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SPECIAL ASSESSMENTS - MICHIGAN

[Kane v. Township of Williamstown](#)

Court of Appeals of Michigan - July 11, 2013 - N.W.2d - 2013 WL 3481342

The voters in Williamstown Township approved a proposal to allow for “the creation of a special assessment district under 1951 PA 33, as amended, in order to raise money by special assessment for furnishing police protection.”

The Williamstown Township Board of Trustees adopted Resolution 2010-96, which provided that the special assessment on residential property would be \$150, the special assessment on commercial property would be \$250, and the special assessment on vacant property would be \$0.

Thereafter, petitioner received a tax bill requiring payment of \$150 on his residential property and \$250 on his commercial property. Petitioner appealed to the Michigan Tax Tribunal, arguing that any such special assessment must be based on each property’s taxable value and not a uniform fee.

At issue was whether MCL 41.801, which indisputably permits a township to assess an ad valorem (according to value) special assessment, also permits a township to assess and implement a uniform-fee special assessment. The court of appeals concluded that it does.

The salient portion of the provision requires the township supervisor “to spread the assessment levy on the taxable value of all of the lands and premises in the district that are to be especially benefited by the police and fire protection, *according to benefits received*” (Emphasis added.) As a result of the statute’s plain language requiring that any assessments be based “according to the benefits received,” if a township determines that the properties in the district are all to benefit equally, then those properties will need to be assessed equal amounts as a matter of law.

Petitioner contended that because the assessments must be levied “on the taxable value of all the lands,” any such assessments must be ad valorem and not uniform. However, the court held that spreading the assessment levied on taxable value is not the same as basing the assessment on taxable value.