

**OUTAGAMIE COUNTY BOARD MEETING
APRIL 18, 2017**

RESOLUTION NO. 5—2017-18

Supervisor Sturn moved, seconded by Supervisor Croatt, for adoption.

RESOLUTION NO. 5—2017-18 IS ADOPTED.

RollCall-Pro Advanced Tuesday, April 18, 2017					
1. THOMPSON	YES	13. WEGAND	YES	25. NOOYEN	YES
2. MILLER	YES	14. DE GROOT	YES	26. DUNCAN	YES
3. GRADY	YES	15. VANDEN HEUVEL	YES	27. CULBERTSON	YES
4. PATIENCE	YES	16. LEMANSKI	YES	28. STURN	YES
5. GABRIELSON	YES	17. CROATT	YES	29. BUCHMAN	YES
6. FOSS	YES	18. SPEARS	YES	30. GRIESEBACH	Absent
7. HAMMEN	YES	19. STUECK	YES	31. CLEGG	YES
8. T. KRUEGER	YES	20. THOMAS	YES	32. VANDERHEIDEN	YES
9. J. KRUEGER	YES	21. THYSSEN	YES	O'CONNOR-SCHEVERS	YES
10. LAMERS	YES	22. HAGEN	YES	34. RETTLER	YES
11. MEYER	YES	23. KLEMP	YES	35. MELCHERT	YES
12. McDANIEL	YES	24. PLEUSS	Absent	36. SUPRISE	YES
Item 10 Passed (34 Y - 0 N - 0 A - 2 Absent) Majority Vote >					

RESOLUTION NO.: 5—2017-18

TO THE HONORABLE, THE OUTAGAMIE COUNTY BOARD OF SUPERVISORS

LADIES AND GENTLEMEN:

MAJORITY

1 Homeowners in Wisconsin pay 70% of the total statewide property tax levy. This
2 disproportionate burden is about to get much worse unless the Legislature addresses tax
3 avoidance strategies that national chains like Walgreens, Target and Lowe's are using
4 across the country to gain dramatic reductions in their property tax bills at the expense of
5 homeowners and other taxpayers.
6

7 A carefully orchestrated wave of hundreds of lawsuits in Wisconsin is forcing assessors
8 to slash the market value of thriving national retail stores, shifting their tax burden to
9 local mom and pop shops and homeowners.
10

11 Walgreens and CVS stores in Wisconsin have argued in communities across the state that
12 the assessed value of their property for property tax purposes should be less than half of
13 their actual sale prices on the open market. In many cases the courts have sided with
14 Walgreens and CVS, requiring communities to refund tax revenue back to the stores.
15

16 Big Box chains are using what is known as the "Dark Store Theory" to argue that the
17 assessed value of a new store in a thriving location should be based on comparing their
18 buildings to sales of vacant stores in abandoned locations for a different market segment.
19

20 The Indiana Legislature and the Michigan State House have both overwhelmingly passed
21 legislation prohibiting assessors from valuing new big box stores the same as nearby
22 abandoned stores from a different market segment.
23

24 This resolution urges the Governor and State Legislature to protect homeowners and
25 main street businesses from having even more of the property tax burden shifted to them
26 by passing legislation clarifying that 1) leases are appropriately factored into the
27 valuation of leased properties, and 2) when using the comparable sale method of
28 valuation, assessors shall consider as comparable only those sales within the same market
29 segment exhibiting a similar highest and best use rather than similarly sized but vacant
30 properties in abandoned locations.
31

32 NOW THEREFORE, the undersigned members of the Finance Committee recommend adoption
33 of the following resolution.

34 BE IT RESOLVED, that the Outagamie County Board of Supervisors does urge the Governor
35 and State Legislature to protect homeowners and main street businesses from having even more of the
36 property tax burden shifted to them by passing legislation clarifying that 1) leases are appropriately

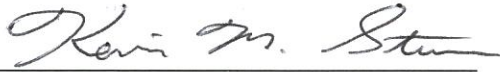
1 factored into the valuation of leased properties, and 2) when using the comparable sale method of
2 valuation, assessors shall consider as comparable only those sales within the same market segment
3 exhibiting a similar highest and best use rather than similarly sized but vacant properties in abandoned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

5 BE IT FINALLY RESOLVED, that the Outagamie County Clerk be directed to forward a copy
6 of this resolution to the Outagamie County Executive, all Wisconsin counties, and the Outagamie
7 County Lobbyist for distribution to the Governor and the Legislature.

8 Dated this 18th day of April 2017

9
10 Respectfully Submitted,

11 FINANCE COMMITTEE

12
13
14
15 

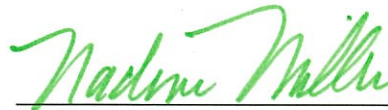
16
17 Kevin Sturn

18
19 

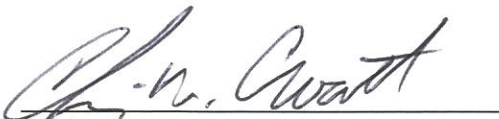
20
21 Peter Staeck

22
23 

24
25 James Pleuss

26
27 

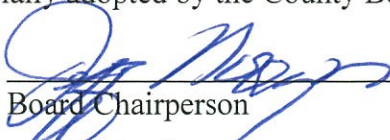
28
29 Nadine Miller

30
31 

32
33 Chris Croatt

34 Duly and officially adopted by the County Board on: April 18, 2017

35 Signed:

36 
37 Board Chairperson


County Clerk

Approved: 4.20.17

Vetoed: _____

Signed:


County Executive



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

Issue Briefing: Dark Store Tax Shift

Court rulings giving tax cuts to chain stores result in tax increases for homeowners

Property taxes for homeowners and main street businesses are increasing in Wisconsin as national retailers pay less. 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 to their home-owning customers. If the Legislature fails to close this loophole, we estimate that millions of dollars in property taxes will shift from large commercial properties to homeowners and other taxpayers over the next few years.

The table below shows what assessors estimate the tax increases that homeowners in select communities will experience when the Dark Store theory is fully-implemented. Calculations are based on amount of national chain retail, 2015 mill rates, and median home values:

City	Estimated Tax Increase	Average increase per home per year
Brookfield	5%	\$233.50
Hudson	9%	\$374.58
La Crosse	7%	\$197.12
Oconomowoc	8%	\$360.96
Pleasant Prairie	17%	\$892.50
Wauwatosa	7%	\$382.12
West Bend	8%	\$253.89

This is not a new problem, nor is it exclusive to Wisconsin. Wisconsin is merely the latest state to experience this coordinated legal attack on in-state taxpayers. Indiana and Michigan have already experienced it. In Indiana, the Legislature promptly slammed the door on this court-created loophole. A similar legislative fix is pending in Michigan. Wisconsin must do the same.

Loophole #1: It's just a big empty box. Tax attorneys for Target, Meijer, and other big box chains 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 the value of vacant or abandoned buildings of similar size. They argue that regardless of their new location or how updated their building is the value for 'property tax purposes' should be based on the value of the buildings and locations they abandoned prior to moving into the new store at their new location.

Real World Example from Wauwatosa: The Lowe's store at 12000 W. Berleigh St. is currently challenging the city's assessed valuation. The City assessed the property at \$13.6 million. The City's expert believes the market value is actually \$17.7 million. Lowe's argues the property's current value is \$7.1 million of which \$3 million is attributed to land. Yet, the land was purchased in 2007 for \$9,012,800. Lowe's built a

140,000 square foot building in 2006 for approximately \$7 million, they then subsequently purchased the land after constructing the building. Altogether, Lowe's spent in excess of \$16 million to acquire the land and build the structure. Now, Lowe's argues that the land was devalued from \$9 million to \$3 million because the big box store was constructed. Lowe's insists that under Wisconsin law (based on the *Walgreens* decision) only vacant dark stores, such as the vacated big box stores near the former Northridge shopping area, can be used as comparables. The City disagrees, but their only options are costly litigation or settling with the property owner on a compromise value.

Loophole #2: Gold box on Wall Street, cardboard box on Main Street. Walgreens and CVS stores use a different, but related strategy, to argue that the assessed value of their properties should be less than half of actual sale prices on the open market. The two have already sued more than 100 Wisconsin communities, claiming the rent they pay for their newly-constructed, highly-visible corner locations doesn't accurately reflect its market value. These properties are developed to the retailer's specifications and leased to them with no landlord responsibility other than collecting rent. More than 80% of Walgreen stores and 95% of CVS stores operate under a lease arrangement. This arrangement is so desirable that drugstores have become the most popular single-tenant properties in the national real estate investment market. But attorneys for Walgreen and CVS 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.' Instead, they say, the assessments should hinge on the amount the landlord could get if the drugstore moved out and a different retailer moved in.

Real World Example from Oshkosh: Walgreens challenged the City of Oshkosh's assessments of 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 that the two Walgreens be refunded 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. There are over 200 Walgreens located in Wisconsin's cities and villages.

Other states have stopped this tax shift. The Republican-controlled Indiana Legislature overwhelmingly passed bipartisan legislation in 2015 and 2016 prohibiting assessors from valuing new big box stores the same as abandoned stores in a different market segment. The Michigan legislature is considering similar proposals. In May 2016 the Michigan house passed a dark store fix bill by a vote of 97-11. The bill is pending in the Michigan Senate.

Solution: Follow Indiana's lead and pass legislation in Wisconsin closing off these tax strategies and stopping the tax shift to home owners. Pass 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. 11/1/16