

**STATE OF MICHIGAN  
IN THE SUPREME COURT**

IN RE HIGGINS LAKE

Supreme Court Case No.: \_\_\_\_\_  
Court of Appeals Case No.: 367805

ROSCOMMON and CRAWFORD  
COUNTIES, through the Roscommon County  
Administrator/Controller as the delegated  
authority,

*Petitioner-Appellees*

v

HIGGINS LAKE PROPERTY OWNERS  
ASSOCIATION, CHARLENE CORNELL,  
GREG SEMACK, WAYNE BROOKS,  
BRUCE CARLETON, and STEVEN  
RICKETTS

*Objector-Appellants*

and

JAMES BROWN JR; MELANIE BROWN;  
CURTIS DEVOE; CAROLYN DEVOE;  
BRUCE CORNETT; SALLY CORNETT;  
RICK CASSIDAY; CHARLOTTE CASSIDAY;  
KATHLEEN M TROCK, TRUSTEE of the  
KATHLEEN M TROCK TRUST 08/18/2004;  
CHARLES DEWEY JR; MARK O'BRIEN;  
WILLIAM CORNELL JR; CRAIG SABLE;  
MELISSA JEAN SEITZ as trustee of  
MELISSA JEAN SEITZ TRUST; JAMES  
SEITZ; SAM MIGLIORE; TAMMY  
MIGLIORE; ROBERT and LYNNE FRYE,  
trustees of the ROBERT AND LYNNE FRYE  
TRUST; ANN QUINN; CALVIN PHILIPS;  
DENNIS WOOD; FREDERICK KRAUSS;  
JOHN TOWNSEND III; DONALD HEYS;  
FRANK ARAGONA as manager of  
ARAGONA FAMILY LLC; DONALD  
BRYANT; ANN DRAPER-BRYANT; and  
WILLIAM ISENSTEIN

*Objector-Appellees*

OUTSIDE LEGAL COUNSEL PLC  
PHILIP L. ELLISON (P74117)  
Attorney for Objector-Appellants  
PO Box 107  
Hemlock, MI 48626  
(989) 642-0055  
pellison@olcplc.com

---

**APPLICATION FOR LEAVE TO APPEAL**

---

## TABLE OF CONTENTS

|  |    |
|--|----|
| TABLE OF AUTHORITIES .....   | ii |
| STATEMENT OF JURISDICTION .....  | v  |
| STATEMENT OF QUESTION PRESENTED .....  | vi |
| INTRODUCTION.....  | 1  |
| FACTS .....  | 3  |
| BACKGROUND ON SPECIAL ASSESSMENTS AND PART 307 .....   | 9  |
| STANDARD OF REVIEW .....   | 14 |
| THE HIGGINS LAKE SAD PETITION .....  | 15 |
| ARGUMENT.....  | 17 |
| I.    Special Assessments Are Constitutionally Tolerated Only Because<br>They Are Project-Driven and Proportionate .....   | 18 |
| II.   Deferring Project Definition and Cost Calculation Denies Due<br>Process.....   | 19 |
| III.  The Statutory Timeliness Requirement Is Substantive, Not Merely<br>Procedural .....                                  | 20 |
| IV.  Apportionment and Benefit Are Structural Requirements, Not Future<br>Administrative Details .....                     | 21 |
| V.   The Counties' Interpretation Converts a Special Assessment Into a<br>Perpetual Funding Mechanism .....                | 22 |
| VI.  Serious Constitutional Consequences Fester If Judicial Review Is<br>Deferred.....                                     | 23 |
| VII. The Court of Appeals Has Effectively Eviscerated the Constitutional<br>Safeguards Governing Special Assessments ..... | 24 |
| VIII. Leave to Appeal Is Warranted Under MCR 7.305(B).....   | 26 |
| CONCLUSION .....   | 27 |
| RELIEF REQUESTED .....   | 29 |
| WORD COUNT STATEMENT .....   | 30 |

## TABLE OF AUTHORITIES

### CASES

|  |                        |
|--|------------------------|
| <i>Al-Hajjaj v Hartford Accident &amp; Indem Co</i> ,<br>345 Mich App 361; 370; 5 N.W.3d 353 (2023).....   | 15                     |
| <i>Armstrong v United States</i> ,<br>364 US 40 (1960) .....   | 18                     |
| <i>Blades v Genesee Cnty Drain Dist</i> ,<br>375 Mich 683; 135 NW2d 420 (1965).....  | 12                     |
| <i>Bolt v City of Lansing</i> ,<br>459 Mich 152; 587 NW2d 264 (1998).....  | 9                      |
| <i>Citizens for Higgins Lake Legal Levels v Roscommon Cnty Bd of Comm'ners</i><br>341 Mich App 161; 988 NW2d 841 (2022)<br><i>lv denied</i> , 511 Mich 885; 985 NW2d 830 (2023)..... | 3                      |
| <i>Clinton v Spencer</i> ,<br>250 Mich 135; 229 NW 609 (1930).....   | 18                     |
| <i>Costa v Cmty Emergency Med Services, Inc</i> ,<br>475 Mich 403; 716 NW2d 236 (2006).....  | 3                      |
| <i>Dixon Road Group v Novi</i> ,<br>426 Mich 390; 395 NW2d 211 (1986).....   | 10, 12, 13, 16, 18, 20 |
| <i>German Lutheran Church Soc'y v Mt Clemens</i> ,<br>179 Mich 35; 146 NW 287 (1914).....  | 13                     |
| <i>In re Petition of Auditor General</i> ,<br>226 Mich 170; 197 NW 552 (1924).....   | 1                      |
| <i>In re Project Cost &amp; Special Assessment</i> ,<br>282 Mich App 142; 762 NW2d 192 (2009) .....  | 15                     |
| <i>Kadzban v Grandville</i> ,<br>442 Mich 495; 502 NW2d 299 (1993).....  | 9, 10, 14, 15          |
| <i>Lake Twp v Millar</i> ,<br>257 Mich 135; 241 NW 237 (1932).....   | 14                     |
| <i>Mich C R Co v Baikie</i> ,<br>249 Mich 138; 228 NW 525 (1930).....  | 18                     |

*New 555 Commercial, LLC v City of Birmingham*,  
\_\_\_ Mich \_\_\_; 26 NW3d 742 (2025)..... 24

*People v Gardner*,  
482 Mich 41; 753 NW2d 78 (2008)..... 14

*Pirgu v USAA*,  
499 Mich 269; 884 NW2d 257 (2016)..... 14

*Price v High Pointe Oil Co, Inc*,  
493 Mich 238; 828 NW2d 660 (2013)..... 15

*St Joseph Twp v Municipal Finance Comm’n*,  
351 Mich 524; 88 NW2d 543 (1958)..... 13

*Sun Valley Foods Co v Ward*,  
460 Mich 230; 596 NW2d 119 (1999)..... 14

*TOMRA of North America, Inc v Dep’t of Treasury*,  
505 Mich 333; 952 NW2d 384 (2020)..... 14

CONSTITUTIONAL PROVISIONS

Const 1963 art III, § 7..... 15

Const 1963, art IX, § 1 ..... 9

STATUTES

MCL 324.30701..... 3

MCL 324.30702..... 10

MCL 324.30703..... 11

MCL 324.30704..... 11

MCL 324.30707..... 12, 13

MCL 324.30711..... 2, 3, 11, 13

MCL 324.30712..... 4, 12

MCL 324.30714..... 12

COURT RULES

MCR 7.303 ..... 14

MCR 7.305 ..... 14, 26

## STATEMENT OF JURISDICTION

This Court has jurisdiction to entertain and hear this *Application for Leave to Appeal* pursuant to MCR 7.303(B)(1). A copy of the Court of Appeals' published decision being appealed and the Circuit Court's challenged underlying order are attached at **Appendix #333-346 and #177-178** respectively.

## STATEMENT OF QUESTION PRESENTED

Whether Part 307 of the *Natural Resources and Environmental Protection Act* permits a circuit court to approve special-assessment taxing authority by confirming a special assessment district's boundary before the government has ever identified a defined project, calculated project costs, or demonstrated proportional benefit to the assessed properties and its owners.

## INTRODUCTION

Special assessments are pecuniary tax exactions made by a government for a special purpose or local improvement, apportioned according to the benefits received. *In re Petition of Auditor General*, 226 Mich 170, 173-174; 197 NW 552 (1924). Special rules apply. The courts below completely failed to enforce them. This Court's intervention is required.

This matter, involving the standards of special assessment districts (SADs), challenges a serious error perpetuated by the courts below, i.e., that government may not draw special assessment district boundaries first and decide what to build, what it will cost, and who benefits later. Under properly understood Michigan common law and constitutional protections, a special assessment is a financing mechanism tethered to a defined public project, a known cost, and a demonstrable, proportional benefit to the properties assessed with a district. It cannot become a blank check or an open-ended funding authorization. Those elements are the constitutional and statutory prerequisites that distinguish a lawful special assessment from an impermissible and illegal tax.

Crawford and Roscommon Counties' Higgins Lake SAD petition, filed under Part 307 of the *Natural Resources and Environmental Protection Act* and as approved below without any real review, inverts that lawful structuring. Roscommon County Circuit Court was asked to confirm a SAD without ever identifying a specific project, without computing project costs, and without presenting any evidence of proportional benefit. The Counties' theory is that these fundamentals can be worked out and imposed after the SAD boundaries are locked in and the taxing authority secured. That approach presents a classic chicken-or-egg problem: the Counties insist they cannot define costs or benefits

until the district exists, while the law requires those very facts before a SAD may be imposed.

Special assessments are project-driven, not district-driven. MCL 324.30711(1) (“may determine by resolution that the whole or a part of the cost of a project to establish and maintain a normal level for an inland lake shall be defrayed by special assessments”). A project defines the total cost; the cost frames proportionality; and proportionality reveals who may lawfully be assessed via benefits received. By approving the counties’ Higgins Lake SAD untethered from any project (or cost), the lower courts abandoned the judiciary’s assigned required gatekeeping role and reduced the confirmation process to a procedural informality. The result is an open-ended assessment regime that strips affected property owners of meaningful due process and collapses the distinction between a special assessment and a general tax. This *Application* seeks correction of that structural error. The question presented is not merely whether the counties followed the right steps, but whether special assessments may lawfully be imposed in the absence of the very facts that justify their existence.

This case seeks to impose a known legal framework against NREPA’s Part 307 that involves (as a matter of first impression) Michigan’s 10,000+ inland lakes. The Court is asked to take up and decide whether judicial confirmation of a special assessment district can ever occur in the absence of a defined project, calculated cost, or demonstrated proportional benefit. Michigan jurisprudence – and basic constitutional principles – answers no.

## FACTS

Higgins Lake is an approximately 10,000-acre freshwater lake containing twenty-one miles of shoreline located in Roscommon and Crawford Counties. In Michigan, the levels of inland lakes are controlled after being first “established” by a circuit court judicial order under NREPA’s Part 307.<sup>1</sup> The statute is “clear and unambiguous: once a [local circuit] court has determined the normal level of an inland lake, it shall be maintained at that normal level by the responsible authority.” *Citizens for Higgins Lake Legal Levels v Roscommon Cnty Bd of Comm’rs*, 341 Mich App 161, 164; 988 NW2d 841 (2022) *lv denied*, 511 Mich 885; 985 NW2d 830 (2023). That responsible authority is known as the “Delegated Authority” of the local county. MCL 324.30701(e).

To help pay for these activities to maintain the normal level at establishment, Michigan law authorizes counties having such inland lakes to impose a specific “special assessment” upon property owners within a defined “special assessment district” or “SAD” for lake-related projects. The process is provided by statute—

The county board may determine by resolution that the whole or a part of the cost of a project to establish and maintain a normal level for an inland lake shall be defrayed by special assessments against the following that are benefited by the project: privately owned parcels of land, political subdivisions of the state, and state owned lands under the jurisdiction and control of the department.

MCL 324.30711(1).<sup>2</sup> Later, when a “county board determines that a special assessment district is to be established, the [D]elegated [A]uthority shall<sup>[3]</sup> compute the cost of the project and prepare a special assessment roll.” MCL 324.30711(2).

---

<sup>1</sup> A copy of Part 307 is attached at **Appendix #326**.

<sup>2</sup> The Roscommon County Circuit Court has established the lake level of Higgins Lake three times. The first was in 1926. **Appendix #1**. The second was in 1982. **Appendix #3**. The third time – which ultimately had a sunset provision – was in January 2009. **Appendix #5, #7-8**.

<sup>3</sup> The term “shall” in MCL 324.30711 means the statutory obligation is mandatory, not discretionary. E.g. *Costa v Cmty Emergency Med Services, Inc*, 475 Mich 403, 409; 716 NW2d 236 (2006).

When “comput[ing] of the cost of a normal level project” required of the Delegated Authority when preparing a special assessment roll, it “shall include the cost of all of the following”—the preliminary study; surveys; establishing a special assessment district, including preparation of assessment rolls and levying assessments; acquiring land and other property; locating, constructing, operating, repairing, and maintaining a dam or works of improvement necessary for maintaining the normal level; legal fees, including estimated costs of appeals if assessments are not upheld; court costs; interest on bonds and other financing costs for the first year, if the project is so financed; and any other costs necessary for the project which can be specifically itemized.” MCL 324.30712(1). The delegated authority can also include a contingent expense of “not more than 15% of the sum calculated” under MCL 324.30712(1) to cover unexpected costs. MCL 324.30712(2).

On June 12, 2023, Roscommon and Crawford Counties,<sup>4</sup> by its Delegated Authority for Higgins Lake, filed what they label as a petition to establish a lake level special assessment district and confirm the special assessment district boundaries for Higgins Lake. **Appendix #22-25**. The Petition included a map with red-colored highlights of certain properties, not identified by address, that are being sought to be included within the proposed special assessment district—

---

<sup>4</sup> A tiny portion of the north-end of Higgins Lake crosses into Crawford County.



residents, and even the courts from determining whether the Counties’ proposal, that was sought be blessed by the Roscommon County Circuit Court, “meet[s] the proportionality requirements that the common law requires in these instances for special assessment districts.” **Appendix #260** (Sept 15 Transcript at 82). This missing component is legally fatal and should have precluded the local Circuit Court from ever approving the special assessment district as presented. Yet it erroneously did so and the Court of Appeals incorrectly affirmed.

On September 15, 2023, the Roscommon County Circuit Court held a public hearing on the Petition and objections to the same. Almost immediately, the Circuit Court explained its view—

I wanna make clear to everybody here, the purpose of this hearing is required by statute. It is not a trial. Due process is satisfied by hearing—at a hearing at which all interested parties may present evidence and arguments allowing the circuit court to ensure that the county has considered the varying public interest in reaching its policy decision and protects the public against arbitrary government action. Thus, the purpose of this hearing is to appraise the public of the governmental action while providing the opportunity to present opposing viewpoints.<sup>5</sup> The focus is thus on the public welfare and not on individual riparian rights because the purpose of the special assessment district is to authorize the county to make policy decisions about the inland lake—in this case, Higgins Lake—and its lake levels and the infrastructure necessary to maintain the desired lake level. Part of this process is also for the county, through the county commissioners and their representative today, to explain and answer questions regarding the confirmation of the boundary of the [] Higgins Lake proposed special assessment district. This hearing is not about potential assessment costs, methodology to be used in maintaining a lake level, or any dam structure cost related to maintaining the lake level, or additional structure and/or improvements if any, the lake level itself, or whether that legal lake level should be amended in any way. Therefore, questions related to those topics will not be allowed.

**Appendix #187-188** (Sept 15 Transcript at 82). The Objectors objected and asserted that such thinking to be in legal error.

---

<sup>5</sup> Objector-Appellants respectfully disagree.

To support their Petition, the petitioning counties offered the testimony of a single witness, civil engineer Luke O'Brien from Spicer Engineering, who narrowly testified about his work in locating those who are lake-front property owners. That said, he was constrained because there were no defined project calculations or project costs. He thusly limited his work to only finding those properties having deeded "access" to Higgins Lake, not those who benefit from any improvement project on Higgins Lake. **Appendix #304** (Sept 15 Transcript at 126). Specifically, O'Brien expressly confirmed he was not offering any testimony about how the undefined cost of any project should be apportioned based on his identification of the approximate two thousand (2,000) lake-adjacent parcels. **Appendix #227** (Sept 15 Transcript at 49). Moreover, as the sole provided witness by the County Petitioners, he offered no testimony or evidence about any increased market value of the various affected property after any proposed improvements.

Later, dozens of citizens appeared at the hearing and spoke against the assessment. **Appendix #297** (Sept 15 Transcript at 119) (the Circuit Court judge observing that "that the general consensus of the [court]room is in opposition"). This was atop of the hundreds who objected in writing. No one, except the Petitioners and their hired-gun witness, spoke in support of the special assessment district as presented.

The fundamental appellate dispute regards the role and purpose of the objection process. In the Counties' view, they need not have a pre-planned understanding of the cost for an assessed project before having the public hearing but is something that can be "dealt with" later by the Boards of Commissioners—

[T]he assessable entities will be all of the properties within the map... [who will ultimately] receive a special assessment on their winter taxes in the event that

assessment roll is completed. There will be a separate hearing<sup>[6]</sup> as to the methodology and cost at the time that the county board moves forward with that; so, that is not going to happen this year. It will be up to the county board as to when that will happen in terms of [] a special assessment roll for Higgins Lake.

**Appendix #231**(Sept 15 Transcript at 53). Via their view going forward, the Counties “have to wait for this order” establishing the boundaries first and then be “working with the delegated authority to come up with a proposal [i.e. costs and apportionment] to the board but, ultimately, it’s the county board’s decision.” **Appendix #234, 232** (Sept 15 Transcript at **56, 54**). In other words, “the county makes this decision” later to “approve[] any roll if there is a roll, ultimately.” **Appendix #232** (Sept 15 Transcript at 54). That is backwards. See *infra*.

On appeal, the Court of Appeals affirmed by accepting, and then extending the same structural premise that governed the proceedings below, i.e., the confirmation of HL-SAD boundaries under Part 307 is a largely procedural exercise divorced from any contemporaneous examination of project definition, project cost, or proportional benefit. The panel treated the boundary-confirmation process as a threshold step that may lawfully precede, even if by months or years, any meaningful articulation of what work will be performed, what it will cost, or how those costs will be allocated among affected benefitting and non-benefitting property owners. In doing so, the Court of Appeals characterized Appellant-Objectors’ concerns about cost, proportionality, and apportionment as premature, concluding that such matters are reserved for later legislative or administrative action rather than judicial review at the confirmation stage. In opinion of persons obligated to pay (i.e. these objectors), this was in error.

---

<sup>6</sup> Later, it was explained there would be no further hearing held by the Circuit Court. **Appendix #262-263.**

Critically, the Court of Appeals reached that conclusion by reframing the nature of the objection hearing itself. Rather than viewing the hearing as a due-process checkpoint at which the judiciary was mandated to ensure that a proposed special assessment district is tethered to a defined improvement with ascertainable costs and demonstrable benefits, the panel accepted the Counties' position that no such showing is required at that stage. The effect of that holding insulates the initial creation of a special assessment district from any substantive judicial scrutiny, even where (as here) no project has been identified, no costs have been computed, and no evidence of proportional benefit has been offered. As a result, the confirmation process was reduced to a vague boundary-drawing exercise alone, leaving affected property owners without any meaningful opportunity to contest whether the proposed assessment bears the essential characteristics that distinguish a lawful special assessment from a general tax. This *Application* now follows.

### **BACKGROUND ON SPECIAL ASSESSMENTS AND PART 307**

The power to tax is exclusively vested in the Legislature. Const 1963, art IX, § 1. "A special assessment is a levy upon property within a specified district." *Kadzban v Grandville*, 442 Mich 495, 500; 502 NW2d 299 (1993). There is a "clear distinction" between what are termed "general taxes" versus "special assessments." *Id.*<sup>7</sup> "The former are burdens imposed generally upon property owners for governmental purposes without regard to any special benefit which will inure to the taxpayer. *Id.* (emphasis added).

---

<sup>7</sup> There is also a third type of money-raising device—a service fee. This "fee" is "exchanged for a service rendered or a benefit conferred, and some reasonable relationship exists between the amount of the fee and the value of the service or benefit." *Bolt v City of Lansing*, 459 Mich 152, 161; 587 NW2d 264 (1998). A common example is a storm sewer system. A "tax," on the other hand, is designed to raise revenue. *Id.*

Special assessments, on the other hand, “are sustained upon the theory that the value of the property in the special assessment district is enhanced by the improvement for which the assessment is made.” *Id.*

Against this legal backdrop, Michigan counties (and others) may not freely levy special assessments regardless of the benefit that inures to the assessed property. *Dixon Road Group*, 426 Mich at 401-403. To be an appropriate special assessment, “there must be some proportionality between the amount of the special assessment and the benefits derived therefrom.” *Id.* at 401. Without such established proportionality, the special assessment “would be akin to the taking of property without due process of law.” *Id.* at 403.

Part 307 follows this normal convention. First, the county board may “take the necessary steps to cause to be determined the normal level of the inland lake” by its own motion or “within 45 days following receipt of a petition to the board of 2/3 of the owners of lands abutting the inland lake.” MCL 324.30702(1). Before proceeding, a preliminary study is conducted by a licensed professional engineer, which “shall include all of the following”—

- a) the feasibility of a project to establish and maintain a normal level of the inland lake;
- b) the expediency of the normal level project;
- c) feasible and prudent alternative methods and designs for controlling the normal level;
- d) the estimated costs of construction and maintenance of the normal level project;
- e) a method of financing initial costs;
- f) the necessity of a special assessment district and the tentative boundaries if a district is necessary; [and]

g) other information that the county board resolves is necessary.

MCL 324.30703(1).

Then, “[i]f the county board, based on the preliminary study, finds it expedient to have and resolves to have determined and established the normal level of an inland lake, the county board shall direct the prosecuting attorney or other legal counsel of the county to initiate a proceeding by proper petition in the court of that county for determination of the normal level for that inland lake and for establishing a special assessment district if the county board determines by resolution that one is necessary as provided in section 30711.” MCL 324.30704(1). Should “[t]he county board [] determine... the cost of a project to establish and maintain a normal level for an inland lake shall be defrayed by special assessments,” it may do ultimately do so “against” those who “are benefit[ing] by the project: privately owned parcels of land, political subdivisions of the state, and state owned lands under the jurisdiction and control of the department.” MCL 324.30711(1).

When “the county board determines that a special assessment district is to be established,” the first step is that “the delegated authority shall compute the cost of the project and prepare a special assessment roll.” MCL 324.30711(1). The statute directs what “the computation of the cost” must include—“the cost of all of the following: (a) the preliminary study; (b) surveys; (c) establishing a special assessment district, including preparation of assessment rolls and levying assessments; (d) acquiring land and other property; (e) locating, constructing, operating, repairing, and maintaining a dam or works of improvement necessary for maintaining the normal level; (f) legal fees, including estimated costs of appeals if assessments are not upheld; (g) court costs; (h) interest on bonds and other financing costs for the first year, if the project is so financed; [and] (i) any other costs necessary for the project which can be specifically itemized.” MCL

324.30712(1). When making this computation, “a cost [of] not more than 15% of the sum calculated” may be added “to cover contingent expenses.” MCL 324.30712(2). Usually done at the same time is a “descri[ption] the parcels of land to be assessed, the name of the owner of each parcel, if known, and the dollar amount of the assessment against each parcel.” MCL 324.30712(2).

With the calculation in hand, due process must be provided to the affected property owners. *Blades v Genesee Cnty Drain Dist*, 375 Mich 683, 692; 135 NW2d 420 (1965) (due process requires an opportunity by those affected by a “proposed local improvement” to object that the proposal “would not specially or otherwise benefit properties owned by them and included in the special assessment district”). Thus, “the delegated authority shall set a time and place for a public hearing or hearings on the project cost and the special assessment roll” with notice by publication and otherwise provided by statute. MCL 324.30714(2); see also MCL 324.30707(2) (requiring first-class mail three weeks before the date set for the hearing to affected property owners).

At and after the hearing, the Circuit Court confirms or otherwise hears objections on the lack of “some proportionality between the amount of the special assessment and the benefits derived therefrom.” *Dixon*, 426 Mich at 401. “A determination of the increased market value of a piece of property after the improvement is necessary in order to determine whether or not the benefits derived from the special assessment are proportional to the cost incurred.” *Id.*<sup>8</sup> To be clear, the reviewing circuit court need not fix or rewrite an insufficient proposed special assessment district, but must reject the Petitioners’ request for confirmation when the proposal is non-conforming to the

---

<sup>8</sup> This Court has rejected the use of alternative methods of calculating benefits when such does not take into account an increase in the market value of the property assessed. *Dixon*, 426 Mich at 398-401.

constitutional and legal obligations for special assessment districts. A proposed special assessment can be “declared invalid when the party challenging the assessment demonstrates that ‘there is a substantial or unreasonable disproportionality between the amount assessed and the value which accrues to the land as a result of the improvements.’” *Id.* at 403. On the flip side, “there can be no justification for any proceeding which charges the land with an assessment greater than the benefits.” *German Lutheran Church Soc’y v Mt Clemens*, 179 Mich 35, 40; 146 NW 287 (1914). “It is an essential [element] of a special assessment that the improvement concerned should be of value to the property assessed in reasonable relationship to the assessment....” *St Joseph Twp v Municipal Finance Comm’n*, 351 Mich 524, 533; 88 NW2d 543 (1958). While a “rigid dollar-for-dollar balance between the amount of the special assessment and the amount of the benefit” is not required, the courts “will intervene where there is a substantial or unreasonable disproportionality between the amount assessed and the value which accrues to the land as a result of the improvements.” *Dixon*, 426 Mich at 402-403.

If there is insufficient proportionality (or other legal infirmity), the petition before the reviewing circuit court must be denied as presented. Should the statutorily defined cost calculations for the project being apportioned among “the privately owned parcels of land, political subdivisions of the state, and state-owned lands,” MCL 324.30711(1), be legally appropriate and meets the required proportionality, “[t]he court shall confirm the special assessment district boundaries” as proposed in the petition “within 60 days following the lake level determination.” MCL 324.30707(5).

As outlined above, this is how a Part 307 special assessment district is supposed to work. But as this appellate challenge presents, the Petitioners and the Roscommon County Circuit Court failed to follow or meet these procedural, constitutional, and legal mandates. Largely, the error hinges on a structural misunderstanding of how a special assessment is to be first drafted, then proposed, later reviewed, and ultimately established (with circuit court approval on confirmation). And for the Circuit Court, it is more than the simple rubber-stamp that it purported itself to be.

### STANDARD OF REVIEW

This Court has discretion on whether to grant leave on this *Application*. MCR 7.303(B)(1); MCR 7.305(H). “A special assessment is a levy upon property within a specified district” and “[a]lthough it resembles a tax, a special assessment is not a tax.” *Kadzban*, 442 Mich at 500. Instead, it is an exaction “imposed” upon citizens “to defray the costs of specific local improvements.” *Id.* While governmental decisions on special assessments are presumed to be valid, *id.*, any proposed improvement must be done “in the manner provided by law.” *Lake Twp v Millar*, 257 Mich 135, 140; 241 NW 237 (1932). “Questions of law are reviewed de novo.” *Pirgu v USAA*, 499 Mich 269, 274; 884 NW2d 257 (2016). Courts must interpret statutes according to the Legislature’s plainly expressed meaning; in other words, courts must apply statutes as written. *People v Gardner*, 482 Mich 41, 50; 753 NW2d 78 (2008). If the statutory language is clear and unambiguous, judicial construction is neither necessary nor permitted. *Sun Valley Foods Co v Ward*, 460 Mich 230, 236; 596 NW2d 119 (1999). Statutory schemes must be read as a whole. *TOMRA of North America, Inc v Dep’t of Treasury*, 505 Mich 333, 339; 952 NW2d 384 (2020).

Under our Constitution of 1963, common-law principles remain in effect “until they expire by their own limitations, or are changed, amended or repealed.” Const 1963 art III, § 7; see also *Price v High Pointe Oil Co, Inc*, 493 Mich 238, 258-259; 828 NW2d 660 (2013). “With respect to questions involving a statute, this means that this Court must read the statutory language in light of the common law except to the extent that the Legislature has abrogated or modified it.” *Al-Hajjaj v Hartford Accident & Indem Co*, 345 Mich App 361; 370; 5 N.W.3d 353 (2023).

When an objector presents evidence rebutting the presumption of validity (i.e. not being in compliance with the law), “the burden of going forward with evidence shifts to the” government. *Kadzban*, 442 Mich at 505 fn5. “At that point,” the petitioning government must “present evidence proving that the assessments are reasonably proportionate in order to sustain the assessments.” *Id*. While a public hearing is mandated, the process “does not require a full trial.” *In re Project Cost & Special Assessment*, 282 Mich App 142, 150; 762 NW2d 192 (2009).

### THE HIGGINS LAKE SAD PETITION

A careful review of the circumstances leading up to the September 15, 2023 hearing is necessary. On June 12, 2023, Roscommon and Crawford Counties filed their petition, through their delegated authority, purporting that “MCL 324.30704 allows” these counties “to initiate a petition to establish a lake level special assessment district if the county board[s] of commissioners determines that one is necessary.” **Appendix #23**. Included with the petition was a “map” depicting the “tentative recommended special assessment district boundaries” and asked the Roscommon County Circuit Court “fix a date for a public hearing on this Petition pursuant to MCL 324.30707 and, “[f]ollowing the

hearing, enter an Order Establishing the Special Assessment District and Confirming the Special Assessment District Boundaries for Higgins Lake.” **Appendix #23-24**. Fatally not included (and what is argued to be fatally not included) was any computation of the cost of the project that the special assessment district was supposed to be paying for or any determination of the increased market value of the affected pieces of properties will have after the improvement, which binding case law has explained “is necessary.” *Dixon*, 426 Mich at 401. As counsel for the Counties conceded at the hearing—

[T]he assessable entities will be all of the properties within the map... [who will ultimately] receive a special assessment on their winter taxes in the event that assessment roll is completed. There will be a separate hearing as to the methodology and cost at the time that the county board moves forward with that; so, that is not going to happen this year. It will be up to the county board as to when that will happen in terms of [] a special assessment roll for Higgins Lake.

**Appendix #231** (Sept 15 Transcript at 53). From Objectors’ view in this appeal, that is backwards. The Circuit Court’s hearing by MCL 324.30714(2) was specifically designated by the Legislature to hear and decide objections “on the [proposed] project cost and the [proposed] special assessment roll.” Without the any specificity or declaration about what the project is defined as encompassing; a computation of its costs; or any evidence of what would be increased market value of the pieces of properties affected, there was nothing available for the Circuit Court to use to legally determine whether the benefits (which in this case were not shown) derived from the special assessment are proportional to the [undefined] cost to be incurred. **Appendix #262** (Sept 15 Transcript at 84). This disconnect was at the heart of nearly every objection made by those who spoke at or submitted a written statement to the Circuit Court. E.g. **Appendix #120**.<sup>9</sup>

If adopting the Counties’ view, the process is to determine the special assessment

---

<sup>9</sup> No one supported the Counties’ petition for the SAD.

district *first* and let the governmental taxing entities figure out later how much money (with no limit) it will impose *later*, coupled with no review by the Circuit Court at the required public hearing. The Circuit Court and the Court of Appeals' panel erroneously bought into this notion by proclaiming itself to have no real role in this statutorily-directed (but constitutionally mandated) process. **Appendix #120** (“[T]his court has no role in assessing the tax. \*\*\* Zero. I’m not part of that process at all. I’m not the tax man.”). Objectors assert such to be grievous error. The Court of Appeals did not correct the error.

### ARGUMENT

The lower courts' interpretation of Part 307 rests on and was built upon a sequential approach that cannot be squared with Michigan law on special assessments: that at the stage where a circuit court is asked to confirm a special assessment district, the circuit court is not required (or even permitted) to evaluate whether the district is tethered to a defined project, a computed cost, a demonstrable benefit, or a rational method of apportionment. Under that untenable reading, the confirmation process is reduced to a procedural checkpoint concerned only with boundary drawing, while all substantive review is deferred to an indeterminate future stage.

That interpretation is legally erroneous because it misconceives the nature of judicial confirmation of special assessment districts. Confirmation of a SAD is not a routine clerical act. It is the moment at which the judiciary confers legal legitimacy on the government's exercise of the narrow and constitutionally sensitive power to impose a non-uniform financial burden on a defined subset of property owners who have not received any benefit. When a circuit court confirms a special assessment district, it does more than acknowledge the existence of lines on a map. It authorizes the use of coercive fiscal

authority by local taxing governments within those lines. The law therefore requires that the court ensure the legal predicates for that authority exist at the time confirmation is granted. By holding otherwise, the lower courts effectively stripped the confirmation process of any substantive content and deprived property owners of the only judicial forum in which the legality of their inclusion in the district may be meaningfully tested.

**I. Special Assessments Are Constitutionally Tolerated Only Because They Are Project-Driven and Proportionate**

Michigan law has long recognized a sharp distinction between general taxation and special assessments. That distinction is not semantic; it is constitutional. General taxes are imposed broadly for general governmental purposes. Special assessments, by contrast, are permitted only because they are justified by a specific proportional benefit conferred on the assessed property that is distinct from the advantage enjoyed by the public at large. As this Court has confirmed, anything else renders the faulty process unconstitutional, *Dixon*, 426 Mich at 403, it forces “some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.” *Armstrong v United States*, 364 US 40, 49 (1960). After all, when a special assessment district “include[s] property which is not and cannot be benefited directly or indirectly, including it only that it may pay for the benefit to other property, there is an abuse of power and an act of confiscation.” *Clinton v Spencer*, 250 Mich 135, 153; 229 NW 609 (1930). When an assessment is arbitrary or unjust, it must be rejected. *Mich C R Co v Baikie*, 249 Mich 138, 146; 228 NW 525 (1930).

That confirmation of sufficient justification is the legal condition precedent for the assessment’s validity. A special assessment must therefore be project-driven. A defined project establishes a cost; the cost frames proportionality; and proportionality determines

who will benefit and, in turn, who may lawfully be assessed and in what equitable amount. This sequence is not optional. It is the structure that prevents a special assessment from becoming an unconstitutional selective tax.

The counties' interpretation of NREPA's Part 307 SAD provisions adopted below inverts that structure. Under it, district boundaries are fixed first, taxing authority is secured first, and the facts that purportedly justify the district or the assessment are deferred until later (or never judicially reviewed at all). That inversion severs the constitutional safeguards and any meaningful judicial review of the justification for the assessment and leaves nothing but the exercise of raw taxing power against a politically defined subset of property owners. It becomes the taking this Court warned of in *Dixon*.

Moreover, by the Roscommon County Circuit Court disclaiming any role in assessing legality, proportionality, or benefit at the confirmation stage, it did not merely err – it abdicated a judicial function assigned by statute and required by the Constitution. Part 307 does not ask courts to levy taxes, but it does require courts to determine whether the extraordinary power to impose a selective exaction may lawfully be exercised at all. Treating confirmation as a ministerial boundary-drawing exercise collapses that distinction and converts judicial review into a nullity.

## **II. Deferring Project Definition and Cost Calculation Denies Due Process**

The Counties' theory creates a legal impossibility. They insist that costs and benefits cannot be known until a district exists, while the law requires those facts first to justify the district's existence. That circularity is not a factual problem—it is a constitutional one. The approach approved by the courts below assumes that due process is satisfied so long as property owners, now within a SAD with unknown cost or benefits, are "promised" a future opportunity to challenge an assessment after a Part 307 SAD has

been confirmed. That is fundamentally flawed. This Court has said as much. *Dixon*, 426 Mich at 402-403. (“a failure” of courts “to require a reasonable relationship between” “the amount of the special assessment and the amount of the benefit” “would be akin to the taking of property without due process of law”). Once a special assessment district is confirmed, property owners are no longer contesting whether they may be subjected to special assessment authority at all. That decision has been resolved against them. At that point, any later hearing concerns only hit the checkbook, i.e., how much will be charged, how it will be billed, or when payment will be due. It does not permit whether those persons should be forced to open their wallets in the first place. The error here is that the core question of whether the property (and by extent its owner) may lawfully be placed within a special assessment regime has already been foreclosed.

Meaningful due process requires notice and an opportunity to be heard at a time when the hearing can still influence the outcome. Interpreting Part 307 to prohibit inquiry into project definition, cost, benefit, or proportionality at the confirmation stage ensures that no such opportunity exists. Property owners are compelled to accept inclusion first and litigate legality later, after institutional momentum has hardened and financial expectations have formed. That is not due process. It is procedural formality without constitutional substance.

### **III. The Statutory Timeliness Requirement Is Substantive, Not Merely Procedural**

Part 307 expressly ties confirmation of special assessment district boundaries to a lake-level determination within a defined temporal window. That temporal limitation reflects legislative judgment that the extraordinary power to impose special assessments must be closely connected in time to the governmental action that purportedly necessitates them.

The interpretation adopted below regarding Part 307 treats this limitation as effectively optional, permitting counties to seek the implementation of new selective taxes years or decades after the relevant boundary determination on the theory that no assessment has yet been levied. That reading rewrites the statute. Timeliness is a substantive safeguard that prevents open-ended assertions of taxing authority from being divorced from the conditions that allegedly justify them. Here, the harm does not arise when the first dollar is collected. It arises when property is subjected to a SAD regime without proper constitutional, statutory, or lawful authorization. Delay does not cure that defect; it entrenches it.

#### **IV. Apportionment and Benefit Are Structural Requirements, Not Future Administrative Details**

Equally erroneous is the premise that allocation, apportionment, and benefit analysis may be held in abeyance until later because, in the lower courts' view, no assessment roll has yet been prepared. Again, that is backwards under required special-assessments review standards. Michigan law has never permitted special assessments to be justified by later administrative discretion without prior review. Assessments must be levied and confirmed according to benefits received, and that principle must be reflected in the structure of the district itself.

Confirming a SAD without any defined method of apportionment invites precisely the abuse this Court says Michigan law forbids. Some properties may be required to subsidize benefits conferred on others. Some may be compelled to pay for improvements from which they receive no cognizable benefit at all. Once district boundaries are fixed, those inequities are no longer hypothetical. They are permanently embedded.

Judicial review at the SAD confirmation stage is therefore indispensable. It is the only point at which a court (and those being proposed to be assessed) can determine whether the proposed district reflects a rational and constitutional relationship between benefit and burden or whether it is arbitrary and confiscatory.

**V. The Counties' Interpretation Converts a Special Assessment Into a Perpetual Funding Mechanism**

The Counties' approach produces a further and deeply troubling consequence that many around Higgins Lake hear. It transforms what is meant to be a finite, project-specific financing tool into a standing renewable funding mechanism of unlimited exaction. By confirming a district untethered from any defined project, cost, or temporal limitation, the Counties secure the legal authority to perpetually and self-selectively levy assessments in the future without returning to the judiciary for meaningful review.

Under this model, the SAD exists independently of any particular improvement. Funds may be collected, accumulated, and redeployed so long as the expenditure is nominally connected to the district. Nothing in the statute, as construed by the Counties, requires that the authority expire upon completion of a project or that a new judicial determination be made for new expenditures. In practical effect, the district becomes a never-empty fund only to be replenished as needed by governmental fiat, all without contemporaneous judicial scrutiny.

That structure is completely foreign to Michigan special assessment law. A lawful special assessment is finite by design. It exists to finance a particular improvement, for a defined cost, over a defined period, and it terminates when that purpose is satisfied. The Counties' interpretation removes each of those limiting principles and replaces them with administrative discretion insulated from judicial oversight.

## **VI. Serious Constitutional Consequences Fester If Judicial Review Is Deferred**

When funds may be collected without a defined endpoint, without a defined improvement, and without a contemporaneous showing of proportional benefit, the assessment ceases to function as compensation for a localized benefit and instead operates as a selective tax. Property owners are no longer paying for a specific enhancement to their property; they are underwriting an open-ended governmental program whose scope and cost are determined later, outside the safeguards of judicial review.

If Part 307 were read to authorize this result, it would quietly but fundamentally alter the nature of special assessments in Michigan. It would permit counties to create standing assessment districts that function as perpetual funding instruments, insulated from meaningful judicial oversight at the only stage where such oversight can be effective. The statute should not—and need not—be read to produce that outcome.

Objector-Appellants seek leave in this case to reestablish that Part 307 must be construed to require that, at the boundary confirmation stage, a proposed special assessment district be anchored to a defined project, with computed costs, demonstrated benefits, a rational method of apportionment, and compliance with statutory timeliness. That construction preserves the statute's constitutionality, honors the judiciary's gatekeeping role, and protects property owners from arbitrary exactions. Courts must construe Part 307 to require contemporaneous project definition, cost calculation, and benefit analysis at the confirmation stage in order to avoid serious due-process and taxing-power concerns.

The lower courts' refusal to enforce those limits was legal error. Leave to appeal to correct Michigan jurisprudence is appropriate and seriously warranted.

## VII. The Court of Appeals Has Effectively Eviscerated the Constitutional Safeguards Governing Special Assessments

This case is not an isolated misapplication of Part 307. It reflects a broader and accelerating pattern in which the Michigan Court of Appeals has steadily stripped special-assessment law of the constitutional and common-law constraints that give it legitimacy. The decision below represents the most extreme point on that troubling trajectory.

That erosion is already before this Court as a MOAA in the case of *New 555 Commercial, LLC v City of Birmingham*, which is examining the meaning of benefits and proportionality under *Dixon* and *Kadzban*. \_\_\_ Mich \_\_\_; 26 NW3d 742 (2025). In that case, the Court of Appeals upheld a sidewalk and streetscape special assessment without requiring proof of a concrete, particularized benefit to the assessed parcels. Rather than demanding evidence that the improvements increased the value of the specific properties charged, the panel accepted generalized assertions of walkability, aesthetics, and economic vitality as sufficient. In doing so, the Court of Appeals shattered the core requirements articulated in *Dixon* and *Kadzban* that a special assessment is constitutionally tolerable only because it is tied to a demonstrable, proportionate benefit conferred on the assessed property itself. This Court's decision to consider the application in *New 555 Commercial* reflects recognition that the doctrine has drifted from those foundations.

However, the present Higgins Lake SAD goes even further and more dangerously so. Here, the panel did not merely accept abstract or generalized notions of benefit. It held, in substance, that no meaningful judicial review of benefit, cost, or proportionality is even required at the time a SAD is adopted and confirmed. Under the decision below, a circuit court may approve the creation of a special assessment district even though the

government has literally identified no defined project, computed no costs, and offered no evidence of benefit (particularized or otherwise) to the properties swept within the district.

Such a published holding does not merely relax the standards governing special assessments; it effectively abolishes them. If a special assessment district may be confirmed without any contemporaneous showing of project definition, cost, or proportional benefit, the constitutional distinction between a special assessment and a general tax collapses. Judicial confirmation becomes a standardless boundary-drawing exercise divorced from its constitutional function, and the judiciary's gatekeeping role disappears at the precise moment when coercive taxing authority is being authorized.

Read together, *New 555 Commercial* and this case reveal a clear and disquieting progression. In the former, the Court of Appeals permitted special assessments to rest on inferred and generalized benefits untethered from property-specific proof. In this case, it sanctioned a regime in which benefit analysis was deferred and disavowed altogether, i.e. postponed until after the district's boundaries are fixed. That progression is not a matter of statutory interpretation. It is a doctrinal abandonment that places special-assessment practice on a destructive collision course with Michigan's Constitution.

Michigan law has never permitted special assessments to be justified by assumption, anticipation, or administrative convenience. Benefit and proportionality are not aspirational concepts to be filled in later; they are constitutional prerequisites that must exist before a court may authorize the selective imposition of financial burdens on property owners. A circuit court may not confirm a special assessment district unless the government demonstrates, at the time of confirmation, the existence of a defined project, an ascertainable project cost, and a rational basis for concluding that the assessed

properties will receive proportional benefit. By affirming confirmation of a SAD in the absence of those prerequisites, the Court of Appeals committed serious legal error warranting this Court's intervention.

**VIII. Leave to Appeal Is Warranted Under MCR 7.305(B)**

Leave to appeal is warranted under MCR 7.305(B) because this case presents a controlling question of law of significant public importance concerning the scope of judicial review required before a special assessment district may be confirmed. See MCR 7.305(B). The Court of Appeals' decision adopts an interpretation of Part 307 that removes project definition, cost calculation, benefit analysis, proportionality, apportionment, and timeliness from judicial scrutiny at the confirmation stage. That construction does not merely affect the parties here. It alters the framework governing special assessments statewide, authorizing counties to secure taxing authority first and justify it later. Clarification from this Court is necessary to ensure uniform and logical application of Michigan's special-assessment law (like found in Part 307) and to preserve the constitutional limits that distinguish special assessments from general taxation.

This Court is presently considering the meaning of "benefits" and the proportionality requirement in special-assessment jurisprudence in *New 555 Commercial* addressing, among other issues, whether "benefits" was properly interpreted under *Dixon* and whether a genuine factual dispute existed regarding proportionality under *Kadzban*. The legal question presented here is different in statutory setting but parallel in constitutional structure: whether a circuit court may confirm a special assessment district where the government has identified no defined project, computed no costs, and offered no evidence of proportional benefit. This case presents a perfect concurrent or subsequent appellate vehicle to further clarify that "benefit" and proportionality are not

aspirational concepts to be filled in later, but prerequisites that must exist at the point judicial confirmation is sought.<sup>10</sup>

Leave is appropriate as the decision below creates a substantial risk of constitutional error that will otherwise evade timely review. Under the Court of Appeals' approach, property owners are denied any meaningful opportunity to challenge the legality of their inclusion in a special assessment district before that inclusion becomes final and coercive. By the time later proceedings occur, the foundational questions, i.e., whether a project exists, whether benefits are proportional, whether apportionment is lawful, and whether the district was timely and properly formed, will already be foreclosed and etched in taxing stone. This Court need not resolve every disagreement in special-assessment jurisprudence to decide this case; it need only reaffirm that judicial confirmation cannot precede the existence of the facts that constitutionally justify a special assessment. This Court's intervention will not only correct the error in this case, but prevent the degradation of the SAD boundary confirmation process itself from becoming a mechanism that systematically insulates unconstitutional special assessments from proper due process or judicial oversight.

### **CONCLUSION**

This case is not about policy preferences, administrative convenience, or the wisdom of maintaining the legal level of Higgins Lake. It is about limits on government funding schemes. Michigan law permits special assessments (as opposed to a tax) only when the government can point to a defined project with a reasonably-known cost that

---

<sup>10</sup> This Court should strongly consider hearing this case together with *New 555 Commercial*. At minimum, this Court should hold this *Application* in abeyance pending disposition of *New 555 Commercial*, because the forthcoming guidance on benefits and proportionality will clearly bear directly on the legal framework the Court of Appeals applied here.

has a demonstrable proportional benefit by those paying the assessment. Those requirements are not formalities. They are the constitutional price of permission to assess rather than tax. When absent, what remains is not a special assessment, but a selective tax imposed by anticipation rather than justification.

In short, under Part 307, a local circuit court may not confirm a special assessment district unless the record before it identifies a defined project to be undertaken, provides a reasonably ascertainable estimate of the project's cost, and permits judicial evaluation of whether the properties included within the district are alleged to receive a special benefit from that project. A district confirmation proceeding limited to approval of SAD boundaries alone, in which all substantive objections are deferred to a later time, is inconsistent with the plain reading of the statutory structure of Part 307 and, when read in this matter, violates the constitutional guardrails to assure an assessment does not become an unlawful tax.

The Court of Appeals' interpretation adopted below (and became precedent for millions of dollars of current and future assessments across 10,000+ inland lakes) turns that framework on its head. Part 307 does not authorize a "boundaries-only" confirmation that excludes the very predicates that distinguish a special assessment from a general tax—and the panel's split is a judicial invention with major due process consequences. It authorizes money-hungry counties to lock in taxing authority first and explain themselves and their projects later – whether wanted or not by those who must pay the assessment. It converts judicial confirmation into a boundary-drawing exercise, sidelines due process at the moment it matters most, and replaces finite, project-based assessments with open-ended fiscal discretion. That is not how special assessments have ever worked in

Michigan, and it is not how they can ever work consistent with constitutional limits imposed by this Court and the Michigan Constitution.

This Court need not invent new doctrine to resolve this case. It need only reaffirm the well-understood proposition that special assessments districts must be sufficiently justified by a defined project before they are created, not after. If left unreviewed, the decision below will govern confirmation proceedings for thousands of inland lakes and other Part 307 districts statewide. Because the courts below sanctioned a process that abandons well established special-assessments principles, leave to appeal should be granted on this case.

#### **RELIEF REQUESTED**

This *Application* presents a perfect vehicle for needed clarification and dovetails with issues presently before the Court concerning the constitutional limits governing special assessments, including those implicated in *New 555 Commercial*. Full court review will ensure that Michigan's special-assessment structuring remains anchored to its historical and constitutional foundations and that Part 307, as one type of SAD scheme, is applied in a manner consistent with due process and established limits on selective taxation. Objector-Appellants around Higgins Lake request that this Court grant leave to appeal here and, if appropriate, hear this case together with or subsequent to *New 555 Commercial* to re-establish that a special assessment district may not be confirmed absent a defined project, computed costs, and a showing of proportional benefit.

Date: January 25, 2026

RESPECTFULLY SUBMITTED:

*Philip L Ellison*

OUTSIDE LEGAL COUNSEL PLC  
PHILIP L. ELLISON (P74117)  
PO Box 107  
Hemlock, MI 48626  
(989) 642-0055  
pellison@olcplc.com

Counsel for Objector-Appellants

**WORD COUNT STATEMENT**

The body of the filing consists of 8,263 words as determined by the Word Count feature in the Microsoft Word computer program.