

Honigman is the Michigan member of the American Property Tax Counsel (APTC), the National Affiliation of Property Tax Attorneys, and serves as national property tax counsel for a number of taxpayers.

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## Honigman Wins in Michigan Supreme Court – Supreme Court Allows Review of Tax Commission Orders

Honigman recently obtained a significant taxpayer victory in the property tax classification saga that has involved many Michigan taxpayers. Those who have followed Michigan's property tax classification controversy are aware that in recent years the State had initiated an effort to change the classification of thousands of parcels. At one time, the Michigan Tax Tribunal had over 10,000 such cases pending.

One of the most important legal issues that arose as these cases were litigated was whether taxpayers could appeal State Tax Commission (STC) classification decisions. With respect to classification appeals that taxpayers filed at the STC, Michigan's General Property Tax Act provided that the STC was to "arbitrate" taxpayer petitions and that "(a)n appeal (could) not be taken from the decision of the STC regarding classification complaint petitions and the STC's determination is final and binding for the year of the petition." MCL 211.34(6).

Notwithstanding this clear statutory prohibition of an appeal, Honigman appealed many STC decisions to the Michigan Circuit Courts. Even though every Circuit Court which ruled on the matter asserted jurisdiction, the Michigan Court of Appeals held that the Circuit Courts did not have jurisdiction.

The Michigan Supreme Court recently unanimously reversed the Michigan Court of Appeals and held that the Circuit Courts do have jurisdiction in these cases. The Supreme Court agreed with Honigman and held that the Michigan Constitution guaranteed a right of appeal and that the statute prohibiting the appeal was unconstitutional.

## Honigman Prevails in Michigan Court Of Appeals – Taxpayers Protected from Taxable Value Tardy Uncapping

Honigman recently obtained another significant taxpayer victory. This case involved the question of when the taxable value of transferred property may be uncapped. In *Michigan Properties LLC v Meridian Township* (COA Docket Nos. 289174-289176), the Michigan Court of Appeals unanimously held that in situations where a property transfer affidavit is timely filed by the buyer, the local assessing unit may only uncapped the taxable value in the year after the transfer. If the local unit fails to do so, then the taxable value will remain capped until the next transfer of ownership.

Property owners should be aware that if a buyer fails to timely file a property transfer affidavit, the local assessing unit has the authority to retroactively uncapped the taxable value of the transferred property regardless of when the transfer is discovered. Even if the property has been subsequently sold to a bona fide purchaser, the local unit may sue the seller (previous buyer) for the taxes, interest and penalties it would have collected if the property's taxable value had been uncapped in the year after the initial transfer.

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