

## STATE OF MICHIGAN



JAMES J. BLANCHARD, Governor

## DEPARTMENT OF TREASURY

ROBERT A. BOWMAN, State Treasurer

## STATE TAX COMMISSION

4th Floor Treasury Building  
Lansing, Michigan 48922 Telephone 517 373-0500

## COMMISSION MEMBERS

THEODORE P. MANSOUR  
LEROY J. NELSON  
ROBERT O. VANDERMARK

TO: Assessing Officers and County Equalization Directors

FROM: Michigan State Tax Commission

RE: VALUATION OF COMMUNITY PROPERTY IN RECORDED PLATTED SUBDIVISIONS

Section 61 of the Condominium Act, being section 559.161 of the Michigan Compiled Laws provides as follows: "Upon the establishment of a condominium project each condominium unit, together with and inseparable from its appurtenant share of the common elements, shall be a sole property subject to ownership, mortgaging, taxation, possession, sale, and all types of juridical acts, inter vivos or causa mortis independent of the other condominium units."

Section 559.231, MCL provides in part, "Special assessments and property taxes shall be assessed against the individual condominium units identified as units of a condominium subdivision plan and not on the total property of the project or any other part of the project..."

It appears to the State Tax Commission that the legislature intended that the common elements of a condominium project were to be valued as part of each condominium unit and not valued and assessed separately. There is not similar language for properties in plats, so it is necessary to review precedents from courts.

Recorded plat subdivisions occasionally include interests in common elements such as a park reserved for the use of the subdivision lot owners. Depending on the degree of permanence of the restrictions on the common element, assessment appeals have been decided ranging from zero or nominal, token value (\$100) to almost full value of unrestricted land.

It is recommended that assessing officers review the deed restrictions that are placed on a common element including the duration of the restrictions for any taxable property. It is further recommended that in a recorded plat subdivision an assessed value of zero be entered for the types of common elements listed below when their actual value is reflected as a contribution to the sales prices of the lots in the recorded platted subdivision(s):

1. A park reserved solely for the use of the owners of lots in the subdivision(s).
2. A private roadway that serves as access to lots in the subdivision(s).
3. A water supply system provided solely for the lots in the subdivision(s).

4. A sewage disposal system provided solely for the lots in the subdivision(s).
5. A lake level control structure (dam) provided solely for the purpose of maintaining an artificial lake around which the subdivision(s) is (are) located.
6. The land submerged by an artificial lake around which the subdivision(s) is (are) located.
7. A boat ramp or access to a lake or river reserved solely for the use of the owners of lots in the subdivision(s).
8. A community building, swimming pool or tennis court built on a lot reserved solely for the use of the owners of lots in the subdivision(s).

The recommendations above follow the guidance of the courts in the opinion of the State Tax Commission. The properties are not exempt but their value has been included as part of the value of the lots in the recorded platted subdivision(s).

Community property that is to be considered at zero assessed value shall be restricted by a permanent irrevocable plat dedication or deed restriction.

The individual deeds of conveyance to lot owners would not necessarily describe an ownership interest in the common elements. Usually that reference is included in the plat covenants or dedication.

The following court cases are cited for reference:

Michigan Supreme Court

CAF Investment Company v. Saginaw Township, 410 Mich 428(1981).  
Brae Burn, Inc. v. Bloomfield Hills, 350 Mich 425(1957).

Michigan Court of Appeals

Kensington Hills Development Co. v. Milford Twp., 10 Mich App 368(1968).  
Lockmoor Club v. Grosse Pointe Woods, 10 Mich App 394(1968).  
Deerfield village v. State Tax Commission, 25 Mich App 138(1970).

Opinions of the Attorney General

OAG, 1943-44, No. 24419, p 69(August 20, 1942)