

Property taxes could rise for special assessments

BY TIM RICHARD
STAFF WRITER

A little-noticed attorney general's ruling could cost Michigan property owners more for local improvements. At least one suburban lawmaker calls it "an outrage."

Attorney General Frank Kelley ruled that special assessments aren't taxes. Therefore, despite Proposal A of 1994, special assessments may be collected on the "state equalized value" of property rather than the lower "taxable value."

Upshot: Townships, in particular, may be encouraged to

finance public improvements by special assessments rather than from the general fund.

For example, a house with a \$104,000 market value has a state equalized value (SEV) of 50 percent or \$52,000. But if local real estate prices are rising faster than the consumer price index of less than 3 percent, the taxable value may be capped at just \$50,000.

The owner pays county, local, school and community college taxes on the basis of taxable value, or \$50,000. But special assessments — often used for streets, sidewalks, water and

sewer construction — would be paid on the SEV, or \$52,000.

Kelley based his ruling on a 1988 state Supreme Court decision in the case brought by St. Joseph Township against the state. "The millage-based special assessment levied against the taxable value of property would not bear a reasonable relationship to the benefit received," Kelley said (italics added).

In that case, the suburban township levied a two-mill special assessment for fire protec-

tion. "The law is settled that special assessments are not taxes," said Kelley, quoting from 19th Century Chief Justice Thomas Cooley. "An assessment is paid for the cost of public improvements in its immediate vicinity" and is levied against specific parcels; a tax pays for general benefits and is assessed against an entire local unit.

Kelley also cited his own 1979 ruling that tax limitations in the Headlee amendment to the

Michigan Constitution don't apply to special assessments.

Rep. David Jaye, R-Macomb County, criticized Democrat Kelley's ruling, saying, "If it looks like a duck and quacks like a duck, it's a duck. If it is collected like a tax and paid like a tax, it's a tax."

"Frank Kelley has betrayed Michigan taxpayers who voted for a higher sales tax (in Propo-

al A of 1994) in exchange for the promise that their property taxes would be capped at the inflation rate or 5 percent, whichever is less."

Jaye added that "tax bureaucrats have been trying to persuade local townships to gouge their homeowners by applying the special assessment property taxes at the higher, uncapped level (SEV)."

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