

The Special Assessment

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The theory of the special assessment law is that each parcel of land shall be assessed its proportionate share of the cost of the improvement, but an amount that does not exceed its benefits. The first step in the application of this theory is to determine the cost of the improvement, and next the total of the benefits to all lands. The proportion of the total cost to the total benefits is the proportion that should be used to determine the assessment against each parcel of land.

The making of a special assessment is known as a proceeding "in rem," which means that it is to the land, not to the owner. It is, therefore, necessary in determining the benefits to a parcel of land first to consider the physical condition of the land before and after the improvement is made. The mental condition of the owner should not be considered.

The physical effects of the improvement on each parcel will be a guide in estimating the market value of the parcel before and after the improvement is made. The increase or decrease in the market value of a parcel of land determines the benefits or damages, in most cases. There is an exception in the case of a railroad right-of-way and also in the case of a highway right-of-way, neither of which has a market value because of its restricted use. In both these cases the effect of the improvement on the maintenance costs determines the benefits or damages.

There are several methods of applying these theories and rules in the actual preparation of the assessment roll. The method which I prefer is, after the plans and estimate are complete, to take a plan drawing into the field, view each parcel, and indicate on the plan, by letter or number, the classification of benefits for that parcel. I usually employ four or five classifications. The next step is to total all the acres in each classification; rates can then be selected which will determine the total benefits to all lands. The proportionate rates for each classification can then be applied to each parcel. In estimating the benefits, the land should be considered for its highest and best use.

An assessment for the "re-clean" of an established ditch should follow the previous assessment very closely, and any variation should be fully justified. The previous assessment, having been confirmed by a court and accepted by the interested parties, should not be lightly changed. A "re-clean" is maintenance and preservation of the original benefits.