

# ASK THE EXPERTS

*If you have a question about water related issues, riparian rights, and/or lakes and streams, etc., let us know by email or snail mail.*

**Email:** [swagner@mlswa.org](mailto:swagner@mlswa.org)

**Mail:** The Michigan Riparian  
300 N. State St., Suite A,  
Stanton, MI 48888

**Question:** Has any lake association asked to be taxed as a special assessment district to pay for preservation of the lake frontage or island property? Is this a legal option for an association looking to prevent over-development of their lake?

Thanks for any help on this topic you can provide. - Woody

**Answer:** There seems to be some confusion among lay people regarding conventional real property taxes and special assessments. Every piece of real property in Michigan is subject to real property taxes unless there is a specific exemption in Michigan statute for a particular property. Special assessments are not as common and there may not even exist a special assessment district in a particular township. In general, governmental units are exempt from real property taxes. As for nonprofit organizations such as lake associations, charities, social organizations, etc., some are exempt from real property taxes and others are not. In order to be exempt from real property taxes in Michigan, an organization must generally be both nonprofit and charitable in nature. The organization must be chiefly organized to provide charity, mainly to the public at large, and often must provide services that lessen the burden of government. Wexford Medical Group v. Cadillac, 474 Mich 192 (2006). Private clubs often fail the charitable test because they are limited to members of the club, even though there may be an ancillary benefit to the public. Accordingly, churches, conventional charities, the YMCA and YWCA and similar organizations are normally exempt from real property taxes. However, organizations such as lake associations, social clubs and similar organizations are normally not exempt from real property taxes in Michigan because, although they might be "not for profit", they tend to benefit their members and are not primarily charitable in nature. With the exception of potentially other governmental units, all land owners are normally subject to a special assessment if the property is within a specific special assessment district. In most cases, the payment of real property taxes is potentially deductible from the land owner's federal income taxes, whereas special assessments typically are not deductible. Please keep in mind that these are general rules only and may not apply with regard to a particular piece of real property or in a given situation.

Clifford H. Bloom, Esq.  
Bloom Sluggett Morgan, PC  
Grand Rapids, Michigan  
[www.bsmlawpc.com](http://www.bsmlawpc.com)

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Our experts include our riparian attorney, a biologist, a limnologist, an engineer, a college professor and a state agency official. They look forward to responding to your question.