

Dark Store Tax Loophole Talking Points

Prepared by League of Wisconsin Municipalities

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Municipal officials are asking the Legislature to close the dark store loophole to avoid shifting more of the property tax burden from commercial and manufacturing property to homeowners and small businesses.

- Tax attorneys for big box stores like Target, Walmart, Meijer, Menards, Home Depot, and Lowe's, are using what is known as the dark store loophole to argue that the value of a new store in a busy commercial district should be based on the value of former retail properties in unpopular areas that are now closed and vacant.
- **An actual example:** The Lowe's store on Burleigh St. in Wauwatosa is assessed for taxes at \$13.6 million. Lowe's claims the property is only worth \$7.1 million even though it spent over \$16 million to acquire the land and build the structure. Lowe's argues that the *land* alone was devalued from \$9 million to \$3 million because the big box store was constructed and insists that only vacant dark stores can be used as comparables.
- Big box stores are using the dark store argument as part of their effort to pay a smaller share of property taxes even though they demand more police services than other commercial properties and way more than residential properties.
- If not stopped, the dark store strategy will result in a huge shift of the tax burden from commercial property owners to homeowners and others.
- A study of twelve communities showed that if the dark store and *Walgreens* tax loopholes were fully implemented, residential tax bills would increase on average by 8 percent.
- Homeowners already bear a disproportionate share of the statewide property tax burden in Wisconsin (68% of total statewide levy is paid by homeowners). It's not that high in most other states. Homeowners in Minnesota, for example, pay only 50% of the property tax levy.
- In 1970, Wisconsin homeowners paid only \$50 of every \$100 that a community needed to pay for services.
- **The Solution:** Pass legislation like 2017 Assembly Bill 386 and close the dark store loophole and stop the tax shift to homeowners.
- AB 386 clarifies that assessors must use comparable 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. It says that assessors may not use a dark store as a comparable for property that is not dark or vacant.
- The bill codifies existing Wisconsin case law and parts of DOR's Wisconsin Property Assessment Manual.
- Local governments will not receive one dollar more in tax revenue if the bill passes, but the tax shift to homeowners will end.
- 63% of the Legislature signed on as co-sponsors of the dark store bill, but business group opposition killed our efforts to close the loophole that they use.