250 full-time jobs are expected to be created when it opens in 2018.

Email YOUR Township Happenings to jenn@michigantownships.org. Add MTA to your newsletter mailing list! Mail to MTA, Attn. Jenn Fiedler, PO Box 80078, Lansing, MI 48908-0078, or email to jenn@michigantownships.org.

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Are you receiving important information from MTA, including legislative updates via our newsletters *Township Insights* and *Township Voice*, alerts and resources, as well as brochures for upcoming educational opportunities? If not, you are missing out on critical information that can help you and your fellow officials stay on top of changes impacting your community.



Ensure that your township's important MTA resources and information are coming to the correct person and address by helping MTA keep its database up-to-date with your current contact information. This includes email address, as well as mailing address and telephone number.

MTA-member officials can directly update their profile information via our website, www.michigantownships.org. Simply log in to the members-only portion of the website using your username (your email address on file with MTA) and password. After logging in, select "My Profile" under the "My MTA" tab to get started. (*Not sure of your password? Select the "Forgot Your Password?" link on the log-in page. Enter your email address on file with MTA, and you will be sent a link to create a new password. Contact nicole@michigantownships.org for assistance.*)

Changes can also be submitted to MTA by emailing nicole@michigantownships.org, by calling (517) 321-6467 or by faxing to (517) 321-8908.

As another added feature of MTA's database, MTA members also have access to an online directory of township officials, which can be searched by last name, township or even title. To access this networking tool, after logging in to the members-only section, click on "My MTA," then "Directories."

MTA welcomes new Allied Service Providers



Please join MTA in welcoming **Michigan Municipal Risk Management Authority**, of Livonia, and **Rizzo Environmental Services**, based in Sterling Heights, to the Allied Service Provider program at the Keystone Club level.

For more on the Allied Service Provider program, turn to page 2 or visit www.michigantownships.org/asp.asp.

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Advertorial

District 8 caucus election slated for MTA Conference

A caucus election will be held on Jan. 21, during the 2016 MTA Annual Educational Conference & Expo, to elect a new District 8 director to the MTA Board of Directors. District 8 encompasses Benzie, Grand Traverse, Leelanau and Manistee Counties.

Elected officials from MTA-member townships in District 8 are eligible to run for the MTA Board. Officials who wish to run for district director can campaign for the position before the caucus, though there are no requirements for prior announcement of candidacy. Only elected officials from District 8 may vote in the caucus election.

The specific time and location for the caucus election will be published in the Conference program received on-site.

mta events | november

17 Township Finances workshop, Mt. Pleasant

18 Creating a Vision for Your Township and Linking with the Community workshops, Mt. Pleasant



Community Connection Tip #2

Community Connection allows you to upload sample policies, RFPs, forms and documents to share with other group members. From the group's homepage, click "add resource," select the type of resource from the format list and follow the prompts.

Access MTA's social networking site, *Community Connection*, from the members-only section of www.michigantownships.org. Join the conversation today, and share insights, experiences and resources with your fellow officials!

WWW.MICHIGANTOWNSHIPS.ORG

FEATURED WEB PAGE

Tax Collecting

Access information on deadlines, statutes, forms and disbursement schedules, along with updates on new laws, sample resolutions and links to related resources.

Access on the members-only section of MTA's website. To log in, click on "Member Login" in the upper right-hand corner of the www.michigantownships.org home page, and enter your username and password. After logging in, search for "tax collecting" or access the page via the "Index of Topics" under the "Answer Center" tab. Questions? Email website@michigantownships.org.

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NOVEMBER

2 Electors qualified to obtain an absentee voter ballot for Nov. 3 election may vote in person in clerk's office until 4 p.m. (MCL 168.761)

3 Emergency absentee voting for election until 4 p.m. (MCL 168.759b)

Election.

4 Local clerk delivers result of Nov. 3 election to county clerk by 11 a.m. (MCL 168.809)

By 5 Township supervisor shall notify township treasurer of the amount of county, state and school taxes apportioned in township to enable treasurer to obtain necessary bond* for collection of taxes. (MCL 211.43(1))

By 9 Boards of county canvassers meet to canvass election. (MCL 168.821)

By 25 *On or before Nov. 28 (Nov. 28 is a Saturday, Nov. 26-27 are state holidays).* Township treasurer gives county treasurer a bond* running to the county in the actual amount of county, state and school taxes. (MCL 211.43(2))

** May be handled by the county treasurer. See MCL 211.43(2) for additional information, or call MTA at (517) 321-6467 for further guidance.*

DECEMBER

By 1 *On or before Dec. 1.* County treasurer delivers to township supervisor a signed statement of approval of the bond and the township supervisor delivers the tax roll to the township treasurer.

2015 taxes due and payable to the local unit treasurer are a lien on real property.

On or before Dec. 1. Deadline for foreclosing governmental units to transfer list of unsold 2015 tax foreclosure parcels to the clerk of the city, township or village in which the parcels are located. (MCL 211.78m(6))

By 3 Post-general campaign statements filed (books closed Nov. 23).

15 *Tuesday after the second Monday in December.* Special board of review meeting may be convened by assessing officer to correct qualified errors. (MCL 211.53b) The township board may authorize, by adoption of an ordinance or resolution, an alternative meeting date during the week of the second Monday in December. (MCL 211.53b(7))

An owner of property that is a principal residence on May 1 may appeal to the December board of review in the year for which an exemption was claimed or in the immediate succeeding three years if the exemption was not on the tax roll. An owner cannot appeal to the December board of review if property was owned and occupied as a principal residence some time from May 2 to Nov. 1 but Form 2368 was not timely filed. (MCL 211.7cc(19))

An owner of property that is qualified agricultural property on May 1 may appeal to the December board of review for the current year and the immediately preceding year if the exemption was not on the tax roll. (MCL 211.7ee(6))

December board of review to hear appeals for current year poverty exemptions only, but not poverty exemptions denied by the March board of review. (MCL 211.7u)

Form 600/L-4016, Supplemental Special Assessment Report, due to the State Tax Commission (STC).

30 Deadline for an owner that had claimed a conditional rescission of a principal residence exemption to verify to the assessor that the property still meets the requirements for the conditional rescission through a second and third year annual verification of a Conditional Rescission of Principal Residence Exemption (Form 4640). (MCL 211.7cc(5))

Deadline for a land contract vendor, bank, credit union or other lending institution that had claimed a foreclosure entity conditional rescission

of a principal residence exemption to verify to the assessor that the property still meets the requirements for the conditional rescission through the filing of an annual verification of a foreclosure entity. (MCL 211.7cc(5))

31 Tax day for 2016 property taxes. (MCL 211.2(2))

All taxes due and liens are canceled for otherwise unsold 2015 tax foreclosure parcels purchased by the state or transferred to the local unit or the Michigan Land Bank Fast Track Authority. (MCLs 211.78m(12) and 211.78m(13))

To qualify for a disabled veteran's homestead property tax exemption, a veteran, surviving spouse, or legal designee of a veteran or surviving spouse must file annually an affidavit with the supervisor or assessor between Dec. 31 (tax day of the previous year) and the final adjournment of the board of review for each the tax year. (MCL 211.7b)



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We understand that there are new disclosure requirements for property tax abatements that the township has granted under PA 198 of 1974, as amended (industrial facilities tax exemptions).

Can you explain?

Many state and local governments have tax abatement programs in place and the effects of tax abatements on their financial health and ability to raise revenue can be substantial. However, until now it has been difficult to determine the extent and nature of these effects from financial statements. The Governmental Accounting Standards Board (GASB) Statement No. 77, Tax Abatement Disclosures, includes requirements designed to provide users of the financial statements with better information about agreements between property owners and local government, and the impact they have on a government's finances.

These new disclosures to be made in the audit include:

- The purpose of the tax abatement program.
- The tax being abated (e.g. property taxes).
- The dollar amount of taxes abated.
- Provisions for recapturing abated taxes.
- The types of commitments made by tax abatement recipients.
- Other commitments made by a government in tax abatement agreements, such as to build infrastructure assets.

The new standard also requires disclosures about tax abatements that are entered into by other governments that reduce the reporting government's tax revenues. For example, the local school district in a township that entered into an agreement to abate or reduce property taxes would have to disclose:

- The name of the government entering into the abatement agreement.
- The tax being abated.
- The dollar amount of the reporting government's tax being abated.

The standard takes effect for financial statements for periods beginning after Dec. 15, 2015. GASB encourages earlier application.



Can you explain the new accounting standards that impact our township's reporting and disclosures relating to the health insurance that we pay for our retirees?

If your township provides "other post-employment benefits" (OPEB), such as post-retirement health care, the new GASB Statements No. 74 and No. 75 will have a dramatic impact on your township's statement of net position and statement of activities. Many of these OPEB plans are not prefunded, and use a "pay as you go" methodology—the township pays the health insurance premiums each month, rather than using a level cost funding method, commonly used in pension plans.

For townships, the most significant component of the two OPEB standards is the requirement to recognize their net OPEB liabilities on the face of their financial statements, providing all financial statement users with a more comprehensive understanding of significant OPEB promises than is currently available, according to the GASB.

Under previous GASB standards, the unfunded liability was recognized *incrementally* each year, as the amount necessary to "level cost fund" the obligation for current and retired employees was compared to the costs paid. The difference was added each year and recognized as a liability on the township's statement of net position. Under the new standards, the unfunded liability for current and future retirees, calculated by the township's plan actuary or CPA, will be recognized *in total* upon implementation of the new standard. This requirement is similar to the unfunded pension obligations under GASBs No. 67 and No. 68.

Townships will be allowed to continue to fund and recognize expenditures in their books and records (budgetary basis) under the pay-as-you-go method, but will be required to implement these new standards on the entity-wide statements effective for years beginning after June 15, 2017. GASB encourages earlier application.

Information provided in *Financial Forum* should not be considered legal advice, and readers are encouraged to contact their township auditor and/or attorney for advice specific to their situation.



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The March 8, 2016, presidential primary election falls on the same day as the first meeting of the board of review, and our township hall meeting room will be an election precinct. What options do we have for holding the board of review meeting?

Many townships will have to do some advance planning to determine where the board of review will hold its first meeting for 2016. Section 211.29(1) of the General Property Tax Act requires township boards of review to meet on the Tuesday immediately following the first Monday in March to receive and examine the current assessment roll, and that falls squarely on the date selected by the Legislature for the 2016 presidential primary.

A township does not have the option to switch the first meeting of the board of review (unlike the second or subsequent board of review meetings), so the primary election may create a conflict, especially in townships where the township hall serves as both an election precinct and as the meeting place for the board of review.

The first meeting of the board of review is the organizational meeting, not one where taxpayers come to appeal their assessments. The board of review is not required to hear individual assessment appeals at the organizational meeting, although it must conduct a public comment period, as the Open Meetings Act (OMA), MCL 15.261, *et seq.*, requires at every meeting of a public body. So the disruption may be minimized, as long as the township plans ahead.

Townships do have options for where they conduct meetings, including board of review meetings. A township public body may meet in any location that can accommodate

the anticipated number of attendees. It can be in a public facility or a private facility. A township may use a free location or pay a fee or room charge. As with any meeting of a public body, the notice of the meeting must include the date, time and location of the meeting.

Although the following language is required by the OMA only when the meeting is held in a private residence, we recommend that it be used on all meeting notices, "This meeting is open to all members of the public under Michigan's Open Meetings Act," especially if it is a new location or a private facility.



Our regularly scheduled township board meeting is going to fall on a day that a quorum of the board members won't be able to attend. Can we change our schedule?

A township board (and any other public body) may change its schedule of regular meetings during the year. The OMA requires that a public body post its schedule of regular meetings for the year within 10 days after the first meeting for that year. If the public body changes its schedule of regular meetings, it must post the new schedule within three days after the meeting at which the change is made, and at least 18 hours prior to the new meeting date. (MCL 15.265)

A township board may change its schedule to move one meeting date or to reschedule its remaining meetings for the year to a new day.

But if a meeting is recessed for more than 36 hours, then it really becomes a new special meeting (called by the public body), and a special meeting notice must be posted at least 18 hours prior to the time the meeting will begin.



What is the difference between a regular meeting and a special meeting?

Regular meetings are "regular" because they are on the schedule of meetings posted at the beginning of the year. The only reason a meeting is "special" is because it was not on the schedule of regular meetings posted at the beginning of the year and was scheduled later.

For a special meeting of a township board (not other public bodies), a special meeting notice must also include the purpose(s) for which the meeting was called. If all of the township board members attend the special meeting, then



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the board may address the purpose(s) listed in the notice, plus any and all business that could lawfully come before the board. But if any of the township board members do not attend a special meeting of the township board, then the board may address only the purpose(s) listed in the notice for which the meeting was called.



Where should public meeting notices be posted?

The public notice for a meeting of a township public body must always be posted at the township's principal office and any other locations considered appropriate by the public body. Note that "post" is different from "publish." "Post" means to put up where people can see it; "publish" means to print it in the newspaper, with some exceptions for charter townships. An OMA notice must be posted where it can be seen by the public at all hours.

A township may also post public meeting notices on its website or cable television, in addition to (but not instead of) posting notice at its principal office.

If a township does not have a principal office, the public notice must be posted in the office of the county clerk.

Note that, for a special meeting or rescheduled meeting, the public notice stating the date, time and place of the meeting must be posted at least 18 hours before the meeting in a "prominent and conspicuous place" at both the public body's principal office and, if the public body directly or indirectly maintains an official Internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, on a portion of the website that is fully accessible to the public. The public notice on the website must be included on either the homepage or on a separate Web page dedicated to public notices for special meetings and must be accessible via a "prominent and conspicuous link" on the website's homepage that clearly describes its purpose for public notification of those special meetings.



Is it possible to recess a meeting to the next day?

Yes. If a meeting of a public body is recessed for 36 hours or less, no additional notice is required by the OMA—although MTA recommends that notice be posted of when the meeting will reopen.

Hello, MTA ... ? provides general information on typical questions asked by township officials. Readers are encouraged to contact an attorney when specific legal guidance is needed. Member township officials and personnel may contact MTA Member Information Services with questions or requests from 8 a.m. to 5 p.m., weekdays, at (517) 321-6467 or fax (517) 321-8908.

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2016 Conference reminders

Conference volunteers needed

MTA is seeking township officials to serve as sergeants-at-arms (SAA), ambassadors or Ticket Xchange volunteers during the MTA Conference.

MTA members attending Conference are eligible. SAA duties include distributing session handouts and evaluation forms, monitoring classrooms, and collecting evaluation forms. Conference ambassadors assist with welcoming and directing attendees to registration upon arrival. Volunteers at the Ticket Xchange booth assist MTA staff with exchanging tickets for specific seats at the MTA banquet.

Contact Kristin at (517) 321-6467 or email kristin@michigantownships.org to be sent a link to our volunteer sign-up website, where you can select your preferred roles, dates, times and sessions.

Hop on the bus to Conference!

Several MTA County Chapters are arranging for charter buses to bring officials to Conference. For more information, contact:

- **U.P./Northern Michigan Bus:** MTA District 2 Director Jim Nankervis, at (906) 485-5417 or supervisor@ishpemingtownship.com; or Jackie Koski, Humbolt Township (Marquette Co.), at (906) 339-2255 or pjkoski@att.net.
- **Kent County/Grand Rapids Area Bus:** MTA District 15 Director Joel Hondorp at (616) 878-9104 or jhondorp@byrontownship.org.
- **Berrien County Bus,** with stops along I-94 to Detroit: Jim Stover, Niles Charter Township (Berrien Co.), at (269) 684-0870 or jstover@nilestwpmi.gov.

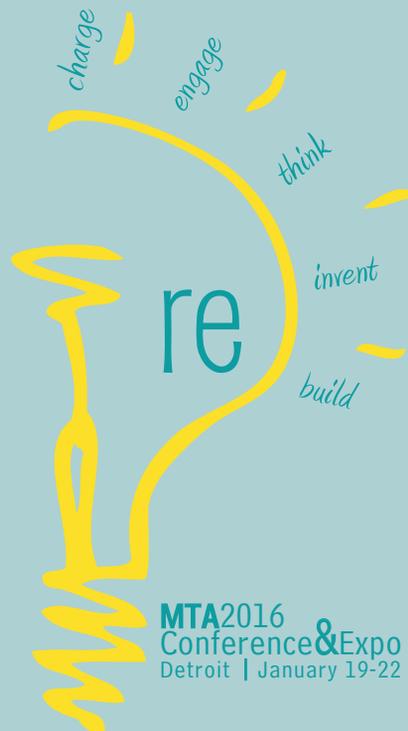
Upcoming dates and deadlines

Dec. 8 Early-bird registration deadline.

Dec. 31 Last day to obtain the regular registration rate; on-site rate applies after this date.

Jan. 4 Last day to obtain housing at special rates in MTA room block.

Last day to register for Conference to have a confirmation sent to you. Attendees registering after this date must stop by the MTA Registration Center on-site, prior to proceeding to a kiosk.



MTA2016
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Detroit | January 19-22

REGISTER TODAY!

Download a registration brochure or register online at www.michigantownships.org/conference.asp. Housing reservations are accepted at www.grandconnection.com/mta2016. Early-bird rates end Dec. 8.



IT'S TIME TO RECHARGE, REENGAGE & RETHINK

This January, head to Detroit for MTA's **63rd Annual Educational Conference & Expo**, Jan. 19-22, 2016, at the **Detroit Marriott Renaissance Center**.

This year's Conference will help you *RE*charge your enthusiasm for public service, *RE*engage with your constituents, *RE*think your role in the township, *RE*invent your vision for your community, and *RE*build your relationships with your board and community. This is three days of learning and networking you simply can't get anywhere else. You don't want to miss:

- **70-plus breakout sessions**, designed to provide knowledge, enhance your skills and inspire you to become a truly effective leader. Topics are designed for elected officials at every level and, in addition to statutory duties, address a variety of concepts, trends and current issues in township government—including special "*RE*charge, *RE*invent, *RE*engage" sessions.
- **Tuesday Track sessions**, including Land Use—Determining Your Township's Future, taught by planning expert Steve Langworthy, and Great Board Meetings, along with MTA's Auditor and Legal Institutes.
- **Evening networking events**, including our Annual Banquet, preceded by a VIP Legislative Reception. Don't miss the "3-D" Welcoming Reception (*sponsored by Bendzinski & Co.*), Par-Plan RE-Mix Dodge City Casino (*sponsored by Michigan Township Participating Plan*), and Afterglow Reception (*sponsored by Burnham & Flower Insurance Group*).

Check out the full schedule of events, including educational session descriptions, in the Conference registration brochure, which appeared in the October *Township Focus*.

New law allows more township officials to serve in emergency services

More township officials or employees will be able to serve simultaneously in the police, fire or emergency medical services (EMS) department under a new public act.

House Bill 4070, sponsored by Rep. Kurt Heise (R-Plymouth Chtr. Twp.), was signed by Gov. Rick Snyder and is now Public Act 134 of 2015. The bill was signed on Oct. 1 and takes effect Dec. 29.

Currently, officials in a local unit of 25,000 or more people cannot serve as EMS or fire personnel, or perform additional service for their community. However, those in a local unit smaller than 25,000 population can do so. The MTA-supported bill increases

the population limit to 40,000. It also allows public officials and employees to serve as police chief, fire chief, police officer or public safety officer in addition to the two positions already permitted.

Some local units would be able to save money by consolidating certain functions that are currently considered incompatible offices. However, local units will not be mandated to have officials or employees serve in such positions.

Changes made to forfeiture reporting requirements

Police departments and other reporting agencies will soon face big changes on how they report asset seizures and forfeitures.

Gov. Rick Snyder recently signed a package of House bills into law—including primary bill House Bill 4504, sponsored by Rep. Klint Kesto (R-Commerce Chtr. Twp.), as well as HBs 4499, 4500, 4503, and 4505-4507. The bills are now known as Public Acts 148-153 of 2015.

Together, the bills create a new act and amend several laws that require any agency that seized or forfeited property to submit an annual report to the Michigan State Police (MSP) detailing the agency's forfeiture activities. Costs incurred for compiling, analyzing and reporting can be deducted from forfeiture proceeds. The MSP must also compile all the

information it receives and file an annual report with the Legislature, as well as post the information on its website.

The new laws also increase the legal standard that must be proven for forfeiture. Instead of having a "preponderance of evidence," reporting agencies must prove "clear and convincing" evidence.

PA 148 and 151 are effective Feb. 1, 2016, while the remaining acts take effect 90 days from being signed into law.

Electronic signatures allowed on documents

County registers of deeds will accept documents with electronic signatures under a bill recently signed by Gov. Rick Snyder. Senate Bill 62, sponsored by Sen. Curtis Hertel (R-Meridian Chtr. Twp.), is now Public Act 131 of 2015.

Under previous law, a document that conveys a title to or an interest in real estate, as well as a death certificate, must contain a signature. This includes signatures that are printed, typewritten or stamped. PA 131 adds language to allow signatures that are electronically affixed. MTA did not take a position on this bill.

Printed tax rolls no longer necessary for some local units

Some local units will no longer need to keep printed tax rolls on hand as long as they meet certain requirements. Gov. Rick Snyder recently signed House Bill 4168, sponsored by Rep. Sam Singh (D-East Lansing), making it Public Act 140 of 2015.

Under previous law, the State Tax Commission had to authorize the use of a computerized system if the local tax unit or county treasurer provided assurance that the system had the capacity to comply with nine state requirements. PA 140 removes the following requirements in order to use a computerized database as the tax roll: 1) original precollection tax roll be printed from computerized database; 2) a separate computer printout of all parcel splits and combinations be printed and maintained by the assessor for a specific period; 3) a separate computer printout of all corrections and adjustments to the precollection tax roll be prepared and maintained for a specific period; and 4) the local tax collecting unit be capable of making the posted computer printed tax roll available.

The change is expected to save local units money not only in printing costs, but also in storage of the large document. The new public act will take effect Jan. 11, 2016—90 days after its enactment.





REMINDER

Local proposals not allowed on presidential primary ballot without legislative fix

No local ballot questions can be considered on the March 2016 presidential primary ballot until crucial legislation is enacted.

The state Bureau of Elections announced last month that when February elections were eliminated with previous legislation (Public Acts 98-103 of 2015), it resulted in an unintended consequence. The new language stated that ballot proposals could only occur on regular election dates, which are specified as taking place in May, August and November only. This meant that the upcoming presidential primary election—scheduled for March 8, 2016—was not considered a regular election date. Therefore, according to the Bureau of Elections, without a change in the law, no local proposals could appear on the ballot.

Rep. Edward McBroom (R-Waucedah Twp.) has proposed legislation—House Bill 4904—that would correct this unintended consequence by clarifying that the statewide presidential primary election is a regular election date. The bill would also clarify that ballot questions by all political subdivisions, including townships, must be filed with the local clerk by the 12th Tuesday before the election. For 2016, this would be Dec. 15, 2015. However, local ballot proposals still are not allowed on the March 2016 ballot until HB 4904 is enacted. As of *Township Focus* press time, the bill had passed the House and was before the full Senate for consideration.

MTA will continue to advocate in support of this legislation and will update members on its progress. Please watch MTA's *Township Insights* newsletter and the MTA website, www.michigantownships.org, for updates on this and other legislation.

Legislative lowdown

Here's a quick look at important bills that MTA is following as they move through the legislative process:

Transportation: House-passed package would direct \$700 million in projected General Fund growth to roads. Senate proposal would phase in a gas tax increase by 15 cents per gallon over three years and shift \$700 million in existing income tax revenue from the General Fund to transportation. MTA's Policy Platform supports a gas tax increase, and other reforms. MTA is concerned about potential cuts and their impact on local government.

Unfunded mandates (HBs 4753-4755, SBs 388-390): Would not require local units to provide new services required by state law unless state provides the funding. *MTA supports.*

HB 4004: Would require charter township board approval before an annexation question can be placed on the ballot. *MTA supports.*

HB 4182: Would prohibit members of public bodies from casting a vote on a decision of the public body without being physically present at the meeting. *MTA opposes.*

HB 4183: Would allow townships to post legal notices on their own websites instead of printing them in newspapers by 2025. *MTA supports.*

HB 4209: Would provide for state and local regulation of five types of medical marijuana facilities. *MTA monitoring.*

HBs 4423-4426: Would remove townships from the process of setting speed limits on local roads, modify speed limits on certain roads, revise certain requirements for speed limits in school zones, and modify assessment of points for certain speeding violations. *MTA opposes.*

HB 4516: Would allow disabled veterans who missed the filing period to retroactively receive a property tax exemption for 2013 and 2014. *MTA opposes.*

HB 4522: Would allow certain state legislative committees to subpoena any records or files of local units with a majority committee vote. *MTA opposes.*

HB 4563: Would permit township funds to be used to pay for domestic and sexual violence victim services. *MTA supports.*

HBs 4570-4573: Would keep wind turbines and electricity-generating property on the tax rolls. *MTA supports.*

HB 4747: Would protect township land from adverse possession claims. *MTA supports.*

HB 4862: Would provide for standardized local regulation of textile recycling collection bins. *MTA opposes.*

HB 4904: Would allow local ballot proposals to appear on the March 8, 2016, presidential primary ballot. *MTA supports.*

SB 6: Would expand disabled veterans property tax exemption to include residential and agricultural real property. *MTA opposes.*

SB 104: Would allow for the adoption of local ordinances for prevention of or treatment of aquatic invasive species. *MTA supports.*

SB 191: Would allow local units to recover certain costs for retail fraud or criminal contempt prosecution. *MTA supports.*

SB 556: Would repeal the sunset for the commercial rehabilitation act. *MTA supports.*

In the dark

Unfair assessing theory costs locals millions

It started with a single property tax assessment appeal. Lowe's was the first business in **Marquette Charter Township** (Marquette Co.) to use the "dark store" theory to lower its assessment.

The home improvement store argued before the Michigan Tax Tribunal (MTT) that its taxable value shouldn't be higher than other big box store buildings that were sold in Michigan—even though those stores were vacant and obsolete.

When the MTT, and later the Michigan Court of Appeals, ruled in favor of Lowe's, Marquette Charter Township Manager **Randy Girard** and Assessor **Dulcee Atherton** warned that the problem was only beginning. They predicted that once the MTT sided with big box stores, the appeals wouldn't stop, and that eventually, they wouldn't be limited to large retail stores.

Today, all but one of the township's 12 big box stores have appealed their property tax assessments to the MTT. And every commercial business from fast food restaurants to apartment complexes is filing, too. As Marquette Charter Township officials prepare the budget, they're expecting their commercial corridor's taxable value to be 66 percent lower than in years past. Within the next few years, those losses could mean no money for extra police forces, and spending on placemaking, recreation and special events could be put on hold.

"It's very frustrating for those of us in the trenches," Girard said. "It will end up costing residents the services that we now provide that we won't be able to provide. If the residents want them, it's going to cost them more in some manner. And it was unnecessary."

Marquette Charter Township isn't alone. This assessing theory known as the "dark store" theory has spread throughout the entire state, into Indiana and other parts of the Midwest. In fact, Indiana has already taken legislative action to address this issue.

For the last several years, big box stores have appealed their assessments, arguing that they're being overtaxed. They say their fair market value should be based on the sales of comparable properties—properties that may be vacant and abandoned, or now are used for an entirely different purpose. At the same time, companies are placing deed restrictions on their buildings that limit how they could be used in the future if they are ever vacant, potentially rendering them obsolete in the event the current business closes.

Though some townships are still fighting back, others, like Marquette Charter Township, can no longer afford to appeal. The precedent is already set with past MTT decisions. And after spending \$260,000 of general fund money fighting the Lowe's case, Girard says they can't afford to do that for the dozen other appeals they're facing. Experts say the only way to stop the disease-like spread is with legislative change.

The issue

The "dark store" theory takes issue with how assessors are determining a big box store's true cash value, or the market



“Our township, financially, is in good shape. But that has come from a lot of hard work over the years and a good tax base. Because of this ‘dark store’ tax tribunal issue, we don’t want to go backward. We want to move forward and do whatever we can. But if this is going to happen to us, we’re going to have to look at cuts.”

—Denny Olson, Supervisor
Breitung Charter Township
(Dickinson Co.)

price the property would likely receive if it was sold. To calculate the true cash value, the assessor generally uses the cost approach to value and looks at how much the property is worth on the open market, without considering a lease or any other rights to the building. The MTT seems to want assessors to calculate the true cash value of big box stores by using the sales method, which compares the value of the property to other sales of similar properties.

The major difference with the “dark store” theory is that except for the size and original uses, the properties being compared to big box stores aren’t similar at all. Most of them are long-since vacant and abandoned, or they’re being used for a secondary purpose that’s far less valuable, such as a church or go-kart track. In some cases, brand-new stores are being valued similarly to aging, obsolete buildings. So when new big box stores are compared to vacant, abandoned, former big box stores, their tax assessments are cut by as much as 50 percent.

Not only is the MTT allowing big box stores to compare their buildings to vacant property, but it’s also accepting comparable properties from different areas of the state, where property values may vary greatly.

Big box companies argue that their buildings are built specifically to suit their purposes. They say that for any other business to use their building, it would require so many modifications that most would likely rather build a new building instead of retrofitting an old one. By that logic, the built-to-suit buildings are disposable and only usable for one business. For that reason, they argue that if they were to attempt to sell the building, the price they would receive is a fraction of what the building is valued to the company that built it.

Further complicating matters is the fact that when most big box stores build their buildings, they place what’s called a deed restriction on the property stating that the building can’t be used for a particular purpose once it’s vacant. For example, a Meijer could use a deed restriction to make sure that if it ever leaves a building, it can’t be used by a competing grocery store. This means that businesses that otherwise might have been interested in the building are barred from using it for a specific purpose, and the building may then sit vacant as a result, even though it’s still perfectly suited for another, similar store. The result? More blighted properties across the state.



Because of the “dark store” theory,” big box stores are beginning to require more government services than they contribute in taxes, according to a recent police analysis by Oshtemo Charter Township (Kalamazoo Co.). Township Attorney James Porter says the stores are a drain on the community.

Unfair theory

Though the “dark store” theory is being upheld by the MTT, it’s unfair and is hurting townships and their citizens throughout the state, said MTA Legal Counsel Robert Thall, attorney at Bauckham, Sparks, Thall, Seeber & Kaufman, PC. Not only this, but the theory also goes against what he believes are sound assessing practices.

“The theories that are being used are inappropriate, and they’re falsely bringing down the value of properties,” Thall said.

A basic problem is the reliance on the sales approach for calculating true cash value. While it works for houses, it doesn’t work so well for big box stores. In reality, there are no comparable sales that can be accurately compared to a brand-new big box store. Thall says the cost approach, which is used by most assessors to determine a big box property’s true cash value, is the most appropriate. In this method, assessors use location adjusted market construction costs, minus any physical depreciation and obsolescence, plus the market value of the land.

“If you have a new big box store, you shouldn’t be comparing it to a 20-year-old store somewhere else that’s being used as a go-kart track,” Thall said. “That’s not comparable at all. It doesn’t matter if you try to adjust the value or not. It’s so far different that it shouldn’t even be compared.” Thall said that “valuing of a newer big box store based upon secondary uses is not comparable.”

Adding to this problem is the issue of deed restrictions.

Thall says these restrictions shouldn’t be considered when valuing the property, and that it should be against public policy to limit how these properties can be used in the future. If it weren’t for deed restrictions, a property built to house a grocery store could easily be bought and used as another grocery store once the original business moved out. Instead, big box stores are placing restrictions on their buildings that essentially keep them vacant for their intended use once they’re empty. “This skews the use of the sales approach to value and provides support for why the cost approach is superior,” Thall said.

A lower property tax base isn’t the only result—communities also experience blight as more and more shuttered buildings unnecessarily sit vacant. Or, buildings are used for a lesser, secondary use that can have a negative impact for development in the area.

“To take the property and value it in that way creates an artificially reduced valuation,” Thall said. “It’s really based upon restrictions they’ve been putting on their own property.”

The MTT also isn’t giving the location enough consideration when it decides to slash big box stores’ assessments. That’s something that Thall believes is a major key to this issue. Before a company ever decides to invest in a new store location, they conduct extensive research to find the best spot to reach the most people. Their stores are valuable for the intended use or they wouldn’t have opened at that location.

If not for the deed restrictions, another similar business would likely buy the building simply because of the location and spend a smaller amount of money renovating it to fit their needs. This might slightly lower a big box store’s tax assessment, but it certainly wouldn’t cut the assessment in half.

“As long as that use is not obsolete, as long as it would still be used for a purpose like that, I don’t think you can value it as something else,” Thall said. “It has to be valued as that type of use, as a big box store.”

The impact

In **Breitung Charter Township** (Dickinson Co.), Supervisor **Denny Olson** is wondering how the township will continue spending \$250,000 a year to help the county pay for road repairs. Over the last five years, the township has fought Home Depot’s property tax appeal, first at the MTT and later at the Michigan Court of Appeals after joining forces with Marquette Charter Township. MTA filed an *amicus curiae* brief on behalf of the townships, as an MTA Legal Defense Fund case. The two townships even asked the Michigan Supreme Court to take up the case, but to no avail.

Breitung Charter Township was forced to refund Home Depot more than \$40,000, and the store’s true market value was permanently lowered. Now, history is repeating itself—the local paper mill has also appealed its taxes, and the

township has already settled with an auto supply store for a lower valuation.

When the time comes to make cuts, Olson knows road funding will be one of the first places the board looks, since it's not required of townships by statute. The decreasing tax base could also impact when the township can buy its next fire truck.

"We are, financially, in good shape. But that has come from a lot of hard work over the years and a good tax base," Olson said. "Because of this 'dark store' tax tribunal issue, we don't want to go backward in Breitung Charter Township. We want to move forward and do whatever we can. But if this is going to happen to us, we're going to have to look at cutting those things."

Oshtemo Charter Township (Kalamazoo Co.) is only beginning to study how badly it will hurt the budget if the township loses pending appeals with Menards and Costco. Just four years ago, Menards was valued at \$8.26 million until the MTT reduced the true cash value to \$6.39 million. Now, Menards is asking for yet another reduction—this time to \$4.2 million. This is only slightly higher than the amount Menards paid for a property in **Comstock Charter Township** (Kalamazoo Co.) in 2014, with an abandoned facility that had to be torn down. Township Attorney **James Porter** calls this the "less than dirt" valuation method.

A brand-new Costco building is also pushing for a similar drop in true cash value. Though the land and building value combined are more than \$17.5 million, the assessor valued

'Big box' bills would fight growing issue

Townships facing property tax assessment appeals from big box stores could get new tools in their arsenal from two bills that have been introduced in the House and Senate.

Senate Bill 524, sponsored by Sen. Tom Casperson (R-Wells Twp.), and House Bill 4909, sponsored by Rep. John Kivela (D-Marquette), would each help prevent townships from losing millions of dollars due to the "dark store" assessing theory being upheld by the Michigan Tax Tribunal (MTT). The bills would ban stores of certain sizes from being valued as vacant and obsolete, and limit properties used in sales studies to those that are comparable in age and use. Deed restrictions on how the property can be used once vacant could not impact the building's value, and new negative use deed restrictions would not be allowed at all.

In SB 524, big box stores are referred to as "limited use properties," defined as a free-standing property of a unique design. For such properties, the highest and best use would be the continued use of the property as improved, rather than assessing it as if it were vacant. The bill also states that there is a rebuttal presumption that the cost less depreciation is the best evidence of the usual selling price of limited use property. Additionally, deed restrictions that limit how the property could be used once vacant could not impact a limited use property's value.

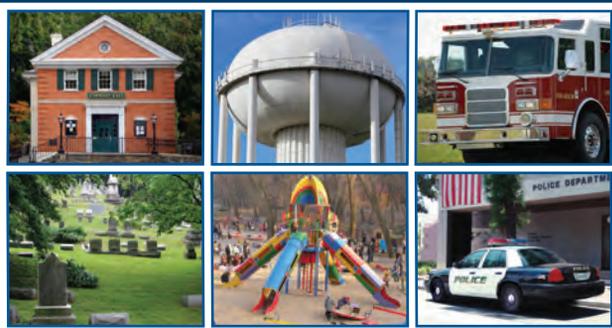
Sales studies would be limited to properties that are similar age and use of the limited use property being assessed. This addresses an issue in which new properties are compared to old, vacant properties, or those that are no longer being used as a big box store. If a limited use property is not more than 10 years old, it could only be compared to other improved properties being used for the same or similar purpose, and that have not been vacant for more than one year. For industrial properties, the comparison property could not have been vacant for more than five years.

HB 4909 would amend the Michigan Zoning Enabling Act to prohibit any negative use restrictions in a new deed, lease, contract or any other written agreement that would prevent or limit who can own or occupy the building once it's vacant. This bill would apply to a single, freestanding structure of more than 7,000 square feet where consumer goods are sold to the public.

The local governing body could request additional requirements in a special land use approval in a zoning ordinance. These include requiring the applicant to present proof that the property is not subject to a negative use restriction, and to submit a plan for re-lease, reuse, redevelopment or sale of the property in the event of a vacancy. Because vacant single retail establishments lead to blight, townships, cities, villages and counties could rehabilitate such establishments.

As of press time, the bills had not been taken up by legislative committee. Watch MTA's *Township Insights* and *Township Voice* legislative e-newsletters for updates.

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Part of MTA's Policy Platform

MTA's support of Senate Bill 524 and House Bill 4909, the "dark store" bills, is consistent with our 2015 Legislative Policy Platform, which supports the following objectives:

- Careful consideration and concern for revenue impacts and administrative burdens to townships and other local governments, and the greater burden placed on other taxpayers resulting from broadening tax exemptions.
- Tax appeal decisions consistent with the principles of assessment administration required of assessors by the manuals and directives promulgated by the State Tax Commission, and with which compliance is required of local assessors as a condition of maintaining state certification.

the property at just over \$8.6 million in order to find a balance between the cost less depreciation method and a value the MTT would support. Even so, Costco appealed its 2015 assessment, arguing that the property is instead worth \$4 million.

Because of the "dark store" theory, big box stores are beginning to require more government services than they contribute in taxes, according to a recent police analysis by Oshtemo Charter Township.

"If one compares the need for services for such facilities to the actual tax contributed, the big box stores are literally no longer an asset to any community," Porter said. "In fact, they are nothing more than a drain on the community. If this is somehow not corrected, I can envision many local communities actually trying to discourage the development of such facilities within their boundaries because of the service costs and inadequate compensation for such services."

New legislation could help

Lawmakers have heard the outcry from township officials that something must change. Recently, Sen. Tom Casperson (R-Wells Twp.) and Rep. John Kivela (D-Marquette) introduced bills that take aim at different aspects of the

"dark store" theory. They called the theory "nonsense" and hope that their bills will prevent true cash values from being drastically reduced in the future.

Casperson's bill—Senate Bill 524—would state that the highest and best use of a free-standing commercial retail property of a unique design is the continued use of the building as improved, rather than vacant. Deed restrictions could not impact the building's value, and sales studies could only include properties that are comparable in age and use. House Bill 4909, sponsored by Kivela, would amend the Michigan Zoning Enabling Act to prohibit deed restrictions or any other written agreement that would prevent or limit who can own and occupy a building once it's vacant. (See sidebar on page 21 for more details on these bills.)

The bills wouldn't change true cash values that were already lowered by MTT decisions. But if they're enacted, they would prevent future true cash values from being dropped based on the "dark store" theory.

What can township officials do?

In the meantime, townships can also take steps to fight the issue. As new big box stores move in, townships could adopt in their zoning ordinance a zoning special exception use stating



that deed restrictions aren't allowed. This would stop new properties from having their values artificially dropped. This approach can't be applied retroactively, but could only be used for new properties.

This issue also highlights the importance of townships making doubly sure that their appraisals are as accurate and well-done as possible. When appraisals aren't easily criticized, it's more difficult for a big box store to challenge their assessed valuation. Township assessors should review their assessments to ensure they're error-free, while township boards must supervise their assessor to ensure that state guidelines are being met.

Most importantly, township officials must let their lawmakers know that the "dark store" theory must end. If your township has been affected, tell your legislators how the lost tax dollars will impact local services and your residents. Legislators need to hear from you that their action on this issue is vital. Your efforts could mean the difference between stopping the epidemic and allowing it to spread even further.



Bethany Mauger, MTA Staff Writer

Contact your lawmaker today!

The two bills addressing the "dark store" issue—Senate Bill 524 and House Bill 4909—are the result of numerous meetings among lawmakers, MTA and other local government associations, as well as other stakeholders. MTA has worked extensively with legislators to find a solution to this spreading problem. We strongly support the legislation and thank Sen. Casperson and Rep. Kivela for supporting local government.

Members are encouraged to contact their state representative and state senator to pass these bills. Without corrective action taken, local governments will continue to face reductions, forcing reduced services or placing a higher property tax burden on residents and small businesses in their community.

- Find your state representative contact information at: www.house.mi.gov/mhrpublic/
- Find your state senator contact information at: www.senate.michigan.gov/senatorinfo.html



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November workshops explore finances, vision and connecting with your community

MTA's three November workshops can help you learn to better use policies to provide financial leadership to your township, define your future by measuring what's most important to your residents, and improve your township's transparency and credibility.



Held in **Mt. Pleasant** at the Comfort Suites Conference Center on **Nov. 17-18**, choose which session best applies to you—or get the best deal, and best education, by attending all three!

Township Finances

Nov. 17 from 8:30 a.m. to 4:30 p.m.

Taught by MTA Executive Director Larry Merrill, this session explores revenue sources available to townships and their appropriateness for various programs and services. Attendees will gain insight into fiduciary duties, the allocation of resources and evaluating results through the budget process.

Creating a Vision for Your Township

Nov. 18 from 9 a.m. to 12:15 p.m.

Instructor Susan Radwan will share strategies for evaluating township programs and services, and explore the need for innovation and change. Rekindle your township's mission by examining your community's past, present and future.

Linking with the Community

Nov. 18 from 1 to 4:15 p.m.

Susan Radwan will help attendees examine ways of being more open and transparent to the community—a valuable exercise to increase trust at the local level. Explore strategies for determining what your constituents want and how to keep them informed about your township's activities. Join the discussion on cultivating emerging leaders in your community.

Registration forms appeared in last month's *Township Focus* and were mailed to township clerks in August. Visit MTA's website, www.michigantownships.org, to download a registration form or register online.

These courses are part of MTA's Township Governance Academy, an innovative credentialing program for township officials and local leaders in Michigan. You do NOT have to be enrolled in the Academy to attend.



December workshop tackles township ordinances

Ordinances can be used to protect residents and retain the character of your community. Properly written and enforced ordinances not only boost your credibility, they limit public complaints and assist with fair and effective enforcement.

Join MTA legal counsel for an overview of statutory authority for both zoning and non-zoning ordinances, and get tips for drafting and writing effective ordinances. Review the basics of ordinance adoption, and explore enforcement methods, techniques and strategies for success. Municipal civil infraction and misdemeanor penalty options will also be discussed.

This full-day event will be held at the Evergreen Resort in **Cadillac** on **Dec. 8** and the Bavarian Inn Lodge in **Frankenmuth** on **Dec. 15**. Registration brochures were mailed to township clerks and supervisors in October. Download the registration form or register online at www.michigantownships.org.



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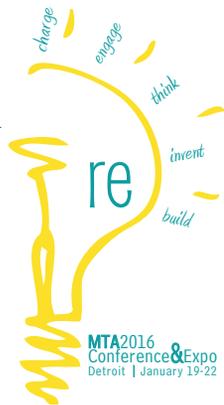
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Tips for navigating MTA's new Conference housing policy

MTA's Annual Educational Conference & Expo, coming to the Detroit Marriott Renaissance Center Jan. 19-22, 2016, will help you REcharge your enthusiasm for leading your community.

Beginning this year, to reserve a room in the MTA Conference room block, you must first register as a Conference attendee. But don't panic—there is room for everyone at the host hotel! Here are some tips to help you navigate the new system:

- When you register for the Conference, you will receive a confirmation email that contains your personalized housing registration code, which is necessary to book your hotel room with MTA's housing bureau (www.grandconnection.com/mta2016). All housing requests **MUST** have a housing code to be processed.
- If you register for Conference online, you'll receive a confirmation email that contains your personalized housing code immediately. Those using a paper form will receive the code once your form has been processed.
- Each attendee will receive an individual code; if one person makes all the hotel reservations, they'll need to obtain every person's code.



- The housing website will automatically populate the form with name, title, township and address once your code and last name is entered. Those registering via paper form will simply write the code on the form before submitting it.
- Call the MTA Office at (517) 321-6467 or email education@michigantownships.org with questions.

Learn more about the MTA Conference or register online at www.michigantownships.org/conference.asp. The Conference brochure was included in the October *Township Focus* and can also be downloaded from our Conference Web page.

We look forward to seeing you in Detroit this January!

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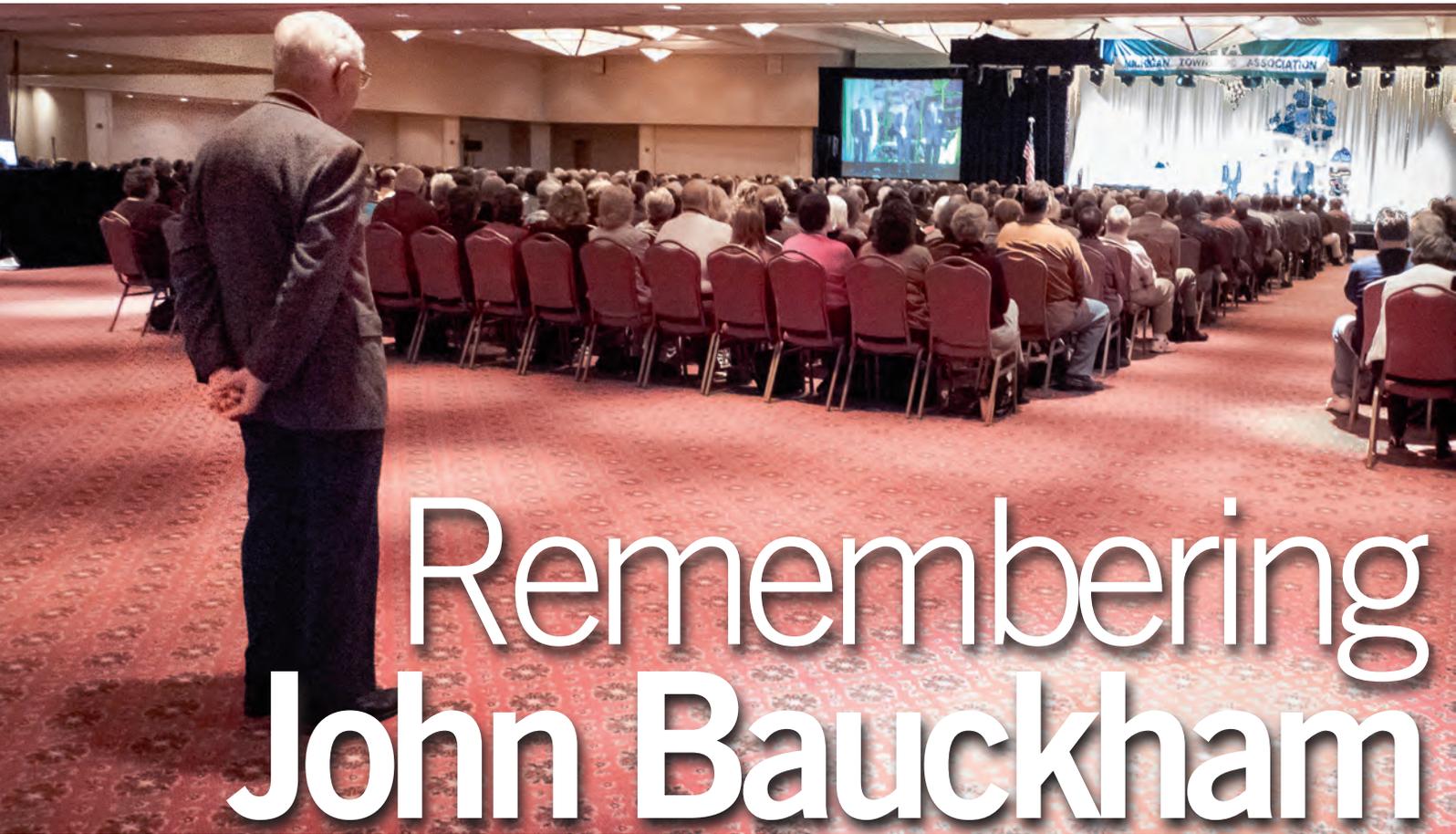
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Remembering John Bauckham

A few years after MTA Legal Counsel John Bauckham had graduated from law school at the University of Michigan, he ran into one of his old law professors. When asked what type of law he was practicing, Bauckham informed the professor he was practicing township law.

“Bad choice, John,” the professor responded. “Everyone knows townships are going to be abolished.”

That professor could not have been more wrong. Bauckham dedicated his entire legal career—spanning more than six decades—to township government. Bauckham, who helped incorporate the Michigan Townships Association in 1953 and whose law firm has served as Association legal counsel since its inception, passed away in October at age 92.

The ‘grand poobah’ of township law

Bauckham’s role among township government and with MTA far exceeded helping the fledgling organization form 60-plus years ago. Throughout his life, his interest in township government and its preservation as the most

accessible, responsible form of government never wavered, and remained of primary importance to him throughout his legal career. His presence and insights have been felt throughout MTA’s entire existence. He authored MTA’s publication, *Authorities & Responsibilities of Michigan Township Officials, Boards & Commissions*—better known as the “Little Red Book.” The book, originally written in 1976 and now in its 12th revision, remains the Association’s best-selling publication, and has been relied upon by countless thousands of township officials as the foremost guide on township authority and legal compliance.

Known in the *Kalamazoo Gazette* as the “grand poobah of township law,” Bauckham shared that knowledge with MTA member officials through countless articles

in MTA publications, legal opinions, and workshops at MTA conferences and other events. He served as the parliamentarian at MTA Annual Meetings, and took part in many meetings of the MTA Board of Directors over the years.

“I was proud to call John my friend,” said **Patrick White, Pavilion Township** (Kalamazoo Co.) supervisor and 2002 MTA president. “He loved township government and was a very kind supporter of mine when I was MTA president. He was always available with his great advice and wisdom. He not only helped me, but the entire MTA leadership as well. Every time we would meet, I would enjoy his vast experience on township government. He will be truly missed by all.”

A life well-lived

Bauckham was born in 1923 in Huntington Woods to Henry and Mable Bauckham, two immigrants from England. He attended Royal Oak High School, where he was Honor Society president and played on the school’s basketball, football and tennis teams. Bauckham was a volunteer in the U.S. Air Corps in World War II. During three years of service, he was active in an Engineer Aviation Battalion, the Army Air Cadets, and a B-29 flight engineer training unit.

He earned his undergraduate degree from the University of Michigan, from which he also earned his law degree, in 1949. Upon graduation, he moved to Kalamazoo and joined a firm with Attorney Harry Smith. The law firm later became Bauckham, Sparks, Thall, Seeber & Kaufman, PC. In addition to serving as MTA Legal Counsel, the firm has represented—and continues to represent—more than 100 townships in the southwest Michigan region.

Outside of municipal law, Bauckham’s main interests were his family, his house in South Haven bordering Lake Michigan, golf, reading and traveling. He was survived by his wife, Rose, four children—three sons and a daughter, six grandchildren, and seven great-grandchildren.

A ‘passionate defender of local democracy’

Bauckham specialized in all areas of township law, and is credited with many landmark cases supporting Michigan townships in the Michigan Court of Appeals, Michigan Supreme Court, and in federal district and appellate courts.

Noted MTA Executive Director Larry Merrill, “John was passionate in defending local democracy and would lecture anyone who would care to listen—and maybe the some of the unwilling as well—on the importance of local control. He also wrote countless appellate briefs for MTA’s Legal Defense Fund, and he was once lauded by a Michigan Supreme Court justice for the brief he had recently authored on the applicability of local zoning ordinances to county-owned facilities. The irony is, the justice was speaking to a gathering of city officials.

“John leaves an extraordinary legacy of principle and integrity for grassroots government. He will be remembered as the consummate gentleman and good friend, and will forever be missed by his MTA friends.”



John Bauckham (pictured above, right) with MTA’s founder and first executive director, Joseph Parisi. Bauckham was a part of MTA since its inception, including preparing its articles of incorporation and original bylaws.



John Bauckham was a frequent presenter for MTA conferences and workshops.



Concurrent with the MTA’s 50th anniversary, John Bauckham was honored for serving as the Association’s attorney during its entire existence. Bauckham’s wife, Rose, accepted the award on his behalf.



Join the Parade!

MTA's Township Parade of Flags will kick off the 2016 MTA Conference's Opening Session on Wednesday, Jan. 20. Sign up today for this inspirational start to Conference!

To register for the Parade, fax this form to (517) 321-8908, or email jenn@michigantownships.org by Jan. 8, 2016. Information and instructions will be emailed (or mailed, if so specified) to all Parade participants prior to Conference.

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Check here if you prefer to have Parade information mailed, rather than emailed, to you.

Questions? Call Jenn Fiedler at (517) 321-6467 or email jenn@michigantownships.org.

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GIVE *thanks*

Check out MTA's Online Learning Portal!

MTA is grateful for the opportunity to educate Michigan's township officials and decision-makers. To show our appreciation, MTA is offering a discount on all webcasts this November! This is just our way of thanking township officials for their dedication to professional development.

Online learning delivers MTA training over the Internet—straight to your township hall, office, local library, or even at home. Eliminate travel costs and schedule conflicts with this convenient, affordable option that delivers education directly to your desktop.

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Webcasts include:

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- Assessing Oversight: The Process
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Board Essentials

- Anatomy of a Township
- Effectively Exercising Board Authority
- Meeting Misconceptions
- Secrets Behind Great Board Meetings

Intergovernmental Cooperation

- Urban Cooperation Strategies

Township Governance Academy

- At Your Service: Meeting Township Needs
- How Boards Make Decisions
- Land Use: Defining Your Township's Future
- Making Meetings Work More Effectively

Financial

- Exploring Revenue Sources
- Introduction to Millage Questions
- Special Assessment Procedures
- Spending Public Money
- Who Gets Paid What ... and How?

Public Safety

- Governing an Accountable Fire Department

Planning & Zoning

- Introduction to Planning & Zoning
- Roles & Functions of the ZBA
- Writing, Adopting & Enforcing Ordinances

New Officials Training

- Tools for Getting Started Right
- Sessions for each office

Taxation

- Treasurer's Guide to Tax Collecting
- Taxation Trouble Spots

Detailed descriptions of each webcast are available online; visit MTA's Online Learning Portal at www.michigantownships.org (under the "MTA Products & Training" drop-down menu).

The MTA logo consists of the letters 'MTA' in a bold, green, sans-serif font. The letter 'M' is the largest and most prominent, with 'T' and 'A' to its right. The 'A' has a small silhouette of a person inside it.

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