

State Tax Commission August 2, 2010 Tip

Topic: Trespass



Dear STaCy:

What are the responsibilities of assessors if a property is marked “no trespassing” (like so many camps and summer homes are in Upper Michigan) or there is a gate on the property with no sign.

In these instances, I would not have the owner’s consent to go onto the property in order to measure new buildings or re-check existing buildings. I don’t have current phone numbers so I can call the owner’s ahead of time and make arrangements. Some property owner’s have installed cameras on their property and have called me at home to ask what I was doing on their property and that they have it on tape.

Can the property owner press trespassing charges against me? I have not been in a situation like this, but I’m seeing a lot of these signs in my local unit and walking 40’s back to re-check and measure new?

Sincerely,
No Trespassing

Dear Ms. Trespassing:

There has been one recent court case that addressed this issue. In *Kenneth Widgren v Maple Grove Township*, the 6th District US Court of Appeals dealt with a case where a zoning administrator and tax assessor entered property three times to confirm a zoning violation. While the Court did not find that the zoning administrator or assessor had violated the law, they did warn that tax appraisers should obtain “consent or a warrant before breaching the cartilage of a property because in some instances this could be seen as a violation of the fourth amendment.”

The STC has not modified it’s policy that was first issued in 1996 which indicates that an assessing official, in the course of official duties and absent criminal intent, may: walk upon a property without first obtaining permission of the owner; wish to honor obligation to leave the property if requested to do so by the owner; may not enter a house or other building near a house without first obtaining permission of the owner; may not look in the windows of a residence, without permission of the owner.

Sincerely,
STaCy