

**SMITH & JOHNSON, ATTORNEYS**

PROFESSIONAL CORPORATION  
SIX HUNDRED THREE BAY STREET  
POST OFFICE BOX 705  
TRAVERSE CITY, MICHIGAN 49685-0705  
TELEPHONE: (231) 946-0700  
FACSIMILE: (231) 946-1735  
LANSING: (313) 482-5142

LOUIS A. SMITH\*  
H. WENDELL JOHNSON\*  
ALLEN G. ANDERSON\*\*  
TIMOTHY P. SARTII  
KENNETH M. PETERSON  
L. PAGE GRAVES  
ANDREW K. SHOTWELL  
BRADLEY D. WIERDA

INTERNET  
[www.Smith-Johnson.com](http://www.Smith-Johnson.com)

\*ADMITTED DISTRICT OF COLUMBIA  
\*ADMITTED STATE OF MINNESOTA  
\*ADMITTED STATE OF WISCONSIN

April 13, 2018

E-MAIL ADDRESS  
[h.johnson@smith-johnson.com](mailto:h.johnson@smith-johnson.com)

*Writer's Direct Fax:*  
**231/946-9441**

**VIA EMAIL**

Melissa N. Collar  
Warner Norcross & Judd LLP  
111 Lyon Street NW  
Suite 900  
Grand Rapids, MI 49503-2413

Re: Pending Legislation to Expand Exemptions from Uncapping for Real Estate  
Distributions from Partnerships  
House Bill No. 5546

Dear Ms. Collar:

It was a pleasure speaking with you earlier this week, and I accept your invitation to submit information regarding pending H.B. 5546. The purpose of this letter is to request the assistance of the Real Property Law Section in supporting legislation introduced February 13, 2018 by Representative Larry Inman. I will include with this letter a copy of the face sheet of H.B. 5546, a copy of page 8 where a technical clarification is proposed for MCL 211.27a(7)(b), and page 18 containing a proposed new exemption from uncapping at MCL 211.27a(7)(y).

The proposed exemption is narrowly drafted to treat distributions from partnerships used for estate planning purposes (rather than exclusively business purposes) the same as distributions from trusts and wills. Historically, estate planners used general partnerships and limited partnerships to minimize federal gift and estate taxes on lifetime and testamentary gifts. However, at this time, the objective of avoiding estate and/or inheritance taxes are frustrated by the Michigan "transfer of ownership" uncapping requirements.

The proposed amendment is needed to avoid unfair treatment of partnerships created prior to 1994 to hold residential real property for estate and for succession planning purposes. On March 15, 1994, Michigan adopted Proposal A, amending Const. 1963, art 9, Section 3 which limited increases in property taxes, absent a transfer of ownership. Currently, exemptions from "transfer of ownership" exist for distributions from a trust [MCL 211.27a(6)(d)] or distributions under a will or through intestacy [MCL 211.27a(6)(f)]. Like wills and trusts, partnerships were a common estate planning vehicle used to transition real estate to other generations. Partnerships offered different

**SMITH & JOHNSON, ATTORNEYS  
PROFESSIONAL CORPORATION**

April 13, 2018  
Page 2

benefits than wills and trusts, such as maintaining family control of family assets, consolidating fractional interest in family assets, and protecting assets in the event of failed marriage. The proposed amendment would treat partnerships established for estate planning purposes before Proposal A in a similar manner to trusts and wills when distributing real estate to family members. Exempting partnership distributions in this manner is within the spirit of law, which now generally allows transfers to family members without uncapping the taxable value of residential real property. Families seeking to transition residential real property out of a partnership to family members should not be penalized for initially choosing a partnership as the estate planning vehicle used to accomplish that purpose. The proposed exemption would allow more families to keep residential real property in the family, as intended.

We request that the pending legislation be included in the Legislative Report issued by the Section, together with the newsletters and upcoming issues of the Michigan Real Property Review. Any other support would likewise be appreciated.

Thank you for your attention to this request.

Very truly yours,

  
H. Wendell Johnson

HWJ/pjt  
Enclosures