



Tom Barrett
Mayor

Sharon Robinson
Director of Administration

Department of Administration
Intergovernmental Relations Division

City of Milwaukee Testimony on SB 291
Senate Committee on Revenue, Financial Institutions, and Rural Issues
August 30, 2017

The City of Milwaukee supports SB 291 because it will provide the much-needed clarity that assessors need to accurately assess leased property. The bill will codify the best practice language that currently exists in the Wisconsin Property Assessment Manual.

The Wisconsin Supreme Court based its decision in *Walgreen Company v. City of Madison* on the assumption that Walgreens was paying above-market rents. In reality, there is market segmentation rather than “above” market rent and these retail stores are paying market rent within their segmentation; e.g. pharmacies, fast foods, and most leased properties. The fact these rents are continually paid is proof the market is working and current rents are typical of the market segment.

According to the Wisconsin Property Assessment Manual, Wisconsin assessors are required to rely on actual sales when setting assessments but the Walgreens decision dictates otherwise. As one example, in 2015 a Walgreens in Milwaukee sold for \$4.3 million but is currently assessed at \$2.5 million. In addition, the owner is currently seeking a further reduction to \$1.5 million for what would be a total reduction of 66% below the sale price. Additional sales of similar stores show sale prices ranging from \$4.2 million to \$8.95 million. In these cases the owners are seeking assessments of \$1.3 million to \$2.2 million. Taken together they are seeking an average of 70% reduction in value from their actual sales. These entities are emboldened by the court decision and seek reductions year after year on the same properties.

Occupant	Address	Sale Month	Sale Year	Sale Price	2017 Assessed Value	Owner's 2017 Opinion of Value	% Below Sale Price
Walgreens	6442 N 76 th	3	2015	\$ 4,375,000	\$ 2,543,000	\$ 1,500,000	-66%
Walgreens	5201 N 91 st	12	2014	\$ 5,696,255	\$ 1,733,000	\$ 1,300,000	-77%
Walgreens	2222 W CAPITOL	12	2016	\$ 4,203,206	\$ 2,443,000	\$ 1,500,000	-64%
Walgreens	2625 W NATIONAL	6	2015	\$ 8,950,000	\$ 2,740,000	\$ 2,200,000	-75%
Walgreens	6030 W OKLAHOMA	12	2014	\$ 6,193,986	\$ 2,329,000	\$ 2,100,000	-66%
Walgreens	4730 S 27 th	4	2015	\$ 5,958,507	\$ 2,248,000	\$ 1,900,000	-68%
				\$ 35,376,954	\$ 14,036,000	\$ 10,500,000	-70%

Homeowners pay taxes based on the values derived from actual or comparable sales and do not receive a 70% reduction in their assessments. If homeowners have to pay taxes on the values derived from sale prices, why shouldn't the pharmacies, fast food restaurants and other leased properties also pay taxes based on values derived from their sale prices? It is clear that **the current process is not equitable** as it relates to these leased properties.

The City of Milwaukee has already reduced values for these properties by nearly \$130 million dollars which has resulted in an approximate \$2.5 million annual property tax shift from these property owners to residential and other property owners. Additionally, as the result of settlement agreements, we have had to refund over \$6 million in property taxes to these properties which again is borne by all other property taxpayers.

The lack of clarity between the Supreme Court decision and the Wisconsin Property Assessment Manual as to how to assess these properties causes recurring appeals throughout the state. The owners of most of these properties appeal the assessments every year which further increases the municipality's costs to manage the assessment process.

I encourage you to support SB 291 to remedy the inconsistency between case law and the Wisconsin Property Assessment Manual. These leased properties' values should be based on actual sales to provide equity for all taxpayers.

Thank you for your consideration.

For more information please contact:
Brenda Wood, Intergovernmental Policy Manager
414-286-2371(w), 414-339-9054 (cell)
bwood@milwaukee.gov

To: The Senate Committee on Revenue, Financial Institutions and Rural Issues
From: Monona Alder Jennifer Kuhr, City Administrator April Little, and Walter Ostrenga,
City of Monona Police Chief
Date: August 30, 2017
RE: Dark Store Hearing

The City of Monona is a small, land locked community with very limited growth located in Dane County. Being surrounded by the City of Madison, we have the same type of criminal activity. Monona's population is currently 7,864, the oldest in Dane County with a median age is 45.9; 34% of Monona households depend on income from social security.

The Monona Police Department has 20 full time sworn officers. Based on population, we are over staffed; based on call volume, we are **understaffed**. On a normal shift we only have two officers on patrol. In 2016 our officers responded to 18,764 calls for service.

Based on population, we normally lead the state in retail theft complaints. (See the handout for calls at big box stores).

As you can see in the reports, in addition to retail theft, big box stores generate high numbers of theft, 911 disconnects, check persons, ambulance calls, frauds, warrants, assist citizens, trespassing, parking, disturbance, animal complaints, accidents, lost property, suspicious activity, property damage, solicitors, intoxicated persons, domestics, driving complaints, alarms, drug investigations, fire calls, sex offenses, fights, etc.

Our police chief has had conversations with the management at the Monona Walmart. To try to limit our responses, we've had to put restrictions on big box stores that we will not respond if it is under a \$50 loss. If they could, Walmart would be calling us even more. In 2016 police responded to the Monona Walmart 1,088 times, that's an average of **2.98 times a day**. They don't staff their security 24 hours a day and when they are there they have restrictions on how their security operates, as they are prohibited from going "hands on" with people who refuse to cooperate. Our numbers would be even higher, but we don't respond if officers are on priority calls.

Several years ago we completed a staffing study. We received fairly good marks for responding to emergency calls, but very poor marks for being able to perform patrol duties in our residential neighborhoods. Based on our call load it was recommended we add at least 5 more officers, 3 more sergeants and another detective. Monona does not have the resources to pay another \$900,000 a year in salaries.

Decreasing the taxes to the big box stores and raising the local property taxes for the aging residential population in Monona would probably cause us to reduce existing staff, which would reduce services to the community even more than what we already have.

Now, Walmart has filed suit against Monona, claiming that their total assessed value should not be \$28.5 million - it should be \$9.5 million. Even though they signed an agreement when the Monona store was built that states their real property assessed value *would be at least \$18 million*. I'm not sure what justifies such a drop in value when they had no problem agreeing to it when the store was built.

What we do know is how it would impact our Monona taxpayers if Walmart wins. The average home owner [whose house is assessed at \$283,000] would pay an extra \$110 on their property tax bill to cover the city's \$433,000 share that would not be paid by Walmart. Walmart's lost share of \$233,000 in tax revenue paid to the school district will have to be made up by homeowners as well. Does this sound fair to you?

6 YEARS

6 YR TOTAL

	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>Total</u>
Shopko	154	207	206	171	151	145	1034
Walmart ²⁰⁰⁸	696	812	1020	1036	1022	1088	<u>5674</u>
Kohls	107	164	117	119	168	206	881
Goodwill	33	17	22	29	29	36	166
Walgreens	125	141	121	143	104	94	<u>728</u>
Menards	82	85	96	116	91	113	583
PickNSave	202	174	202	151	243	170	1142
Staples	37	34	33	33	20	21	178

- 945.66 YR

- 121.33 YR

10 years

SNOPKO

Nature	2011	2012	2013	2014	2015	2016	Grand Total
SECURITY/TAVERN CHECK	83	124	110	56	44	46	463
RETAIL THEFT	29	27	39	42	34	36	207
ALARM	4	14	5	8	8	9	48
REPORT WRITING				12	8	20	40
ALARM TESTING		1	7	13	10	7	38
911 CELL DISCONNECT	3	3	9	13	5	1	34
AMBULANCE CALL	4	5	4	6	2	1	22
FOLLOW UP	4	3	3	3	8	1	22
INFORMATION	4	5	5		2	4	20
CHECK PERSON	2	7	2	3	4	2	20
THEFT	1	2	6	2		3	14
TRAFFIC STOP		2	1	2	3	1	9
ANIMAL COMPLAINT	2	1	2	1	1	1	8
CHECK AREA	4				2	2	8
ACCIDENT PRIVATE PROPERTY	1		2	1	4		8
FRAUD	1	1	2		2	2	8
ASSIST CITIZEN	2	3	1	1			7
WARRANT SERVICE/P&P			2	3	1		6
PARKING PRIVATE	1	1			2	2	6
WORTHLESS CHECKS	1	2			2	1	6
ACCIDENT NON-INJURY		1	1	1	2	1	6
FOUND PROPERTY		1	1	1	1	1	5
SUSPICIOUS ACTIVITY			2		2		4
DISTURBANCE	2				1		3
FIRE ALARM				1	1		2
911 OPEN LINE			1			1	2
ACCIDENT HIT AND RUN	1			1			2
SOLICITOR COMPLAINT	1				1		2
PROPERTY DAMAGE	2						2
TRAFFIC ARREST						1	1
CHECK PROPERTY			1				1
TRESPASSING COMPLAINT				1			1
OVERDOSE		1					1
THREATS		1					1
HARASSMENT		1					1
FIRE VEHICLE						1	1
SPECIAL EVENT/PROJECT	1						1
LOST PROPERTY					1		1
PRESERVE THE PEACE		1					1
DRUG INVESTIGATION						1	1
GRAFFITI COMPLAINT	1						1
Grand Total	154	207	206	171	151	145	1034

WALMART

Nature	2011	2012	2013	2014	2015	2016	Grand Total
RETAIL THEFT	180	196	303	356	372	380	1787
SECURITY/TAVERN CHECK	148	187	254	228	156	177	1150
FOLLOW UP	45	38	38	60	67	54	302
INFORMATION	39	42	27	36	26	59	229
THEFT	24	36	51	27	26	29	193
911 CELL DISCONNECT	25	30	35	29	45	26	190
CHECK PERSON	26	29	23	25	40	25	168
911 DISCONNECT	18	36	58	16	6	12	146
AMBULANCE CALL	18	31	18	25	14	20	126
FRAUD	13	23	13	20	21	27	117
WARRANT SERVICE/P&P	3	7	14	21	25	26	96
ASSIST CITIZEN	9	12	16	13	21	21	92
TRESPASSING COMPLAINT	7	5	8	26	22	17	85
PARKING PRIVATE	8	9	11	16	20	15	79
DISTURBANCE	14	14	6	9	15	12	70
ANIMAL COMPLAINT	13	14	6	10	9	17	69
ACCIDENT HIT AND RUN	7	7	18	10	11	15	68
CHECK AREA	9	8	12	4	14	12	59
REPORT WRITING			1	11	18	21	51
LOST PROPERTY	10	11	6	3	6	13	49
FIRE ALARM	11	5	11	7	7	5	46
ACCIDENT NON-INJURY	8	3	9	7	9	8	44
ACCIDENT PRIVATE PROPERTY	5	6	11	4	6	6	38
SUSPICIOUS ACTIVITY	2	5	8	7	6	3	31
ASSIST OTHER AGENCY	6	4	2	4	8	6	30
911 OPEN LINE			4	2	6	17	29
PROPERTY DAMAGE	7	6	1	5	5	3	27
SOLICITOR COMPLAINT	6	3	5	4	4		22
UNWANTED PERSON	1	6	2	3	2	6	20
INTOXICATED PERSON	2		4	7	6		19
DOMESTIC/FAMILY TROUBLE	2	2	2	5	3	4	18
FOUND PROPERTY		4	4	2	5	3	18
TRAFFIC STOP	5	2	1	3	3	1	15
TRAFFIC DRIVING COMPLAINT		4	2	4	1	3	14
THREATS	2		2		1	8	13
ALARM	5	4	1	1		1	12
DRUG INVESTIGATION		2	2	5		2	11
FIRE CALL	1		2	3	1	1	8
PRESERVE THE PEACE		1	1			6	8
HARASSMENT	1	1	1	2	1	2	8
ANNOYING PHONE CALL	3	1	2			1	7
SPECIAL EVENT/PROJECT	4		2	1			7
CHECK PROPERTY	2	1	1	1		2	7
ORDINANCE VIOLATION		1	3		3		7
SEX OFFENSE	1			2	2	2	7
FIGHT IN PROGRESS			3		2	1	6
FIRE VEHICLE	2	1	1	1		1	6
BATTERY	1	1	3			1	6

WALMART

CIVIL DISPUTE	1		1		3	5	
REPOSSESSED VEHICLE		1	1	1	2	5	
JUVENILE COMPLAINT	1			2	2	5	
CHILD ABUSE/NEGLECT		1	1	1	1	4	
MISSING PERSON		3	1			4	
VIOLATION OF COURT ORDER	1	1		1	1	4	
FIRE ELEVATOR PROBLEM		2	1		1	4	
RECOVERED STOLEN PROPERTY			1	1	1	3	
OVERDOSE			1		1	3	
FORGERY		2			1	3	
TRAFFIC ARREST			1		1	2	
ROBBERY			2			2	
STOLEN BICYCLE			1	1		2	
STOLEN VEHICLE		1			1	2	
PARKING ON STREET	1					1	
GUN/WEAPONS CALL			1			1	
TRAFFIC/SAFETY HAZARD					1	1	
WORTHLESS CHECKS				1		1	
ODOR COMPLAINT					1	1	
DEATH INVESTIGATION					1	1	
SEXUAL ASSAULT		1				1	
ANIMAL STRAY		1				1	
TRANSPORT				1		1	
BURGLARY		1				1	
FIRE STRUCTURE					1	1	
TOWED AUTO					1	1	
BACK UP DRIVER PAGE					1	1	
INTERNAL / CONFIDENTIAL				1		1	
911 UNINTENTIONAL					1	1	
ATTEMPTED SUICIDE			1			1	
Grand Total	696	812	1020	1036	1022	1088	5674

Kohl's

Nature	2011	2012	2013	2014	2015	2016	Grand Total
SECURITY/TAVERN CHECK	41	82	51	40	44	77	335
RETAIL THEFT	28	41	35	35	61	43	243
REPORT WRITING				4	7	27	38
FOLLOW UP	3	7	1	6	11	8	36
INFORMATION	4	5	3	9	7	6	34
CHECK PERSON	3		1	2	9	3	18
911 CELL DISCONNECT	5	2	5		4	1	17
CHECK AREA	4	2	1	4	3	3	17
AMBULANCE CALL	3	1	1	4	3	1	13
TRAFFIC STOP		1	1	1	6	3	12
ALARM	2	2	3	2		1	10
911 DISCONNECT	1	5	4				10
ACCIDENT PRIVATE PROPERTY	1	3	3		1	1	9
SUSPICIOUS ACTIVITY	1		1		2	4	8
PARKING PRIVATE		1	1	2	2	2	8
WARRANT SERVICE/P&P	1	1		1	2	3	8
FRAUD	3	1				3	7
ASSIST CITIZEN		3	2	1		1	7
THEFT	2	1				3	6
ANIMAL COMPLAINT	2	1		1	1		5
TRAFFIC ARREST				1	1	3	5
ACCIDENT HIT AND RUN	1	1			1	1	4
ACCIDENT NON-INJURY	1	1				2	4
GRAFFITI COMPLAINT	1	1				1	3
911 OPEN LINE						2	2
ASSIST OTHER AGENCY				1		1	2
FIRE CALL						2	2
DISTURBANCE		1			1		2
PROPERTY DAMAGE				1		1	2
MISSING PERSON				1			1
CHILD ABUSE/NEGLECT				1			1
DRUG INVESTIGATION						1	1
ALARM TESTING			1				1
STOLEN VEHICLE			1				1
BURGLARY				1			1
NOISE COMPLAINT						1	1
INTOXICATED PERSON				1			1
TRAFFIC DRIVING COMPLAINT			1				1
SOLICITOR COMPLAINT			1				1
UNWANTED PERSON						1	1
SPECIAL EVENT/PROJECT		1					1
FORGERY					1		1
FOUND PROPERTY					1		1
Grand Total	107	164	117	119	168	206	881

Goodwill

Nature	2011	2012	2013	2014	2015	2016	Grand Total
ALARM	2	4	3	5	5	7	26
SECURITY/TAVERN CHECK	7		1	3	4	6	21
CHECK PERSON	5	1	6	5	1	3	21
AMBULANCE CALL	1	3	2	4	4	1	15
911 CELL DISCONNECT			1	3	4		8
FIRE ALARM	3	3		1		1	8
THEFT	1	1	2	1	2		7
RETAIL THEFT		1	1		2	2	6
FOLLOW UP	1	1	1	1	1	1	6
SUSPICIOUS ACTIVITY	1		1	1	1	1	5
INFORMATION						5	5
DISTURBANCE	3		1				4
ASSIST OTHER AGENCY			1		2		3
CHECK AREA	1	1		1			3
911 DISCONNECT	1		1				2
SPECIAL EVENT/PROJECT	1	1					2
ASSIST CITIZEN	1		1				2
ACCIDENT NON-INJURY	1			1			2
CHECK PROPERTY	1					1	2
TRAFFIC STOP	1					1	2
PROPERTY DAMAGE						2	2
PARKING PRIVATE					1	1	2
FOUND PROPERTY		1				1	2
TRAFFIC DRIVING COMPLAINT				1			1
LOST PROPERTY						1	1
ANIMAL COMPLAINT	1						1
911 OPEN LINE						1	1
ORDINANCE VIOLATION				1			1
ACCIDENT PRIVATE PROPERTY					1		1
ACCIDENT HIT AND RUN	1						1
SOLICITOR COMPLAINT				1			1
UNWANTED PERSON						1	1
FIRE GAS LEAK					1		1
Grand Total	33	17	22	29	29	36	166

WALGREENS

Nature	2011	2012	2013	2014	2015	2016	Grand Total
SECURITY/TAVERN CHECK	67	73	59	58	39	37	333
CHECK PERSON	2	4	8	4	12	6	36
TRAFFIC STOP	10	4	4	8	4	5	35
FOLLOW UP	4	12	5	6	4	2	33
AMBULANCE CALL	7	4	3	8	3	3	28
CHECK AREA	1	9	4	2	3	4	23
FRAUD	3	6	4	5	3	2	23
REPORT WRITING			1	9	6	4	20
RETAIL THEFT		2	7	7	1	2	19
INFORMATION	1	3	3	3		5	15
ACCIDENT NON-INJURY	3	2	1	2	3	2	13
ASSIST CITIZEN	3	1	1	3	3	1	12
SPECIAL EVENT/PROJECT	3	2	2	3		1	11
THEFT	1	2	2	2	3	1	11
DISTURBANCE	1	1	2	1	4		9
911 DISCONNECT		1	1	2	3	2	9
ACCIDENT HIT AND RUN	2	3	1	1		1	8
ACCIDENT PRIVATE PROPERTY		1	1		3	3	8
SUSPICIOUS ACTIVITY		2	1	4			7
SOLICITOR COMPLAINT	2		1	2	1		6
DOMESTIC/FAMILY TROUBLE		1	2		2		5
ASSIST OTHER AGENCY	1	1		2		1	5
FOUND PROPERTY			1	1		3	5
UNWANTED PERSON					1	4	5
ALARM		3	1				4
FIRE ALARM	2		1				3
ORDINANCE VIOLATION	1		1	1			3
ROBBERY			1		2		3
911 CELL DISCONNECT	1		1	1			3
INTOXICATED PERSON	1		1			1	3
TRAFFIC DRIVING COMPLAINT		1			1	1	3
LOST PROPERTY		1			1	1	3
PARKING PRIVATE		1		2			3
TRAFFIC ENFORCEMENT				2			2
FORGERY	2						2
ANIMAL COMPLAINT	2						2
JUVENILE COMPLAINT	1			1			2
THREATS	1	1					2
TRESPASSING COMPLAINT					1		1
911 OPEN LINE						1	1
VIOLATION OF COURT ORDER	1						1
PROPERTY DAMAGE			1				1
TRAFFIC/SAFETY HAZARD					1		1
CIVIL DISPUTE						1	1
FIGHT IN PROGRESS	1						1
CHECK PROPERTY	1						1
WARRANT SERVICE/P&P				1			1
ACCIDENT INJURY				1			1

STOLEN VEHICLE
Grand Total

			1				1
125	141	121	143	104	94		728

MONARDS

Nature	2011	2012	2013	2014	2015	2016	Grand Total
SECURITY/TAVERN CHECK	15	18	26	32	38	31	160
RETAIL THEFT	9	10	5	13	2	17	56
PARKING PRIVATE	5	7	11	8	4	5	40
911 CELL DISCONNECT	3	3	11	7	5	4	33
FOLLOW UP	3	5	5	3	5	8	29
ANIMAL COMPLAINT	4	4	2	6	3	9	28
ACCIDENT PRIVATE PROPERTY INFORMATION	3	4	5	2	4	2	20
THEFT	2	3	1	6	2	5	19
AMBULANCE CALL	4	2	4	5	1	3	19
CHECK PERSON	2	2	1	4	3	6	18
ALARM	5	3	1	1	6		16
FOUND PROPERTY	6	3	4				13
ACCIDENT HIT AND RUN	1	1	1	5	1	4	13
DISTURBANCE	2	2	1	3	4		12
TRAFFIC STOP			6	1	1	2	10
ACCIDENT NON-INJURY	5		1		1	2	9
CHECK AREA	2	2		2	2		8
PROPERTY DAMAGE		2	1	3	1		7
911 OPEN LINE				2	1	1	6
ASSIST CITIZEN						6	6
NOISE COMPLAINT	1	2	2	1			6
FRAUD	1	5					6
FIRE ALARM	1	1	2			1	5
ASSIST OTHER AGENCY	1			2			4
LOST PROPERTY	2		1	1			4
REPORT WRITING	1				1	1	3
ACCIDENT INJURY			1	1		1	3
911 DISCONNECT	1				2		3
TRAFFIC DRIVING COMPLAINT			1		1		2
THREATS		1		1			2
BURGLARY	1				1		2
ORDINANCE VIOLATION			1	1			2
CHECK PROPERTY			1			1	2
FIRE CALL		1		1			2
ALARM TESTING	1					1	2
TRESPASSING COMPLAINT				1			1
FIGHT IN PROGRESS	1						1
CHILD ABUSE/NEGLECT		1					1
HARASSMENT				1			1
CIVIL DISPUTE			1				1
DRUG INVESTIGATION				1			1
SOLICITOR COMPLAINT						1	1
GUN/WEAPONS CALL						1	1
SPECIAL EVENT/PROJECT				1			1
WORTHLESS CHECKS					1		1
STOLEN VEHICLE					1		1
SUSPICIOUS ACTIVITY						1	1

Grand Total

82 85 96 116 91 113

583

PICK N SAVE

Nature	2011	2012	2013	2014	2015	2016	Grand Total
SECURITY/TAVERN CHECK	88	68	91	57	106	78	488
RETAIL THEFT	28	23	34	24	42	23	174
FOLLOW UP	10	3	9	11	13	12	58
AMBULANCE CALL	10	7	9	6	5	2	39
INFORMATION	8	7	12	4	3	3	37
ALARM	2	7	5	7	14	1	36
CHECK PERSON	5	5	3	6	9	5	33
911 CELL DISCONNECT	7	4	5	5	3	2	26
ANIMAL COMPLAINT	6	3		5	3	2	19
CHECK AREA	1	4	4	1	5	3	18
PARKING PRIVATE	1	4	2	1	7	3	18
SOLICITOR COMPLAINT	1	7	4	2	1		15
DISTURBANCE	6	1	1	1	3	3	15
FIRE ALARM	3	1		3		7	14
THEFT	2	2	4	1	1	2	12
FRAUD	5	3	1			3	12
LOST PROPERTY	1	3	2		3	2	11
ACCIDENT HIT AND RUN	2	2	1	3	2	1	11
SUSPICIOUS ACTIVITY	3		1	2	3	1	10
ACCIDENT PRIVATE PROPERTY	2	1	1	2	3	1	10
ASSIST CITIZEN	1	1	1	2	3	1	9
ACCIDENT NON-INJURY	1	2		1		3	7
ASSIST OTHER AGENCY	1	2	2		2		7
TRAFFIC STOP		2	3		1	1	7
FOUND PROPERTY	1	2		1	3		7
TRAFFIC DRIVING COMPLAINT		1	2		1	1	5
PROPERTY DAMAGE	2	1			1	1	5
UNWANTED PERSON	1		1	1		1	4
FIRE VEHICLE				4			4
DOMESTIC/FAMILY TROUBLE	2	1					3
WARRANT SERVICE/P&P		1			2		3
REPORT WRITING					1	2	3
ORDINANCE VIOLATION		1	1				2
THREATS					1	1	2
TRESPASSING COMPLAINT						2	2
ROBBERY			1		1		2
SPECIAL EVENT/PROJECT		1	1				2
CHILD ABUSE/NEGLECT	1			1			2
FIRE CALL		1	1				2
ALARM TESTING					1		1
FIGHT IN PROGRESS		1					1
RECOVERED STOLEN PROPERTY	1						1
PRESERVE THE PEACE						1	1
VIOLATION OF COURT ORDER						1	1
DRUG INVESTIGATION		1					1
911 OPEN LINE						1	1
ACCIDENT INJURY		1					1
Grand Total	202	174	202	151	243	170	1142

STAPLOS

Nature	2011	2012	2013	2014	2015	2016	Grand Total
SECURITY/TAVERN CHECK	22	21	17	17	14	7	98
911 DISCONNECT		1	8	8			17
ALARM		2	1			6	9
CHECK PERSON	1	2			2	1	6
INFORMATION	4			2			6
ANIMAL COMPLAINT	1	2	1	1		1	6
FOUND PROPERTY				1	1	1	3
911 CELL DISCONNECT		2	1				3
CHECK AREA	2			1			3
FIRE ALARM	1	1	1				3
FRAUD						2	2
SOLICITOR COMPLAINT		1	1				2
RETAIL THEFT		1	1				2
AMBULANCE CALL			1			1	2
ACCIDENT NON-INJURY	1				1		2
ACCIDENT PRIVATE PROPERTY	2						2
ASSIST OTHER AGENCY	1						1
ACCIDENT HIT AND RUN				1			1
SPECIAL EVENT/PROJECT	1						1
ASSIST CITIZEN				1			1
FIRE INVESTIGATION		1					1
THREATS	1						1
CHECK PROPERTY					1		1
ORDINANCE VIOLATION			1				1
SUSPICIOUS ACTIVITY					1		1
OVERDOSE						1	1
PARKING PRIVATE				1			1
LOST PROPERTY						1	1
Grand Total	37	34	33	33	20	21	178



Dir. Deschane,

The following information is in response to your request for information on big box retailers in our jurisdictions. I am the Data Analyst for the MultiJurisdictional Public Safety Information System (MPSIS) Commission which represents the City of Fitchburg Police Department, City of Middleton Police Department, City of Monona Police Department, City of Sun Prairie Police Department, and the City of Verona Police Department. The MPSIS Commission was founded in 2004 for the purpose of pooling resources to obtain the best technology and services to benefit all five jurisdictions.

Due to this fact, our agencies have provided you an analysis of the impact of big box retailers within our jurisdictions since 2011. It is important to note that the information is specific to the initial response of the police departments and does NOT include the investigative efforts. Below are the highlights of the analysis:

- Walmart, Target, Costco, Shopko, Kohls, Cabelas, Menards, Farm & Fleet, and Staples
 - 2011 – costed an estimated \$73,385 for the initial police response
 - 2016 - costed an estimated \$141,653 for the initial police response
 - 2020 – a project cost of \$189,758 for the initial police response
- Pick N Save, Hyvee, and Woodman’s
 - 2011 – costed an estimated \$25,128 for the initial police response
 - (Hvyee & Woodmans not opened yet)
 - 2016 - costed an estimated \$54,513 for the initial police response
 - 2020 – a project cost of \$63,471 for the initial police response
- Walgreens and CVS
 - 2011 – costed an estimated \$12,923 for the initial police response
 - 2016 - costed an estimated \$11,333 for the initial police response
 - 2020 – a project cost of \$13,767 for the initial police response
- Star Cinema and Marcus Cinema
 - 2016 - costed an estimated \$15,333 for the initial police response
 - 2020 – a project cost of \$11, 047 for the initial police response

The next few pages provide more information on the methodology that was utilized for the analysis and more details on the impact of these retailers. Please feel free to contact me if you have any questions or comments on the material.

Sincerely,

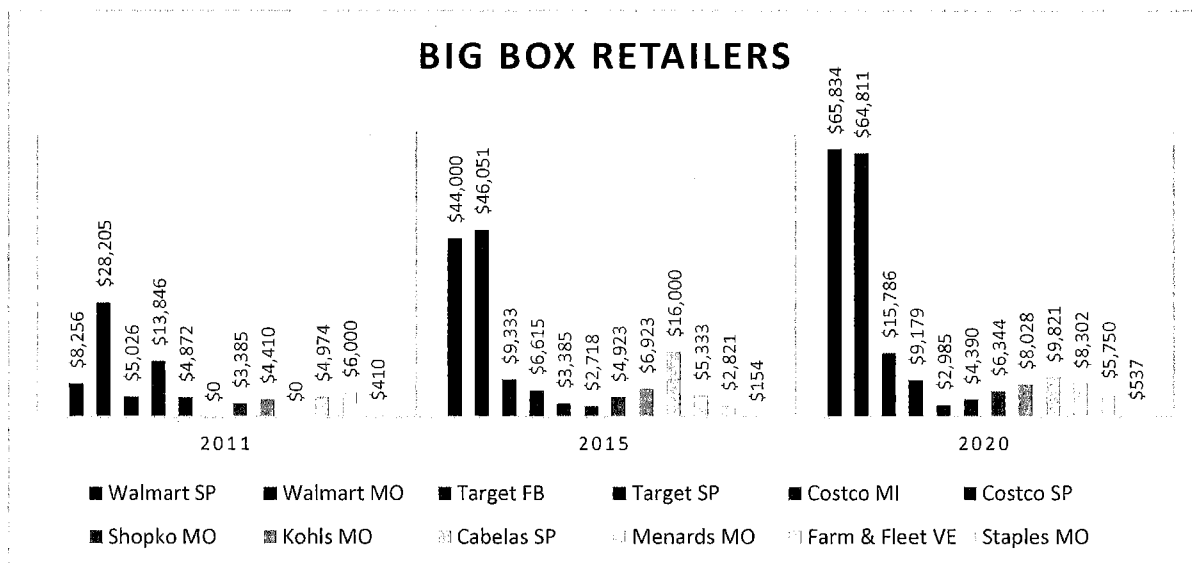
Stanley J Howard
MPSIS Law Enforcement Analyst
 Fitchburg PD, Middleton PD, Monona PD, Sun Prairie PD, Verona PD
 5520 Lacy Rd, Fitchburg, WI 53711
 Phone: (608) 260-5553



The following analysis is based off a request from Director Deschane of the League of Wisconsin Municipalities. The request is examining the number of calls for service from a “Big Box Retailer” due to legislative efforts to stop a property tax reduction that is proposed by the retailers. A few of the types of stores that were mentioned include Walmart, Target, Menards, etc. and also name Walgreens and CVS Pharmacies. Although the request did not include movie theaters, they were included due to the prior attempts of the theaters to reduce their property tax based on similar measures.

In order to analyze a potential cost of these location it was first necessary to ascertain a base salary of a police officer. Within the five jurisdictions a very conservative estimate of an annual budgetary salary of \$100,000 was used. This number includes the starting salary of a new patrol officer, benefits, and equipment. This number was then divided by the number of regular hours scheduled to be worked by a patrol officer each calendar year. All estimates within the report use the above rate times the number of hours spent on the initial call for service (time call was dispatched and time the call was cleared). This estimate **does not** include the cost of any of the investigators, crime scene technicians, evidence processing, arrest time, court time, or overtime related costs.

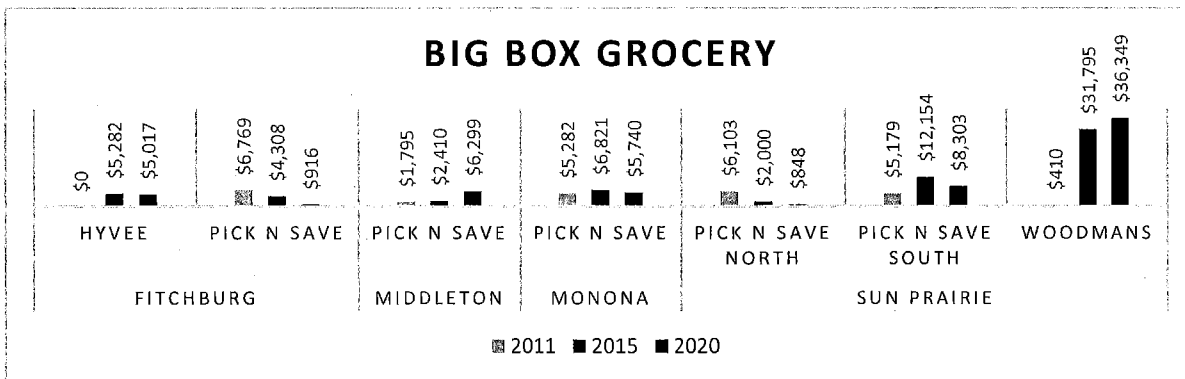
Since 2011, the number of calls for service to these establishments have increased by more than 50% to more than 4,500 calls for service in 2016 between all five jurisdictions. Using the before mentioned method to calculate an estimated cost to the initial call for service it was over \$212,000. The big box retailers Walmart, Target, Costco, Shopko, Kohls, Cabelas, Menards, Staples, and Farm & Fleet were responsible for an estimated \$136,974 in 2016. Utilizing the data from 2011 to 2016 a forecast was created to project the estimated cost in the year 2020. The forecast projects the cost of the above mention stores to more than \$200,000 or an increase of more than 47%.



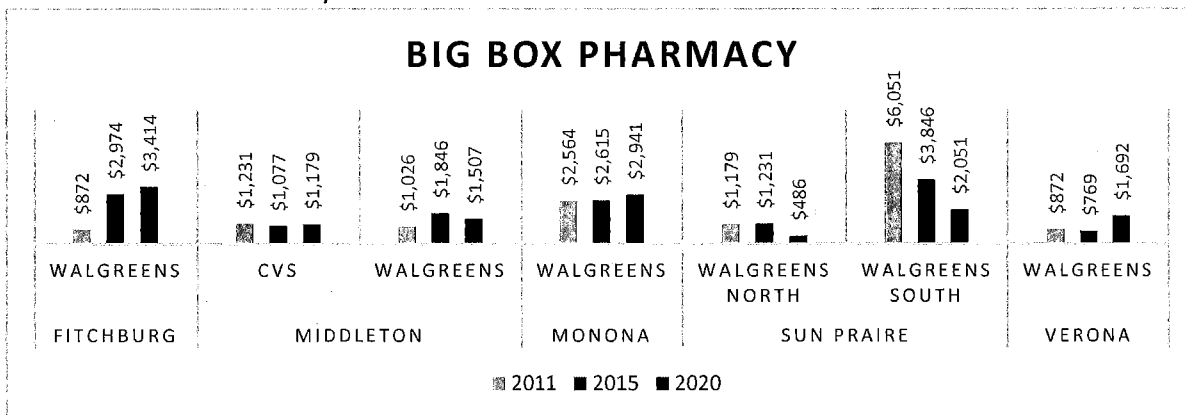


The largest number of calls for service comes from Walmart. Walmart is responsible for almost 35% (1,545 in 2016) of the calls for service between all the selected businesses. The Walmart located at 2151 Royal Ave in Monona, Wisconsin had a staggering 1,090 calls for service in 2016. Using the before mention cost estimate is equivalent to more than \$51,000 to the City of Monona. Examining the steady increase of calls for service at this location, it is project to cost almost \$65,000 by the year 2020.

The second part of the analysis focused on the big box grocery stores since The Kroger Co. was 2nd in sales in 2015 only behind Walmart (Source: National Retail Federation). Within four of the five jurisdiction there are currently 7 big box grocery stores: Pick N Save (formerly Copps), Hyvee, and Woodman's. In 2011 there were on 5 big box grocery stores (Pick N Save formerly Copps) and the estimated cost for the initial call for services was approximately \$25,000. In 2012 Woodman's was opened and in 2014 Hyvee was added. With these additions, 2015 saw the largest increase in the number of calls for service exceeding %80 with an estimated cost of more than \$64,700. The forecast projects the cost of the above mention stores to remain constant with the cost exceeding \$63,000.



The final part of the analysis focused on the big box pharmacies that were standalone buildings. Analysis shows a spike in the number of calls for service to these stores in 2012 and 2013, but the forecast holds the estimate cost constant at approximately \$13,270 in 2020. The preceding report provides the data that was utilized in the analysis.



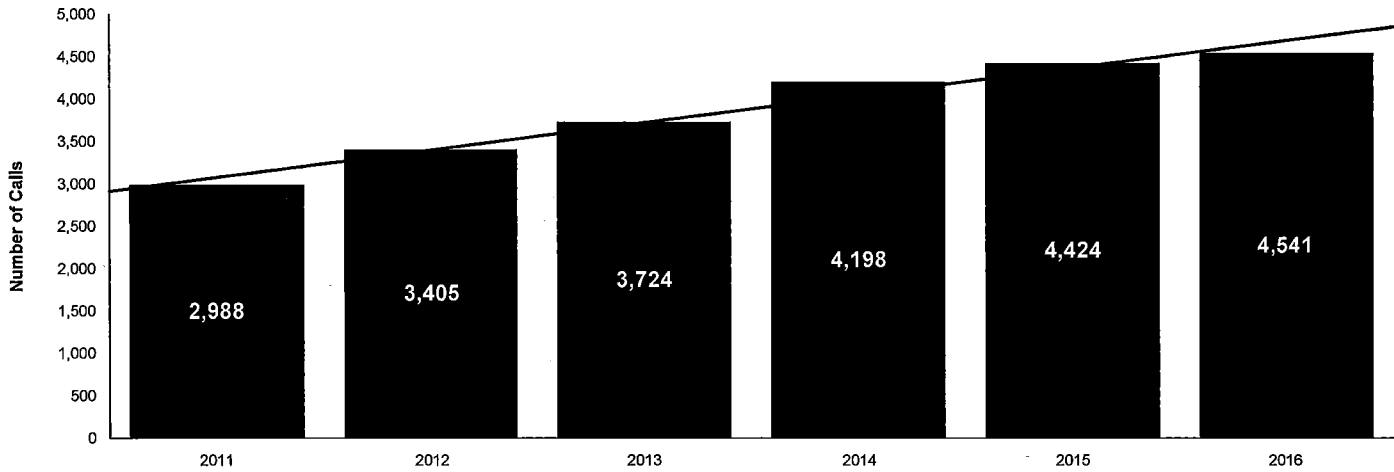


MPSIS

Calls for Service

Select Commerical Locations

2011 -2016



	Year						Average	Standard Deviation	Normal Range
	2011	2012	2013	2014	2015	2016			
Walmart - 1905 Mccoy Rd	166	204	240	470	381	455	292	128	164 - 421
Walmart - 2151 Royal Av	696	812	1020	1036	1022	1090	917	155	763 - 1,072
Target - 6321 Mckee Rd	171	159	168	150	190	269	168	15	153 - 183
Target - 660 S Grand Ave	145	156	105	85	104	108	119	30	89 - 149
Costco - 2150 Deming Way	121	127	125	146	137	143	131	10	121 - 141
Costco - 2850 Hoepker Rd	0	60	85	89	94	106	0	0	0 - 0
Shopko - 2101 Broadway	154	207	206	171	151	145	178	27	151 - 205
Kohls - 2501 Broadway	107	164	117	119	168	206	135	29	106 - 164
Cabelas - 1350 Cabela Dr	0	0	0	4	79	62	0	0	0 - 0
Menards - 6401 Cops Av	82	85	97	117	92	113	95	14	81 - 108
Farm & Fleet - 600 Hometown Circle	38	49	32	46	51	56	43	8	35 - 51
Staples - 6580 Monona Dr	37	34	33	33	20	21	31	7	25 - 38
Marcus Cinema - 2830 Hoepker Rd	0	0	0	0	96	154	0	0	0 - 0
Star Cinema - 6091 Mckee Rd	54	66	72	42	46	48	56	13	43 - 69
Ace Hardware - 2540 Allen Blvd	15	26	19	20	16	25	19	4	15 - 24
Goodwill - 2501 Royal Av	33	17	22	29	29	36	26	6	20 - 32
Goodwill - 6661 University Ave	9	12	9	8	8	17	9	2	8 - 11
Dollar Tree - 2524 Allen Blvd	6	7	1	8	16	32	8	5	2 - 13
Dollar General - 924 Windsor St	35	83	66	51	36	60	54	20	34 - 75
Walgreens - 104 N Main Street	29	30	19	44	17	23	28	11	17 - 39
Walgreens - 2010 Branch St	46	44	51	45	50	40	47	3	44 - 50
Walgreens - 275 Davison Dr	99	84	77	72	73	81	81	11	70 - 92
Walgreens - 2931 S Fish Hatchery Rd	34	29	47	63	51	56	45	14	31 - 58
Walgreens - 5300 Monona Dr	125	141	121	143	104	94	127	16	111 - 143
Walgreens - 546 N Grand Ave	30	34	27	25	39	41	31	6	25 - 37
CVS - 6210 Century Ave	27	29	25	23	28	40	26	2	24 - 29
Hy Vee - 2920 Fitchrona Rd	0	0	2	269	209	116	0	0	0 - 0
Pick N Save - 2538 Ironwood Dr	144	111	70	95	63	56	97	33	64 - 129
Pick N Save - 3010 Cahill Main	167	177	158	109	124	106	147	29	118 - 176
Pick N Save - 640 E Main St	100	91	136	141	184	109	130	37	93 - 167
Pick N Save - 6540 Monona Dr	202	174	202	151	244	170	195	35	160 - 230
Pick N Save - 6800 Century Ave	87	65	94	92	83	110	84	12	73 - 96
Woodmans - 1099 S Grand Ave	29	128	278	302	419	353	231	153	78 - 385
	2988	3405	3724	4198	4424	4541	3748	582	3,166 - 4,330

* If any prior year values are 0 then the average, standard deviation, and normal range will NOT be calculated.

** Cost estimate is calculated by the initial response to the call for service and doesn't include investigative efforts and is based on a budgetary value of \$100,000 per officer.



MPSIS

Calls for Service

Select Commerical Locations 2014 -2016



	2014 Totals			2015 Totals			2016 Totals		
	Officers Dispatched	Hours on Calls	Initial Cost**	Officers Dispatched	Hours on Calls	Initial Cost**	Officers Dispatched	Hours on Calls	Initial Cost**
Walmart - 1905 Mccoy Rd	728	960	\$49,225	574	859	\$44,026	667	511	\$26,196
Walmart - 2151 Royal Av	1282	867	\$44,464	1413	898	\$46,054	1517	1009	\$51,731
Target - 6321 Mckee Rd	189	135	\$6,916	248	183	\$9,378	341	228	\$11,694
Target - 660 S Grand Ave	117	81	\$4,159	124	130	\$6,645	143	146	\$7,478
Costco - 2150 Deming Way	178	85	\$4,353	163	67	\$3,417	170	74	\$3,800
Costco - 2850 Hoepker Rd	123	57	\$2,902	131	53	\$2,730	149	111	\$5,698
Shopko - 2101 Broadway	194	97	\$4,975	187	97	\$4,955	183	101	\$5,165
Kohls - 2501 Broadway	147	85	\$4,372	224	135	\$6,942	268	122	\$6,275
Cabelas - 1350 Cabela Dr	5	1	\$69	117	313	\$16,038	89	72	\$3,667
Menards - 6401 Copsps Av	126	58	\$2,963	104	51	\$2,632	142	62	\$3,159
Farm & Fleet - 600 Hometown Circle	54	60	\$3,100	73	56	\$2,851	86	146	\$7,504
Staples - 6580 Monona Dr	35	9	\$484	20	4	\$199	32	14	\$721
Marcus Cinema - 2830 Hoepker Rd				129	69	\$3,533	204	105	\$5,404
Star Cinema - 6091 Mckee Rd	58	27	\$1,366	72	39	\$1,986	66	39	\$2,003
Ace Hardware - 2540 Allen Blvd	28	13	\$643	22	17	\$880	30	16	\$796
Goodwill - 2501 Royal Av	40	19	\$957	40	12	\$637	46	16	\$840
Goodwill - 6661 University Ave	15	6	\$286	12	5	\$249	22	9	\$460
Dollar Tree - 2524 Allen Blvd	11	15	\$750	19	10	\$501	37	20	\$1,043
Dollar General - 924 Windsor St	75	88	\$4,529	51	26	\$1,329	82	62	\$3,156
Walgreens - 104 N Main Street	57	147	\$7,556	20	16	\$819	28	32	\$1,631
Walgreens - 2010 Branch St	61	34	\$1,746	66	36	\$1,870	55	19	\$974
Walgreens - 275 Davison Dr	104	61	\$3,139	101	76	\$3,881	116	40	\$2,058
Walgreens - 2931 S Fish Hatchery Rd	84	39	\$1,978	75	59	\$3,012	79	28	\$1,458
Walgreens - 5300 Monona Dr	149	64	\$3,300	140	51	\$2,626	112	52	\$2,678
Walgreens - 546 N Grand Ave	26	10	\$494	49	24	\$1,238	47	20	\$1,033
CVS - 6210 Century Ave	32	27	\$1,369	37	22	\$1,113	60	33	\$1,682
Hy Vee - 2920 Fitchrona Rd	305	91	\$4,667	245	104	\$5,328	153	92	\$4,724
Pick N Save - 2538 Ironwood Dr	130	114	\$5,844	83	40	\$2,026	85	62	\$3,170
Pick N Save - 3010 Cahill Main	155	87	\$4,441	157	84	\$4,311	142	93	\$4,792
Pick N Save - 640 E Main St	189	144	\$7,399	256	237	\$12,170	160	125	\$6,430
Pick N Save - 6540 Monona Dr	177	81	\$4,143	299	133	\$6,827	206	88	\$4,521
Pick N Save - 6800 Century Ave	141	138	\$7,071	108	47	\$2,434	152	78	\$4,015
Woodmans - 1099 S Grand Ave	426	354	\$18,170	590	620	\$31,802	537	527	\$27,016
	5441	4053	\$207,828	5949	4572	\$234,439	6206	4153	\$212,970

* If any prior year values are 0 then the average, standard deviation, and normal range will NOT be calculated.

** Cost estimate is calculated by the initial response to the call for service and doesn't include investigative efforts and is based on a budgetary value of \$100,000 per officer.

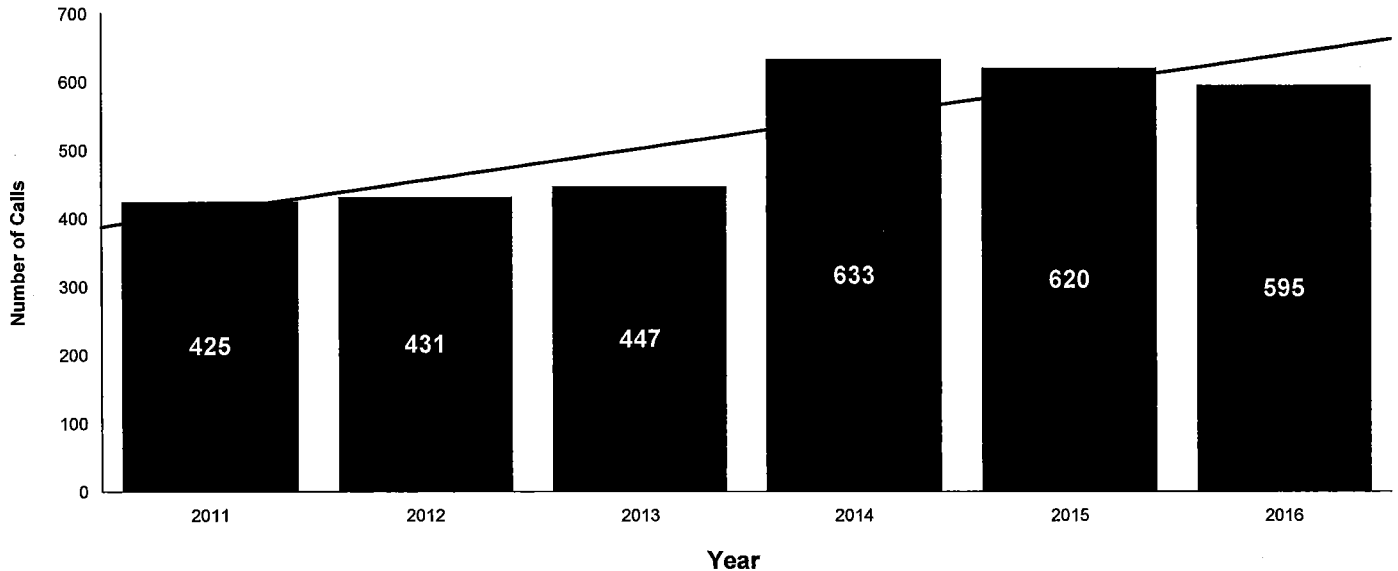


Fitchburg Police Department

Calls for Service

Select Commerical Locations

2011 -2016



	Year						Average	Standard Deviation	Normal Range
	2011	2012	2013	2014	2015	2016			
Hy Vee - 2920 Fitchrona Rd	0	0	2	269	209	116	0	0	0 - 0
Walgreens - 2931 S Fish Hatchery Rd	34	29	47	63	51	56	45	14	31 - 58
Pick N Save - 3010 Cahill Main	167	177	158	109	124	106	147	29	118 - 176
Star Cinema - 6091 Mckee Rd	54	66	72	42	46	48	56	13	43 - 69
Target - 6321 Mckee Rd	170	159	168	150	190	269	167	15	152 - 182
	425	431	447	633	620	595	511	106	406 - 617

	2014 Totals			2015 Totals			2016 Totals		
	Officers Dispatched	Hours on Calls	Initial Cost**	Officers Dispatched	Hours on Calls	Initial Cost**	Officers Dispatched	Hours on Calls	Initial Cost**
Hy Vee - 2920 Fitchrona Rd	305	91	\$4,667	245	104	\$5,328	153	92	\$4,724
Walgreens - 2931 S Fish Hatchery Rd	84	39	\$1,978	75	59	\$3,012	79	28	\$1,458
Pick N Save - 3010 Cahill Main	155	87	\$4,441	157	84	\$4,311	142	93	\$4,792
Star Cinema - 6091 Mckee Rd	58	27	\$1,366	72	39	\$1,986	66	39	\$2,003
Target - 6321 Mckee Rd	189	135	\$6,916	248	183	\$9,378	341	228	\$11,694
	791	378	\$19,368	797	468	\$24,015	781	481	\$24,671

* If any prior year values are 0 then the average, standard deviation, and normal range will NOT be calculated.

** Cost estimate is calculated by the initial response to the call for service and doesn't include investigative efforts and is based on a budgetary value of \$100,000 per officer.

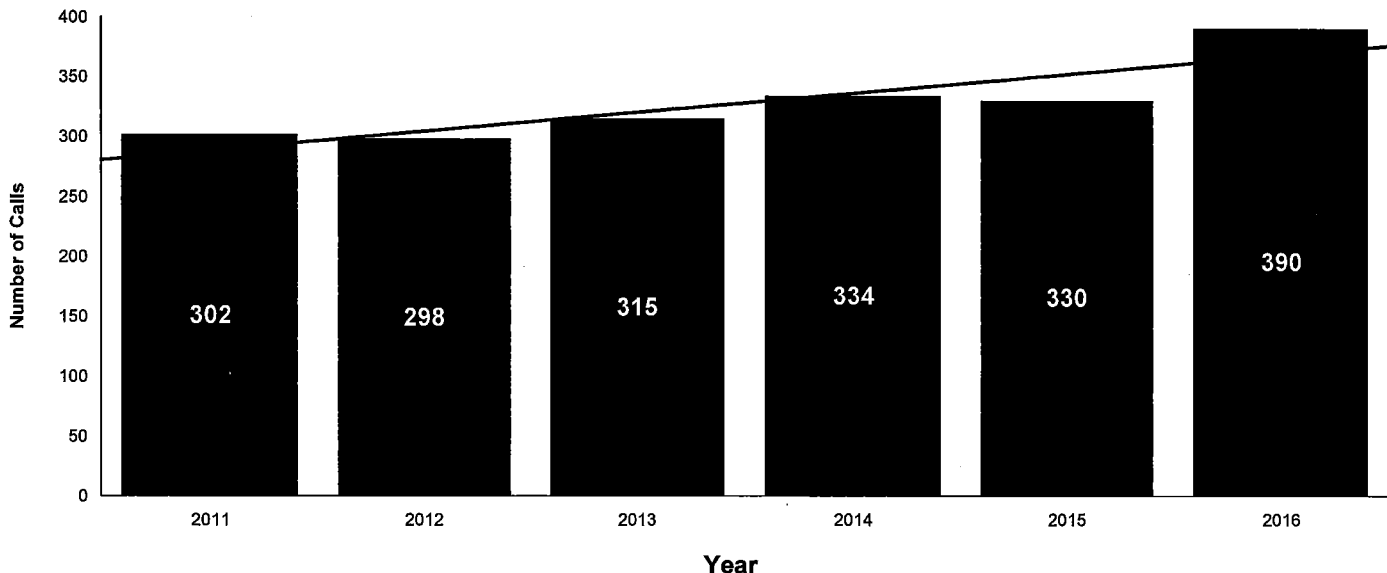


Middleton Police Department

Calls for Service

Select Commerical Locations

2011 -2016



	Year						Average	Standard Deviation	Normal Range
	2011	2012	2013	2014	2015	2016			
Walgreens - 2010 Branch St	46	44	51	45	50	40	47	3	44 - 50
Costco - 2150 Deming Way	121	127	125	146	137	143	131	10	121 - 141
Dollar Tree - 2524 Allen Blvd	6	7	1	8	16	32	8	5	2 - 13
Ace Hardware - 2540 Allen Blvd	15	26	19	20	16	25	19	4	15 - 24
CVS - 6210 Century Ave	27	29	25	23	28	40	26	2	24 - 29
Pick N Save - 6800 Century Ave	87	65	94	92	83	110	84	12	73 - 96
	302	298	315	334	330	390	316	16	300 - 332

	2014 Totals			2015 Totals			2016 Totals		
	Officers Dispatched	Hours on Calls	Initial Cost**	Officers Dispatched	Hours on Calls	Initial Cost**	Officers Dispatched	Hours on Calls	Initial Cost**
Walgreens - 2010 Branch St	61	34	\$1,746	66	36	\$1,870	55	19	\$974
Costco - 2150 Deming Way	178	85	\$4,353	163	67	\$3,417	170	74	\$3,800
Dollar Tree - 2524 Allen Blvd	11	15	\$750	19	10	\$501	37	20	\$1,043
Ace Hardware - 2540 Allen Blvd	28	13	\$643	22	17	\$880	30	16	\$796
CVS - 6210 Century Ave	32	27	\$1,369	37	22	\$1,113	60	33	\$1,682
Pick N Save - 6800 Century Ave	141	138	\$7,071	108	47	\$2,434	152	78	\$4,015
	451	311	\$15,932	415	199	\$10,213	504	240	\$12,309

* If any prior year values are 0 then the average, standard deviation, and normal range will NOT be calculated.

** Cost estimate is calculated by the initial response to the call for service and doesn't include investigative efforts and is based on a budgetary value of \$100,000 per officer.

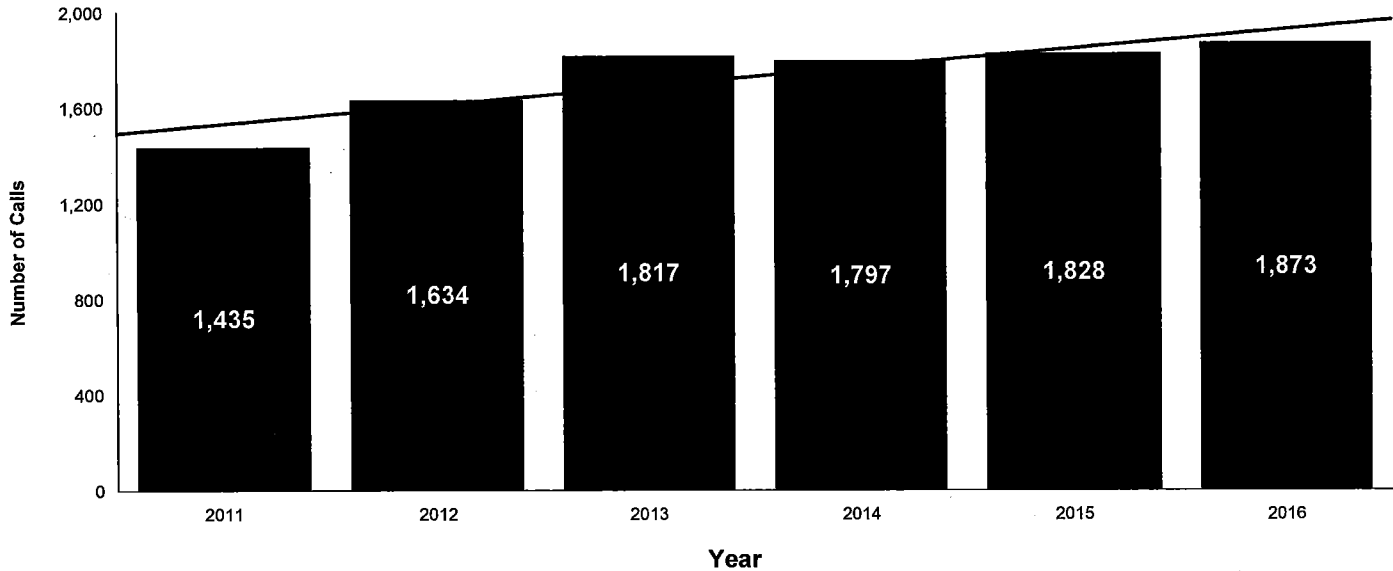


Monona Police Department

Calls for Service

Select Commerical Locations

2011 -2016



	2011	2012	2013	2014	2015	2016	Average	Standard Deviation	Normal Range
Shopko - 2101 Broadway	154	207	206	171	151	145	178	27	151 - 205
Walmart - 2151 Royal Av	695	812	1020	1035	1022	1088	917	155	762 - 1,072
Kohls - 2501 Broadway	107	164	117	119	168	206	135	29	106 - 164
Goodwill - 2501 Royal Av	33	17	22	29	29	36	26	6	20 - 32
Walgreens - 5300 Monona Dr	125	141	121	143	104	94	127	16	111 - 143
Menards - 6401 Copps Av	82	85	96	116	91	113	94	13	81 - 107
Pick N Save - 6540 Monona Dr	202	174	202	151	243	170	194	35	160 - 229
Staples - 6580 Monona Dr	37	34	33	33	20	21	31	7	25 - 38
	1435	1634	1817	1797	1828	1873	1702	169	1,533 - 1,871

	2014 Totals			2015 Totals			2016 Totals		
	Officers Dispatched	Hours on Calls	Initial Cost**	Officers Dispatched	Hours on Calls	Initial Cost**	Officers Dispatched	Hours on Calls	Initial Cost**
Shopko - 2101 Broadway	194	97	\$4,975	187	97	\$4,955	183	101	\$5,165
Walmart - 2151 Royal Av	1282	867	\$44,464	1413	898	\$46,054	1517	1009	\$51,731
Kohls - 2501 Broadway	147	85	\$4,372	224	135	\$6,942	268	122	\$6,275
Goodwill - 2501 Royal Av	40	19	\$957	40	12	\$637	46	16	\$840
Walgreens - 5300 Monona Dr	149	64	\$3,300	140	51	\$2,626	112	52	\$2,678
Menards - 6401 Copps Av	126	58	\$2,963	104	51	\$2,632	142	62	\$3,159
Pick N Save - 6540 Monona Dr	177	81	\$4,143	299	133	\$6,827	206	88	\$4,521
Staples - 6580 Monona Dr	35	9	\$484	20	4	\$199	32	14	\$721
	2150	1280	\$65,656	2427	1382	\$70,872	2506	1464	\$75,089

* If any prior year values are 0 then the average, standard deviation, and normal range will NOT be calculated.

** Cost estimate is calculated by the initial response to the call for service and doesn't include investigative efforts and is based on a budgetary value of \$100,000 per officer.

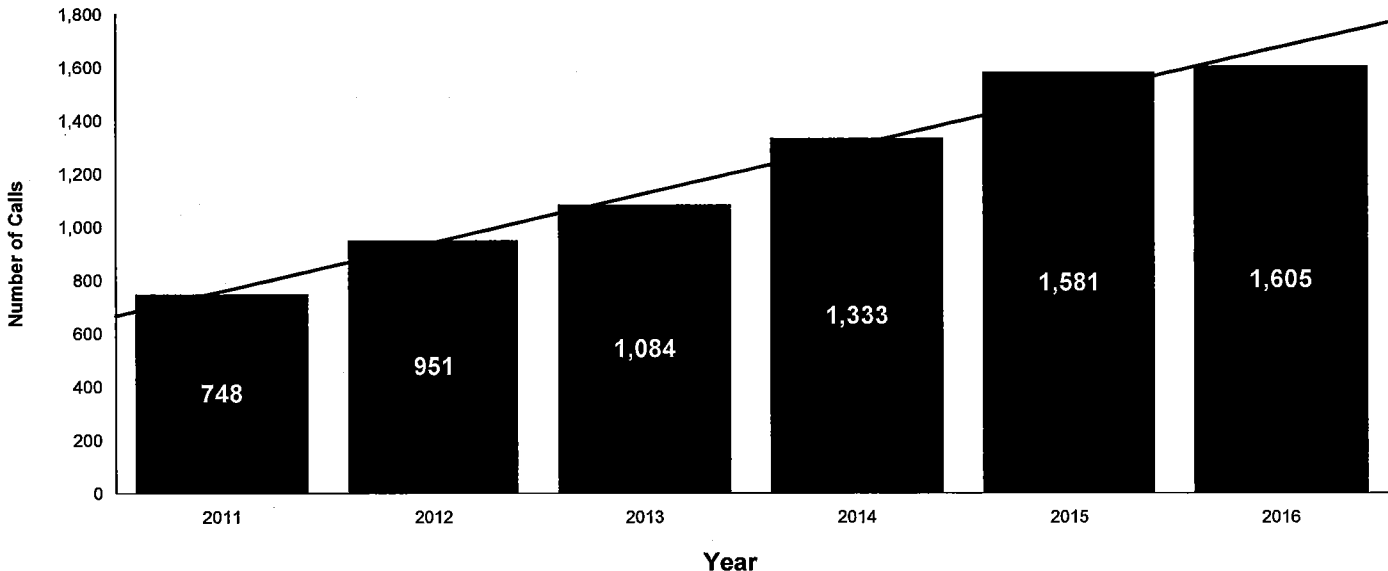


Sun Prairie Police Department

Calls for Service

Select Commerical Locations

2011 -2016



	2011	2012	2013	2014	2015	2016	Average	Standard Deviation	Normal Range
Woodmans - 1099 S Grand Ave	29	128	278	302	419	353	231	153	78 - 385
Cabelas - 1350 Cabela Dr	0	0	0	4	79	62	0	0	0 - 0
Walmart - 1905 Mccoy Rd	166	204	240	470	381	455	292	128	164 - 421
Pick N Save - 2538 Ironwood Dr	144	111	70	95	63	56	97	33	64 - 129
Walgreens - 275 Davison Dr	99	84	77	72	73	81	81	11	70 - 92
Marcus Cinema - 2830 Hoepker Rd	0	0	0	0	96	154	0	0	0 - 0
Costco - 2850 Hoepker Rd	0	60	85	88	94	106	0	0	0 - 0
Walgreens - 546 N Grand Ave	30	34	27	25	39	41	31	6	25 - 37
Pick N Save - 640 E Main St	100	91	136	141	184	109	130	37	93 - 167
Target - 660 S Grand Ave	145	156	105	85	104	108	119	30	89 - 149
Aldi - 750 Bunny Trl	0	0	0	0	13	20	0	0	0 - 0
Dollar General - 924 Windsor St	35	83	66	51	36	60	54	20	34 - 75
	748	951	1084	1333	1581	1605	1139	326	814 - 1,465

	2014 Totals			2015 Totals			2016 Totals		
	Officers Dispatched	Hours on Calls	Initial Cost**	Officers Dispatched	Hours on Calls	Initial Cost**	Officers Dispatched	Hours on Calls	Initial Cost**
Woodmans - 1099 S Grand Ave	426	354	\$18,170	590	620	\$31,802	537	527	\$27,016
Cabelas - 1350 Cabela Dr	5	1	\$69	117	313	\$16,038	89	72	\$3,667
Walmart - 1905 Mccoy Rd	728	960	\$49,225	574	859	\$44,026	667	511	\$26,196
Pick N Save - 2538 Ironwood Dr	130	114	\$5,844	83	40	\$2,026	85	62	\$3,170
Walgreens - 275 Davison Dr	104	61	\$3,139	101	76	\$3,881	116	40	\$2,058
Marcus Cinema - 2830 Hoepker Rd				129	69	\$3,533	204	105	\$5,404
Costco - 2850 Hoepker Rd	123	57	\$2,902	131	53	\$2,730	149	111	\$5,698
Walgreens - 546 N Grand Ave	26	10	\$494	49	24	\$1,238	47	20	\$1,033
Pick N Save - 640 E Main St	189	144	\$7,399	256	237	\$12,170	160	125	\$6,430
Target - 660 S Grand Ave	117	81	\$4,159	124	130	\$6,645	143	146	\$7,478
Aldi - 750 Bunny Trl				19	8	\$411	31	9	\$486
Dollar General - 924 Windsor St	75	88	\$4,529	51	26	\$1,329	82	62	\$3,156
	1923	1871	\$95,930	2224	2454	\$125,829	2310	1790	\$91,793

* If any prior year values are 0 then the average, standard deviation, and normal range will NOT be calculated.

** Cost estimate is calculated by the initial response to the call for service and doesn't include investigative efforts and is based on a budgetary value of \$100,000 per officer.

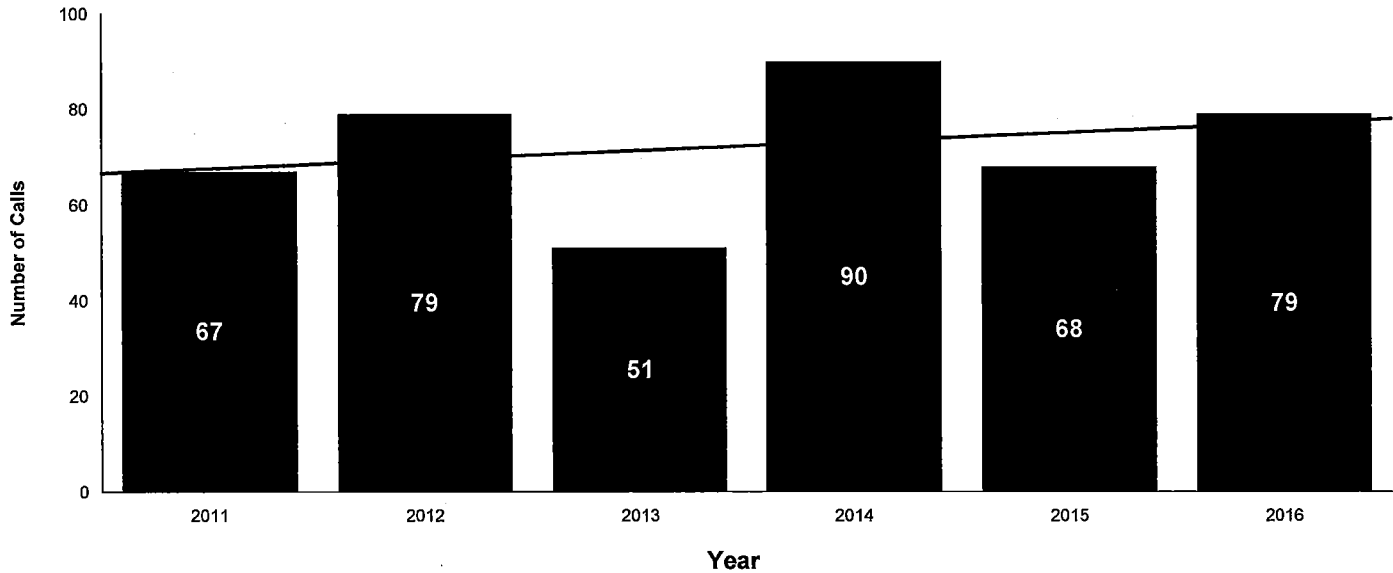


Verona Police Department

Calls for Service

Select Commerical Locations

2011 -2016

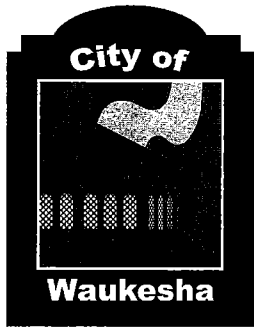


	Year						Average	Standard Deviation	Normal Range
	2011	2012	2013	2014	2015	2016			
Walgreens - 104 N Main Street	29	30	19	44	17	23	28	11	17 - 39
Farm & Fleet - 600 Hometown Circle	38	49	32	46	51	56	43	8	35 - 51
	67	79	51	90	68	79	71	15	56 - 86

	2014 Totals			2015 Totals			2016 Totals		
	Officers Dispatched	Hours on Calls	Initial Cost**	Officers Dispatched	Hours on Calls	Initial Cost**	Officers Dispatched	Hours on Calls	Initial Cost**
Walgreens - 104 N Main Street	57	147	\$7,556	20	16	\$819	28	32	\$1,631
Farm & Fleet - 600 Hometown Circle	54	60	\$3,100	73	56	\$2,851	86	146	\$7,504
	111	208	\$10,655	93	72	\$ 3,670	114	178	\$ 9,135

* If any prior year values are 0 then the average, standard deviation, and normal range will NOT be calculated.

** Cost estimate is calculated by the initial response to the call for service and doesn't include investigative efforts and is based on a budgetary value of \$100,000 per officer.



OFFICE OF THE MAYOR

201 DELAFIELD STREET
WAUKESHA, WISCONSIN 53188-3633
TELEPHONE 262/524-3701 FAX 262/524-3899

Shawn N. Reilly
sreilly@ci.waukesha.wi.us

To: Senate Committee on Revenue, Financial Institutions and Rural Issues
From: City Administrator Kevin Lahner
Copy: Mayor Shawn Reilly
Waukesha Common Council
Representative Scot Allen
Representative Adam Neylon
Senator Chris Kapenga

Date: August 28, 2017

RE: Support of SB 291 and SB 292

Thank You Chairman Marklein and members of the Senate Committee on Revenue, Financial Institutions and Rural Issues for providing me with the opportunity to testify in support of Senate Bills 291 and 292. I am here today as a representative of the City of Waukesha, Wisconsin's 7th largest city. The City of Waukesha Common Council unanimously passed a resolution in support of this legislation and Mayor Shawn Reilly is an enthusiastic supporter of these bills.

We support the passage of Senate Bills 291 and 292. These Bills are needed to stop the unfair and ongoing property tax shift that is continually increasing the property tax burden on homeowners, while providing a windfall to the big box stores and chain pharmacies.

Waukesha is in various stages of tax assessment appeals with at least eight big box or pharmacy establishments, all of whom are using the Dark Store theory or the Walgreen vs. City of Madison theory to contest their assessments. Some examples of the impact of these tax assessment appeals are as follows:

- a) In 2006 Menards paid \$14 million for its property. Menards took out a building permit to build its store for \$7 million. Menards' current opinion of value is \$8.2 million.
- b) In 2008, Walmart paid \$8.2 million for its property. Walmart took out a building permit to build its store for \$10.5 million. Walmart's 2017 Board of Review objection form indicates that its opinion of value is \$8.8 million.
- c) In 2008, Target paid \$2.6 million for its property. Target took out a building permit for \$7 million. Target's most recent court filing indicates its opinion of value is \$5 million.



- d) After the Walgreens Supreme Court ruling, Waukesha settled with Walgreens at approximately \$2.5 million for each of our four Walgreens stores. The Walgreens store at 230 Madison Street sold in 2012 for \$4.9 million. Because of the court rulings, Waukesha is not able to increase the assessed value on any of the Walgreens based on that sale. Just this month, the property has sold again for \$6.4 million. Again, because of current law the City will not be able to increase our assessment based on this sale. That is a \$3.9 million tax shift to Waukesha homeowners, and this is only one property.

- e) In 2012, Woodmans paid \$11.8 million for its property. Woodman's took out a building permit to build its store, showing the cost to build as being \$12 million. Woodmans' 2017 Board of Review objection form indicates that its opinion of value is \$14 million.

Each of the stores mentioned are in prime commercial corridors within the City of Waukesha, with continued new construction and thriving retailers. These stores should not receive an unfair property tax break, especially when the result is a continued unfair tax shift to the residential property owners in our community.

Making the situation even more unfair, the need for city services required for these types of commercial uses is greater than for other uses. During the calendar year of 2016 our Police Department responded to approximately 85 calls for service at Menards, 93 calls for service at Target and 71 calls for service at one Walgreens. Just yesterday, the Walgreens store mentioned previously required a significant police response that spanned several hours due to an armed robbery.

I appreciate Senator Roth and Senator Stroebel and all the sponsors for leading the way on this legislation. Thank you all for your time and interest in this issue. I strongly urge this committee and the members of the Waukesha legislative delegation to support these measures.

Respectfully,

Kevin Lahner
City Administrator, City of Waukesha



CITY OF JANESVILLE

Wisconsin's Park Place

Dark Store Bill, LRB 0373

- The goal of this bill is to avoid a large tax shift from commercial properties to other classes of property, primarily residential.
- Homeowners already currently pay 68 percent of the statewide property tax levy.
- Courts in other states like Michigan have upheld the "Dark Store" strategy, which argues that sales of closed, vacant stores can serve as comparables for determining the value of open, new stores, cutting property tax assessments for big box retail stores in some cases by as much as 50 percent.
- The bill is modeled after similar legislation that the state of Indiana passed in 2016.
- The bill codifies language in Wisconsin case law and DOR's Wisconsin Property Assessment Manual.
- The bill clarifies that when assessors use sales of comparable properties for determining the value of a property they must use properties that are within the same market segment and similar to the property being assessed with regard to age, condition, use, type of construction, location, design, and economic characteristics.
- The bill explicitly provides that assessors may not use a dark and vacant store as a comparable for property that is not dark or vacant.
- If this bill is enacted local governments will not receive one dollar more in tax revenue due to levy limits. The bill will, however, prevent more of the tax burden from being shifted to homeowners.

Walgreens Reversal Bill, LRB 0372

- Walgreens, CVS, and other single tenant retail properties rely on a 2008 Wisconsin Supreme Court decision, *Walgreens v. City of Madison*, to convince the courts that their assessed values should be less than half of the actual sale prices of the properties on the open market. As a result, more of the property tax burden is shifted to homeowners and other taxpayers.
- The *Walgreens v. City of Madison* decision continues to control how assessors must value Walgreens, CVS and other single tenant stores despite changes made to the Wisconsin Property Assessment Manual to counter the effects of that decision.
- Even though drugstores have become the most popular single-tenant properties in the national real estate investment market, regularly selling for \$5 million or more in Wisconsin, attorneys for Walgreen and CVS successfully argue that the actual sale prices don't represent market value and the underlying leases are the wrong tool for determining the property's value for 'property tax purposes,' citing the *Walgreens* decision.
- We have a situation now where courts, relying on the *Walgreens v. Madison* decision, are ignoring recent sale data of the property and instead setting the assessed value at 50% or more less than recent sale prices of the properties.
- That is not how assessment law is supposed to work. Usually, the best evidence of the fair market value of a property is a recent arms-length sale of the property.
- **Real World Example from Appleton:** The Court of Appeals recently relied on the *Walgreens v. City of Madison* decision to affirm that a CVS property in Appleton should be valued at \$1.8 million, much less than the City's \$4.4 million assessment, which was based on an actual sale of the property. Appleton is now looking at a \$350,000 refund.
- LRB-0372 reverses the *Walgreens* decision by clarifying that lease amounts are appropriately factored into the valuation of leased properties.
- LRB 0372 restores common sense and fairness to how Walgreens, CVS, and other single tenant retail stores should be assessed in Wisconsin.
- If this bill is enacted local governments will not receive one dollar more in tax revenue due to levy limits. The bill will, however, prevent even more of the tax burden from being shifted to homeowners.

Janesville Data

- Out of the 36 assessment appeals since 2011 past the Board of Review, 9 are in relation to the “Dark Store” theory.
- Janesville has roughly 24,000 taxable parcels so less than 0.3% of the property owners have been dissatisfied with the assessed value of their property.
 - 17 – Were dismissed or withdrawn
 - 2 – Janesville values were sustained
 - 9 – Court ordered settlements
 - 8 – Pending
- 9 appeals due to the “Dark Store” theory
 - 3 – Settled (Target, Sears & Menards)
 - 1 – Withdrawn/Dismissed (Farm & Fleet)
 - 5 – Pending (Bank Mutual, CFT Development d/b/a Panda Express & Firehouse Subs, Walmart, Sam’s Club, Woodman’s)
- Total litigation costs as of 5/10/17 for all assessment appeals: \$468,897.10 (or \$14.94 for the average assessed home)
 - Litigation costs due to the “Dark Store” theory: \$179,647.43 (or \$5.73 for the average assessed home)
 - The City of Janesville has not had appeals due to the “Triple Net theory” (Walgreens strategy) yet
- Refunds/tax shifts for locally assessed court-ordered settlements since 2011 as of 5/10/17: \$860,239.61 (or \$27.41 for the average assessed home)
 - Total Refunds due to the “Dark Store” theory: \$504,670.51 (or \$16.08 for the average assessed home)
 - Target: \$25,687.61
 - Sears: \$75,975.00
 - Menards: \$403,007.90
- Refunds for Manufacturing Property Assessment Appeals (state assessed): \$160,998.25 (or \$5.13 for the average assessed home)
 - Bliss Communications: \$101,476
 - Goex: \$59,522.25
- Total tax shift from all assessment appeals: Litigation costs + refunds = \$1,490,134.96 (or \$37.49 for the average assessed home)
- Total tax shift from “Dark Store” theory: Litigation costs + refunds = \$684,317.94 (or \$21.80 for the average assessed home)
- Total outstanding liability of new appeals w/o Litigation costs: = 17,216,200 (or \$548.65 for the average assessed home)
 - Bank Mutual
 - CFT Development (Panda Express)
 - Walmart
 - Sam’s Club
 - Woodman’s Food Market
- Janesville has almost 1,600 commercial assessed properties so far this is the cost for 9 properties that are at different stages of the appeal process. Imagine the impact if every commercial property owner appealed.
- Assessments are currently the way local tax is apportioned. The apportionment one pays should not be based on your ability to fight for a lower apportionment. “Dark Store” appeals are eroding the uniformity and equity of the assessments throughout the state.

Dark Store Theory Talking Points

- **5 Pending Cases for 2017**
 - Bank Mutual Corporation
 - Assessed Value: \$955,700
 - Opinion of Value: \$780,000
 - CFT Development
 - Assessed Value: \$2,116,400
 - Opinion of Value: \$1,1442,000
 - Walmart
 - Assessed Value: \$18,416,200
 - Opinion of Value: \$9,850,000
 - Sam's Club
 - Assessed Value: \$12,828,300
 - Opinion of Value: \$7,400,000
 - Woodman's Food Market
 - Assessed Value: \$15,871,600
 - Opinion of Value: \$13,500,000
 - **Tax shift if Opinion granted: \$17,216,200**
 - Approximately \$548.65 shift per average household
- State law requires that tax assessments be fair and uniform. Companies using dark story theory to dispute assessments violate this rule.
- Ruling on these cases sets a precedent that other businesses may follow, ultimately shifting an increasingly heavy burden on community taxpayers if courts continue to rule in favor of businesses using this theory.
- Significant public resources used by these big box corporations, they should have to pay their fair share.
- Only big box/large businesses using this, they do not see the local effect these settlements have.



August 30, 2017

Senate Committee on Revenue, Financial Institutions and Rural
Issues

Senate Bill 292

Representative Peter Barca

Chairman Marklein and members of the Senate Committee on Revenue, Financial Institutions and Rural Issues, thank you for holding a public hearing on Senate Bill 292, which addresses the “dark store” property assessment issue in Wisconsin. As a proponent of being responsive to local elected officials and an advocate for holding the line on property taxes, I would like to convey the support from local officials in my district for this bill and also hope that your committee will support this proposal. The City of Kenosha and the Village of Somers have both passed resolutions in support of this policy, and the Mayors of Racine and Kenosha, as well as the Village Presidents of Somers, Mount Pleasant, and Elmwood Park, all support SB 292. I have also cosponsored this bill.

This bill outlines a fair process based on longstanding practice of how property is valued, clarifies issues highlighted in litigation in other states, and prevents a shift of property tax burdens. It ensures municipalities can assess the value of property compared to truly similar properties and considering the economic characteristics of a location.

As you may know, other states around the country are undergoing extensive legal battles where municipal assessment methods have been challenged without clearly codified practices. The result of these cases in some instances has been that local governments have lost their ability to accurately assess the property tax burden among residents and business interests, thereby upsetting the balance that states like Wisconsin have enjoyed for many years. It is also important to note that this bill appears to be one of the most bipartisan of the significant pieces of legislation of this session. Therefore, the committee and legislature should act expeditiously to address this issue.

Successful businesses are cornerstones of our communities and our economy and deserve our support; however they should not be permitted to use a loophole to shift the property tax burden from commercial properties to homeowners.

Thank you for your time today and I hope, Mr. Chairman, you will hold an executive session in time for this to be considered in the fall session, and I would certainly encourage each of you to support it when Senate Bill 292 comes for a vote before this committee.

###

WMC

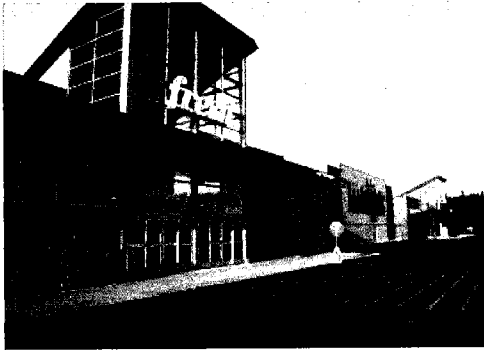
MYTHS ABOUT “DARK STORE” LEGISLATION

MYTH: The “dark store” legislation will affect only assessments of national big box retailers.

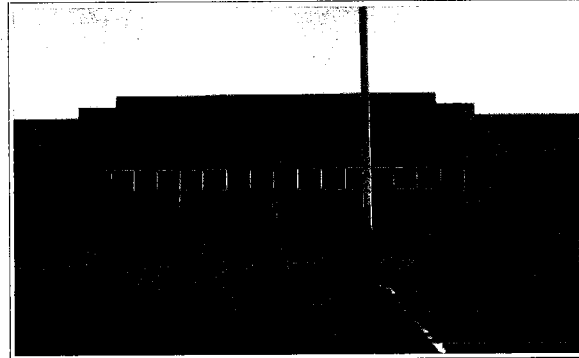
✓ **FACT:** The Wisconsin Constitution has a Uniformity Clause which mandates that all types of properties be assessed in the same manner. So, if the Legislature wants to target national big box retailers for tax increases, mom ‘n’ pop retailers, manufacturers, and owners of other commercial properties will also be in the crosshairs.

MYTH: Retailers with new stores, like the photo on the left, are using sales of properties that look like the empty store on the right, to justify lower assessments.

New Store



Empty Store



✓ **FACT:** No reasonable taxpayer or judge would accept a sale of a property, like that on the right, as a good indication of value for new property, like that on the left. Municipalities have yet to provide an example where a taxpayer has prevailed in a tax challenge using sales of properties like that on the right to justify a lower assessment of a property like that on the left.

MYTH: The “dark store” legislation was a reaction to efforts by national big box retailers who struck first in trying to reduce the property tax assessments of their stores.

✓ **FACT:** In community after community, assessors have significantly increased the assessments of retail properties and the increase in legal activity by retailers has been a reaction to these aggressive tactics by assessors.

~ continued ~

WMC

MYTHS ABOUT “DARK STORE” LEGISLATION (cont’d)

MYTH: Efforts of national retailers have led to a shifting of the tax burden to homeowners.

✓ **FACT:** Owners of commercial property are paying a greater share (not a smaller share) of the property tax burden. The Department of Revenue does not track assessments of retailers as a separate group, but it does track commercial properties which includes retail properties. The Legislative Fiscal Bureau reported that the share of the tax burden borne by commercial properties for the most recent year for which data is available – taxes assessed in 2015, collected in 2016 – is about as high as it has ever been. Owners of commercial real estate paid 22% of all property taxes, up from 19% in 2005(06). Owners of residential property paid 68% of all property taxes in 2016, down 4% from their share in 2005(06).

MYTH: The “dark store” legislation will increase the commercial property tax base.

✓ **FACT:** To be sure, the “dark store” legislation will increase the assessment for many properties. However, there is an ever increasing inventory of “dark stores” as retailers close more stores because the “dark store” legislation is based on the premise that “dark stores” are worth considerably less than occupied stores. As the inventory of “dark stores” increases and there are fewer occupied big box stores, in the long run, this will reduce the commercial property tax base, especially in communities that have already experienced the loss of jobs that accompanies the closure of a big box store.

MYTH: The “dark store” legislation will lead to fewer property tax disputes.

✓ **FACT:** If anything, the number of challenges will skyrocket. In the months following the 2007 Court of Appeals decision to sustain Madison’s assessment of two Walgreen stores (this was one year before the Supreme Court reversed the Court of Appeals and found in favor of Walgreens), assessors greatly increased the assessments of Walgreens. As a result, there was an exponential increase in objections. This same pattern is likely to occur if “dark store” legislation is enacted. Assessors will increase all manner of assessments and taxpayers will file objections. But unlike the Supreme Court’s decision that clarified the law, the “dark store” legislation is chock full of new and uncertain terms that will require years of litigation to sort out.

MYTH: The “dark store” legislation will lead to more consistent assessments.

✓ **FACT:** The two “dark store” bills create great variations in assessments of properties that are otherwise quite similar. If a property is occupied or leased, the assessment of that property can easily be 2-3 times of an identical property that is not leased or not vacant.

WMC

WISCONSIN MANUFACTURERS & COMMERCE

TO: Members of the Senate Committee on Revenue, Financial Institutions and Rural Issues

**FROM: Scott Manley
Senior Vice President of Government Relations**

DATE: August 30, 2017

RE: Opposition to Senate Bill 291 and Senate Bill 292

Thank you for the opportunity to explain Wisconsin Manufacturers & Commerce's (WMC) strong opposition to Senate Bill 291 and Senate Bill 292. These bills would substantially change the assessment of commercial property in Wisconsin, result in massive property tax increases for businesses, allow local governments to tax income through the property tax, and have a significant chilling effect on investment in commercial and manufacturing real estate.

WMC is the state chamber of commerce and largest general business association in Wisconsin. We were founded more than 100 years ago, and are proud to represent approximately 3,800 member companies of all sizes, and from every sector of our economy. Our mission is to make Wisconsin the most competitive state in the nation in which to do business.

The supposed need for this legislation is to overturn court decisions that forbid local governments from taxing lease income, and to include use value rather than market value when assessing property. The result will be massive property tax increases and double taxation of income for many businesses who engage in sale-lease back transactions.

Wisconsin's income taxes are already too high – the Legislature should not worsen this burden by allowing local governments to tax lease income through the property tax.

Background

Courts in Wisconsin and elsewhere have held that assessors must assess the market value of the fee simple interest in real property.

According to the Wisconsin Property Assessment Manual (WPAM), market value “is the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale...”.

Fee simple interest “is the fullest form of private ownership subject only to certain government limitations” such as zoning and utility easements. After leasing a property, the owner no longer has a fee simple ownership interest, but now owns the leased fee interest.

Senate Bill 291 is a vast departure from longstanding assessment practice by allowing contract rents, as opposed to market rents, to be included in the assessed value of real estate property. **In addition to being unconstitutional, this proposal will substantially increase property taxes for many businesses who utilize sale-lease back financing arrangements for their properties.**

Prior Legislative Effort

These bills mark the latest iteration of a decade-long effort by some municipal assessors to extract higher property tax collections from commercial properties by including the value of above-market leases in the value of the property - a practice consistently found to be unlawful by the courts. **You are being asked to change the law to allow local governments to raise taxes on many commercial properties – not just “big box” retailers.**

Legislation similar to Senate Bill 291 was drafted by liberal Democratic State Senator Bob Jauch and included in the 2009-11 state budget. **Even Governor Jim Doyle, who signed into law the largest business tax increase in Wisconsin history, had the good sense to veto the misguided idea.**

Legal Challenges

The aggressive assessors then turned their efforts to the courts, which have consistently rejected efforts to impose these massive property assessment and corresponding property tax increases. The *Walgreens v. City of Madison* 2008 State Supreme Court decision, the *Walgreens v. City of Oshkosh* 2014 Court of Appeals District II decision, and the *CVS Pharmacy v. City of Appleton* 2016 Court of Appeals District III decision, all confirmed that these aggressive assessments were unlawful, along with numerous circuit court rulings.

In these suits, municipalities have sought to assess properties subject to a lease, but the courts have stated that a lease is not part of the bundle of rights that is to be assessed for the purposes of the property tax.

Taxing Business Income Through the Property Tax

Senate Bill 291 seeks to tax business income through the property tax by the inclusion of above-market leases in the value of the property, which the courts have consistently ruled cannot be done. Wisconsin already has some of the highest property and income taxes in the country. It's disappointing and frustrating that lawmakers seek to worsen this crushing burden for businesses by allowing local governments to tax lease income through the property tax. **A more honest, but equally misguided approach, would simply give local governments the authority to levy income taxes -- as opposed to hiding the tax increase in a property tax bill.**

Business Use of Lease Arrangements

A large number of businesses, including many manufacturers, now lease the property on which they operate compared to even a decade ago. Sale-leaseback and build-to-suit lease arrangements are common today. The contract prices associated with these transactions have, as the Wisconsin Supreme Court found, "artificially increased sales prices caused by unusual financing arrangements."¹ These unique financing arrangements will be negatively impacted by Senate Bill 291 by allowing assessors to jack up the assessments on these properties.

These lease arrangements are done for a number of reasons, including succession and estate planning. The rent paid on these properties is often above-market. **Including leases in the value of property sold, as authorized by Senate Bill 291, will result in double taxation of business income that is already subject to income and franchise tax, and makes an important construction financing tool for manufacturers and other small businesses cost-prohibitive.**

Indiana's "Dark Box" Laws

Indiana is the only state which adopted legislation similar to these bills in 2015. Advocates for Senate Bill 291 and Senate Bill 292 have consistently mentioned passage of the Indiana bills. **But that legislation was totally repealed in 2016, as it proved to be unworkable.**

Uniformity Clause Considerations

Wisconsin's constitution requires uniformity, meaning that the provisions of these two bills cannot be limited to the locations of a few politically disfavored businesses. Removing vacant properties as comparable sales and assessing property value based on above-market rents will create uncertainty for other classes of properties beyond those occupied by retailers.

¹ Walgreen Co. v. City of Madison, 2008 WI 80, ¶54

For example, some owners of small businesses will separately own the real estate out of which that business operates. The owner of a small manufacturing company may own the factory in a personal capacity rather than have the manufacturing company own the building. This structure is common in all areas of business, such as service providers (law firms, medical practices, etc.), restaurants, and small retailers. These arrangements may be made for estate or succession planning and the rent paid in circumstances is often above-market. Under current law, these rents would now be considered when setting assessments. **Under Senate Bill 291, the value of these leases would be assessed and taxed along with the building, which is a back door income tax.**

The Bogus Property Tax Shift Argument

Advocates for this legislation allege that a property tax shift is occurring from commercial properties to residential properties. This is simply untrue. Tax collections from 2016 show that the percentage of property taxes paid by commercial properties has increased over the past ten years to 22% of all taxes collected. Meanwhile, the percentage of property taxes paid by residential taxpayers has decreased by 4% over that same time period. As a total share of all property taxes paid, commercial taxpayers are shouldering a higher burden than they were ten years ago, while the burden on homeowners is less.

The refunds which some municipalities are paying out today for over-assessments are the result of assessors employing aggressive, unlawful assessment tactics – it is not a “loophole” recently discovered by certain commercial property owners. **The Municipalities’ efforts to raise taxes have been consistently rebuffed by the courts, and now they are asking you to help them raise taxes on employers.**

Conclusion

In summary, this legislation grants local governments the power to levy taxes on business income, and empowers assessors with the ability to significantly increase the property tax burden of commercial and other property owners. The legislation also generates significant Uniformity Clause implications for a broad range of property owners and tenants, and shifts additional property tax burden to commercial property. **Simply put, these bills constitute a massive tax hike.**

We urge you to oppose these bills and preserve the property assessment standards that have served our state well for so long.

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Tax Policy

Dark stores are closed and vacant commercial buildings. Big-box retailers have argued that dark stores can be considered when valuing their property. Assessors and appraisers have argued that dark stores are not comparable to open and operating stores, and shouldn't be used for property tax valuation. In this article, Fredrikson & Byron, P.A.'s Judy Engel and Lynn Linné discuss the dark stores theory and why using vacant stores in property valuation is an acceptable appraisal practice.

The Dark Store Theory and Other Lies the Government Told

By JUDY S. ENGEL AND LYNN S. LINNÉ

Judy S. Engel is a shareholder with and co-chair of the property tax appeals group at Fredrikson & Byron, P.A. Judy focuses primarily on retail, office and multi-family residential real estate appraisals, but also has extensive experience handling tax appeals involving industrial, mixed use, and medical buildings. Lynn S. Linné is an associate with Fredrikson & Byron, P.A. Lynn focuses her practice on tax appeals of commercial and industrial properties. Before joining Fredrikson & Byron, she served as a judicial law clerk to the Minnesota Tax Court.

The "Dark Store Theory" was initially developed by a handful of activist assessors and appraisers in an attempt to tax big box retail stores based on above-market built-to-suit leases as opposed to their fee simple fair market values in order to increase local tax bases. These activist assessors and appraisers have creatively spun the theory as a "tax loophole" used by large corporations seeking to avoid paying their "fair share" of local property taxes. Proponents of the theory argue that big box retailers want their operating stores valued as if they were empty and abandoned – i.e. like a "dark" store.

Our opinion? The theory is nothing more than a populist propaganda tool being used to blame those perceived as outsiders for shortfalls in local governmental budgets. The reality is that there is no such thing as the "Dark Store Theory." There are only generally accepted appraisal practices used to properly identify the fee simple market value of real estate – the measure for real property taxation in most states.

**Valuing the Fee Simple,
Generally Accepted Appraisal Practices**

Most states' constitutions require taxes to be levied against real property in a uniform manner. These provisions typically require that similar properties be treated similarly. In a nutshell, this requirement prohibits the government from taxing you twice as much as your next door neighbor with an identical house.

One way to help assure that property is taxed uniformly is to require real property to be valued in the fee

simple using generally accepted appraisal practices. Fee simple is defined as “absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.” [*Fee simple estate, Dictionary of Real Estate Appraisal*, 90 (6th ed. 2015).]

A property subject to a lease is encumbered by what is known as a leasehold estate – i.e.: the estate held by the lessee. A property sold subject to a lease is not sold in the fee simple. Instead, it is sold in what is commonly referred to as the leased fee.

That leased fee interest can have a positive or negative value depending on the terms of the lease. In the most basic terms, if the property is leased at a rate below current market levels, the lease generally impairs the value of the property and a buyer purchasing the real estate will pay less for the property than it would be willing to pay if the lease was at market levels. Conversely, if the property is leased at a rate above current market levels, the leased fee value is generally positive and a buyer purchasing the real estate will pay more for the property. The key, however, is that the buyer is buying more than the real estate alone – they are also buying the contractual income stream associated with the real estate. The contractual right to this income stream is an intangible asset, not real property.

This is why generally accepted appraisal practices permit sales of leased fee properties to be considered only when the value of the leased fee can be identified and removed from the sale price. Identifying and valuing the leased fee interest of a property, however, can be difficult—if not impossible—since it requires the analysis of facts and details that are generally not publicly available. As a result, for purposes of a fee simple valuation, the most accurate method for valuing real property under the sales comparison approach often is to compare it to similar properties that have sold in the fee simple. In most cases, properties sold in the fee simple are vacated by the prior occupant before the sale.

The “Lie”

For many years, these basic tenets of real estate valuation were undisputed. However, a number of opportunistic assessors recently began to attack these core valuation principles in an effort to increase their local tax bases. They have largely focused on big box retail properties, which are commonly purchased subject to long term above-market rate leases entered into as part of the financing structure for their original construction. These properties generally sell at values significantly higher than their fee simple counterparts because the leased fee sales include the value of the contractual income stream associated with the long term above-market rate leases.

In order to capture and tax the increased value of these leased fee estates, a number of inventive assessors began peddling the “Dark Store Theory.” They allege that national big box retailers are trying to avoid paying their fair share of local taxes by seeking to exclude leased fee sales and include only sales of “failed” or “dark” stores.

The argument, as with most populist arguments, has broad appeal. It pits the large corporate outsider against the small local underdog, creating an “us verses

them” dichotomy that tends to sell more newspapers and get more votes. The problem is that the theory directly contradicts long standing generally accepted appraisal practices as espoused for many years by preeminent professional appraisal organizations such as the Appraisal Institute. Adding the value of an intangible asset into real property taxation will ultimately lead to non-uniformity in taxation in violation of most states’ constitutions and will create the “unfairness” in taxation which most assessors are statutorily required to avoid.

Closing the “Loophole”

Assessors and local government officials recently began arguing the Dark Store Theory in a number of court cases, achieving mixed results.

Several courts have accepted the Dark Store Theory argument. For example, the New York Supreme Court, Appellate Division, held in *Rite Aid Corporation v. Huseby* that the taxpayer, a national drugstore company, improperly failed to consider a recent sale-leaseback of the property as well as the sales of other drugstore properties subject to built-to-suit leases. [*Rite Aid Corp. v. Huseby* 130 A.D.3d 1518, 13 N.Y.S.3d 753 (2015).] The Court based its decision on the existence of what it characterized as a “submarket” consisting of built-to-suit net lease sales of national chain drugstores, which the court concluded were a better indicator of value for the property than what it characterized as unoccupied and vacant stores.

Other courts have rejected the theory, finding that it conflicts with generally accepted appraisal practices. For example, in *Walgreen Company v. City of Madison*, the Wisconsin Supreme Court held that generally accepted appraisal practices require the fair market value of a fee simple interest to be based on market rents rather than contract rents. [*Walgreen Co. v. City of Madison*, 2008 WI 80, 311 Wis. 2d 158, 752 N.W.2d 687 (2008).] The Court explained that contract rents, particularly those resulting from sale-leaseback and built-to-suit transactions, often reflect “artificially increased sales prices caused by unusual financing arrangements.”

The dispute over the Dark Store Theory was quickly picked up by the media. Journalists throughout the country began to spin this theory as a corporate “tax loophole” targeted to undercut the funding of small towns and local governments.

Most recently, politicians have also gotten involved by proposing new legislation on the issue. Legislators in Indiana, Michigan, Texas and Wisconsin have been particularly active in their attempt to close what has been characterized as the “dark store” loophole.

In 2015, Indiana successfully passed legislation that required first generation big-box retail properties with an effective age of 10 years or less to be valued under the cost approach. It also limited the types of sales comparables that could be used in assessing commercial non-income-producing real property with an effective age of 10 years or less. Taxpayers were prohibited from using comparables that were vacant for more than one year or that had a significant restriction placed on the use of the property. These provisions were subsequently repealed one year after their adoption, presumably due to constitutionality concerns regarding uniformity in taxation. However, in 2016, Indiana adopted re-

placement legislation requiring property to be classified on the basis of market segmentation, which prohibits the consideration of comparable sales in a different market or submarket than the current use of the subject property. The legislation also specifies, however, that true tax value does not mean the value of the property to the current user.

In the past several years, legislators in Michigan, Texas, and Wisconsin have also attempted to pass similar legislation intended to prevent big box retailers from considering vacant or "dark" stores when valuing properties. The proposed legislation also focused on related issues, such as the consideration of deed restrictions and the use of contract rents instead of market rents when valuing income producing properties. Although these additional legislative attempts have gained momentum in recent years, they have (thus far) been unsuccessful.

Will it Work? Can it Last?

Will the attempt to create new valuation rules that single out big box retailers work? If it does, the more important question is, can it last?

The short answer to the first question is apparently yes—the activist assessors and appraisers have been able to get some courts and legislators to drink the Dark Store Theory punch. Populist arguments such as the Dark Store Theory are gaining ground not only in America, but around the world. Blaming the outsider is easy and politically expedient at the moment. Moreover, selling a tax policy that "taxes the rich" and makes them "pay their fair share" is always easy.

The answer to the second question, however, is not so clear. The problem is that the entire theory is based on a lie. It is not supported by generally accepted appraisal practices and will ultimately lead to constitutional violations of the requirement of uniformity in

taxation. Thus, any legislation attempting to single out one type of property and to tax it differently from all others will always be subject to a legitimate legal challenge.

Perhaps more importantly, the long term sustainability of any taxing scheme that taxes big box retailers differently from everyone else is questionable. The retail markets are currently experiencing a period of dramatic and swift change. The growth of online retailers such as Amazon are putting a strain on the brick and mortar retailers like never before. Retailers, including those often occupying big box properties such as Sears, Kmart, Gordman's, HH Greg, Sportmart, J.C. Penney, Macy's, and Gander Mountain, are filing for bankruptcy and closing stores at a record pace.

Assessors, appraisers and legislators advocating the Dark Store Theory don't seem to understand that targeting big box retailers by imposing disproportionately higher property taxes on them may harm the very constituents they seek to benefit. For brick and mortar retailers, real estate taxes are often one of the largest expense items on the profit and loss balance sheet. In today's hyper-competitive and continually shrinking brick and mortar retail market, retailers are being forced to close their less profitable stores. As one of the largest expenses, a store's tax burden may be one of the first factors a retailer will consider in deciding which stores to close.

When these retailers shutter their brick and mortar locations—everyone loses, especially the local communities that depend on these stores not only for their property tax revenues, but for the jobs they provide and the goods they sell. Perhaps only then will proponents of the Dark Store Theory realize that big box retailers are not outsiders—they are friends, family and neighbors, and application of the Dark Store Theory may ultimately only lead to more "dark" stores.

WMC

WISCONSIN MANUFACTURERS & COMMERCE

MEMORANDUM

To: Interested Parties
From: Lucas Vebber, WMC General Counsel
Date: August 30, 2017
RE: The Constitutionality of Senate Bill 291

This legislation purports to allow that which the Wisconsin Constitution expressly prohibits. The Wisconsin Constitution has required since the beginning of statehood that property be taxed uniformly:

The rule of taxation shall be uniform but the legislature may empower cities, villages or towns to collect and return taxes on real estate located therein by optional methods. Taxes shall be levied upon such property with such classifications as to forests and minerals including or separate or severed from the land, as the legislature shall prescribe. Taxation of agricultural land and undeveloped land, both as defined by law, need not be uniform with the taxation of each other nor with the taxation of other real property. Taxation of merchants' stock-in-trade, manufacturers' materials and finished products, and livestock need not be uniform with the taxation of real property and other personal property, but the taxation of all such merchants' stock-in-trade, manufacturers' materials and finished products and livestock shall be uniform, except that the legislature may provide that the value thereof shall be determined on an average basis. Taxes may also be imposed on incomes, privileges and occupations, which taxes may be graduated and progressive, and reasonable exemptions may be provided.

Wis. Const., Art. VIII, § 1 (emphasis added). Our Supreme Court has noted the purpose of this clause “is ‘to protect the citizen against unequal, and consequently unjust taxation.’” *Gottlieb v. City of Milwaukee*, 33 Wis.2d 408, 426, 147 N.W.2d 633, 643 (Wis., 1967) citing *Weeks v. City of Milwaukee*, 10 Wis. 186, 201 (Wis., 1860). This clause “is as worthy as it is necessary.” *Id.* This legislation directly conflicts with the uniformity provision, and is unconstitutional.

This legislation would allow a city to tax two parcels of land which are identical in every way at different levels based not upon the actual value of the property but instead upon the method of financing that was selected for one of the parcels. In so doing, this legislation would purport to overturn the holding of *Walgreen Co. v. City of Madison*, 2008 WI 80, 752 N.W.2d 687, 311 Wis.2d 158 (Wis., 2008). That case was decided based on the statutes – which are being changed by this legislation, while constitutional concerns were raised, the Court never addressed them. The

501 East Washington Avenue, Madison, WI 53703-2914

Phone 608.258.3400 • Fax 608.258.3413 • www.wmc.org • Facebook WisconsinMC • Twitter @WisconsinMC

Founded in 1911, WMC is Wisconsin's chamber of commerce and largest business trade association.

Court specifically noted, “[b]ecause the other issues in this case are dispositive, we do not reach the uniformity clause issue.” *Id* at ¶ 2.

Therefore, while the proposed changes in this legislation purport to overturn *Walgreen* and allow assessors to consider the value of above-market lease agreements – serious constitutional questions remain. Such a practice would be inherently unequal and would violate the uniformity provisions of Wis. Const., Art. VIII, § 1.

Courts have long understood the intent of the uniformity clause is to protect unequal treatment by tax collectors: “Under the rule of uniformity, the appellant should be allowed, as here, to demonstrate that, despite the fact that he has paid a fair price for the property, the assessments of comparable property were significantly lower and that this amounted to a discriminatory assessment of this property.” *State ex rel. Hensel v. Town of Wilson*, 197 N.W.2d 794, 796, 55 Wis.2d 101, 105 (Wis., 1972) (footnote omitted).

The uniformity clause “requires that the method or mode of taxing real property must be applied uniformly to all classes of property within the tax district.” *State ex rel. Levine v. Board of Review of Village of Fox Point*, 528 N.W.2d 424, 427, 191 Wis.2d 363, 372 (Wis., 1995).

The Court has also noted that beyond the uniformity provision, equal protection concerns are raised: “There can be no doubt that under this constitutional provision, and indeed under the equal protection clause of the fourteenth amendment to the federal constitution, the court must determine not only that the assessment is based upon fair market value of the real estate, but also that the assessment does not discriminate against a property owner even though his property has been acquired at a recent sale.” *Hensel*, 197 N.W.2d at 796, 55 Wis.2d at 107 (footnote omitted).

In the unlikely event that this statute *is* found to be constitutional, the ramifications for taxpayers throughout the municipality would be disastrous. The tax increases mandated by this legislation would be required under our constitution to be applied to all business property – drastically increasing the tax burden on businesses throughout Wisconsin. Case law is clear that “[a]n assessor cannot elect to reassess only a single property within a class of similar properties.” *Lube v. City of Milwaukee*, 331 Wis.2d 137, 155, 794 N.W.2d 510, 519, 2011 WI App 7, ¶29 (Wis. App., 2010) (internal citations omitted).

The uniformity clause was written by our state’s founders specifically to prevent legislators from the type of unequal and unfair treatment that this legislation purports to allow. Thankfully the burden for amending the Wisconsin Constitution is much higher than simply changing a statute, and those protections will remain.

The City of Baraboo, Wisconsin

Background A Resolution urging the Governor and the Legislature to protect homeowners and main street businesses from having even more of the property tax burden shifted to them by passing legislation that eliminates the “Dark Store Theory” of property assessment.

A list of Wisconsin municipalities that have already adopted the same or a similar resolution: City of Brookfield, City of Delavan, City of De Pere, City of Fond du Lac, City of Glendale, City of Green Lake, City of Greenfield, City of Janesville, City of Johnson Creek, City of Kenosha, City of Lake Geneva, City of Lodi, City of Madison, City of Milwaukee, City of Monona, City of New Berlin, City of New London, City of New Richmond, City of Oak Creek, City of Oconomowoc, City of Onalaska, City of Platteville, City of Plover, City of Plymouth, City of Portage, City of Prairie du Chien, City of Rhinelander, City of Sheboygan, City of Stoughton, City of Thorp, City of Watertown, City of Waukesha, City of Wauwatosa, City of West Allis, City of West Bend, City of West Milwaukee, City of Wisconsin Rapids, St. Croix County, Village of Bellevue, Village of Hales Corners, Village of Manawa, Village of Pewaukee, Village of Pleasant Prairie, Village of Plover, Village of Saukville, Village of Thiensville, Village of Wales, Village of Waterford, Village of Waunakee, Washington County

Note: (√one) [X] Not Required [] Budgeted Expenditure [] Not Budgeted
Comments:

Resolved, by the Common Council of the City of Baraboo, Sauk County, Wisconsin:

Whereas, home owners in Wisconsin already pay 70% of the total statewide property tax levy; and

Whereas, that disproportionate burden is about to get much worse unless the Legislature addresses tax avoidance strategies that national chains like Walgreens, and big box retail establishments like Target and Lowe’s are using across the country to gain dramatic reductions in their property tax bills at the expense of homeowners and other taxpayers; and

Whereas, a carefully-orchestrated wave of 100s of lawsuits in Wisconsin is forcing assessors to slash the market value of thriving national retail stores, shifting their tax burden to local mom and pop shops and homeowners; and

Whereas, Walgreens and CVS stores in Wisconsin have argued in communities across the state that the assessed value of their property for property tax purposes should be less than half of their actual sale prices on the open market; and

Whereas, in many cases the courts have sided with Walgreens and CVS, requiring communities to refund tax revenue back to the stores; and

Whereas, there are over 200 Walgreens stores located in Wisconsin’s cities and villages; and

Whereas, Target, Lowe’s, Meijer, Menards and other big box chains are using what is known as the “Dark Store Theory” to argue that the assessed value of a new store in a thriving location should be based on comparing their buildings to sales of vacant stores in abandoned locations from a different market segment; and

Whereas, the Republican-controlled Indiana state Legislature has on two occasions in the last two years overwhelmingly passed legislation prohibiting assessors from valuing new big box stores the same as nearby abandoned stores from a different market segment; and

Whereas, the Michigan state house overwhelmingly passed similar legislation in May of 2016.


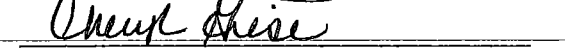
Now, Therefore, Be It Resolved, that the Common Council of the City of Baraboo urges the Governor and the Legislature to protect homeowners and main street businesses from having even more of the property tax burden shifted to them by passing legislation clarifying that:

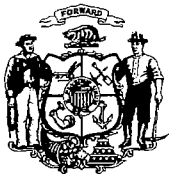
1. Leases are appropriately factored into the valuation of leased properties; and
2. When using the comparable sale method of valuation, assessors shall consider as comparable only those sales within the same market segment exhibiting a similar highest and best use rather than similarly sized but vacant properties in abandoned locations.

BE IT FINALLY RESOLVED that the City Clerk forward copies of the adopted resolution to Governor Scott Walker and the Baraboo area legislative delegation.

Offered by: Finance Committee
Motion: Kolb
Second: Wedekind

Approved:
Attest:



STATE REPRESENTATIVE
GORDON HINTZ

WISCONSIN STATE ASSEMBLY

54th DISTRICT

August 30, 2017

Dear Chair and Members of the Senate Committee on Revenue, Financial Institutions and Rural Issues,

Thank you for the opportunity to submit testimony today regarding Senate Bills 291 and 292. These bills would protect Wisconsin communities against the "dark store" strategy and alternative legal loopholes used by attorneys on behalf of large retail corporations to dramatically reduce their property tax liability and push the costs on to homeowners.

Along with my local government officials, I have been monitoring this issue closely for several years with growing concern. In Oshkosh, we have been significantly impacted by this practice. Our city has already lost one dark store lawsuit on appeal in 2015 to Walgreens, when the court ordered the city of Oshkosh to pay Walgreens \$305,680 in overcharged taxes, plus court fees and interest. Since then, two more lawsuits have been filed by retailers Lowe's and Menards.

In my discussions with other legislators and local elected officials, it is becoming clear that every municipality in the state is concerned they will be next. This is a problem that has been moving from state to state as big law firms realize they can market themselves to large corporations by exploiting a loophole in current law. And the problem will only get worse, because current law is not clear where the limits of these loopholes are. If large retailers are successful in lawsuits like this, why shouldn't other businesses follow?

As legislators, we are elected to work on behalf of those we represent. I have never met a homeowner who thinks they need to pay more in property taxes so that a large corporation can receive an unfair tax break. Inaction on this issue is effectively endorsing a shift in property tax burden to local homeowners. This is a bill with strong bipartisan and public support, and I hope the committee moves to advance this bill before this problem expands further.

Thank you for your consideration,

A handwritten signature in cursive script that reads "Gordon Hintz".

Gordon Hintz
State Representative-54th Assembly District

Testimony on Dark Store and Walgreen's Property Valuations

Paul Esser

August 30, 2017

Thank you for the opportunity to testify in support of bills ~~AB 386~~ and ~~AB 387~~. I am Paul Esser and I am the mayor of the City of Sun Prairie. I wish to speak to the impact that the Dark Store and Walgreen's property valuations are having on families in Sun Prairie.

The impact on our families is the result of the reduced valuations being allowed for large retailers which enables them to pay less than their share of our real estate tax levy. Sun Prairie is currently experiencing this situation with Target and Walgreen's. Each of these two retailers have had their property taxes valuations reduced by \$1,000,000 resulting in a loss of real estate tax revenue since 2009 of more than \$108,000. Additionally, Walmart and Woodman's have each given notice that they intend to file a lawsuit against the City regarding their 2017 valuations.

These lost real estate tax revenues are needed to operate our city so we are forced to make up the deficit by assigning it to all of the other City tax payers and since 70% of our property tax revenue comes from residential properties the short fall is being put on the backs of our home owners.

Sun Prairie is a rapidly growing community that is attracting many young families. These young families are being asked to pay more than their share of the real estate tax in order to make up for the taxes being avoided by the large retailers. These are the families that need to invest in establishing their lives and supporting their children but instead are being asked to underwrite the tax reductions being received by the large retailers.

And it isn't as if these large retailers require less in city services. If that were the case, it might justify them paying less but that is simply not the situation. Because of the high level of activity in their stores they are large consumers of our emergency services of police, fire and EMS. There is no basis for the tax break they are getting.

Finally, it is important to note that we in Sun Prairie are not opposed to these businesses and we are grateful they have chosen to be part of our community. We are only opposed to the valuation methods being used to reduce the assessed value of their property.

I am here today speaking on behalf of the residents of Sun Prairie to request your support to make the application of real estate taxes equitable to all tax payers in our community.

Thank you for the opportunity to share Sun Prairie's concerns with you.

Guest column: 'Dark store' loophole must be closed

By Andrew Kitslaar | Posted: Thursday, August 17, 2017 8:00 am

There's an issue citizens of the city of Monona and residents across the state of Wisconsin should be aware of, called the "dark store" loophole. Big box stores like Menards, Target and Walmart, to name a few, are successfully arguing in court that their property should be assessed as a vacant or abandoned building of the same size, not including the value of the business on the property. Such victories will have dire consequences on municipalities large and small, because big box stores will push a significant tax burden onto small businesses and homeowners.

What could this mean? The city of Monona has approximately eight big box stores within its city boundaries. If, for example, the Monona Walmart successfully argues their current property assessment of \$28.5 million is too high and instead should be assessed as a vacant building, its value could be reduced to \$9.5 million. A devaluation of \$19 million.

Why is this important? Municipalities across Wisconsin will be deeply affected if these stores are able to take advantage of this and other loopholes to reduce their property value.

In this example, if Monona's Walmart was successful in reducing their assessment, Walmart's tax bill would be reduced by an estimated \$433,000. Of this, the city would lose \$111,000 in tax revenue. Additionally, the Monona Grove School District would lose about \$245,000. As a result, the city would have to drastically cut services or raise the tax rate for homeowners and small businesses.

To maintain the current level of city services, it would cost the average homeowner an additional \$113 in property taxes and the average commercial property, or small business, approximately \$600 more. This is just one example, but if other big box stores in Monona like Shopko and Menards follow suit, an increase of \$113 will seem small. This is real money with real impact.

To gain a greater understanding of where some of the city's taxes go, we can look at one department, the Monona Police Department. In 2016, our department spent \$75,089 in police officer time for theft, armed robberies, assaults, drug deals and other issues just at big box stores within Monona. Walmart alone cost the city \$51,731 in police services. Overall, 1,464 hours of officer time (1,009 hours just at Walmart) were spent on an initial response to calls at all of Monona's big box stores.

The large amount of hours does not include the time and cost of any additional follow-up on a call such as writing reports or investigative efforts. This is time not spent patrolling other businesses, slowing down traffic on residential streets, pulling over OWI drivers or serving some other part of the city. Big box stores



Andrew Kitslaar

like Walmart and others would be successfully pushing the tax burden onto city residents and small businesses, while benefiting from city tax resources.

What can we do? The Monona City Council passed a resolution urging our state representatives to take quick action to close the “dark store” loophole, but we need to do more.

Currently, there are two bills, one in the Wisconsin State Assembly (AB 386) and another in the State Senate (SB 292) that would close the loopholes; however, progress has been slow, likely due to opposition lobbying. Urge your own representatives to stand up for the residents and small business owners of Wisconsin by closing these loopholes, quickly. Other states like Michigan and Indiana have faced the same challenge and have passed similar legislation with bipartisan support. It's time Wisconsin followed suit.

The big box stores receive city services – emergency services, road construction and maintenance, etc., and they are not just vacant buildings. They should be taxed accordingly. Contact your representatives and urge them to support this commonsense legislation. Let's not allow big box stores and big lobby groups push their tax burden onto our residents and small businesses.

Andrew Kitslaar is an alder on the Monona City Council.



DUEY STROEBEL

STATE SENATOR • 20TH DISTRICT

Good Morning. Thank you Chairman Marklein for holding a hearing on Senate Bill 291. SB 291 is about reversing a 2008 Wisconsin Supreme Court decision that interpreted our statutes in a way that altered a principle of assessment and caused some adverse side effects. Senate Amendment 1 was drafted to address potential concerns some opponents listed in prior discussions about the breadth of some definitions. I can answer questions if people have any on the amendment after my testimony. I chose to author this bill with Representative Brooks because in my approximately 30 years of experience in real estate and development, the Walgreens decision is wrong and bad policy. To understand why I believe this, I need to give you a little background on the process of assessment.

Assessment is an art. The assessor, like an artist, paints the best picture if he or she has multiple brushes and colors at his disposal. In assessment these tools are generally: comparable sales, the income approach, the cost approach. Most people are familiar with assessing via comparable sales as it has the greatest relevance to most people as it is the predominant method for valuing homes. Commercial and to a lesser extent industrial property are different. The purpose for, and highest and best use of, these properties is the generation of income. Oftentimes this is done through a lease.

The Walgreens case held that since the definition of real property in Wis. Stat. § 70.03 did not specify leases or other legal rights as being included in taxable value, the actual contracted rent (or lease) on a property cannot be used in assessing value. The Court said contract rent is not necessarily market rent, something I'll get back to in a moment. The result has been the avoidance of the income approach in assessing value because the best data on income has been ruled out of bounds. To return to my prior analogy, taking away the best evidence of income and asking for an accurate assessment is like telling an artist to paint the sunset without the color red. You need other colors as well, but without red you aren't accurately painting the sunset.

SB 291 clarifies that leases and other legal rights in the property are part of the definition of real property in Wis. Stat. § 70.03. Real property is understood to be the land and all buildings and improvements affixed to the land. Think of this bill as codifying things, such as leases, that are legally affixed to the land. They travel with the land upon sale.

Imagine two properties, the same square footage, construction material and date, across the street from each other at a desirable location, and so on. One just signed a 25 year lease with a successful, stable company. The other is on the final year of a lease without a renewal or new tenant scheduled. Does anyone seriously believe those properties have the same value in the real world?

Finally, other witnesses today, with whom I usually agree and have great respect for, will claim that a lease isn't a true reflection of fair market value. They will claim large, successful corporations are routinely paying above market value for buildings and services. I think this claim, based upon a Walgreens decision methodology of dissecting an income stream, does not stand up to scrutiny. When applying for financing, what do they tell the bank the property is worth? When signing under penalty of false statement on their taxes, what value do they claim the building has for purposes of depreciation? When the building is sold, what does it bring at closing and for what reason? Leases are a vital part of determining the income of a property. This is part of property value and our statutes must reflect it to be fair and correct. Thank you.



ROGER ROTH

PRESIDENT

WISCONSIN STATE SENATE

August 30, 2017

Senate Committee on Revenue, Financial Institutions and Rural Issues

2017 Senate Bill 292

Relating to: property tax assessments based on comparable sales and market segments

Senate Bill 292 will close what is known as the dark store loophole and prevent a property tax shift to homeowners. The bill seeks to provide clarity to assessors, property owners, and the courts on sales of comparable properties for determining the value of a property.

SB 292 will do the following:

First, the assessor shall consider the following as comparable in property assessments:

- sales or rentals of properties exhibiting the same or a similar highest and best with placement in the same real estate market segment
- sales or rentals of properties that are similar to the property being assessed with regard to age, condition, use, type of construction, location, design, physical features, and economic characteristics, including occupancy and potential to generate rental income
- A property is not comparable if a seller places any deed restrictions that changes the highest and best use, impairs the property's marketability, or a property is a dark property.

The bill also makes the following definitions:

- Dark property is defined as a property that is vacant or unoccupied beyond the normal period for property in the same real estate market segment.
- Highest and best use is defined as a use that is legally permissible, physically possible, financially feasible, and that provides the highest net return.
- Real estate market segment is defined as a pool of potential buyers and sellers, including investors or owner-occupants that typically buy or sell properties similar to assessed property.

This bipartisan legislation has the support of municipalities around the state, many of whom you will hear from today. One community in my district, the Town of Grand Chute, says that without this fix, residential taxpayers could see taxes increase on them up to 30%.

I ask for your serious consideration of this legislation to close the dark store loophole. Thank you.

STATE CAPITOL: P.O. BOX 7882 • MADISON, WI 53707-7882

(608) 266-0718 • (800) 579-8717 • SEN.ROTH@LEGIS.WI.GOV

DISTRICT OFFICE: 1033 W. COLLEGE AVENUE, SUITE 19 • APPLETON, WI 54914



131 W. Wilson St., Suite 505
Madison, Wisconsin 53703
phone (608) 267-2380; (800) 991-5502
fax: (608) 267-0645
league@lwm-info.org; www.lwm-info.org

To: Senate Committee on Revenue, Financial Institutions and Rural Issues
From: Jerry Deschane, Executive Director, League of Wisconsin Municipalities
Curt Witynski, J.D., Assistant Director, League of Wisconsin Municipalities
Date: August 30, 2017
Re: SB 291, Reversing *Walgreens v. City of Madison*
SB 292, Dark Property

The League of Wisconsin Municipalities strongly supports SB 291 and SB 292. The League has worked closely with the authors on drafting and introducing these bills for two important reasons: 1) Returning common sense and fairness to the assessment of properties for property tax purposes; and 2) Avoiding having even more of the property tax burden shifted to residential and other taxpayers, like local businesses. Homeowners already bear a disproportionate share of the total statewide property tax levy (68%). They should not and cannot bear more.

SB 292 – The Dark Property Bill

What does the bill do? SB 292 clarifies that a vacant or “dark property” cannot be used as comparable property for determining the assessed value of a fully operational and occupied property. It specifies that when assessors use sales of comparable properties for determining the value of a property they must use properties that are within the same market segment and similar to the property being assessed with regard to age, condition, use, type of construction, location, design, and economic characteristics.

Why is this change necessary?

- National big box chains and other commercial property owners are challenging their assessed values for property tax purposes by arguing that their properties should be assessed at the same value as a vacant or dark property in a different location. Tax commissions and courts in states like Michigan and Indiana have agreed with the dark store argument, resulting in significant reductions in the commercial property tax base.
- SB 292 ensures that the dark property tax strategy does not take hold in Wisconsin.
- If this bill is not enacted and the dark property strategy wins in Wisconsin courts, the result will be a significant tax shift from commercial to residential property tax payers.
- SB 292 is modeled after similar legislation that the state of Indiana passed in 2016 to avoid such a tax shift.
- The bill does not create new law. Rather it codifies existing Wisconsin case law and parts of DOR’s Wisconsin Property Assessment Manual.
- Under this bill, local governments will not receive one dollar more in tax revenue. Enactment will, however, prevent even more of the tax burden from being shifted to homeowners, local businesses, and manufacturers.

SB 291 – Reversing the 2008 *Walgreens v. City of Madison* decision

What does the bill do? SB 291 makes it clear that when valuing property assessors are to consider any applicable lease provisions and actual rent pertaining to a property and affecting its value.

Why is this change necessary?

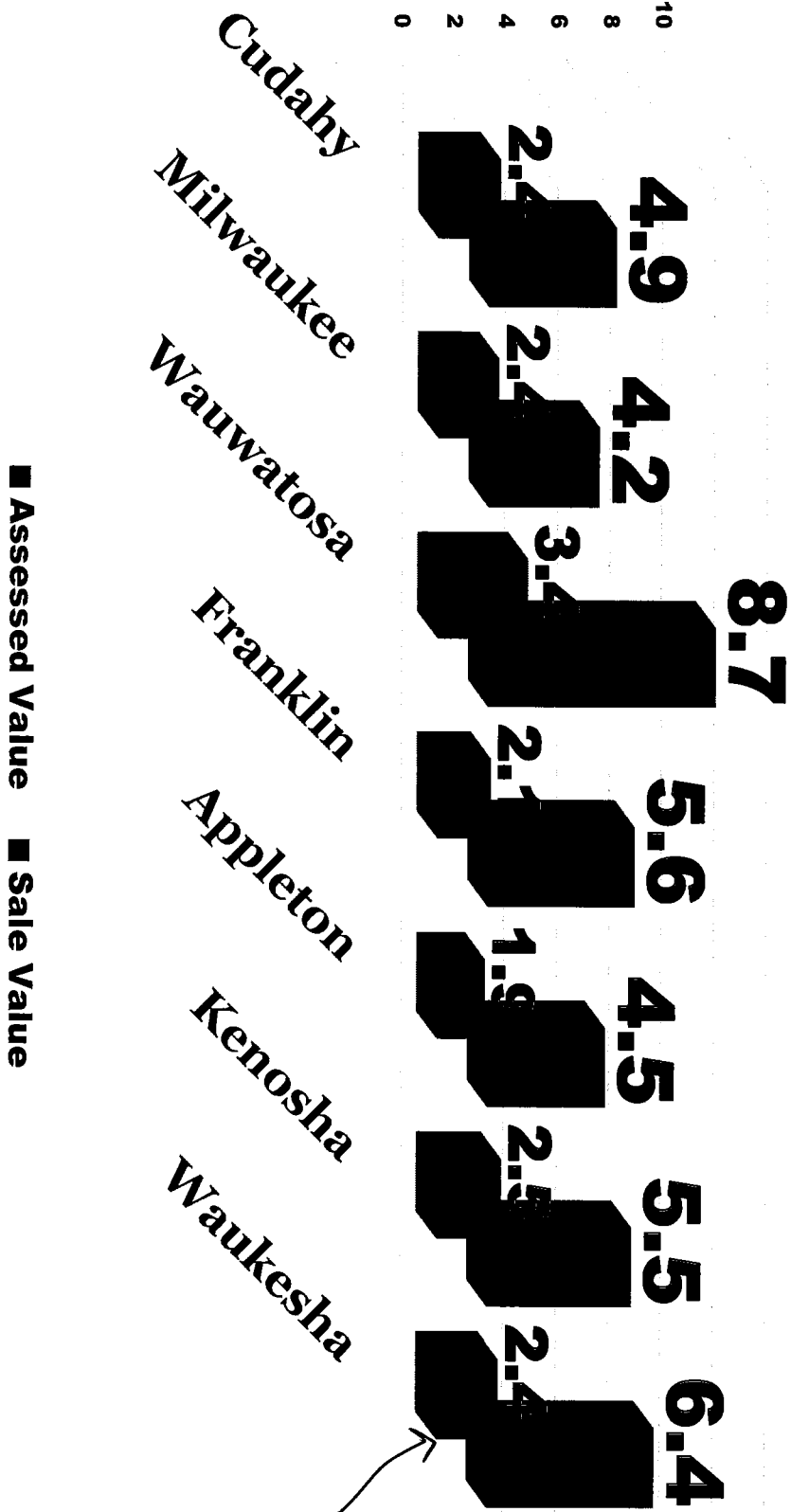
- In 2008 the Wisconsin Supreme Court held in *Walgreens v. City of Madison* that an assessment by the income approach of retail property leased at “above market” rents must be based on market rents rather than the terms of Walgreen’s actual leases and that the value added by an “above-market” rent constitutes a contract right, rather than a real property right.
- The 2008 decision continues to control how assessors must value Walgreens, CVS, and other single-tenant retail stores, despite changes made to the *Wisconsin Property Assessment Manual* to counteract the effects of that decision.
- Walgreens, CVS and other single tenant retail properties are successfully using the decision to convince the courts that their assessed values should be **less than half of the actual sale prices of the properties on the open market**. See the attached chart.
- Even though chain drugstores have become the most popular single-tenant properties in the national real estate investment market, regularly selling for \$6 million or more in Wisconsin, attorneys for Walgreen, CVS and other single-tenant stores argue that their actual sale prices don’t represent market value and the underlying leases are the wrong tool for determining the property’s value for property tax purposes.
- However, for all other purposes, such as federal income tax reporting, the value of the real estate is listed as the recent sale price. Only for property tax purposes is the actual sale price not acknowledged as the value of the real estate.
- **Real World Example from Oshkosh:** Walgreens challenged the City of Oshkosh’s assessments for two of its stores. The city based its assessment on the actual amounts for which the properties were sold. The court rejected the city’s approach and ordered the city to refund the two Walgreens for several tax years. The total amount of the refunds equaled \$305,672. Other taxpayers in Oshkosh now have to pick up Walgreen’s former share of the tax burden.
- **Real World Example from Appleton:** The Court of Appeals recently relied on the *Walgreens v. City of Madison* decision to affirm that a CVS property in Appleton should be valued at \$1.8 million, much less than the City’s \$4.4 million assessment, which was based on an actual sale of the property. Appleton is now looking at a \$350,000 refund.
- As a result, more of the property tax burden is shifted to homeowners and other taxpayers whose properties are typically assessed at fair market value as reflected by recent sale prices of their or comparable properties.

We urge you to recommend passage of these bills, which together will return common sense and fairness to the assessment of properties in Wisconsin. Thanks for considering our comments.

Walgreens & CVS Assessed Versus Sale Values

Millions of Dollars

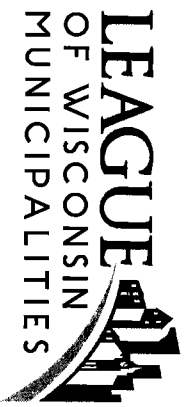
10
8
6
4
2
0



■ Assessed Value ■ Sale Value

Assessed Values (with arrow pointing to the taller bars)

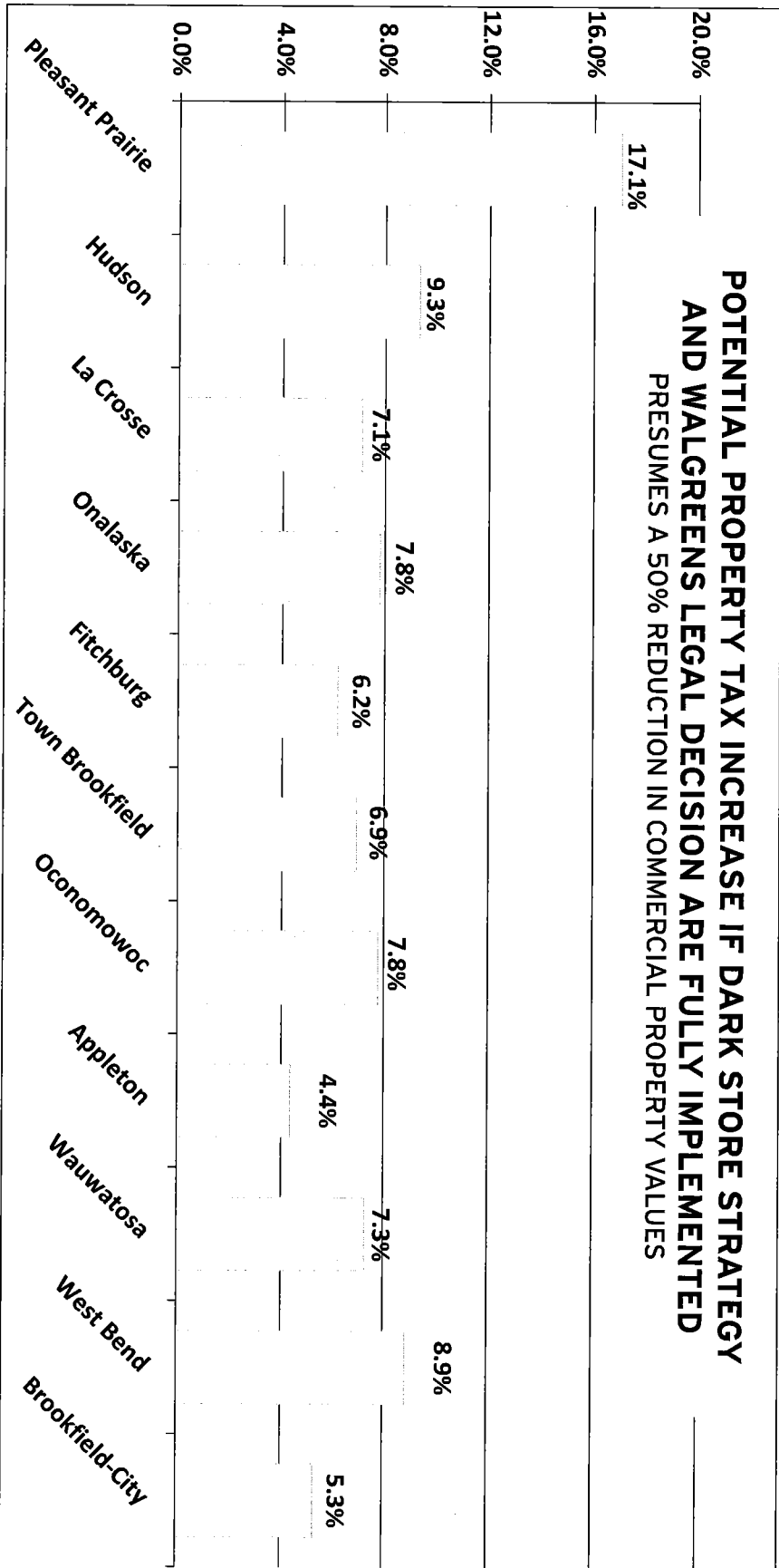
Actual Sales (with arrow pointing to the shorter bars)



TAX SHIFT TO RESIDENTIAL

	Pleasant Prairie	Hudson	La Crosse	Onalaska	Fitchburg	Town Brookfield	Oconomowoc	Appleton	Wauwatosa	West Bend	Brookfield-City
Total Ass'd Value	2,667,459,100	1,532,694,370	3,078,582,790	1,653,232,040	2,592,798,500	973,532,803	1,893,455,895	4,891,842,500	5,268,420,900	2,402,808,300	6,619,514,680
Value 'At Risk'	777,923,700	261,258,000	409,067,500	240,293,900	302,327,900	126,409,500	273,821,500	410,106,100	716,864,200	390,962,800	668,682,200
Value Loss	388,961,900	130,629,000	204,533,800	120,147,000	151,164,000	63,204,800	136,910,800	205,053,100	358,432,100	195,481,400	334,341,100
Tax Rate Increase	50%	14.6%	8.5%	6.6%	7.3%	5.8%	6.5%	7.2%	4.2%	6.8%	8.1%
		17.1%	9.3%	7.1%	7.8%	6.2%	6.9%	7.8%	4.4%	7.3%	8.9%

POTENTIAL PROPERTY TAX INCREASE IF DARK STORE STRATEGY AND WALGREENS LEGAL DECISION ARE FULLY IMPLEMENTED PRESUMES A 50% REDUCTION IN COMMERCIAL PROPERTY VALUES





ROBERT BROOKS

STATE REPRESENTATIVE • 60TH ASSEMBLY DISTRICT

Senate Committee on Revenue, Financial Institutions and Rural Issues

Public Hearing, August 30, 2017

9:00 A.M.

Chairman Marklein and members of the Senate Committee on Revenue, Financial Institutions and Rural Issues, thank you for affording me with the opportunity to testify on behalf of Senate Bills 291 and 292 relating to commercial property tax assessments. Thank you to everyone on both sides of the aisle for all their help and input over the last two-years.

I want to show you the manual so you have an understanding of just how complex this issue is and how difficult it can be to understand. My goal is not to re-write this manual, but rather codify a few core provisions in state statutes so that assessors, property owners, and the courts have clear direction.

The reason we are here today, quite simply, is that courts have made decisions based on previous editions of the assessor's manual and they are now reversing valid assessments. These rulings have, in turn, created a tax shift. As you will hear today, the impact on municipalities, school districts, and counties can be severe when assessments that accurately reflect the market value of the property are overturned.

State and local property tax systems must be fairly administered and tax burdens equitably distributed among taxpayers. A property tax system that is inefficient or that disproportionately falls upon one sector is not quite equitable and will negatively impact the state's economy. I believe this is something we can all agree on, especially since I pulled most of the language from a document penned by opponents of these bills.

I authored the two bills before you this morning to codify best practices for property tax assessments. There is no intent to generate a windfall of tax revenues as some have erroneously state. Our local partners will still continue to operate under levy limits; these bills again only help ensure that everyone pays his or her fair share



ROBERT BROOKS

STATE REPRESENTATIVE • 60TH ASSEMBLY DISTRICT

based on a system that reflects real market values and prevents a tax shift from one sector to another. This is not Main Street versus Wall Street.

Senator Stroebel and I have been self-employed in the real estate industry for more than 25 years. As such, we have a solid understanding of the issue and have no desire to create a tax environment that would adversely affect our industry. This is why I have spent almost 2 years working on this issue.

I believe we have two bills before you that will pass any test of constitutionality and will meet the state's tax uniformity clause. Both the Department of Revenue and independent Wisconsin Legislative Council have stated that they do not believe these bills violate the constitution or uniformity clause. As a matter of fact, you have before two amendments from the Department of Revenue, which I believe resolve any final issues. It is also very important to note that neither of the two bills that are before you in any way change a property owner's right to appeal an assessment.

Senate Bill 292 codifies in state statute, with guidance provided by the Department of Revenue's *Wisconsin Property Tax Assessment Manual*, clarification that when assessors use sales of comparable properties for determine the value of a property, they must use properties that are within the same market segment and similar to the property being assess with regard to age, condition, use, type of construction, location, design, and economic characteristics.

Senate Bill 292 codifies the definition of "highest of best use" to mean a use that is legally permissible, physically possible, and financially feasible and that provides the highest net return. The bill also defines "real estate market segment" to mean a pool of potential buyers and sellers that typically buy or sell properties similar to the property being assessed, including potential buyers who are investors or owner-occupants.



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Senate Bill 292 simply states that a property shall not be considered comparable to the property being assessed if the seller has placed restrictions on the "highest and best" use of the property or prohibits competition so that it no longer qualifies as a comparable with regard to age, condition, use, type of construction, location, design, physical features, and economic characteristics.

The bill further clarifies that a property is not comparable if the property is a dark property and the property being assessed is not a dark property. The bill defines "dark property" as a property that is vacant or unoccupied beyond the normal period for a property in the same real estate market segment. This period may vary based on a property's location. To quote an attorney representing the opposition, "if I attempted to convince a judge that a perfectly fine retain property should be compared to a retail property that was sold after being vacant for years, the judge would never buy it."

As you can discern, Senate Bill 292 is not overly complicated, but it does close what we consider to be tax loopholes that prevent fair and equitable assessments that truly reflect market valuations.

Our second bill, Senate Bill 291, provides that, for property tax purposes, real property includes any leases, rights, and privileges pertaining to the property, including assets that cannot be taxed separately as real property, but are inextricably intertwined with the real property. The bill also requires real property to be assessed at its highest and best use. Current law actually requires that real property be assessed at its full value and upon actual view of the best information that the assessor can obtain from an arms'-length sale of comparable property. This bill defines an "arms'-length sale as a sale between a willing buyer and a willing seller, neither being under compulsion to buy or sell and each being familiar with the attributes of the property."



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This bill further provides that an assessor shall determine the value of leased property by considering the lease provisions and actual rent pertaining to the property, if the lease provisions and rent are the result of an arms'-length transaction. Keep in mind, leases transfer with a property and help determine the price someone is willing to pay for that property. **The lease is part of the property.**

Senate Bill 291, does not tax the success of the business contained within the building! Our bill clearly states that lease terms, not the labor, skill, or business acumen of the property owner or tenant, are employed as the basis for evaluation.

It is our opinion and the facts bare this out, that if it is an arms'-length transaction, actual rents are market rents. The Wisconsin Supreme Court decided in 2008 that a property tax assessment of leased retail property using the income approach must be based on market rents, which is what a person would pay to rent the property, based on rentals of similar properties, as opposed to contract rents, which is the amount the lessee actually paid to rent the property. This bill reverses that decision and states actual rents should be considered market rents. Keep in mind, we are stating it should not be the only factor to consider, but one of the three commonly held approaches (comparable sales, income approach, and cost approach).

It is difficult to understand that if a developer purchased land for \$2 million, built a store on the land for an additional \$2.5 million, secured financing for the project based on an appraisal for \$5.4 million, sold the property for \$4.4 million, that property should be assessed at what? Of course, ONLY \$1.6 million—this defies logic. The assessment is less than the land cost, but this is exactly what is happening to our courts and yes, this transaction was considered an arms'-length transaction by the IRS.

Detractors of these proposals argue that assessors will be overly aggressive in their assessments if these bill pass. This is simply not true. You will hear a great deal of testimony today on the hardship these court cases have on municipalities, school



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districts, and counties. It is unbelievable to think that assessors are going to go rogue and intentionally subject their communities to expensive litigation without just cause.

Senate Bill 291 and 292 will ensure that commercial and residential properties will be assessed using consistent methods, creating greater uniformity in the tax system. The facts are clear—these bills provide much needed codification to Wisconsin's commercial tax assessment process. The arguments made against these bill are misconstrued and fail to portray the legislation's intent accurately. The facts speak for themselves and it is time to close these loopholes.

I encourage you to support Senate Bill 291 and 292. At this time, I would be happy to answer any questions you might have. Thank you for your time and consideration.

Table 4: Net Property Tax by Type of Taxpayer (\$ in Millions)

	1970(71)	1975(76)	1980(81)	1985(86)	1990(91)	1995(96)	2000(01)	2005(06)	2010(11)	2015(16)
Residential	\$526.1	\$699.3	\$1,124.1	\$1,617.5	\$2,458.9	\$3,370.5	\$4,079.3	\$5,465.0	\$6,506.9	\$6,411.9
Commercial	202.0	279.4	361.2	573.8	971.3	1,205.9	1,321.8	1,630.9	2,072.3	2,255.0
Real Estate	169.0	231.4	311.6	487.8	822.6	1,023.6	1,166.5	1,478.2	1,880.3	2,057.9
Personal Property	33.0	48.0	49.6	86.0	148.7	182.3	155.3	152.7	192.0	197.1
Manufacturing	184.1	119.3	128.0	173.4	239.2	275.1	280.8	281.4	321.1	363.1
Real Estate	115.0	77.8	93.3	128.1	166.6	196.8	227.9	234.9	266.1	298.1
Personal Property	69.1	41.5	34.7	45.3	72.6	78.3	52.9	46.5	55.0	65.0
Other	127.2	164.9	287.8	379.7	399.5	416.1	364.8	362.6	442.4	433.2
Agricultural/Other	108.6	148.1	257.5	335.5	342.6	352.8	255.2	208.1	235.2	231.7
Swamp/Waste/ Forest	5.9	10.1	26.1	42.2	53.5	59.3	105.6	150.6	202.3	196.4
Other Personal	12.7	6.7	4.2	2.0	3.4	4.0	4.0	3.9	4.9	5.1
Total	\$1,039.4	\$1,262.9	\$1,901.1	\$2,744.4	\$4,068.9	\$5,267.6	\$6,046.7	\$7,739.9	\$9,342.7	\$9,463.2

Percent of Total

Residential	50.6%	55.4%	59.1%	58.9%	60.4%	64.0%	67.5%	70.6%	69.7%	67.8%
Commercial	19.5	22.1	19.0	20.9	23.9	22.9	21.9	21.1	22.2	23.8
Real Estate	16.3	18.3	16.4	17.8	20.2	19.4	19.3	19.1	20.1	21.7
Personal Property	3.2	3.8	2.6	3.1	3.7	3.5	2.6	2.0	2.1	2.1
Manufacturing	17.7	9.4	6.7	6.4	5.9	5.2	4.6	3.6	3.4	3.8
Real Estate	11.1	6.1	4.9	4.7	4.1	3.7	3.7	3.0	2.8	3.1
Personal Property	6.6	3.3	1.8	1.7	1.8	1.5	0.9	0.6	0.6	0.7
Other	12.2	13.1	15.2	13.8	9.8	7.9	6.0	4.7	4.7	4.6
Agricultural/Other	10.4	11.8	13.6	12.2	8.4	6.7	4.2	2.7	2.5	2.4
Swamp/Waste/ Forest	0.6	0.8	1.4	1.5	1.3	1.1	1.7	1.9	2.1	2.1
Other Personal	1.2	0.5	0.2	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

mercial property than on manufacturing and other property. As a result, residential and commercial property have borne increasing shares of the tax burden, while decreasing shares have been borne by manufacturing and other property. Several factors explain the shift in tax shares.

First, some types of property have been exempted through state law changes. Manufacturers' machinery and equipment (M&E) was exempted in 1974. In 1977, the Legislature chose to gradually exempt farmers' livestock and commercial and manufacturing inventories by assessing them at increasingly lower percentages of

full value until they became entirely exempt in 1981. The exemption for computers and related equipment took effect in 1999 and removed \$2.3 billion in tax base. At the time of their enactment, these three exemptions collectively represented 18% of the remaining statewide taxable value. Much of the reduction in agricultural taxes between 1995(96) and 2005(06) was caused by phasing-in use value assessment for agricultural land.

Second, property has been added or removed since 1970(71). The majority of new construction has been for residential and commercial uses. As



**THE LEADING VOICE
FOR WISCONSIN SMALL
AND INDEPENDENT BUSINESSES**

August 30, 2017

**TO: Members
Senate Committee on Revenue, Financial Institutions and Rural Issues**

**FR: Brian Dake
Legislative Director
Wisconsin Independent Businesses**

RE: 2017 Senate Bill (SB) 292 relating to: property tax assessments based on comparable sales and market segments and 2017 Senate Bill (SB) 291 relating to: property tax assessments regarding leased property.

Chairman Marklein and committee members my name is Brian Dake, Legislative Director for Wisconsin Independent Businesses (WIB).

By way of background, Wisconsin Independent Businesses (WIB) was formed in 1977 to provide small, independent business owners with a voice in the legislative and regulatory activities of state government. Approximately 85% of our members own and operate businesses that have fewer than 25 employees. Our member businesses fall into three broad categories – Main Street retailers, hometown service sector providers and local small manufacturers.

Thank you for the opportunity to outline the reasons why WIB opposes 2017 Senate Bill 291 and 2017 Senate Bill 292.

The stated intent of 2017 Senate Bill 292 is to close the “Dark Store” loophole, however, the scope of this legislation would not be limited to the property tax assessment of stores operated by national retailers. Wisconsin’s Uniformity Clause precludes such action. Closing the so-called “Dark Store” loophole could open the door for municipal assessors to apply this new property tax assessment regimen to the valuation of commercial property owned by small, hometown businesses.

WIB...Helping you where you need it.

PO Box 2135 | Madison, Wisconsin 53701 | 800-362-9644 | www.wibiz.org

The stated intent of 2017 Senate Bill 291 is to reverse the 2008 decision by the Wisconsin Supreme Court in *Walgreen Company v. City of Madison*.

In this case, the Wisconsin Supreme Court unanimously held that a property tax assessment of retail property leased at above market rent values should be based on market rents. From our perspective, the key commentary from this ruling was:

“If we were to expand the law in the direction the City requests, property assessments would in essence become business value assessments, with assessors improperly equating financial arrangements with property value. This is in contravention of the general principle that real property assessments should not be based on business value. Rather, the valuation of the fair market value of property for purposes of property taxes is by its nature different from business, or income tax assessment. “[A]n assessor's task is to value the real estate, not the business concern which may be using the property.”

Subsequently, a 2014 Wisconsin Court of Appeals decision in *Walgreen Company v. City of Oshkosh* restated this commentary more succinctly:

“In Walgreens/Madison, the court determined that where contractual rights inflate the value of leased retail property, assessors must look to the market to reach their valuations. An assessor’s task is to value the real estate, not the business concern which may be using the property.”

We agree with the Wisconsin Supreme Court and the Wisconsin Court of Appeals that the job of the assessor is to value the real estate, not the business using the property. Therefore we do not believe it is appropriate to overturn the unanimous ruling of the Wisconsin Supreme Court.

Finally, if these bills were to be enacted into law, commercial property owners in Wisconsin will pay more in property taxes.

Wisconsin’s property tax burden is among the highest in the nation and well above the national average. Rather than shifting this burden, we believe it is more important for state lawmakers to reduce this burden.

For these reasons, we respectfully ask that you oppose 2017 Senate Bill 291 and 2017 Senate Bill 292.

Thank you in advance for your consideration of our request.



2801 Fish Hatchery Road | Madison, WI 53713 | (608) 270-9950 | (800) 589-3211 | FAX (608) 270-9960 | www.wirestaurant.org

TO: Senate Committee on Revenue, Financial Institutions and Rural Issues
FR: Susan Quam, Executive Vice President
RE: SB 291 Written Testimony

The Wisconsin Restaurant Association represents the entire foodservice industry and has 7,000 member locations statewide. From small, seasonal drive-ins to large hotels and resorts, our members are of all sizes. However, our core membership is made up of independent restaurant owners who have 1-4 locations. We also have many franchisee members, who are local small business owners who are affiliated with national multi-unit restaurant companies.

SB 291 has unintended consequences that will greatly impact the small business owners in our industry.

Many restaurant franchisees (those who own their own business, but pay franchisee fees to corporate entities) will be the first to be targeted by this bill. Because traditional lenders are not always eager to loan to restaurateurs, many franchisee use sale-leasebacks or financing leases to build or remodel their businesses. These sales and lease arrangements are not based on the value of the building. They are based on the sales generated by the business. Using these values will greatly drive up taxes paid by small business owners. Our industry is one of small profit margins already, so adding thousands of dollars in taxes will likely drive businesses to either raise prices to the consumer, not remodel property or possibly close the location and move to a more favorable municipality. In our opinion, there are only losers in this scenario.

Many independent restaurants lease their restaurant space, usually in triple net lease agreements. If this bill was enacted, chances are these restaurateurs will also be subject to significant increase in costs, and will face the same consequences as their franchisee colleagues.

In closing, SB 291 will not help municipalities as it is intended to. Restaurants are the cornerstone of every community and neighborhood. Restaurateurs are the first place charities, schools and churches go to ask for donations, sponsorships and event participation. They are the first people on hand to provide food in a local crisis or to host a fundraiser for victims of tragedy. If our operator's bottom lines are impacted by an increase in property taxes, these are the activities that will be first to be eliminated as expenses. Unless of course they decide it is too expensive to do business in that community and close shop.



BOARD OF SUPERVISORS

Jeff Nooyen, County Board Chair
Jolene Janssen, Legislative Manager
410 S. Walnut St., Appleton, WI 54911
Phone: (920) 832-5054

August 28, 2017

To Wisconsin State Legislators:

On behalf of the Outagamie County Board, I want to thank you for taking testimony on what is the single most important issue currently facing taxpayers in Outagamie County.

Outagamie County has been notified by a number local municipalities that it will owe more than \$207,000 of property tax chargebacks in 2018 for stores that recently won lawsuits over this issue. These are just the ones that the county is aware of at this time. This does not include cases that are being appealed or working through the court system.

While Outagamie County doesn't currently have the total value of all the retail stores that may be included in the "Dark Stores" category, a very conservative estimate is that 5% of the counties equalized valuation of \$14 billion, or approximately \$700 million is due to "dark store" retail buildings. If the value of these stores were cut in half, or \$350 million, the taxes collected on these buildings would be shifted from the commercial sector to the residential and small business sectors. This would be a significant increase in the property tax for homeowners in Outagamie County. The City of Appleton, the county's largest municipality, estimates their average taxpayer would see an annual increase of \$140 a year. The increase to homeowners in Grand Chute, the county's second largest municipality, is even more dramatic with a projected 30% increase annually. Grand Chute is a very fiscally responsible community offering very professional but basic services. That means these services like police, fire, EMT and snow plowing would have to face cuts, cuts that would be noticed by hard working taxpayers.

Outagamie County has a population of over 180,000 with 113,487 registered voters. Just under 100,000 county residents live in Appleton and Grand Chute. A loss of property tax value in Appleton and Grand Chute also means a significant loss of tax base to Outagamie County and the Appleton Area School District. The school district has 17 elementary schools, 4 middle schools, 3 high schools, and 14 charter schools. It serves 16,281 students.

Outagamie County sends out close to 90,000 tax bills. The property valuation challenges are coming from a small number of major retailers including Sears, Younkers, Macys, Mills Fleet Farm, CVS, Walgreens, and Target to name a few. These companies represent less than one half of one tenth of a percent of all the tax bills sent out by the county and they are all exploiting a loophole in the current law.

Wisconsin State Legislators

August 28, 2017

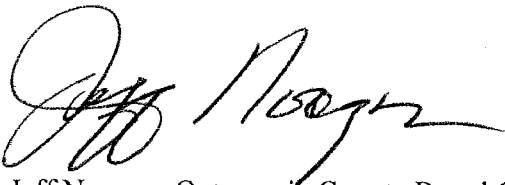
Page 2

It is extremely rare to find the Towns Association, League of Municipalities, Wisconsin Counties Association, and Wisconsin Association of School Boards aligned on an issue. Rarer yet is bipartisan support on an issue. What does that tell you? It should tell you that one particular segment in the community is trying to game the system.

A lifelong resident of Outagamie County, I know a significant number of business owners, some very large manufacturing and distribution businesses with sizable property tax valuations. These local business owners know that the corporate big boxes are trying to avoid paying their fair share.

Opponents of these bills claim this is a tax increase. This is false. All we are asking is that the status quo be maintained and that they continue to pay their fair share. If this loophole is not fixed, the result will be a shocking tax increase to tens of thousands of homeowners and thousands of legitimate small business owners.

Again, thank you for your time and consideration. Please do the right and fair thing and support these bills for all the hardworking homeowners and small businesses in Wisconsin.

A handwritten signature in black ink, appearing to read "Jeff Nooyen". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jeff Nooyen, Outagamie County Board Chair

JN:sbd



June 28, 2017

Senator Howard Marklein
Committee on Revenue, Financial Institutions and Rural Issues
Wisconsin State Senate
Room 8 South
PO Box 7882
Madison, WI 53707

Re: AB386/SB291 & AB387/SB292 In Support

Dear Mr. Chairman and Honorable Members:

I am the mayor of the City of Franklin, a community of 36,000 in southeast Milwaukee County. I write in support of the companion bills who aim to partially correct loop holes in the tax policy that are currently being exploited by large retailers to the disadvantage of all other taxpayers.

I've hear some of the rhetoric and reasoning that the retailers are using to oppose these bills. They claim that the new bills will be an unfair shift in tax burden equivalent to a new tax on them. The reality is exactly the opposite. Their assessment reductions directly increase the taxes on residential property tax payers.

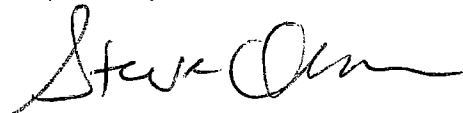
Since a creative lawyer came up with the dark store scheme in Michigan several years ago, communities like mine have had assessments whose methodology has been defined and practiced for decades challenged in court based on what we view is a ridiculous assumption. For the drug stores, the claim is that even though they have highly restrictive lease or deed restrictions, that their stores have no residual value and should be assessed as an empty box. Similarly, although they spend tens of millions of dollars in building their buildings, "big box" retailers now claim that their buildings are worth only that of an empty or abandoned building. Unfortunately, many municipalities are now in court justifying their assessments of these buildings based on the outlined procedure that's been in place for decades. At risk are millions of dollars in assessed value AND tax revenue for municipalities such as mine. Franklin is currently litigating assessments for two large home improvement companies who are petitioning for about a 50% reduction in assessments of about \$12,000,000.

Should courts continue to side with these retailers, coupled with levy limits, the reductions will shift these taxes from the retailers to the residents, who continue to bear the brunt of these shifts.

On behalf of the residential taxpayers of the City of Franklin, I respectfully ask you to support these bills. Fix the loop holes; protect the residential taxpayer from this huge and unfair tax shift.

Please enter this letter into the record.

Respectfully,

A handwritten signature in black ink, appearing to read "Steve Olson". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Steve Olson
Mayor



Office of the Mayor

James J. Schmitt
Mayor

August 28, 2017

Dear Committee Members:

I, as the Mayor of Green Bay, along with the elected officials of the City, urge your support in the passage of SB291 and SB292, known as the Dark Store Bill and the Leased Property Bill.

The goals of these Bills are to avoid the large tax shifts and refunds that occur when the loopholes these Bills are attempting to close are abused, to the detriment of other property owners.

Residential property owners pay close to 70% of property taxes in Green Bay already. If these bills are enacted, local governments will not get one dollar more in tax revenue due to levy limits. The bill will, however, prevent more of the tax burden from being shifted to the homeowners.

These Bills codify language in Wisconsin case law and the Wisconsin Property Assessment Manual.

At issue is a matter of fairness and equity for Wisconsin taxpayers, both commercial and residential properties. The Bills attempt to level the playing field, so that large out of state firms don't take advantage of a loophole in current law that allows for litigation similar to what we've seen in Michigan and Indiana. In an era of tight budgets, we cannot afford to refund taxes to corporations, as has been the practice in adjoining states.

The citizens of Green Bay are looking for your leadership on this and request that you pass this bill out of committee. Thank you.

Sincerely,

Jim Schmitt, Mayor

Wisconsin Senate Committee on Revenue, Financial Institutions and Rural Issues
 Support for SB-291 and SB-292
 August 29, 2017 Public Hearing
 Jay Shambeau, Administrator
 City of West Bend

Chairman Marklein and Committee Members:

Thank you for the opportunity to present some supporting information regarding the dark store theory and resulting impact to our community. I serve as the city administrator in West Bend, WI. We are a transparent, conservative municipality of just over 32,000 in population that is located 30 miles north of Milwaukee. We work hard to efficiently serve our constituents with the resources available to us.

Our City Council, Chamber of Commerce, and local business community understand the tax shift implications as a result of this loophole. They know that the current laws put our residents, small business owners and industrial taxpayers at risk for additional tax payments. The West Bend City Council members have recently adopted two resolutions both supporting this proposed legislation.

There is already a City of West Bend Board of Review established to resolve property assessment disputes. This board comes with a well-defined process for challenge, fact-finding, hearing and proposed resolution between our city tax assessors and taxpayers. This process is often circumvented in dark store cases. Unfortunately, our very capable board volunteers are unable to serve, as third-party attorneys often encourage action to waive the local hearings for big box stores, and go straight to circuit court.

The table below reflects the SB-291 lease issue and the dark store SB-292 cases which are active in West Bend. We remain hopeful that closing these loopholes will restore the board of review process.

Real-world West Bend examples:

SB-291	Last Sale	2017 Assessment	Big box recommended value	2016 Tax Rate	Estimated Tax Shift	Status
Walgreens	\$6,753,000.00	\$2,400,000.00		19.41	\$84,491.00	Settled
Walgreens	\$7,000,000.00	\$2,400,000.00		19.41	\$89,286.00	Settled
Shopko	\$9,059,603.00	\$6,950,000.00	\$3,850,000.00	19.41	\$60,171.00	Active
SB-292	Last Sale	2017 Assessment		2016 Tax Rate	Estimated Tax Shift	Status
Meijer	Opened May 2017	\$20,395,100.00	\$9,000,000.00	19.41	\$221,176.00	Active
Walmart	n/a	\$12,585,800.00	\$10,200,000.00	19.41	\$46,292.00	Active
Menards	n/a	\$9,837,200.00	\$5,623,200.00	19.41	\$81,794.00	Active

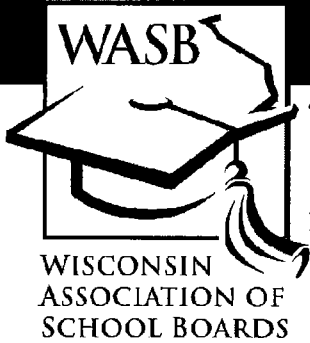
Lastly, one Walgreens store, Walmart and Meijer are all open 24 hours per day. These three businesses encompass a great number of calls for service from our police and fire departments. Late night calls for service are especially prevalent as these are some of the few entities that are open throughout the night in West Bend.

The impact of not adopting this legislation would be detrimental to our constituents in West Bend. On behalf of our Mayor, City Council, police chief and fire chief I encourage each of you to support the passage of these bills.

Thank you for your time.

Respectfully submitted,

Jay Shambeau, Administrator
City of West Bend



"Leadership in Public School Governance"

JOHN H. ASHLEY, EXECUTIVE DIRECTOR

122 W. WASHINGTON AVENUE, MADISON, WI 53703
PHONE: 608-257-2622 FAX: 608-257-8386

TO: Members, Senate Committee on Revenue, Financial Institutions and Rural Issues
FROM: Dan Rossmiller, WASB Government Relations Director
DATE: August 30, 2017
RE: **SUPPORT for Senate Bill 291**, relating to property tax assessments regarding leased property.

The Wisconsin Association of School Boards (WASB), on behalf of all 422 public school boards in the state of Wisconsin, **supports Senate Bill 291**. Our members have an interest in ensuring that property taxes, which comprise a substantial portion of the operating revenues of school districts, are fairly and equitably administered.

Whenever a particular group of taxpayers or class of property owners is able to employ a concerted strategy to reduce the share of property taxes paid by that group or class, the result is that a share of the tax burden is shifted to another group or class of taxpayers.

The bill before you today responds to a particular tax reduction strategy and establishes a set of reasonable assessment "ground rules" to reverse a court interpretation that a particular group of retail property owners has used to reduce its property tax burden. The result has been to shift a significant portion of the property tax burden in some communities to other taxpayers, including homeowners and small businesses.

Chain retailers such as Walgreens and CVS drugstores, in particular, have used a store location and marketing strategy that involves developing highly visible corner properties to their rather exacting specifications, which are then leased back from holding companies or private investors who reportedly have with little or no landlord responsibility other than collecting rent. Reportedly, more than 80 percent of Walgreens stores and 95 percent of CVS stores operate under lease arrangements.

Walgreens and CVS argue that the actual sale prices of these properties do not represent market value for property tax purposes. They also argue that the underlying leases are the wrong tool for determining the property's value for property tax purposes. Instead, they argue the assessments should hinge on the amount the landlord could get if the drugstore moved out and a different retailer moved in to these specially designed properties. In essence, they argue that the assessed value of their properties should be less than half of actual sale prices on the open market.

These two firms have already sued more than 100 Wisconsin communities, claiming the rents they pay for their newly-constructed, highly visible corner locations do not accurately reflect the stores' fair-market value for property tax assessment purposes. These properties have typically been developed to the retailer's specifications and then leased to them. This has led to confusion about how to assess the stores. This bill is before you today because these drugstore retailers have been successful in persuading at least one court to accept their arguments about how to value their stores for property tax purposes.

In 2008, the Wisconsin Supreme Court overturned rulings by a circuit court and court of appeals and held in *Walgreens v. City of Madison* that an assessment by the income approach of retail property leased at "above market" rents must be based on market rents rather than the terms of Walgreen's actual leases and that the value added by an "above-market" rent constitutes a contract right, rather than a real property right.

That 2008 decision continues to control how assessors must value Walgreens, CVS, and other single-tenant retail stores, despite changes made to the *Wisconsin Property Assessment Manual* to counteract the effects of that decision.

Walgreens, CVS and other single tenant retail properties are successfully using that 2008 decision to convince the courts that their assessed values should be **less than half of the actual sale prices of the properties on the open market.**

Assembly Bill 387 attempts to reverse this situation in Wisconsin. It legislatively clarifies the long-standing statutory directives, in s. 70.32 (1), Stats., to consider all factors that, according to professionally acceptable appraisal practices, affect the value of the property to be assessed. In short, Senate Bill 291 makes it clear that when valuing property assessors are to consider any applicable lease provisions and actual rent pertaining to a property and affecting its value.

Under current law, assessors must use a three-step process in order to properly assess a property to determine its full value at its highest and best use. The first step in the process is to base the assessment on any recent arm's-length sale of the subject property. If the subject property has not been recently sold, an assessor must next consider sales of reasonably comparable properties. If the assessor determines no such comparable sales are present, an assessor may use a "cost" or "income" assessment approach, considering all factors which have a bearing on the value of the property.

The bill revises the definition of "real property," "real estate," and "land" to include leases and other assets that cannot be taxed separately as real property, but are inextricably intertwined with the real property, enable the real property to achieve its highest and best use, and are transferable to future owners.

Assembly Bill 387 also defines "lease" to mean a right in real estate that is related primarily to the property and not to the labor, skill, or business acumen of the property owner or tenant. It further:

- Specifies that real property must be valued by the assessor in the manner specified by the property assessment manual at its highest and best use.
- Defines "highest and best use" for the above provision and the definition of "real property," "real estate," and "land" to mean the specific current use of the property or a higher use to which the property can be expected to be put in the immediate future, if the use is legally permissible, physically possible, and financially feasible and provides the highest net return. When the current use of a property is the highest and best use, the bill draft specifies that the value in the current use equals full market value.
- Defines "arm's-length sale" for purposes of determining value under s. 70.32 (1), Stats., to mean a sale between a willing buyer and willing seller, neither being under compulsion to buy or sell and each being familiar with the attributes of the property sold.

In determining the value of leased real property, Senate Bill 291 specifies that an assessor must consider lease provisions and actual rent pertaining to a property and affecting its value, including sale and leaseback provisions, if all such lease provisions and rent are the result of an arm's-length transaction involving persons who are not related under Section 267 of the Internal Revenue Code for the year of the transaction. The bill defines "arm's-length transaction" to mean an agreement between willing parties, neither being under the compulsion to act and each being familiar with the attributes of the property.

This bill will not increase overall property tax collections or the amount of property tax revenue that any school district may collect. What it does is protect the property tax base against erosion and prevent more of the property tax burden to other taxpayers who do not have the benefit of elaborate lease arrangements.

For the reasons indicated, we support Senate Bill 291. Thank you for the opportunity to present our views to the committee today.

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Four States Consider Legislation Barring Distressed Sales as Comparables

Four states – Illinois, Maryland, Missouri and Nevada – are considering legislation that would prohibit or restrict the use of "distressed sales," such as foreclosures and short sales, as comparable sales as a part of a residential real estate appraisal.

Homebuilders and real estate sales agents are concerned that the prevalence of distressed sales, and their subsequent use as comparables, is resulting in the appraised value of residential properties not matching the contract sales price, or in the case of new construction, the cost to build.

The Missouri legislation, known as House Bill 292, would prohibit appraisers from using a property that has been sold at a foreclosure sale as a comparable. Similar to the Missouri proposal, the Illinois legislation would prohibit appraisers for the next five years from using as a comparable sale "a residential property that was sold at a judicial sale at any time within 12 months."

The Nevada legislation would prohibit the use of foreclosures and short sales. The prohibitions contained in the Maryland legislation are somewhat broader and include any property that was sold under "duress or unusual circumstances, such as a foreclosure or short sale."

There is, however, conflicting language in the Maryland legislation that appears to allow for the use of distressed properties as comparables if the appraiser takes into account factors such as the motivation of the seller, the condition of the property and the property's history or disposition before the sale. Appraisers in Maryland will oppose this legislation during a hearing March 29.

If these bills were enacted into law, appraisers would be put in the difficult position of having to choose which law to violate. Appraisers are required to adhere to comply with the Uniform Standards of Professional Appraisal Practice in federally related transactions. The standard mandates that appraisers "must analyze such comparables sales as are available." Further, the standard cannot be voided by a state or local government.

Not following USPAP could subject the appraiser to having action taken against their license. Therefore, appraisers would have to make the decision to commit a USPAP violation – which in the case of federally related transactions would be a violation of state law – or to violate the law prohibiting the consideration of distressed sales as comparables.

To read the Illinois legislation, go to <http://www.ilga.gov/legislation/97/HB/09700HB0092.htm> . To view the Missouri proposal, go to <http://www.house.mo.gov/billtracking/bills111/bilxt/intro/HB0292I.htm> . To see the Maryland legislation, go to <http://mlis.state.md.us/2011rs/bills/hb/hb1309f.pdf> . And to see the Nevada proposal, go to http://www.leg.state.nv.us/Session/76th2011/BDR/BDR76_54-0532.pdf .

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Bill to Legislate Appraisal Process is Withdrawn in Maryland; Still Pending in Nevada

Legislation in Maryland that would have prohibited the use of foreclosures and short sales as comparables in the development of an opinion of the value of residential real estate was withdrawn March 29 from further consideration.

A hearing on a similar bill in Nevada is scheduled for April 1 before the state Senate Commerce, Labor and Energy Committee.


Introduced March 1 by Maryland Delegate Marvin E. Holmes Jr., House Bill 1309 would have placed appraisers in the awkward position of having to choose which law to violate -- the state law prohibiting the use of distressed sales or federal and state laws that requires compliance with Uniform Standards of Professional Appraisal Practice.


Under federal law, appraisers are required to follow USPAP for federally related transactions, which include most residential lending transactions. Under USPAP, appraisers "must analyze such comparable sales data as are available."

This means all sales, including foreclosures and short sales. USPAP does not require an appraiser to actually use a distressed sale as a comparable, but it says that these types of sales are to be considered. If distressed sales are used as comparables, appropriate adjustments must be made to account for the nature of the transaction.

When USPAP adherence is required, such as in federally related transactions, no part of the standard can be superseded by a state or local law. That prohibition prevents states from enacting legislation that pre-empts the federal law that requires compliance with USPAP.

To view a copy of the Maryland proposal, visit <http://mlis.state.md.us/2011rs/bills/hb/hb1309f.pdf>. To view a copy of the Nevada proposal, go to www.leg.state.nv.us/Session/76th2011/Bills/SB/SB330.pdf.

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<https://www.wsj.com/articles/lower-property-taxes-are-silver-lining-for-landlords-in-weak-retail-market-1504004403>

MARKETS | PROPERTY REPORT

Lower Property Taxes are Silver Lining for Landlords in Weak Retail Market

Property owners and retailers say lower tax bills will keep them afloat as retail sales and occupancy rates are falling in many parts of the county



A Kohls store in Oklahoma City. PHOTO: SUE OGRICKI/ASSOCIATED PRESS

By *Esther Fung*

Aug. 29, 2017 7:00 a.m. ET

In April, the Indiana Supreme Court handed Kohl's Corp. a victory when it agreed not to review a lowered property assessment that was awarded to one of Kohl's stores because of the growing vacancy and dropping values of other shopping centers in its area.

The decision, which translated into a \$219,000 refund for Kohl's, was a sign of the drain to tax revenues resulting from the worsening retail real estate landscape for Howard County, the taxing jurisdiction, as well as other local governments throughout the country.

Retail sales and occupancy rates are falling in many parts of the country, partly due to oversupply of stores and competition with online retail. That has meant lower property values, lower tax collections and—in some cases—less to pay teachers and firefighters.

But property owners and retailers say lower tax bills, which are a large part of operating costs, will help to keep them in business. "This is one of the ways to lower operating costs and the new owner would then be able to negotiate better deals with tenants and keep them in the mall," said Thomas Dobrowski, executive managing director of capital markets at real-estate services firm Newmark Knight Frank.

National statistics aren't available on reduced tax assessments and refunds for retail landlords. But the sector clearly is suffering reduced property values as landlords face more pressure these days from department stores and other tenants downsizing or filing for bankruptcy protection. Property-services firm Cushman & Wakefield estimates that the number of store closures this year to reach at least 8,000. That would be up from more than 4,000 in 2016.

More retail landlords are defaulting on securitized loans than owners of other property types. In the first seven months of 2017, the loan balances of these defaulted mortgages increased roughly 20% to \$1.34 billion, according to data from Trepp Inc.

Buyers of struggling malls that pay low prices often quickly pursue a reassessment of the property based to lower the tax bill. Assessors say more store owners and mall landlords are lodging appeals for a lower assessed valuation for their shopping centers and malls.

"There's a cottage group of people who do nothing but appeal tax assessments. They're tax agents, and their job is to look for loopholes to get property taxes lower," said Tim Wilmath, chief appraiser at the Palm Beach County Property Appraiser's Office. "I've heard lots of reasons why taxes have to be lower due to e-commerce."

Property-tax bills are some shopping center owners' biggest expense, outpacing salaries and rents. "There's a lot of activity in the appeals space. There's a lot of value in doing that," said Tim Trifilo, a partner in the tax practice of CohnReznick LLP, an accounting, tax and advisory firm.

Some landlords appealing their assessments point to the declining amount of sales taxes being generated by their stores. Others cite market conditions in the region, such as sales prices of vacated stores.

Frank Lima, who heads real-estate services firm Hilco Global's tax advisory practice, recently included a value analysis of vacated stores of appliance seller Hhgregg Inc. to lower the assessed value of another retailer's property. "We look at market rents, what an empty box would sell for," said Mr. Lima.

Some battles over tax assessment focus on what is known as the "dark store" method of analyzing value. According to this method, even if a shopping center has solid tenancy and cash flow, its value is affected by low vacancy and store closings in the surrounding area.

In the Kohl's case, the retailer challenged the Howard County Assessor's valuation for 2010 to 2012. Kohl's appraiser looked at sales of what the appraiser said were comparable retail property in the Midwest, including former Wal-Mart and Kmart stores.

These properties were sold for prices ranging from \$5.13 to \$63.65 a square foot. Howard County Assessor Mindy Heady hired another appraiser who opined that only one property that sold at \$63.65 a square foot was comparable. The others were in markets with smaller demographics. One was located in a "dead" mall, according to documents from the Indiana Board of Tax Review.

"We as assessors think that they [landlords and retailers] are misusing it. That's why we're battling it," said Ms. Heady, referring to the "dark store" methodology some taxpayers are using to lower their property valuations.

Kohl's didn't respond to requests for comment.

Write to Esther Fung at esther.fung@wsj.com

MEMORANDUM

TO: Aggregate Producers of Wisconsin, Inc.

FROM: Mike Wittenwyler / Tim Smith
Godfrey & Kahn, S.C.

DATE: August 9, 2017

SUBJECT: 2017 Wisconsin Senate Bill 291

2017 Wisconsin Senate Bill 291 broadens the definition of “real property” for property tax assessment purposes and permits assessors to take into account the value of lease agreements that are transferrable with the subject property.

- First, SB 291 expands upon the current definition of “real property” by permitting the assessor to take into account assets that are inextricably intertwined with the property, that enable the property to achieve its highest and best use, and that are transferable to future owners. “Highest and best use” is defined to include the specific current use of the property or a higher use to which the property can be expected to be put in the immediate future, if the use is legally permissible, physical possible, and financially feasible and provides the highest net return.
- Second, in determining the value of leased real property, SB 291 permits the assessor to take into account arm’s-length lease provisions and rental income pursuant to leases that would be transferable to a future owner. This reverses a prior Wisconsin Supreme Court decision which held that the assessor can only take into consideration market rents, rather than actual contract rents, for purposes of assessing a property.

While it may have been unintended, SB 291 will subject aggregate producers, including those producers who lease property containing aggregate deposits from landowners, to possible property tax consequences. In short, the proposed legislation would create statutory language that could be used by a local assessor as the basis of an argument that a higher assessment is appropriate.

ANALYSIS

Under current law, land that contains aggregate deposits not currently used in a manner to generate revenue from the aggregate is taxed at the current highest and best use (e.g., as fallow land, agricultural land, forest, etc.). At this point, before the land is used for mining, the land is assessed by the local assessor.

Once mining operations commence and the land is considered manufacturing property, it is assessed by the Wisconsin Department of Revenue (“DOR”) rather than the local assessor. At this point, DOR will assess the mining property as a going-concern mining operation based on the best evidence of market value, whether that is a recent sale of the subject property, sales of similar properties, or other evidence.

The assessor also may review sales of property with and without aggregate deposits to determine the contributory value of the aggregate deposits. The assessment may take into account market factors affecting the supply and the demand of the deposits, ease or difficulty in obtaining permits and zoning changes for extracting the deposits, and relative depletion of the deposits on the individual parcel.

The statutory language that would be added by SB 291 could be viewed as broad enough to increase the assessed value of land that contains aggregate deposits not yet used for mining. The proposed “highest and best use” language raises the issue of whether land that is not currently used for mining could be deemed to have a highest and best use of mining under these added statutory definitions. Certainly, underlying aggregate deposits are an asset that is inextricably intertwined and transferrable with the property.

The proposed language in SB 291 could also increase the assessed value of any property subject to an above-market lease, including leased land containing aggregate deposits. As explained in the legislative analysis to SB 291, the new language is intended to reverse a prior Wisconsin Supreme Court case which held that the assessor can only take into consideration market rents, rather than actual contract rents, for purposes of assessing a property. SB 291 would reverse that decision and permit assessors to take into account above-market contractual rents that are transferable to the buyer of a property. To the extent that land containing aggregate deposits is subject to a lease containing above-market rents that would be transferable, the assessor would be able to take these into account for assessment purposes.

CONCLUSION

Based on the points raised above, SB 291 could have significant tax implications on aggregate operations in Wisconsin. It could lead to a local assessor arguing for a higher assessment and potentially increasing property taxes for aggregate producers across Wisconsin.

Please let us know if you have further questions or need additional information.