RESOLUTION NO. 2018-34
Conducting an Advisory Referendum to Require Accurate Value Comparisons When Establishing the Assessed Value of National Retail Stores (Dark Store Legislation)

Executive Summary

Current law allows the assessed value of certain retail stores to be based on comparing them to nearby vacant or abandoned commercial buildings even though the store is operating at full capacity. The reasoning behind this argument is that in many cases large retail stores are constructed according to a standard design which is unique to that particular retail store, i.e. Menards and Walgreens are built using a design specific to their business needs and if the building was sold on the open market, a purchaser would most likely need to make significant modifications in order to use the building for another business purpose. As a result, Courts have sided with national retail stores requiring communities to refund tax revenue. This method of valuation is known as the “Dark Store” theory of valuation.

This Resolution authorizes Jefferson County to conduct a county-wide advisory referendum to be held at the November 2018 general election. The Executive Committee considered this resolution at its July 25, 2018, meeting and voted to forward to the County Board for approval. Local governments object to the theory because it decreases revenue to the state while also increasing the burden of increased taxes on other property owners. Schools, roads, and other public services still need funding.

WHEREAS, the Executive Summary is hereby incorporated by reference into this resolution, and

WHEREAS, some national retail stores in Wisconsin have successfully argued that the assessed value of their property for property tax purposes should be based on the fair market value of the building if it was vacant or abandoned, and

WHEREAS, some national retail stores are using what is known as the "Dark Store" theory to argue that the assessed value of a new, thriving store should be based on comparing their buildings to nearby vacant or abandoned stores from a different market segment and in many cases, courts have sided with the national retail stores, requiring communities to refund tax revenue, and

WHEREAS, lawsuits in Wisconsin are forcing assessors to reduce the assessed value of thriving national retail stores, shifting the tax burden to local businesses and homeowners, and

WHEREAS, homeowners in Wisconsin pay over 70% of the total statewide property tax levy, and

WHEREAS, over the past several months, municipal, county, city, and town officials have been in contact with state legislators testifying against the Dark Store tax loophole in order to avoid a property tax burden shifting to other tax paying entities such as residential homeowners and other businesses and/or cuts in essential services provided by an affected municipality, and

WHEREAS, the disproportionate burden of property taxes on homeowners will worsen unless legislators take action to amend the property tax law and prevent some national retail stores from receiving significant reductions in the assessed value of their commercial stores resulting in a significant reduction in their property taxes, and
WHEREAS, Wisconsin State Statute 59.52(25) allows for a county board to conduct a county-wide referendum for advisory purposes, and

WHEREAS, a county-wide advisory referendum on the issue of Dark Stores would provide guidance to the state legislature as to the will of the Jefferson County electorate on this issue, and

WHEREAS, this resolution seeks to conduct such a county-wide advisory referendum.

NOW, THEREFORE, BE IT RESOLVED by the Jefferson County Board of Supervisors that a county-wide advisory referendum be conducted at the November 2018 general election with the question stated as follows:

Should the state legislature enact proposed legislation that closes the “Dark Store” property tax loophole, which currently allows a significant reduction in the property tax assessment valuation of the commercial property of regional and national retail stores, which may result in increased property taxes for other tax-paying entities, such as residential home owners and other business entities, and/or cuts in essential services provided by an affected municipality?

BE IT FURTHER RESOLVED that the Corporation Counsel prepare a Notice of Referendum to be published by the Jefferson County Clerk in accordance with statutory requirements.

BE IT FURTHER RESOLVED that the Corporation Counsel draft an Explanatory Statement to be approved by the Executive Committee and published by the Jefferson County Clerk in accordance with statutory requirements.

BE IT FURTHER RESOLVED that this resolution and the referendum shall be filed with the Jefferson County Clerk no later than 70 days prior to the election at which the question will appear on the ballot.

BE IT FURTHER RESOLVED that that publication of this resolution may occur through posting in accordance with Section 985.02 of the Wisconsin Statutes.

BE IT FURTHER RESOLVED that this resolution, upon passage, be forwarded to Governor Scott Walker, the Wisconsin Counties Association and Jefferson County’s Legislative Representatives with the request that they assist in this endeavor.

Fiscal Note: This advisory referendum will cost an estimated $1,000.

STATE OF WISCONSIN

COUNTY OF JEFFERSON

I, Barbara A. Frank, County Clerk of Jefferson County, Jefferson, Wisconsin, do hereby certify that the attached is a true and correct copy of Resolution No. 2018-34, adopted at the August 13, 2018, Session of the County Board of Supervisors at the County Courthouse in the City of Jefferson.

WITNESS MY HAND AND SEAL this 14\textsuperscript{th} day of August 2018.

Barbara A. Frank
Jefferson County Clerk