
PASBO WEB FORUM

MAY 16, 2017

HOUSE BILL 1213



HANDOUT

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HOUSE BILL 1213

- As introduced, eliminates taxing body appeals of property assessments, at the benefit to commercial properties and the expense of homeowners
- Could undo appeals in the pipeline, locking in lower assessments
- Puts burden on local govt to prove the assessment doesn't violate the PA Constitution; need only assessed value and no appraisal
- Assessment will be deemed constitutional IF it is the lesser of the latest assessment or an amount comparable to assessments of similar properties in the same local community
- As amended in committee, House Bill 1213 will now go well beyond assessment appeals and would provide in one fatal swoop a new assessment standard for commercial properties known as...



Dark Store Theory



DARK STORE THEORY IN PRACTICE...

GOVERNING

THE STATES AND LOCALITIES

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FINANCE

Big-Box Stores Battle Local Governments Over Property Taxes

The retailers are deploying a 'dark store' strategy that's hurting cities and counties around the country.

BY LIZ FARMER | SEPTEMBER 2016



DARK STORE THEORY IN PRACTICE...



Big-box assessments leave counties in the dark

By CHARLES TAYLOR Mar. 21, 2016

State tax tribunal appeals in favor of big box stores have cost counties \$75 million since 2013



Counties stand to lose millions of dollars if the “dark-store” method of assessing big-box stores continues to spread.

Chains such as Lowe’s, Target and Home Depot are challenging their tax assessments — and winning — resulting in a loss of revenue to counties.

The dark-store method values big stores that are open for business as though they were vacant and closed. Big retail chains argue that their stores should be assessed based on comparable sales. They say their stores were built for a specific purpose and, once closed, are difficult to sell for anything near what it cost to build them, diminishing their value. In addition, big-box stores often have deed restrictions on their properties that prevent them from being used by another retailer.



DARK STORE THEORY IN PRACTICE...

Retailers seek tax cuts with 'dark store' theory

Rick Romell, Milwaukee Journal Sentinel 5:41 p.m. CT Jan. 14, 2017

The Howard case

Take that Menards in Howard. It opened in 2012, on an 18-acre site Menard Inc. bought in July 2011 for \$5 million. The firm spent another \$5.6 million to erect one of its huge retail buildings, according to village records.

That's \$10.6 million total.

But in its legal challenge, Menards argues that as of last January, less than four years after the store opened, it was worth \$5.8 million — or about \$800,000 more than the company paid for the land alone.

Menards calculated the \$5.8 million value for its operating, open-for-business store in Howard based on the prices commanded by several vacant stores: a former Cub Foods in Green Bay, a former Sears in Sheboygan, the former Home Depot in Beaver Dam, and others.

The result: a value less than half the \$12.5 million the Village of Howard says the Menards store is worth.



"By the same logic," village administrator Paul Evert said, "shouldn't we all compare our home (values) to foreclosed homes, or abandoned home sales?"



DARK STORE THEORY IN PRACTICE...

Lowe's Home Centers Inc. is suing Bexar County to try to cut its property assessment by more than half, worrying San Antonio leaders as big-box retailers exploit legal loopholes in hopes of reducing local taxes in Texas and other states.

The tactic has been successfully deployed in Michigan and Indiana where major retailers have driven down property values and tax revenue. Michigan taxpayers had to refund about \$100 million to retailers while Indiana reduced their taxes by more than \$120 million. Yet cities and counties still need the revenue to pay for roads and other municipal services. The worry is that local governments will have to cut programs, as they have in Michigan, or raise residential property taxes like Indiana to make up the shortfall, officials say.

“If a company is allowed to avoid paying their fair share of property taxes, it will shift the burden onto other taxpayers, particularly our homeowners,” City Manager Sheryl Sculley said. City officials are monitoring the Lowe's lawsuit here. “The City of San Antonio is greatly concerned about this, and our taxpayers should be, too.”

Retailers like Lowe's use 'dark store' loophole to cut Texas tax bills

By Joshua Fechter | October 7, 2016 | Updated: October 8, 2016 10:01pm



<http://www.expressnews.com/business/local/article/Retailers-like-Lowe-s-use-dark-store-9936133.php>

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DARK STORE THEORY IN PRACTICE...

ILNEWS

Justices consider use of 'dark box' properties in assessments

Olivia Covington April 27, 2017 **KEYWORDS** ASSESSMENT, COURTS, INDIANA SUPREME COURT, ORAL ARGUMENTS, TAX ISSUES

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RELATED NEWS AND OPINION

Justices consider use of 'dark box' properties in assessments

Supreme Court to hear whistleblower case against IDEM

Supreme Court hears INDOT case during Rucker's final oral arguments

Supreme Court rejects 'dark box' case, lets Tax Court ruling stand

Discerning the true meaning of the term "market value-in-use" is the central task now before the Indiana Supreme Court as it considers whether to accept review of a tax case that attorneys say will have a far-reaching effect on Indiana's assessment system.

In oral arguments on petition to review in the case of *Howard County Assessor v. Kohl's Indiana LP*, 49T10-1502-TA-00004, Mark GiaQuinta, counsel for the Howard County assessor, urged the justices to take the case and reverse the decision of the Indiana Tax Court, which allowed Kohl's to base its 2010, 2011 and 2012 assessed values on the sale prices of similar vacant retail properties, or "dark boxes." GiaQuinta told the justices that the Tax Court had changed Indiana's true tax value standard from a standard of value-in-use to fair market value.

Michigan's response

They found a receptive ear at the Michigan Tax Tribunal, which rules on property tax disputes. After precedent-setting decisions, upheld by an appellate court in 2014, assessments on big-box stores tumbled sharply statewide, as did the tax bills that resulted, Van Coevering said.

Before the decisions, assessments on big-box stores statewide averaged \$55 a square foot, according to Van Coevering. Now, he said, they're under \$25.

And new appeals are seeking values as low as \$10 a square foot, sometimes on new buildings, he said.

"There's wave after wave after wave," Van Coevering said. "Whether we've reached the end of the storm, I don't know."



ASSESSMENT APPEALS ON BIG BOX STORES

Home Depot

- 116,650 sf
- SD value: \$14,100,000 (\$120/sf)
- Taxpayer value: \$5,850,000 (\$50/sf)

Sale Comps

Former Furniture Store (vacant)/Bucks County

- 66,362 sf; \$1,638,000 (\$25/sf)

Former Lowe's (vacant)/Cumberland County

- 111,525 sf; \$4,750,000 (\$42/sf)

Lowe's

- 133,723 sf
- SD value: \$11,900,000 (\$89/sf)
- Taxpayer value: \$4,700,000 (\$35/sf)

Sale Comps

Former WalMart (vacant)/Erie, PA

- 128,455 sf; \$2,450,000 (\$19/sf)

Former Levitz Furniture Store (vacant)/Langhorne, PA

- 158,687 sf; \$5,350,000 (\$34/sf)

Former WalMart (vacant)/Tunkhannock, PA

- 75,892 sf; \$1,650,000 (\$22/sf)



ASSESSMENT APPEALS ON BIG BOX STORES

Target

- 137,652 sf
- SD value: \$25,100,000 (\$182/sf)
- Tax payer value: \$12,650,000 (\$91/sf)

Sale Comps

Former Home Depot (vacant)/Cherry Hill, NJ

- 114,447 sf; \$5,800,000 (\$50/sf)

Former Pathmark (vacant)/Warminster Twp/ Bucks County, PA

- 56,025 sf; \$6,430,000 (\$60/sf)

Former WalMart (vacant)/Dover, DE

- 119,700 sf; \$5,200,000 (\$43/sf)



THE RESULT

- Massive assessment appeals with substantial legal and procedural costs to school districts
- Loss of hundreds of millions in assessed value across the state
- Reduction of property tax revenues
- Shifting the property tax burden to residential properties



NEXT STEPS

- Reach out to your House member ASAP
- Ask for opposition to HB 1213
- HB 1213 means increased property taxes for homeowners at the direct benefit of commercial properties
- Bill serves no public policy; just enriches commercial property owners
- www.pasbo.org/takeaction



REVERSE APPEALS

Prohibition on reverse appeals:

- Reverse appeals are NOT spot assessments
- Reverse appeals maintain fairness and uniformity
- HB 1213 rewards under-assessed property
- SUPPORT amendment #A01220 (Rep. Harper), which limits the prohibition on reverse appeals to homestead/farmstead properties



DARK STORE THEORY

Dark store theory:

- Valuing property as vacant flies in the face of current assessment law (and reality)
- Assessments could drop by 25-50% on some properties, crushing local government revenues (has happened in several states)
- Rewards the big box stores at the expense of homeowners



QUESTIONS?

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