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# ROBERT BROOKS

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STATE REPRESENTATIVE • 60<sup>TH</sup> ASSEMBLY DISTRICT

## Hearing Testimony

### Assembly Committee on Ways and Means

June 29, 2017

Chairman Macco and members of the Assembly Committee on Ways and Means, thank you for affording me with the opportunity to testify on behalf of Assembly Bills 386 and 387 relating to property tax assessments.

I would like to present you with my written testimony for today. *The 2017 Wisconsin Property Tax Assessment Manual* as approved by the Department of Revenue.

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 statute so that assessors, property owners, and the courts have clear direction.

The problem, 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 a 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 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 this 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 stated. Our local partners will still continue to operate under levy limits; these bills again only help to ensure that everyone pays his or her fair share based on a



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system that reflects real market values and prevents a tax shift from one sector to another.

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. That 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 you two minor technical corrections as suggested by 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.

Assembly Bill 386 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 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.

Assembly Bill 386 codifies the definition of "highest and 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.

Assembly Bill 386 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



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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 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 retail 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, Assembly Bill 386 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, Assembly Bill 387, 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 from the best information that the assessor can obtain from an arm's-length sale of comparable property. This bill defines an "arm's-length sale" as 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."

The 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 "arm's-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.**



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Assembly Bill 387, 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 bear this out, that if it is an “arm’s-length transaction,” actual rents are the 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 property, 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 all logic. The assessment is less than the land cost, but this is exactly what is happening in our courts and yes, this transaction was considered an “arm’s length transaction” by the IRS.

Detractors of these proposals argue that assessors will be overly aggressive in their assessments if these bills 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 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.

Assembly Bills 386 and 387 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 property tax assessment process. The arguments made against these bills



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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 Assembly Bills 386 and 387. At this time, I would be happy to answer any questions you might have. Thank you for your time and consideration.



# DUEY STROEBEL

STATE SENATOR • 20<sup>TH</sup> DISTRICT

Good Morning. Thank you Chairman Macco and the Ways and Means Committee for holding a hearing on Assembly Bill 387. AB 387 is about reversing a 2008 Wisconsin Supreme Court decision that interpreted our statutes in a way that altered a principle of assessment and caused what one might call a loophole in the law. 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 for ordinary 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.

AB 387 adds leases and other legal rights that flow with the property to 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. Other sections in AB 387 codify language from case law and the assessors manual that assist in clarifying the tests and standards to be used in assessment. The Court read the statute narrowly a decade ago. We don't want to make the same mistake of assuming courts will uphold common practices and the assessor's manual where statute is silent.

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.

Peter W.  
**BARCA**



Minority Leader – Wisconsin State Assembly

DATE: June 29<sup>th</sup>, 2017  
TO: Members of the Assembly Committee on Ways and Means  
FROM: Representative Peter Barca  
SUBJECT: 2017 Assembly Bill 386

Chairman Macco and members of the Assembly Committee on Ways and Means, thank you for holding a public hearing on Assembly Bill 386, 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 of property taxes, I would like to convey the support from local officials in my district for this bill and hope that your committee will support this proposal. The City of Kenosha and the Village of Somers passed resolutions in support of the concept of AB 386, and the Mayors of Racine and Kenosha as well as the Village President of Somers all support AB 386.

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. One other observation is that this appears to be one of the most bipartisan, significant pieces of legislation of the session. Therefore, the committee and the 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 would appreciate your support when Assembly Bills 386 comes for a vote before this committee.

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STATE REPRESENTATIVE  
**GORDON HINTZ**

WISCONSIN STATE ASSEMBLY

54th DISTRICT

June 29, 2017

Dear Chair and Members of the Assembly Committee on Ways and Means,

Thank you for the opportunity to submit testimony today regarding Assembly Bills 386 and 387. 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 us 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,

Gordon Hintz  
State Representative-54th Assembly District



Dark Store Impact Study - Oshkosh

Store Name	Address	Sale Year	Sale Price	Asmt Year	Original Asmt	Active case	Taxpayer Opinion	Settlement Value	Value Loss	TIF	City Tax Rate*	City Loss	Full Tax Rate**	Full Loss
1 Menards	2351 Westowne Ave		No Sale	2016	10,081,300	Yes	5,932,188		4,149,112	No	0.010344	\$42,918	0.025613	\$106,271
2 Lowes	1075 N Washburn St		No Sale	2016	9,065,300	Yes	5,306,462		3,758,838	No	0.010344	\$38,881	0.025613	\$96,275
3 Lowes	1075 N Washburn St		No Sale	2015	11,416,600	No	5,218,300	9,065,300	2,351,300	No	0.009787	\$23,012	0.024535	\$57,689
4 Walgreens	950 S Koeller St		No Sale	2014	3,400,400	No	1,600,000	2,076,000	1,324,400	No	0.009562	\$12,664	0.024839	\$32,897
5 Walgreens	950 S Koeller St		No Sale	2013	3,400,400	No	1,600,000	2,097,199	1,303,201	No	0.009281	\$12,095	0.024868	\$32,408
6 Walgreens	950 S Koeller St		No Sale	2012	3,400,400	No	1,600,000	2,079,884	1,320,516	No	0.008937	\$11,801	0.024615	\$32,505
7 Walgreens	950 S Koeller St		No Sale	2011	3,074,000	No	1,600,000	2,072,316	1,001,684	No	0.008796	\$8,811	0.023911	\$23,951
8 Walgreens	950 S Koeller St		No Sale	2010	3,074,000	No	1,600,000	2,057,393	1,016,607	No	0.008608	\$8,751	0.023946	\$24,344
9 Walgreens	950 S Koeller St	2009	3,653,000	2009	3,074,000	No	1,600,000	2,145,556	928,444	No	0.008399	\$7,798	0.022853	\$21,218
10 Walgreens	950 S Koeller St		No Sale	2008	3,451,900	No	1,500,000	3,074,000	377,900	No	0.008226	\$3,109	0.022378	\$8,457
11 Walgreens	950 S Koeller St		No Sale	2007	3,451,900	No	1,500,000	3,074,000	377,900	No	0.00798	\$3,016	0.02208	\$8,344
12 Walgreens	315 W Murdock Ave		No Sale	2014	3,348,900	No	1,500,000	2,038,284	1,310,616	No	0.009562	\$12,532	0.024839	\$32,554
13 Walgreens	315 W Murdock Ave		No Sale	2013	3,348,900	No	1,500,000	2,024,192	1,324,708	No	0.009281	\$12,295	0.024868	\$32,943
14 Walgreens	315 W Murdock Ave		No Sale	2012	3,348,900	No	1,500,000	2,007,480	1,341,420	No	0.008937	\$11,988	0.024615	\$33,019
15 Walgreens	315 W Murdock Ave		No Sale	2011	2,700,000	No	1,500,000	2,000,175	699,825	No	0.008796	\$6,156	0.023911	\$16,734
16 Walgreens	315 W Murdock Ave		No Sale	2010	2,700,000	No	1,500,000	1,985,772	714,228	No	0.008608	\$6,148	0.023946	\$17,103
17 Walgreens	315 W Murdock Ave		No Sale	2009	2,700,000	No	1,500,000	2,078,264	621,736	No	0.008399	\$5,222	0.022853	\$14,209

\* 2016 City Tax Mill Rate= .010344 (City Loss)  
 \*\* 2016 Overall Mill Rate=.025613 (Full Loss)

Oshkosh Dark Store Impact Study Details

1	Menards - 2351 Westowne Ave - This assessment is currently being appealed. Menards is seeking a 41% reduction in value. This is an example of a big box store seeking a "Dark Store" value.
2	Lowes - 1075 N Washburn St - This assessment is currently being appealed. Lowes is seeking a 42% reduction in value. This is another example of a big box store seeking a "Dark Store" value.
3	Walgreens - 950 S Koeller St - This property's 2007 & 2008 assessed value of \$3,451,900 was appealed resulting in a mediated pre-court settlement of \$3,074,000. In 2009, Walgreens appealed the mediated assessed value. This property was appealed to Circuit Court and to the Court of Appeals. The resulting judgement set the 2009 assessed value at \$2,145,556 or a 30% reduction. (Note: A 39% reduction from the 2007 premediated value.) 2010 - 2014 assessments also required reductions as they were combined with the 2009 litigation.
4	Walgreens - 315 W Murdock St - Very similar to 950 S Koeller. 2010 - 2014 assessments also required reductions as they were combined with the 2009 litigation.
<p><b>Estimated potential loss- Oshkosh Commercial values at risk</b></p> <p>In the City of Oshkosh, \$368,483,400 of commercial property is 'at risk' of reduction by the current "Dark Store" and Walgreen property tax strategies. Oshkosh could lose up to \$184,241,700 of value which is over 5% of the total tax base causing a tax shift/increase of 5% for all property owners including manufacturing and residential owners. Of the total \$42,509,700 loss the TIF estimated loss is \$21,254,900.</p>	

05/11/2016

Testimony

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**State of Wisconsin Assembly Committee Ways and Means**

Kraig Sadownikow

Mayor, City of West Bend

June 29, 2017

Wisconsin Assembly Committee on Ways and Means  
Public Hearing  
June 29, 2017

Chairman Macco and Committee on Ways and Means:

Thank you for taking time to solicit comments from the public regarding this important topic. I have been Mayor in West Bend for a bit over 6 years and was re-elected to a 3<sup>rd</sup> term in April.

In West Bend, we have an intelligent constituency that pays attention to their local governmental activities. They see the City, Washington County and our local School District working hard to offer the best possible service at the lowest possible cost. They see us prioritize and invest in the most important roles of government, making difficult decisions often at the expense of less critical operations. They see us respecting their tax dollars and they have confidence we invest wisely into our community. I have spoken to hundreds of people about this topic from around the full spectrum of political leanings. They understand the Dark Store Theory and Walgreen challenges to assessments put at risk the financial stability of communities in Wisconsin. They know current law will place an undue burden on small business, manufacturing, agriculture and homeowners.

As the old saying goes "You don't know what you don't know". No one knew this loophole existed, nor did anyone know the dramatic negative ramifications that would result from the discovery of this loophole. Congratulations goes to the accountants and attorneys who discovered and are benefiting from finding it. I hold no ill will toward the businesses who are, on behalf of their organizations, exploiting this flaw in legislation. They brought it to our attention, fortunately we now know about it and I ask you and the Legislature to close it.

In West Bend, we have two Walgreens stores that recently sold for a combined \$14,000,000. Walgreens challenged and won. They are now assessed at a combined \$4,800,000. This approximate \$9,000,000 drop equates to about \$180,000 to our taxing bodies. In fact, the West Bend School District had to cut a check back to Walgreens for about \$80,000 and is experiencing a permanent revenue reduction on an annual basis equating to more than an FTE teaching position. The free and open market said the buildings are worth \$14,000,000. Walgreens attorneys and current Wisconsin Law says they are worth about 1/3<sup>rd</sup> of that. Quite honestly, I trust the free market.

Meijer opened a new 200,000 square foot facility just a few weeks ago. They paid \$6,000,000 for the land and their initial assessment stands at \$20,000,000. Even before they opened their store and the ribbon

was cut, attorneys filed a challenge demanding an assessment of \$9,000,000. The difference between what they paid for the property and their demanded assessment is \$3,000,000 or \$15 per square foot of building, ridiculously low. Left unchecked, this kind of strategy is damaging to Wisconsin and I ask you to make it stop.

In addition to the examples above, West Bend has assessment challenges from WalMart, Menard's and ShopKo, I hear rumblings of others as well. The slippery slope appears to have no ending.


Walgreens and Meijer are not being asked to pay someone else's property tax, just their own. I would like them to stop demanding that we pay theirs.

This important legislation knows no political boundaries. I ask each of you to support the passage of these bills, quickly, for the benefit of Wisconsin.

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Thank you for your time.

Sincerely,



Kraig K. Sadownikow  
Mayor  
City of West Bend, WI



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: Assembly Committee on Ways and Means  
From: Jerry Deschane, Executive Director, League of Wisconsin Municipalities  
Date: June 29, 2017  
Re: AB 386, Dark Property  
AB 387, Reversing *Walgreens v. City of Madison*

The League of Wisconsin Municipalities strongly supports AB 386 and AB 387. 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.

### **AB 386 – The Dark Property Bill**

**What does the bill do?** AB 386 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.
- AB 386 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.
- AB 386 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.

*YOUR VOICE. YOUR WISCONSIN.*

## **AB 387 – Reversing the 2008 *Walgreens v. City of Madison* decision**

**What does the bill do?** AB 387 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?**

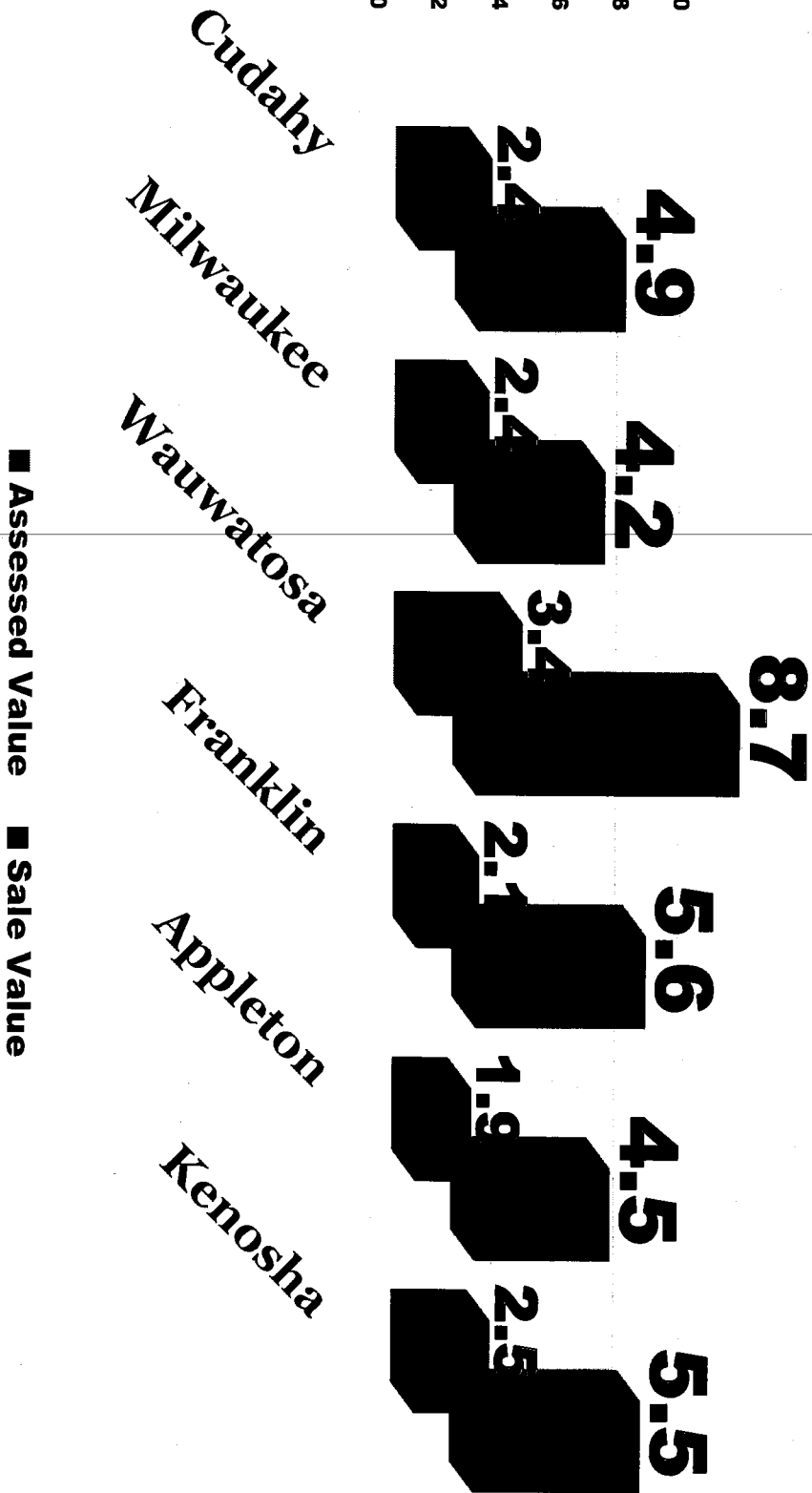
- In 2008 the Wisconsin Supreme Court held in *Walgreens v. City of Madison* that an assessment by the income approach of retail property leased at “above market” rents must be based on market rents rather than the terms of Walgreen’s actual leases and that the value added by an “above-market” rent constitutes 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 \$5 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

## **King Drive Walgreens building sold for \$6.1 million**

### **Sale price almost \$4 million over assessed value**

by Corrinne Hess June 27, 2017, 10:20 AM

A Walgreens store building on King Drive in Milwaukee's Harambee neighborhood sold for almost \$4 million over its assessed value to a California real estate investor.

The store, located at 2826 N. Martin Luther King Jr. Drive, was sold by BRIC (MLK/Hadley) Associates, of Milwaukee, to California Pacific Wisconsin Properties, LLC of Santa Monica, Calif., for \$6.1 million, according to state records.

The property is assessed at \$2.3 million. The 15,551-square-foot building was built in 2008.

In recent months, several other Walgreens buildings have been sold for well over their assessed value.

In January, the Cudahy Walgreens store building at 6214 S. Packard Ave. was sold to a Hillsboro Beach, Fla.-based investment firm for \$4.85 million. That property is assessed at \$2.4 million.

In December, the Walgreens store building on West Capitol Drive in Milwaukee sold to a New York-based real estate investment firm for \$4.2 million. That property was assessed at \$2.35 million.

The Walgreens store building located at 2656 N. Wauwatosa Ave. in Wauwatosa was sold to New York-based CF Net Lease Portfolio VI for \$8.67 million in late November. The building is assessed by the city of Wauwatosa for \$3.48 million.

The Federal Trade Commission has until July 7 to either clear or challenge Walgreens Boots Alliance's bid for Rite Aid Corp., according to Bloomberg.

The deal is valued around \$7 billion, according to Bloomberg data, down from around \$9.4 billion when the deal was announced in October 2015.



2017 ASSEMBLY BILL 386 – DARK STORE

PROPOSED LEGISLATIVE LANGUAGE WITH WISCONSIN PROPERTY ASSESSMENT MANUAL (WPAM) ANNOTATION

SECTION 1. 70.32 (1b) of the statutes is created to read:

70.32 (1b) (a) To determine the value of property using generally accepted appraisal methods, the assessor shall consider all of the following as comparable to the property being assessed:

- 1. Sales or rentals of properties exhibiting the same or a similar highest and best use with placement in the same real estate market segment.

When valuing properties, the assessor should choose comparable sales exhibiting a similar highest and best use and similar placement in the commercial real estate marketplace.

WPAM 13-12

Rather, when valuing stabilized, operating retail properties, the assessor should choose comparable sales exhibiting a similar highest and best use and similar placement in the retail marketplace.

WPAM 13-44

- 2. 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 similarities in occupancy and the potential to generate rental income.

Comparable sales refer to properties that are similar to the subject property in age, condition, use, type of construction, location, design, physical features and economic characteristics.

WPAM 9-24

For purposes of this subdivision, such properties may be found locally, regionally, or nationally.

(b) For purposes of par. (a), a property is not comparable if any of the following applies:

- 1. At or before the time of sale, the seller places any deed restriction on the property that changes the highest and best use of the property so that it no longer qualifies as a comparable property under par. (a) 1. or 2.

2. At or before the time of sale, the seller places a deed restriction on the property that substantially impairs the property's marketability.
3. The property is dark property and the property being assessed is not dark property.

The assessor should avoid using sales of improved properties that are vacant ("dark") or distressed as comparable sales unless the subject property is similarly dark or distressed.

WPAM 13-12

Regardless of the approach used, the assessor should be careful to avoid using comparable sales involving properties that are vacant, in transition or suffering from some form of distress unless the subject property is similarly vacant, in transition, or distressed.

WPAM 13-44

In this subdivision, "dark property" means property that is vacant or unoccupied beyond the normal period for property in the same real estate market segment. For purposes of this subdivision, what is considered vacant or unoccupied beyond the normal period may vary depending on the property location.

- (c) For purposes of par. (a), "highest and best use" means a use that is legally permissible, physically possible, and financially feasible and that provides the highest net return.

Highest and best use is defined as that use which over a period of time produces the greatest net return to the property owner.

WPAM 9-12

- (d) For purposes of par. (a), "real estate market segment" means 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.

Market segmentation is the process by which submarkets within a larger market are identified and analyzed. This means dividing market demand into meaningful user groups based on the property's attributes.

A valuation is most accurate when the improved property and the comparable sale properties supporting the valuation have a similar market or submarket with the current use of the improved property.

WPAM 13-6

For purposes of this paragraph, and depending on the type of property being assessed, the pool of potential buyers and sellers may be found locally, regionally, nationally, or internationally.

The breadth of market research may well expand to include several states, a region, and in some cases the entire United States.

WPAM 13-7

**SECTION 2. Initial applicability.**

(1) This act first applies to the property tax assessments as of January 1, 2018.

**2017 ASSEMBLY BILL 387 – LEASED PROPERTY**

**PROPOSED LEGISLATIVE LANGUAGE WITH WISCONSIN PROPERTY  
ASSESSMENT MANUAL (WPAM) ANNOTATION**

**SECTION 1.** 70.03 (1) of the statutes is amended to read:

70.03 (1) In chs. 70 to 76, 78, and 79, "real property," "real estate," and "land" include not only the land itself but all buildings and, fixtures, improvements thereon, ~~and all fixtures and,~~ leases, rights, and privileges appertaining thereto, including 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,

The assessor should also consider the value of those non-realty items that become inextricably intertwined with the property. These items, though not real estate proper, enhance the value of the real estate at time of sale in such a significant way that they alter the behavior of buyers and sellers in the transaction

When the existence of 'non-realty' items passes with the property and significantly influences the behavior of the typical buyer and seller, the assessor should include it in the value estimate.

WPAM 13-18

except as provided in sub. (2) and except that for the purpose of time-share property, as defined in s. 707.02 (32), real property does not include recurrent exclusive use and occupancy on a periodic basis or other rights, including, but not limited to, membership rights, vacation services, and club memberships. In this subsection, "lease" means 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.

Leases are part of the bundle of rights.

WPAM 9-26

In this subsection, "highest and best use" has the meaning given in s. 70.32 (1).

**SECTION 2.** 70.32 (1) of the statutes is amended to read:

70.32 (1) Real property shall be valued by the assessor in the manner specified in the Wisconsin property assessment manual provided under s. 73.03 (2a) at its highest and best use from actual view or from the best information that the assessor can practicably obtain, at the full value which could ordinarily be obtained therefor at private sale. In determining the value, the assessor shall consider recent arm's-length sales of the property to be assessed if according to professionally acceptable appraisal practices those sales conform to recent arm's-length sales of reasonably comparable property; recent arm's-length sales of reasonably comparable property; and all factors that, according to professionally acceptable appraisal practices, affect the value of the property to be assessed. In this subsection, "arm's-length sale" means 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 this subsection, "highest and best use" means 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

Assessors should start with the assumption that the current use is the highest and best use. However, it is important to recognize that the current use of a particular property does not necessarily represent the highest and best use or the full market value of the property. All of the available uses of the property should be considered.

WPAM 9-12

use is legally permissible, physically possible, and financially feasible and provides the highest net return.

Highest and best use is defined as that use which over a period of time produces the greatest net return to the property owner.

WPAM 9-12

When the current use of a property is the highest and best use of that property, value in the current use equals full market value.

**SECTION 3.** 70.32 (1b) of the statutes is created to read:

70.32 (1b) In determining the value of leased real property under sub. (1), the assessor shall consider the lease provisions and actual rent pertaining to a property and affecting its value, including the

The effect of long-term leases on the bundle of rights, inasmuch as the leases affect market value, should be reflected in the valuation of the property.

WPAM 9-26

lease provisions and rent associated with a sale and leaseback of the property, if all such lease provisions and rent are the result of an arm's-length transaction involving persons who are not related, as provided under section 267 of the Internal Revenue Code for the year of the transaction. In this subsection, an "arm's-length transaction" means an agreement between willing parties, neither being under compulsion to act and each being familiar with the attributes of the property.

**SECTION 4. Initial applicability.**

(1) This act first applies to the property tax assessments as of January 1, 2018.

**DRUG STORE PROPERTIES  
MEDIAN ASKING CAP RATES**

Tenant	Q3 2015 (Previous)	Q3 2016 (Current)	Basis Point Change
Walgreens	5.50%	5.80%	+30
CVS	5.45%	5.70%	+25
Rite Aid	6.63%	7.00%	+37

**DRUG STORE PROPERTIES  
ON THE MARKET**

Tenant	Q3 2015 (Previous)	Q3 2016 (Current)	Percentage Change
Walgreens	203	135	-33.5%
CVS	95	85	-10.5%
Rite Aid	43	42	-2.3%

**DRUG STORE PROPERTIES  
MEDIAN ASKING PRICE**

Tenant	Median Asking Price	Median Price Per Foot
Walgreens	\$6,116,833	\$420
CVS	\$4,755,220	\$407
Rite Aid	\$3,827,000	\$282

*Walgreens* **CVS/pharmacy** 

**MARKET OVERVIEW**

Cap rates for single tenant CVS, Rite Aid and Walgreens properties all increased significantly in the third quarter of 2016. Cap rates for the net lease drug store sector increased by 33 basis points to a 5.96% cap rate when compared to the prior year. Rite Aid and Walgreens cap rates experienced the largest increase by 30 and 37 basis points each due to the investor concern of store closures with the potential Rite Aid acquisition by Walgreens. In the same timeframe, CVS cap rates increased by 25 basis points.

Transaction volume in drug store sector has been slowed by investor trepidation due to the uncertainty of the potential Walgreens and Rite Aid merger. However, investment sales activity has been concentrated with drug store assets in core markets with strong sales performance. The concern from the merger has caused the cap rate premiums associated with the drug store sector to decrease. In the third quarter of 2016, the spread between the overall net lease retail market and the drug store sector compressed to 14 basis points. This spread has historically been greater and in the past three years the spread ranged from 62 to 100 basis points.

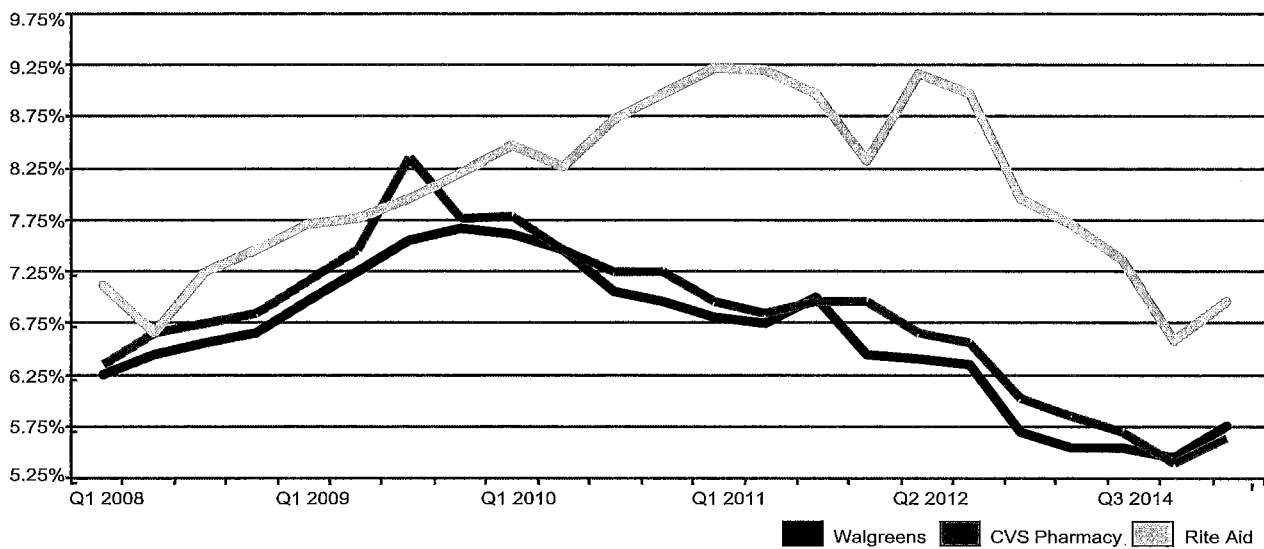
The supply of drug store assets decreased when compared to the prior year by 23.2%. Not only did the availability of drug store assets decrease, closed transaction volume for drug stores decreased by 19.2% when comparing the first three quarters of 2015 and 2016. Rite Aid assets experienced the sharpest decline with 26% less transaction volume during the same time period. Furthermore, the supply of long term leased (20+ years) assets decreased significantly across the sector due to lack of new store development.

Transaction velocity for the remainder of 2016 in the net lease drug store sector should remain at a similar pace to the first three quarters of 2016 as uncertainty remains due to the potential Walgreens and Rite Aid merger. However, drug store assets with strong sales performance in top tier markets will garner demand from investors who have preference for the strong credit profiles and residual real estate locations that these drugstore assets provide. Private investors will continue to be the primary buyer of these assets.

**MEDIAN ASKING CAP RATE BY LEASE TERM REMAINING**

Term Remaining	Walgreens	CVS	Rite Aid
20+	5.12%	4.95%	6.15%
15-19	5.50%	5.60%	N/A
10-14	5.85%	6.00%	6.75%
6-9	6.75%	6.65%	7.18%
5 & Under	7.13%	7.50%	8.59%

**DRUG STORE CAP RATE TRENDS**



**MEDIAN NATIONAL ASKING VS. CLOSED  
CAP RATE SPREAD**

Tenant	Closed	Asking	Spread (bps)
Walgreens	6.40%	6.20%	20
CVS	6.25%	6.05%	20
Rite Aid	7.25%	7.00%	25

*Above numbers are only reflective of closed transactions.*

**DRUG STORE VS. RETAIL NET LEASE  
MARKET CAP RATE**




Sector	Q3 2015 (Previous)	Q3 2016 (Current)
Drug Store	5.63%	5.96%
Retail Net Lease Market	6.25%	6.10%
Drug Store Premium (bps)	62	14



**SELECTED SINGLE TENANT SALES COMPARABLES**

Sale Date	Tenant	City	State	Price	Price Per SF	Cap Rate	Lease Term Remaining
7/22/16	Walgreens	Allston	MA	\$13,500,000	\$918	5.00%	12
7/27/16	CVS Pharmacy	Miami	FL	\$12,500,000	\$954	4.82%	23
8/5/16	CVS Pharmacy	Phoenix	AZ	\$10,466,400	\$845	5.65%	17
9/23/16	Walgreens	Citrus Heights	CA	\$10,416,666	\$703	6.00%	11
8/5/16	Walgreens	Wappingers Falls	NY	\$10,150,000	\$787	5.67%	14
7/7/16	Walgreens	Alhambra	CA	\$9,800,000	\$803	5.10%	9
8/19/16	CVS Pharmacy	Venice	FL	\$9,525,000	\$735	5.13%	18
8/31/16	Rite Aid	Anaheim	CA	\$9,200,000	\$654	4.53%	20
8/12/16	Rite Aid	Visalia	CA	\$8,000,000	\$463	5.67%	10
9/13/16	Walgreens	Brentwood	CA	\$8,000,000	\$552	5.00%	12
9/27/16	CVS Pharmacy	Daly City	CA	\$7,671,000	\$529	5.63%	22
7/14/16	CVS Pharmacy	Traverse City	MI	\$7,534,000	\$570	5.22%	21
9/28/16	Walgreens	Huntley	IL	\$7,450,000	\$505	5.20%	14
7/8/16	CVS Pharmacy	Brownsville	TX	\$7,400,000	\$569	5.50%	18
7/26/16	Rite Aid	Mckees Rocks	PA	\$7,108,864	\$592	6.25%	20
7/13/16	Walgreens	Huntington Station	NY	\$7,000,000	\$503	5.71%	21
8/12/16	CVS Pharmacy	Phoenix	AZ	\$6,900,000	\$500	6.36%	13
8/18/16	Walgreens	Ruston	LA	\$6,500,000	\$447	6.13%	11
8/1/16	Walgreens	Alexander City	AL	\$5,859,550	\$403	6.00%	17
8/29/16	Walgreens	Panama City	FL	\$5,762,711	\$389	5.75%	10
8/8/16	Rite Aid	Rochester	NY	\$5,400,000	\$358	7.50%	10
9/9/16	CVS Pharmacy	Livingston	CA	\$5,165,000	\$313	5.00%	24
8/31/16	Walgreens	Cooper City	FL	\$5,150,000	\$341	6.37%	10
9/14/16	Walgreens	Phoenix	AZ	\$5,000,000	\$345	6.84%	6
7/20/16	CVS Pharmacy	Winchester	VA	\$4,777,947	\$451	5.65%	14
7/15/16	Rite Aid	Murrieta	CA	\$4,700,000	\$281	5.85%	15
8/26/16	CVS Pharmacy	Gadsden	AL	\$4,300,000	\$360	6.25%	17
7/11/16	Walgreens	Horn Lake	MS	\$4,135,714	\$276	7.08%	5
8/25/16	CVS Pharmacy	Ithaca	NY	\$4,090,000	\$404	6.75%	9
7/22/16	Walgreens	Memphis	TN	\$4,000,000	\$266	7.32%	6
7/11/16	CVS Pharmacy	Indianapolis	IN	\$3,828,000	\$378	7.58%	10
7/11/16	Walgreens	Ramseur	NC	\$3,608,000	\$350	6.60%	8
7/15/16	Rite Aid	Thornton	CO	\$3,538,000	\$255	6.64%	12
8/23/16	Walgreens	Kingman	AZ	\$3,390,500	\$220	6.18%	16
9/12/16	CVS Pharmacy	Brazil	IN	\$3,300,000	\$308	6.40%	11
8/25/16	Walgreens	Tucson	AZ	\$3,060,000	\$191	7.31%	18
8/17/16	CVS Pharmacy	Auburn	GA	\$2,700,000	\$267	6.39%	13
7/21/16	CVS Pharmacy	Chattanooga	TN	\$2,030,032	\$191	6.75%	10
8/29/16	CVS Pharmacy	Lilburn	GA	\$1,500,000	\$148	14.76%	7
7/12/16	Rite Aid	Louisville	KY	\$1,100,000	\$85	7.50%	10
8/31/16	CVS Pharmacy	Eureka	IL	\$920,000	\$114	7.40%	13

**COMPANY AND LEASE OVERVIEW**

	Walgreens	CVS	Rite Aid
Credit Rating	BBB (Stable)	BBB+	B
Market Cap	\$89 billion	\$93 billion	\$7 billion
Revenue	\$117 billion	\$167 billion	\$33 billion
Number of Stores	8,175	9,655	4,561
Typical Lease Term	20 year primary term with fifty years of options	25 year primary term with six 5-year options	20 year primary term with six 5-year options
Typical Rent Increases	None	None in primary 10% increases in option periods	Increases every 10 years of 10%
			

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**NATIONAL ASKING CAP RATES**

Sector	Q4 2016 (Previous)	Q1 2017 (Current)	Basis Point Change
Retail	6.19%	6.19%	0
Office	7.08%	7.12%	+4
Industrial	7.17%	7.27%	+10

**NUMBER OF PROPERTIES  
ON THE MARKET**

Sector	Q4 2016 (Previous)	Q1 2017 (Current)	Percentage Change
Retail	3,045	3,788	+24.4%
Office	384	395	+2.8%
Industrial	363	359	-1.2%

**MEDIAN NATIONAL ASKING VS  
CLOSED CAP RATE SPREAD**

Sector	Q4 2016 (Previous)	Q1 2017 (Current)	Basis Point Change
Retail	31	29	-2
Office	31	26	-5
Industrial	32	26	-6

**MARKET OVERVIEW**

Cap rates in the first quarter of 2017 for the single tenant net lease retail sector remained at 6.19% after experiencing their first increase since the third quarter of 2013 in the prior quarter. Cap rates for the office and industrial sectors increased by 4 and 10 basis points to 7.12% and 7.27% respectively. Following a robust 2015 with over \$58 billion in net lease sales, 2016 experienced a slight decline in transaction volume of approximately 7% to approximately \$54 billion according to CoStar. The slowdown in 2016 transaction volume can be mostly attributed to the uncertainty surrounding rising interest rates and the future results of the 2016 election.

In the first quarter of 2017, the net lease market experienced a significant new supply of properties to the market. The overall market increased its supply by approximately 20% when compared to the fourth quarter of 2016. The majority of the supply increase came from the retail sector which increased by 24%. The overall sentiment is that we are in the late stages of this real estate cycle. Accordingly, property owners are selling assets in the current market to take advantage of the historically low cap rate environment.

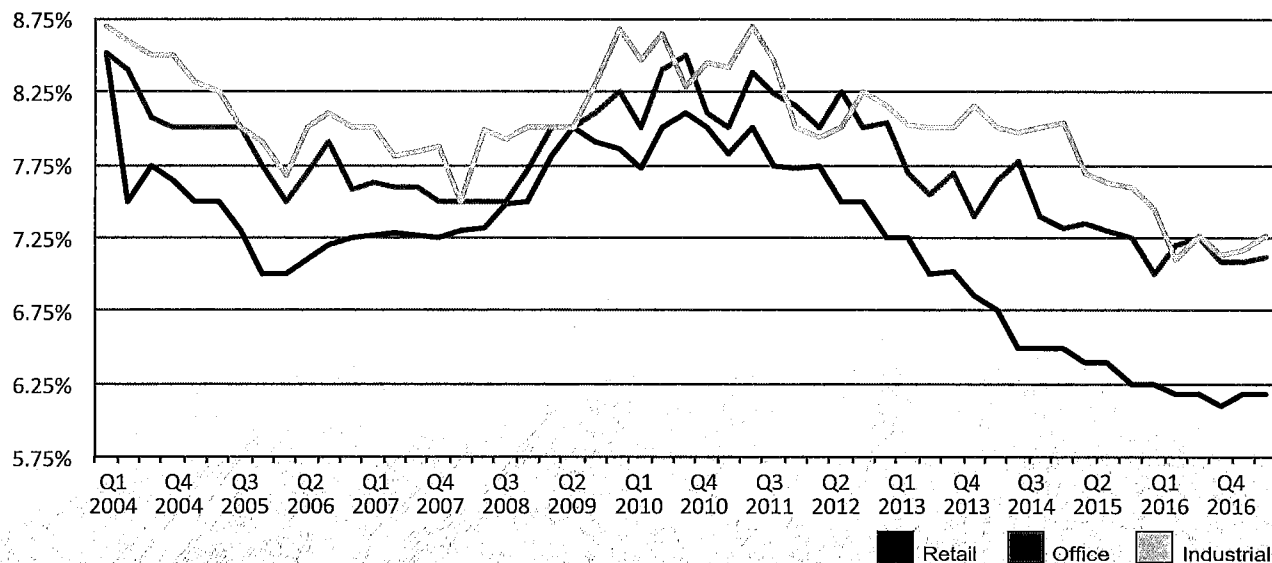
The overall net lease market remains active with 1031 and private investors due to the passive nature of the leases and stable investment returns that the net lease asset class can provide. In 2016, the majority of all transactions were facilitated by private investors. Private investors typically prefer long term leases to credit tenants. Accordingly, during the first quarter cap rates for recently constructed properties tenanted by Advance Auto Parts and CVS compressed by 15 and 25 basis points, respectively, despite the overall market.

The net lease market is expected to remain active in 2017 as investor demand, especially private investor demand, for this asset class remains. As noted in a recent national survey conducted by The Boulder Group, the effect of interest rates on cap rate volatility will be the primary focus for net lease participants, as most net lease participants believe that cap rates will increase by the end of 2017.

**SELECTED SINGLE TENANT SALES COMPARABLES**

Sale Date	Sector	Tenant	City	State	Price	Price Per SF	Cap Rate	Lease Term Remaining
Jan-17	Office	Kaiser Permanente	Cupertino	CA	\$66,865,000	\$666	6.00%	6
Feb-17	Industrial	Best Buy	Findlay	OH	\$46,000,000	\$45	7.00%	9
Jan-17	Office	Comcast Corporation	Miramar	FL	\$22,750,000	\$247	6.75%	9
Jan-17	Retail	BJ's Warehouse	Tampa	FL	\$17,966,578	\$150	6.75%	10
Mar-17	Retail	Home Depot	Memphis	TN	\$15,692,308	\$154	6.50%	10
Jan-17	Office	Allstate Insurance Company	Lone Tree	CO	\$14,750,000	\$210	7.04%	9
Feb-17	Industrial	Amazon.com	New Century	KS	\$14,400,000	\$32	5.99%	9
Jan-17	Retail	Walgreens	Wayzata	MN	\$11,720,000	\$774	5.25%	19
Feb-17	Retail	CVS Pharmacy	Brockton	MA	\$9,050,000	\$702	5.13%	25
Feb-17	Retail	Walgreens	Spring Hill	FL	\$7,780,000	\$471	5.03%	20
Feb-17	Office	Social Security Administration (SSA)	Wichita	KS	\$6,350,000	\$258	8.33%	7
Jan-17	Retail	Walgreens	Spring	TX	\$6,300,000	\$433	5.40%	11
Jan-17	Industrial	FedEx Ground	Rock Springs	WY	\$5,705,000	\$213	6.75%	9
Feb-17	Retail	Wal-Mart Supercenter	Orangevale	CA	\$5,446,000	\$56	5.00%	9
Feb-17	Retail	Goodwill	Henderson	NV	\$5,100,000	\$300	6.61%	15
Mar-17	Retail	Tractor Supply Co.	New Windsor	NY	\$5,000,000	\$262	6.10%	15

**NET LEASE CAP RATE TRENDS**



**MEDIAN ASKING CAP RATES BY YEAR BUILT**

Tenant	2012-2017	2005-2011	2000-2004	Pre 2000
7-Eleven	4.75%	5.10%	5.70%	6.30%
Advance Auto Parts	5.50%	6.60%	7.30%	8.60%
AutoZone	5.00%	5.50%	5.70%	6.00%
Bank of America	4.50%	5.00%	5.40%	5.60%
Chase Bank	4.40%	4.80%	5.10%	5.30%
CVS Pharmacy	4.75%	5.60%	6.00%	6.35%
DaVita Dialysis Center	5.70%	6.31%	6.90%	8.00%
Dollar General	6.70%	7.25%	8.00%	9.10%
Family Dollar	6.60%	7.40%	8.10%	9.00%
FedEx	6.00%	6.45%	7.15%	7.50%
Fresenius	5.80%	6.50%	6.75%	8.00%
McDonald's (GL)	4.00%	4.40%	4.70%	N/A
O'Reilly Auto Parts	5.50%	6.00%	6.25%	6.80%
Rite Aid	6.10%	7.04%	7.85%	8.40%
Starbucks	5.00%	5.18%	6.10%	6.90%
Walgreens	5.30%	5.90%	6.25%	7.00%

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# WMC

WISCONSIN MANUFACTURERS & COMMERCE

**TO: Members of the Assembly Ways and Means Committee**

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

**Jason Culotta  
Senior Director of Government Relations**

**DATE: June 29, 2017**

**RE: Opposition to Assembly Bill 386 and Assembly Bill 387**

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Thank you for the opportunity to explain Wisconsin Manufacturers & Commerce's (WMC) strong opposition to Assembly Bill 386 and Assembly Bill 387. 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. **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

Wis. Stat. § 70.32(1) sets the basis for valuing real property for the purposes of the property tax:

Real property shall be valued by the assessor in the manner specified in the Wisconsin property assessment manual provided under s. 73.03(2a) from actual view or from the best information that the assessor can practicably obtain, **at the full value which could ordinarily be obtained therefor at private sale...**

Courts in Wisconsin and elsewhere have held that assessors are to value 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...”

Use value is defined by the WPAM as being “to a specific owner, as opposed to its value in exchange” (another phrase for “market value”).

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.

#### 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 new assessment practices that have been found unlawful by the courts.

Legislation similar to Assembly Bill 387 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

Assembly Bill 387 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 other financing lease arrangements that are common today will be negatively impacted 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 Assembly Bill 387, comprises 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.**

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#### Indiana's "Dark Box" Laws

Indiana is the only state which adopted legislation similar to these bills in 2015. Advocates for Assembly Bill 386 and Assembly Bill 387 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.

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 not be considered when setting assessments. **Under Assembly Bill 387, the value of these leases would be assessed and taxed along with the building, which is a back door income tax.**

#### Property Tax Shift

Advocates for this legislation allege that a property tax shift is occurring; that is an



accurate statement, but not in the manner presented. Using the new assessing methods employed by these aggressive assessors, commercial property is expected to pick up a greater share of the local levy.

The refunds which some municipalities are paying out today for over-assessments are the result of assessors employing these aggressive tactics, and not some "loophole" recently discovered by certain commercial property owners.

#### National Focus

The Council on State Taxation and Americans for Tax Reform have both weighed in opposing this legislation, recognizing what a significant and negative precedence that passing these bills would mark for businesses nationwide.

Madison Mayor Paul Soglin introduced a resolution to the U.S. Conference of Mayors supporting passage of "dark store" legislation, which was adopted last week.

#### Misguided Motivation

Most disappointing in this process was unearthing a public document in which one of the leading assessors for higher business property assessments stated, commenting on Sen. Jauch's effort to assess lease values as property:

***Well, if passed, this would certainly overturn the Walgreen decision with the added bonus of "sticking it to 'em where the sun don't shine".***

It is unfortunate to see that punishing businesses is a motivating factor in making the proposed changes to assessment laws contemplated in Assembly Bill 387.

#### 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.

## Lease Assessment Timeline

- 2008**     ***Walgreen Co. v. City of Madison*, 2008 WI 80, 311 Wis. 2d 158**
- Property tax assessments may not be based on above-market rents
  - Leases are not part of the bundle of property rights to be assessed for property tax purposes
  - Property tax assessments should not be based on leases that are essentially financing arrangements

**2009**     **Department of Revenue**

WISCONSIN PROPERTY ASSESSMENT MANUAL pushed back on the *Walgreen* decision and was amended to give assessors greater leeway to use above-market contract rents

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### **Legislature**

Sen. Jauch added the following language to the 2009-11 Biennial Budget Bill:

*In determining the value of a leased property under sub. (1), the assessor, if applying the income approach, shall consider the effects of the actual rent and provisions of all leases affecting the property.*

### **Governor Doyle**

Vetoed the language added by the legislature.

**2010**     **Walgreen Workgroup Formed by Interested Assessors**

- Develop common strategy to re-litigate the *Walgreen* decision
- Perhaps provide a common appraisal template for assessors to use in *Walgreen* cases
- Provide moral support to assessors when assessing *Walgreen* stores

**2014 Walgreen Co. v. City of Oshkosh, 359 Wis. 2d 675 (signed/unpublished)**

- First test of Walgreen Workgroup approach
- Rejected Oshkosh's reliance on investment sales of Walgreen stores
- Affirmed Winnebago County Circuit Court finding that City's approach violated ASSESSMENT MANUAL and that Walgreen's appraiser more closely followed the ASSESSMENT MANUAL

**2016 CVS Pharmacy, Inc. v. City of Appleton, 2015 AP 76 (unpublished)**

- Rejected Appleton's reliance on a sale-leaseback transaction of the CVS store
- Citing the Supreme Court's decision in *Walgreen*, rejected reliance on investment sales to set property tax assessments as taxing business value:

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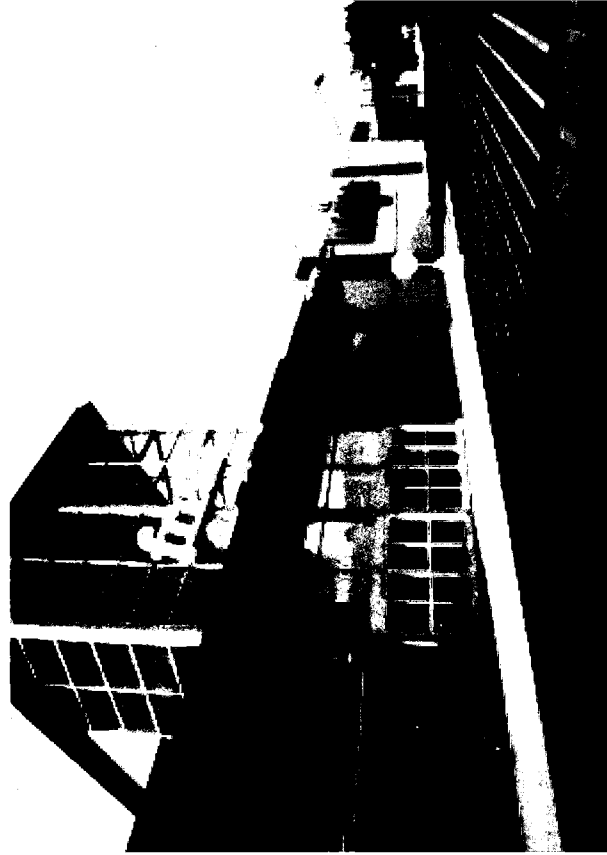
*The relevant market is not the investment market for properties subject to triple-net leases with national credit tenants. If that were true, it would invite assessors to impermissibly value "the business concern which may be using the property."*

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**Reduction in Milwaukee Restaurant Assessments by  
Compliance With Walgreen Decisions**

Restaurant	Year	Assessment	Final	Reduction
			Revised Assessment	
Restaurant A	2012	\$692,000	\$224,000	\$468,000
	2013	\$692,000	\$224,000	\$468,000
	2014	\$761,000	\$224,000	\$537,000
Restaurant B	2012	\$537,000	\$207,000	\$330,000
	2013	\$550,000	\$207,000	\$343,000
	2014	\$550,000	\$207,000	\$343,000
Restaurant C	2012	\$1,782,000	\$519,000	\$1,263,000
	2013	\$1,782,000	\$519,000	\$1,263,000
	2014	\$1,845,000	\$519,000	\$1,326,000
Restaurant D	2012	\$829,000	\$941,000	-\$112,000
	2013	\$1,458,000	\$941,000	\$517,000
	2014	\$1,584,000	\$941,000	\$643,000
Restaurant E	2012	\$499,000	\$584,000	-\$85,000
	2013	\$691,000	\$584,000	\$107,000
	2014	\$691,000	\$584,000	\$107,000
Restaurant F	2012	\$1,515,000	\$526,000	\$989,000
	2013	\$1,515,000	\$526,000	\$989,000
	2014	\$1,536,000	\$526,000	\$1,010,000
Restaurant G	2012	\$1,188,000	\$761,000	\$427,000
	2013	\$1,299,000	\$761,000	\$538,000
	2014	\$1,768,000	\$761,000	\$1,007,000
Restaurant H	2012	\$862,000	\$616,000	\$246,000
	2013	\$1,102,000	\$616,000	\$486,000
	2014	\$1,102,000	\$616,000	\$486,000
Restaurant I	2012	\$749,000	\$574,000	\$175,000
	2013	\$1,142,000	\$574,000	\$568,000
	2014	\$1,347,000	\$574,000	\$773,000
Restaurant J	2012	\$991,000	\$506,000	\$485,000
	2013	\$1,095,000	\$506,000	\$589,000
	2014	\$1,585,000	\$506,000	\$1,079,000
Restaurant K	2012	\$1,772,000	\$656,000	\$1,116,000
	2013	\$1,772,000	\$656,000	\$1,116,000
	2014	\$1,825,000	\$656,000	\$1,169,000
Restaurant L	2012	\$1,475,000	\$1,036,000	\$439,000
	2013	\$1,475,000	\$1,036,000	\$439,000
	2014	\$1,475,000	\$1,036,000	\$439,000
Restaurant M	2012	\$2,170,000	711000	\$1,459,000
	2013	\$2,170,000	711000	\$1,459,000
	2014	\$2,235,000	711000	\$1,524,000
<b>AVERAGES</b>		<b>\$1,284,821</b>	<b>\$604,692</b>	<b>\$663,125</b>

**New Store**



**Empty Store**



Source: <http://www.lwm-info.org/1279/Dark-Store-Tax-Loophole>

## WALGREENS BILL WILL LEAD TO HIGHER TAXES FOR WISCONSIN BUSINESSES

With CEO Magazine just naming Wisconsin the 10th best place to conduct business, the State is officially on the national economic development map. While Wisconsin has come a long way over the past several years (ranked 43<sup>rd</sup> in 2009), there continues to be one glaring weakness in its offerings. Despite all of the progress that has been made to attract and grow business, Wisconsin continues to be a high tax state. The Tax Foundation recently ranked Wisconsin #39 in the U.S. for total tax burden and the 4<sup>th</sup> worst state for property taxes.

Legislators are currently discussing changes to the way that real estate will be assessed, specifically targeting commercial properties occupied by job-creating businesses. Labeled broadly as the “Dark Store” and “Walgreens” bills, the legislation attempts to broaden the authority of local assessors to increase property tax revenue from businesses throughout the State. While the focus of the bills is directed at large national retailers, specifically Walgreens, the changes will undoubtedly lead to higher property taxes for **all types** of businesses.

**Of greatest concern to the commercial real estate industry, is the impact on property taxes for real estate that is held and traded for third party investment purposes.** The proposed “Walgreens Bill” legislation seeks to fundamentally change the assessment of properties leased to a business via a third-party property owner, also known as a triple-net lease in which the **tenant** is responsible for paying the annual real estate tax bill. Current assessment law states that “Market Rents” must be used to determine a fair market value for investment real estate. The “Walgreens Bill” is looking to codify that an assessor should be able to value a property based upon 1.) its value upon an arms length, fair market sale and 2.) assessors can use the **actual** in place rents instead of **market rents**.

The real estate investment marketplace is very dynamic, allowing for third-party real estate investors to own and sell properties as holdings that generate income and are leased to tenants that run the spectrum from retailers like Walgreens all the way to a sole proprietor tool & die manufacturer. At the heart of the matter is the qualification of “**In Place Rent**” vs. “**Market Rent**”. Companies like Walgreens, that typically do not own their real estate, leverage what is called a “build-to-suit” in which all costs of the development are compiled into a total budget and a pre-negotiated market capitalization rate or “cap rate” is applied to derive an “In Place Rent” with the developer/owner.

What does this mean in real life? Let's say Walgreens wants to open a store in Madison and they have selected "Best Development" to develop the store. The total cost of the development, the "bricks, sticks and mud", might be \$3 million dollars and "Best" and Walgreens negotiate a 7% Capitalization rate on the cost of the project, which would lead to an annual rent of \$19.45 per square foot on the store. This rent structure does not qualify as a "market rent" should the store become vacant; market rents for a similar store may be closer to \$12 per square foot.

Where the problem gets even more complicated comes after "Best Development" completes construction of the Walgreens and Walgreens starts paying rent. "Best" can take the security of a long term Walgreens lease and sell it in the real estate investment market place for a 5% Capitalization rate or \$5.6 million.

There are significant tax dollars at stake when reviewing the consequences that the "Walgreens Bill" could deliver to the business community:

	<u>Market Value</u>	<u>Property Taxes</u>
Walgreens " <b>Market Rents</b> " \$12.00/SF: (current law)	\$2,485,000	\$59,565
Walgreens " <b>In Place Rents</b> " \$19.45/SF: (proposed law - Developer holds)	\$3,000,000	\$71,910
Walgreens 5 cap Investment Sale: (proposed law- Developer sells)	\$5,600,000	\$134,232

Instead of being assessed a market value of \$2.485 million based upon "**market rents**", if "Best Development" sells the property, Walgreens could now be assessed at \$5.6 million with a property tax consequence of more than a 100% annual increase!

A comprehensive change in public policy needs to account for the unintended consequences that may be less than obvious when initially trying to achieve substantive policy change. Supporters of the bill will argue that as a large publicly traded company, Walgreens and others, have the means and resources to shoulder the higher property tax burden. The bill fails to consider the thousands of mom and pop retail stores and small manufacturers that lease their real estate from a third party property owner and who will now be facing the prospects of a massive property tax increase should their third-party property owner decide to sell the property in a strong market.

Real Capital Analytics tracked the total volume of commercial investment property sales in Wisconsin to be worth **\$2.208 Billion** dollars in 2016 and this figure doesn't even include multi family transactions. While the bill specifically targets Walgreens real estate, in total, Walgreens real estate accounted for only **3.7% of ALL commercial investment sales tracked within the State**. If the "Walgreens Bill" is enacted, **97%** of all other Wisconsin businesses that occupy space in a leased property will be faced with much higher property taxes based on factors that are completely out of their control.

All businesses in Wisconsin must be very concerned about the long-term impact this legislation will have on their property tax bills should the "Dark Store" and "Walgreens" bills advance. The high cost of property taxes continues to be a main cost impediment to growing and keeping a business in Wisconsin and Governor Walker's pledge to reduce property taxes has been a major win for all businesses of the State. Let's not jump at a short-term opportunity to capture a few more property tax dollars and jeopardize all of the momentum that continues to build in favor of growing a business in Wisconsin and making this State the #1 place to conduct business in.



Jeff Hoffman

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Cushman & Wakefield | Boerke - Principal and Industrial Services Co-Chair  
Past Chair - Commercial Association of Realtors (CARW)





**Grand Chute**  
*experience better*

June 29, 2017

**ADMINISTRATION**  
1900 W. Grand Chute Blvd, Grand Chute, WI 54913  
PH. 920-832-4773 • FAX 920-993-7032

[www.grandchute.net](http://www.grandchute.net)

- My name is Dave Schowalter and I am the Town Chairman of the Town of Grand Chute. I have served as an elected official for 12 years. I was an alderman for the City of Appleton for 2 years and have been on the Grand Chute Town Board for 10 years.
- This is the first time I have ever come to Madison to offer testimony for a piece of legislation. I hope that this conveys to you how important this matter is to the Town of Grand Chute. This isn't only a Grand Chute issue our sizable tax base of \$2.4 billion dollars benefits the entire Appleton Area School District and Outagamie County.
- There are many, many communities throughout WI that have commercial big box stores. This issue affects all of those communities, all of their school districts and the entire County where the big box store is located. Everyone on this panel probably represents a taxing entity that is affected by this issue.
- Grand Chute's tax base is approximately 54% commercial and industrial.
- The big box store assessment valuation challenges are claiming that they are overvalued by as much as 50% of what they have historically been valued at by our local assessor.
- They claim this due to the "dark store theory" that states that the comparables that they use for assessment purposes should be distressed vacant properties that are out of our market and sometimes not even located in WI. This is insane.
- We recently lost a case to Sears and we now have to refund over \$140,000. The County and the Appleton Area School District are also affected. We have several other pending cases that have just popped up trying to exploit

the loophole that has been brought to their attention by typically the same law firm.

- If this is not fixed what does this mean to the Grand Chute residential taxpayer. It could mean that we increase taxes on them to the tune of 30%. Or we drastically cut services that could include eliminating police officers, fire fighters, public utility employees and others.
- We are a community that provides bare bones services. We do not have extravagant amenities in our park programs such as golf courses or swimming pools that we could eliminate. We do not have a public library in Grand Chute. Services that we cut will equate to public safety jobs that will be noticed by our taxpayers. As an elected official, I can say that I would not want to vote against legislation that could maintain the status quo and if not adopted would raise taxes dramatically on the constituents that voted to put me in office in the first place.



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

**June 29, 2017**

**TO: Members  
Assembly Ways and Means Committee**

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

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**RE: 2017 Assembly Bill (AB) 386 relating to: property tax assessments based on comparable sales and market segments and 2017 Assembly Bill (AB) 387 relating to: property tax assessments regarding leased property.**

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Chairman Macco 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 Assembly Bill 386 and 2017 Assembly Bill 387 which have been collectively referred to as the “Dark Stores” bills.

The stated intent of 2017 Assembly Bill 386 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. Therefore, it is conceivable that closing the “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 retailers.

***WIB...Helping you where you need it.***

PO Box 2135 | Madison, Wisconsin 53701 | 800-362-9644 | [www.wibiz.org](http://www.wibiz.org)

The stated intent of 2017 Assembly Bill 387 is to reverse the 2008 decision by the Wisconsin Supreme Court in *Walgreen Company v. City of Madison*.

In this case, the state's highest 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 in 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 value 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.

Earlier this year, this committee heard testimony from the Wisconsin Realtors Association (WRA) on the subject of property taxation. In their presentation, the WRA noted that the property tax is the state's largest business tax and indicated that Wisconsin businesses paid approximately \$8.5 billion in taxes – a little more than half of that (\$4.3 billion) was paid out 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 these "Dark Store" bills. Thank you in advance for your consideration of our request.



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

**Assembly Ways and Means Committee  
Testimony AB 387**

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.

AB 387 has many 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, AB 387 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



## **Wisconsin Economic Development Association**

Testimony on *Assembly Bill 386* before the  
**ASSEMBLY COMMITTEE ON WAYS AND MEANS**  
June 29, 2017

**Christian Tscheschlok** – *Wisconsin Economic Development Association*

Good morning Chairman Macco and members of the Committee. Thank you for the opportunity to testify today in favor of Assembly Bill 386, which would close the dark store tax loophole in Wisconsin.

My name is Christian Tscheschlok. I currently serve as the executive director of Economic Development Washington County. I am also a past-president and member of the Wisconsin Economic Development Association, or WEDA.

WEDA is a statewide association representing roughly 420 public and private sector economic development professionals. We are dedicated to advancing economic prosperity in Wisconsin and providing our members with the necessary tools to encourage business expansion and promote private investment.

As you know, tax policy can have a major impact on economic growth. A competitive and equitable tax environment fosters business development and economic activity. Unfortunately, use of the dark store tax loophole by national big-box retailers is not equitable and will have an adverse influence on local business growth.

Under the dark store theory, big-box retailers argue their stores should be valued as if they were empty or “dark”, rather than a thriving, active business. This selective application of the property assessment methodology benefits one property taxpayer over another. While a handful of big-box retailers would benefit from lower property taxes, homeowners and local businesses, who comprise a majority of the tax base, would be forced to shoulder a much larger tax burden.

No one enjoys paying taxes, and I understand why businesses want lower property taxes. In fact, WEDA supports efforts to lower property taxes for all businesses and homeowners. Lower taxes across the board would mean more economic development and job growth. However, simply shifting the tax burden and picking winners and losers would have the opposite effect. I appreciate the value big-box retailers bring to Wisconsin communities in terms of economic activity and jobs, but they should pay their fair share of taxes.

If the dark store theory takes hold in Wisconsin, it will shift the tax burden onto other property taxpayers, including local businesses. Ultimately, this will deter small business growth and negatively impact Main Streets in communities across the state.

According to the U.S. Small Business Administration, Wisconsin has 445,000 small businesses that employ 1.2 million people – or just over 50% of all Wisconsin employees. Small businesses truly are the backbone of Wisconsin's economy, but they often operate on tight profit margins and are more vulnerable to unexpected costs. Wisconsin already struggles with start-up activity, but a sudden dark store-related tax increase will only create another obstacle for start-up businesses.

Regular use of the dark store loophole will also limit the effectiveness of the only reliable economic development tool available to local governments – Tax Incremental Financing. Many TIF districts contain multiple big box retailers, and municipalities rely on the tax generated by those retailers to fulfill their TIF debt obligations. The dark store strategy would have a chilling effect on TIF, not only on the success and growth of current TIF districts, but on the future use of this valuable economic development tool.

Tax Incremental Financing attracts private investment and paves the way for development that may not otherwise occur. It provides unique benefits to businesses that locate within a TIF district, including redevelopment and public infrastructure. In return for those benefits, businesses contribute to the TIF through property taxes. It's what I refer to as the "TIF bargain." If that bargain breaks down, as it would with use of the dark store tax strategy, a TIF district is financially harmed and both taxpayers and the surrounding business community is negatively impacted.

In closing, I would encourage you to support AB 386 and close the dark store loophole in Wisconsin. Without legislative action, we are likely to witness a significant property tax shift and a drag on economic development across the state. Lastly, while my testimony today focused on AB 386, WEDA also supports AB 387 for similar reasons.

Thank you for your consideration. I would be happy to answer any questions.



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

Friday, March 31, 2017

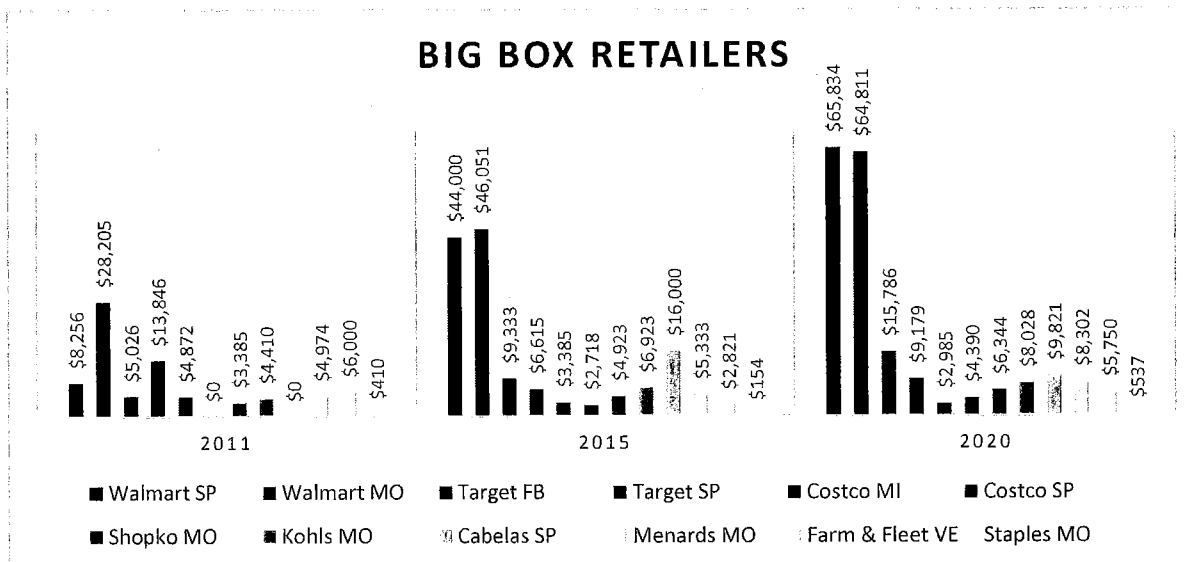




The following analysis is based off a request from Director Deschane of the League of Wisconsin Municipalities. The request is examining the number of calls for service from a "Big Box Retailer" due to legislative efforts to stop a property tax reduction that is proposed by the retailers. A few of the 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.

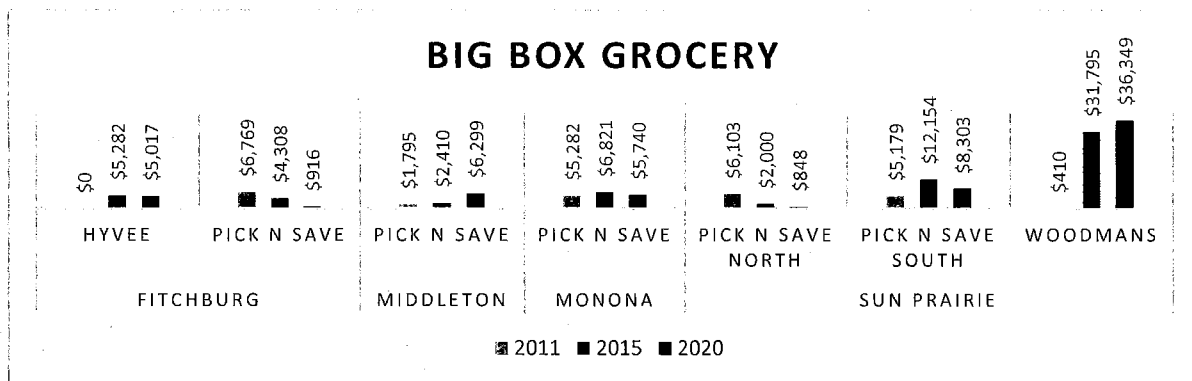
Since 2011, the number of calls for service to these establishments have increased by more than 50% to more than 4,500 calls for service in 2016 between all five jurisdictions. Using the before mentioned method to calculate an estimated cost to the initial call for service it was over \$212,000. The 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%.



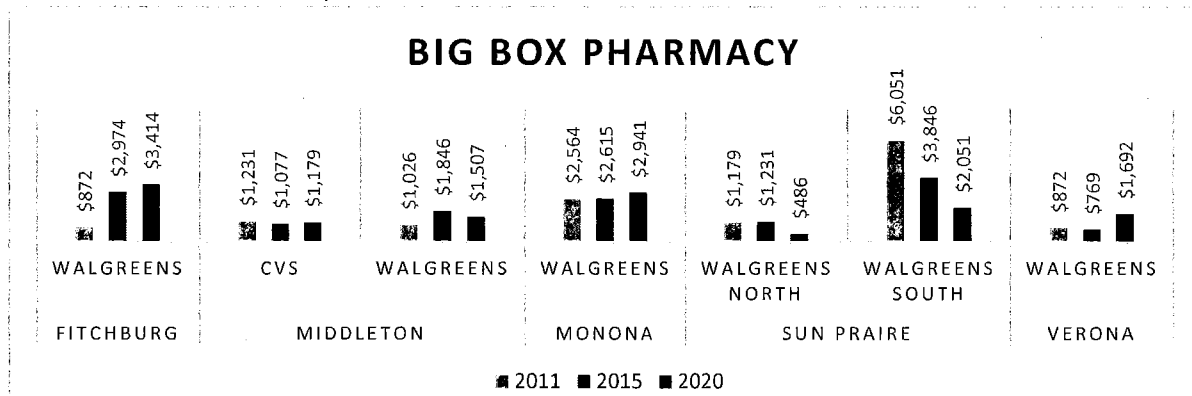


The largest number of calls for service comes from Walmart. Walmart is responsible for almost 35% (1,545 in 2016) of the calls for service between all the selected businesses. The Walmart located at 2151 Royal Ave in Monona, Wisconsin had a staggering 1,090 calls for service in 2016. Using the before 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 2<sup>nd</sup> 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.



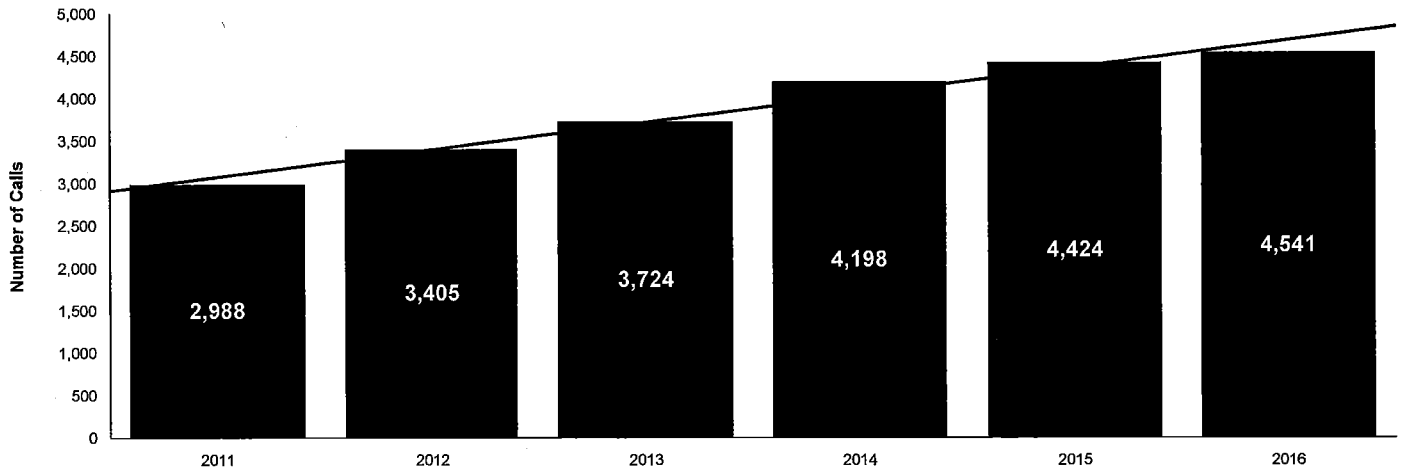
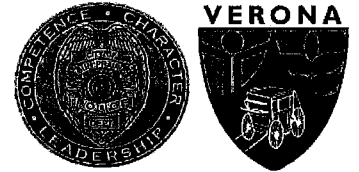


# MPSIS

## 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 Copsps 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	\$6,845	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	17	13	\$16,038	89	72	\$3,667
Menards - 6401 Copps 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.

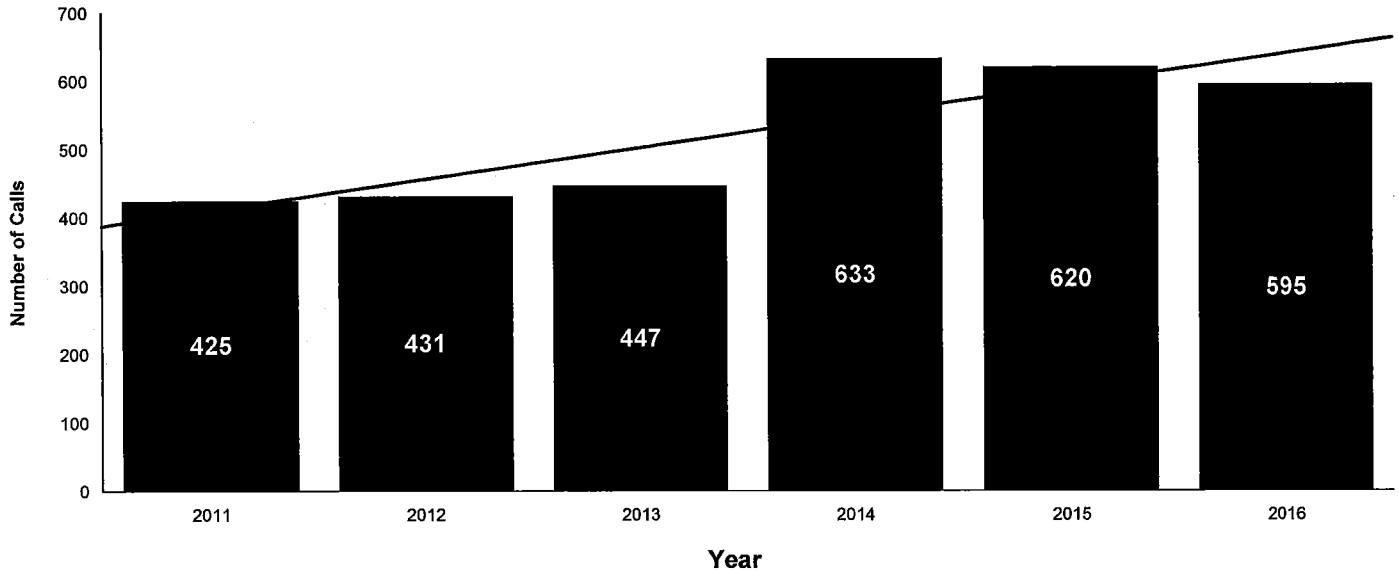


# Fitchburg Police Department

## Calls for Service

### Select Commerical Locations

#### 2011 -2016



	2011	2012	2013	2014	2015	2016	Average	Standard Deviation	Normal Range
<b>Hy Vee - 2920 Fitchrona Rd</b>	0	0	2	269	209	116	0	0	0 - 0
<b>Walgreens - 2931 S Fish Hatchery Rd</b>	34	29	47	63	51	56	45	14	31 - 58
<b>Pick N Save - 3010 Cahill Main</b>	167	177	158	109	124	106	147	29	118 - 176
<b>Star Cinema - 6091 Mckee Rd</b>	54	66	72	42	46	48	56	13	43 - 69
<b>Target - 6321 Mckee Rd</b>	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**
<b>Hy Vee - 2920 Fitchrona Rd</b>	305	91	\$4,667	245	104	\$5,328	153	92	\$4,724
<b>Walgreens - 2931 S Fish Hatchery Rd</b>	84	39	\$1,978	75	59	\$3,012	79	28	\$1,458
<b>Pick N Save - 3010 Cahill Main</b>	155	87	\$4,441	157	84	\$4,311	142	93	\$4,792
<b>Star Cinema - 6091 Mckee Rd</b>	58	27	\$1,366	72	39	\$1,986	66	39	\$2,003
<b>Target - 6321 Mckee Rd</b>	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.

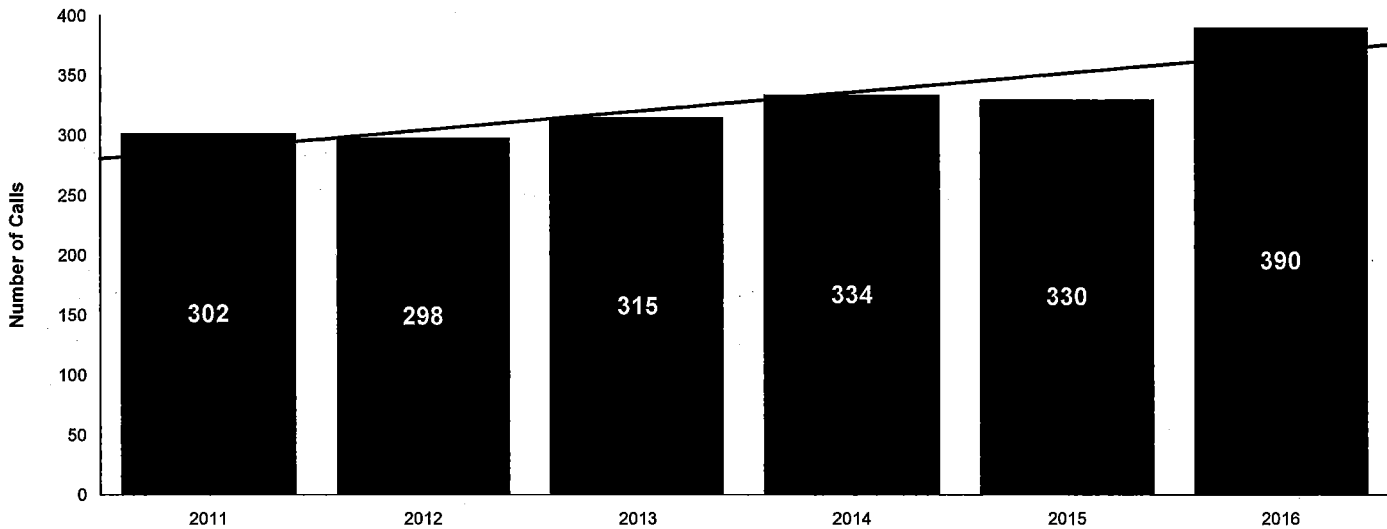


# Middleton Police Department

## Calls for Service

Select Commerical Locations

2011 -2016



	2011	2012	2013	2014	2015	2016	Average	Standard Deviation	Normal Range
<b>Walgreens - 2010 Branch St</b>	46	44	51	45	50	40	47	8	44 - 50
<b>Costco - 2150 Deming Way</b>	121	127	125	146	137	143	131	10	121 - 141
<b>Dollar Tree - 2524 Allen Blvd</b>	6	7	1	8	16	32	8	5	2 - 13
<b>Ace Hardware - 2540 Allen Blvd</b>	15	26	19	20	16	25	19	4	15 - 24
<b>CVS - 6210 Century Ave</b>	27	29	25	23	28	40	26	2	24 - 29
<b>Pick N Save - 6800 Century Ave</b>	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**
<b>Walgreens - 2010 Branch St</b>	61	34	\$1,746	66	36	\$1,870	55	19	\$974
<b>Costco - 2150 Deming Way</b>	178	85	\$4,353	163	67	\$3,417	170	74	\$3,800
<b>Dollar Tree - 2524 Allen Blvd</b>	11	15	\$750	19	10	\$501	37	20	\$1,043
<b>Ace Hardware - 2540 Allen Blvd</b>	28	13	\$643	22	17	\$880	30	16	\$796
<b>CVS - 6210 Century Ave</b>	32	27	\$1,369	37	22	\$1,113	60	33	\$1,682
<b>Pick N Save - 6800 Century Ave</b>	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.

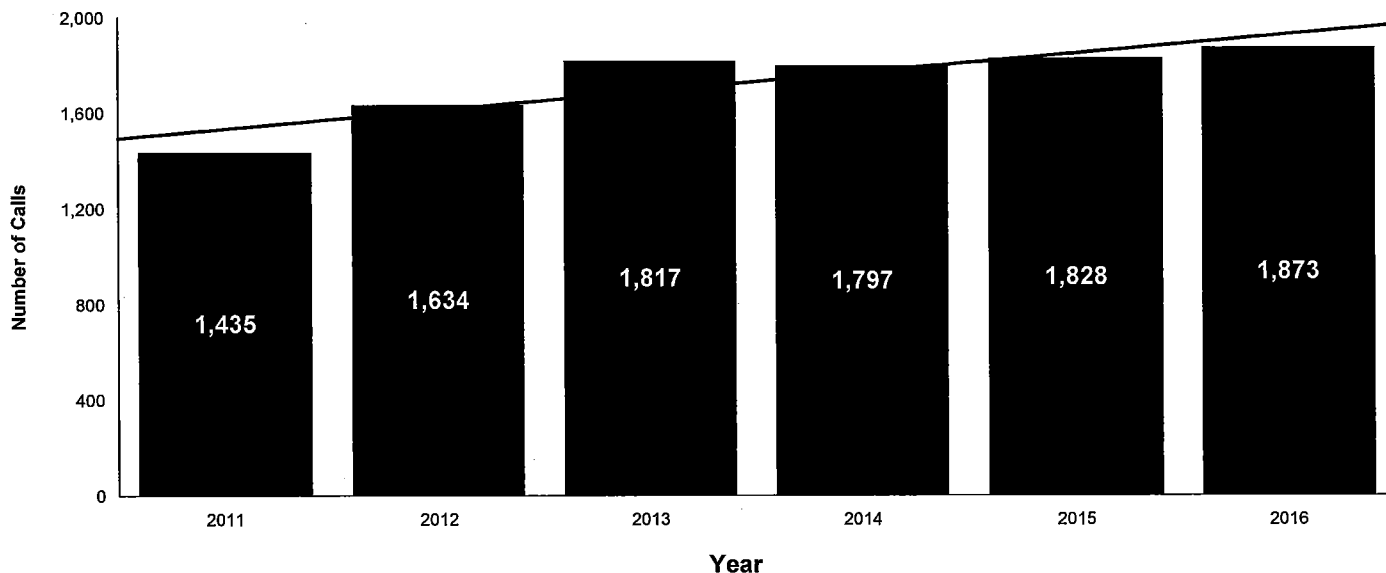


# Monona Police Department

## 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.

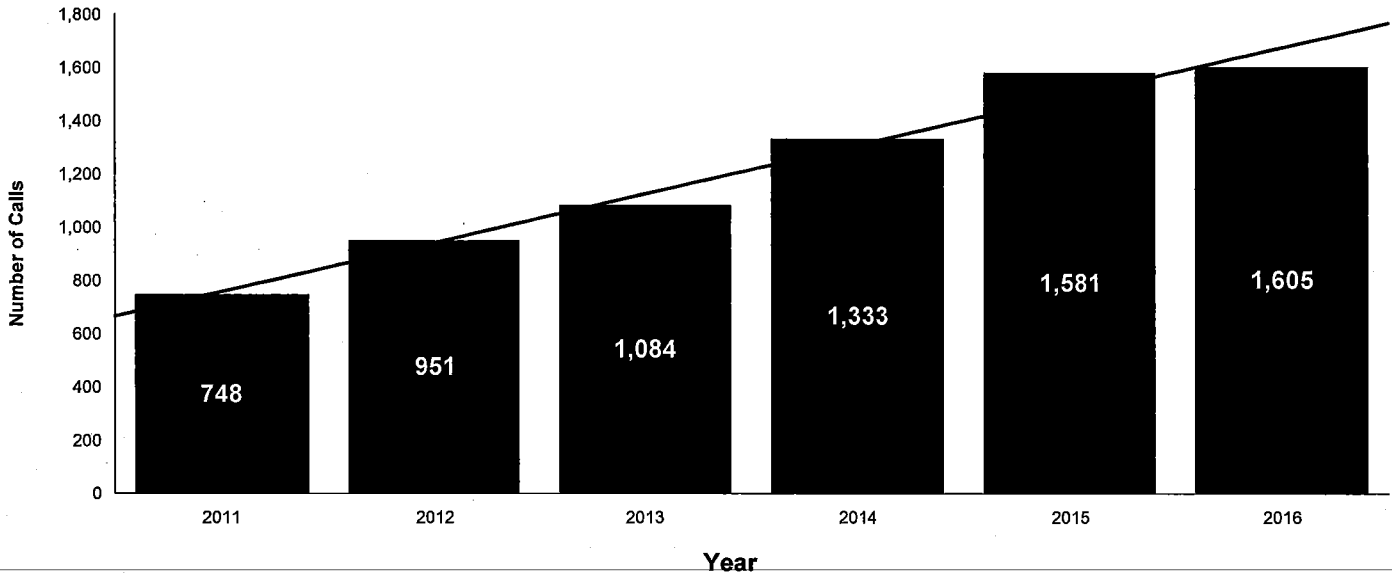
\*\* Cost estimate is calculated by the initial response to the call for service and doesn't include investigative efforts and is based on a budgetary value of \$100,000 per officer.



# 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.



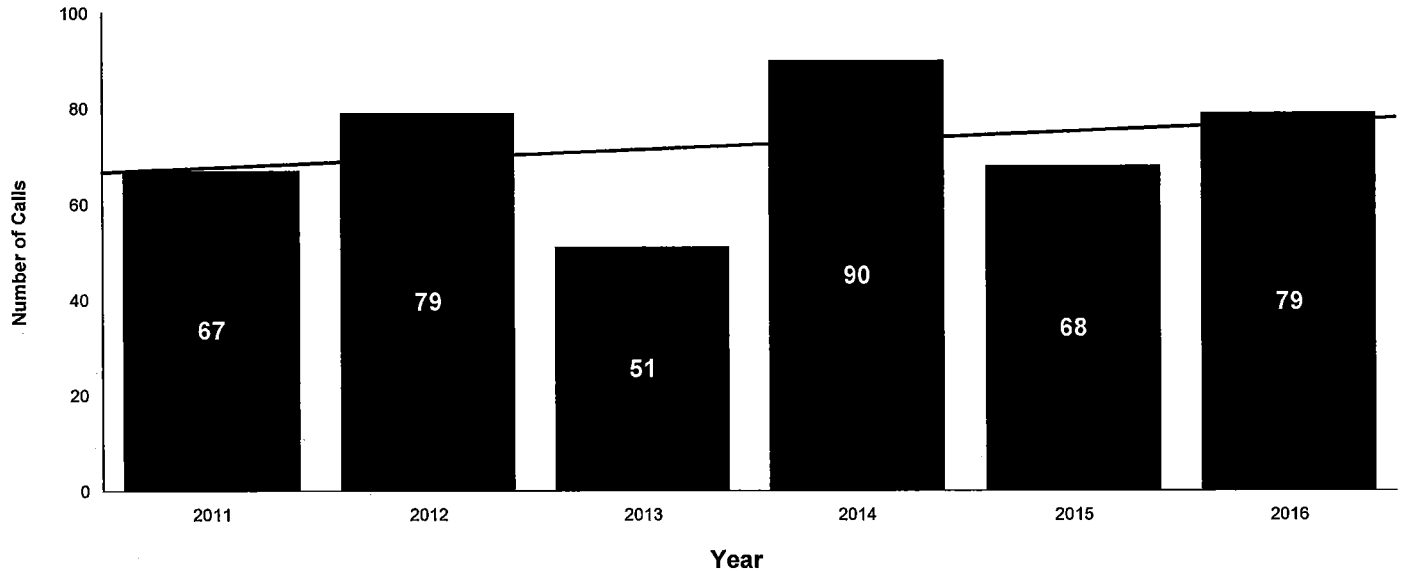


# Verona Police Department

## Calls for Service

### Select Commerical Locations

#### 2011 -2016



	2011	2012	2013	2014	2015	2016	Average	Standard Deviation	Normal Range
<b>Walgreens - 104 N Main Street</b>	29	30	19	44	17	23	28	11	17 - 39
<b>Farm &amp; Fleet - 600 Hometown Circle</b>	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**
<b>Walgreens - 104 N Main Street</b>	57	147	\$7,556	20	16	\$819	28	32	\$1,631
<b>Farm &amp; Fleet - 600 Hometown Circle</b>	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.

To: Assembly Ways & Means Committee

From: Walter Ostrenga, City of Monona Police Chief

Date: June 29, 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. The population is currently 7,864, which is about 2,000 people less than what it was in the early 1980's. Monona's population is the oldest in Dane County, with a median age is 45.9, while the median age for the rest of Dane County is ten years younger. 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.

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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.

I've 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, they would be calling us even more. In 2016 we 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 \$100,000 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.

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

# 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
<b>Grand Total</b>	<b>154</b>	<b>207</b>	<b>206</b>	<b>171</b>	<b>151</b>	<b>145</b>	<b>1034</b>

# 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		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	
<b>Grand Total</b>	<b>696</b>	<b>812</b>	<b>1020</b>	<b>1036</b>	<b>1022</b>	<b>1088</b>	<b>5674</b>

# 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
<b>Grand Total</b>	<b>107</b>	<b>164</b>	<b>117</b>	<b>119</b>	<b>168</b>	<b>206</b>	<b>881</b>

# 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
<b>Grand Total</b>	<b>33</b>	<b>17</b>	<b>22</b>	<b>29</b>	<b>29</b>	<b>36</b>	<b>166</b>



# 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					1				1
<b>Grand Total</b>	<b>125</b>	<b>141</b>	<b>121</b>	<b>143</b>	<b>104</b>	<b>94</b>			<b>728</b>

# 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	3	4	5	2	4	2	20
INFORMATION	2	3	1	6	2	5	19
THEFT	4	2	4	5	1	3	19
AMBULANCE CALL	2	2	1	4	3	6	18
CHECK PERSON	5	3	1	1	6		16
ALARM	6	3	4				13
FOUND PROPERTY	1	1	1	5	1	4	13
ACCIDENT HIT AND RUN	2	2	1	3	4		12
DISTURBANCE			6	1	1	2	10
TRAFFIC STOP	5		1		1	2	9
ACCIDENT NON-INJURY	2	2		2	2		8
CHECK AREA		2	1	3	1		7
PROPERTY DAMAGE		2		2	1	1	6
911 OPEN LINE						6	6
ASSIST CITIZEN	1	2	2	1			6
NOISE COMPLAINT	1	5					6
FRAUD	1	1	2			1	5
FIRE ALARM	1	1		2			4
ASSIST OTHER AGENCY	2		1	1			4
LOST PROPERTY	1				1	1	3
REPORT WRITING			1	1		1	3
ACCIDENT INJURY	1				2		3
911 DISCONNECT			1		1		2
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
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

<b>Grand Total</b>	<b>82</b>	<b>85</b>	<b>96</b>	<b>116</b>	<b>91</b>	<b>113</b>	<b>583</b>
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# 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
<b>Grand Total</b>	<b>202</b>	<b>174</b>	<b>202</b>	<b>151</b>	<b>243</b>	<b>170</b>	<b>1142</b>

# 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
<b>Grand Total</b>	<b>37</b>	<b>34</b>	<b>33</b>	<b>33</b>	<b>20</b>	<b>21</b>	<b>178</b>

CITY OF WAUWATOSA  
MILWAUKEE COUNTY

<b>Walgreens</b>	<b>2656 Wauwatosa Ave</b>	
Sale		Nov-16
Walgreen (the tenant) opinion of value		8,669,415
		<b>1,550,000</b>

<b>Walgreens</b>	<b>10800 W Capitol Dr</b>	
Sale		Dec-14
Walgreen (the tenant) opinion of value		4,949,600
		<b>2,150,000</b>

<b>Meijer</b>	<b>11123 W Burliegh</b>	
New construction for 2016		
Did not provide any cost data		
Purchased land		5,770,000
Remediation Costs-estimated (\$4M to \$6M)		4,000,000
		<b>9,770,000</b>
Claim Filed on 6-19-2017		<b>7,965,000</b>
So did the construction of a 158,425 Sqft bldg devalue the land?		

<b>Kentucky Fried Chicken</b>	<b>6706 W North Ave</b>	
Sale		Jun-13
<del>Walgreen</del> (the tenant) opinion of value		841,600
		<b>250,000</b>

<b>Lowe's</b>	<b>12000 W Burliegh</b>	
New construction for 2006		
Provided cost data		6,729,705
Purchased land		10,411,500
Acquisition & Bldg Costs		<b>17,141,205</b>
Claim Filed for 2016		<b>6,514,700</b>
So did the construction of a 138,515 Sqft bldg devalue the land?		

<b>Nordstrom</b>	<b>2424 N Mayfair Rd</b>	
New construction for 2015		
Provided cost data		<b>IN EXCESS of \$50M</b>
Purchased land		1,173,000
Acquisition & Bldg Costs		<b>\$52,000,000 +</b>
Claim Filed for 2016		<b>10,860,000</b>
So did the construction of a deluxe anchor of 149,693 Sqft bldg devalue the land?		

**Impact of Tax Avoidance Strategies on City of WAUWATOSA - 2016**

Store Name	Address	Sale Year	Sale Price	Assmt Year	Original Assmt	Active case	Taxpayer Opinion	Settlement Value	Value Loss	TIF	City Tax Rate*	City Loss	Full Tax Rate**	Full Loss
1	Lowe's	12000 W Burtleigh St	2005	\$10,411,500*	2016	13,614,700	Yes	6,514,700	7,100,000		0.00768	\$54,528	0.02369	\$168,199
2	KFC	6706 W North Ave	2013	\$841,600	2016	654,700	Yes	250,000	404,700		0.00768	\$3,108	0.02369	\$9,587
3	Mayfair Mall	2500 N Mayfair Rd			2016	445,000,000	Yes	299,000,000	146,000,000		0.00768	\$1,121,280	0.02369	\$3,458,740
4	Nordstrom	2424 N Mayfair Rd			2016	29,905,000	Yes	10,860,000	19,045,000		0.00768	\$146,266	0.02369	\$451,176
5	Best Buy	2421 N Mayfair Rd	2005	\$6,800,000	2016	8,695,800	Yes	5,750,000	2,945,800		0.00768	\$22,624	0.02369	\$69,786
6	Walgreens	10800 W Capitol Dr	2012	\$4,949,600	2016	3,821,600	Yes	2,150,000	1,671,600		0.00768	\$12,838	0.02369	\$39,600
7	Walgreens	2656 N Wauwatosa Ave	2016	\$8,700,000	2016	3,484,100	Yes	1,550,000	1,934,100		0.00768	\$14,854	0.02369	\$45,819
8	Walgreens	2275 N Mayfair Rd			2016	8,060,000	Yes	5,500,000	2,560,000		0.00768	\$19,661	0.02369	\$60,646
9	Walgreens	1435 N 113th St	2010	\$3,000,000	2016	2,140,000	Yes	1,480,000	660,000		0.00768	\$5,069	0.02369	\$15,635
10	Walgreens	6600 W State St			2016	4,102,000	Yes	2,300,000	1,802,000		0.00768	\$13,839	0.02369	\$42,689
11	United Health Care	10709 Research Dr	2008	\$18,044,500	2016	18,000,000	Yes	9,500,000	8,500,000		0.00768	\$65,280	0.02369	\$201,365
12	Meijer	11123 W Burtleigh St	2013	\$6,770,000*	2016	22,633,100	Yes	7,965,000	14,668,100		0.00768	\$112,651	0.02369	\$347,487
* Sale of Land only														
										<b>207,291,300</b>		<b>\$1,591,997</b>		<b>\$4,910,731</b>

\* 2016 City Tax Mill Rate=.00768 (City Loss)

\*\* 2016 Overall Mill Rate=.02369 (Full Loss)

**Impact Study Details**

1	Lowes is contesting value based on the dark store theory and seeking over a 50% reduction for years 2016 and 2015. <b>The 2005 sale of \$10.4M was the land sale only, Lowes built the building on the land.</b>
2	Kentucky Fried Chicken is the tenant of a leased property and are seeking a reduction of 62% of assessed value. Their stated of value is 72% less than their purchase price. They are in litigation for 2015 and 2016 assessment years.
3	Mayfair Mall is contesting their value for 2013, 2014, 2015 and 2016. Over the course of the last 5 years they have had multiple appraisals. Their appraisals for financing have all been in excess of \$500 Million but their appraisals for tax appeals are significantly lower at \$300 million. Reducing their value results in a 30% reduction of a very substantial value. The value of Mayfair Mall is about 8% of the City's total value.
4	Nordstrom is a newly constructed (2015) department store and is attached to Mayfair Mall. They are contesting assessment years 2015 and 2016. They are seeking a 64% reduction. The premise for their appraisals and appeal uses the dark store strategy.
5	Best Buy is also contesting multiple years, 2015 and 2016. They are seeking a 62% reduction for each year using the dark store strategy. Best Buy is located across the street from Mayfair Mall on the busiest and most valuable location in the City of Wauwatosa.
6	Walgreens on Capitol Dr sold from Waltrust to a Delaware investor. Walgreens, as the tenant, is contesting the value, not the property owner. At this location, Walgreens is contesting assessment years 2013 thru 2016. Their opinion of value is almost half of the assessment and 60% less than the almost \$5,000,000 sale price.
7	This Walgreens is located on Wauwatosa Av also known as 76th St. and sold during Dec. of 2016. Waltrust, an arm of Walgreen's, sold this store to an investor for \$8,700,000 and then filed a claim against the City stating the value is only \$1.5M. Walgreens, as the tenant, is contesting the value for years 2013 thru 2016.
8	Walgreens is one of two tenants and occupies 50% of this property but is contesting the entire value of the site. The location of this site is directly kitty-corner from Mayfair Mall. The value for years 2013, 2014, 2015 and 2016 was lowered from \$11M to \$8M.
9	This office/storage type property sold for \$3,000,000 during 2010. Walgreens leases space to use as a call and distribution center for their equipment. Walgreens claims a value of less than 50% of the 2010 sale price.
10	This Walgreens pharmacy is located within the second busiest and highly traveled retail & commercial district in Wauwatosa undergoing redevelopment with a large number of newly constructed multi-family apartment complexes. They are a tenant at this site.
11	United Health Care leases a building located in our Research Park located just east of the Milwaukee Regional Medical Complex. The building sold last for \$18M and United Health claims a value of only \$9.5M.
12	Meijer built a 158,425 sf store on land they purchased for over \$6.7M, additional costs atop the \$6.7M of \$4M-\$6M for site contamination mitigation. The store was constructed and opened during 2015. They recently filed a claim with the City stating their total value is only \$7.9M.



Impact of Tax Avoidance Strategies on City of WAUWATOSA - 2015

Store Name	Address	Sale Year	Sale Price	Assmt Year	Original Assmt	Active case	Taxpayer Opinion	Settlement Value	Value Loss	TIF	City Tax Rate*	City Loss	Full Tax Rate**	Full Loss		
1 Lowe's	12000 W Burleigh St	2005	\$10,411,500*	2015	13,614,700	Yes	6,794,800		6,819,900		0.00762	\$51,968	0.02333	\$159,108		
2 KFC	6706 W North Ave	2013	\$841,600	2015	654,700	Yes	241,724		412,976		0.00762	\$3,147	0.02333	\$9,635		
3 Mayfair Mall	2500 N Mayfair Rd			2015	421,008,500	Yes	289,488,897		131,519,603		0.00762	\$1,002,179	0.02333	\$3,068,352		
4 Nordstrom	2424 N Mayfair Rd			2015	12,298,300	Yes	3,287,449		9,010,851		0.00762	\$68,663	0.02333	\$210,223		
5 Best Buy	2421 N Mayfair Rd	2005	\$6,800,000	2015	8,695,800	Yes	5,750,000		2,945,800		0.00762	\$22,447	0.02333	\$68,726		
6 Walgreens	10800 W Capitol Dr	2012	\$4,949,600	2015	3,821,600	Yes	2,050,000		1,771,600		0.00762	\$13,500	0.02333	\$41,331		
7 Walgreens	2656 N Wauwatosa Ave	2016	\$8,700,000	2015	3,484,100	Yes	1,540,000		1,944,100		0.00762	\$14,814	0.02333	\$45,356		
8 Walgreens	2275 N Mayfair Rd			2015	10,871,400	Yes	5,100,000		5,771,400		0.00762	\$43,978	0.02333	\$134,647		
9 Walgreens	1435 N 113th St	2010	\$3,000,000	2015	3,249,700	Yes	2,000,000		1,249,700		0.00762	\$9,523	0.02333	\$29,156		
10 Walgreens	6600 W State St			2015	4,102,000	Yes	2,000,000		2,102,000		0.00762	\$16,017	0.02333	\$49,040		
11 United Health Care	10709 Research Dr	2008	\$18,044,500	2015	18,000,000	Yes	9,185,550		8,814,450		0.00762	\$67,166	0.02333	\$205,641		
* Sale of Land only												<b>165,542,480</b>		<b>\$1,261,434</b>		<b>\$3,862,106</b>

\* 2015 City Tax Mill Rate=.00762 (City Loss)

\*\* 2015 Overall Mill Rate=.02333 (Full Loss)

Impact Study Details

1	Lowes is contesting value based on the dark store theory and seeking over a 50% reduction for years 2016 and 2015. The 2005 sale of \$10.4M was the land sale only. Lowes built the building on the land.
2	Kentucky Fried Chicken is the tenant of a leased property and are seeking a reduction of 62% of assessed value. Their stated of value is 72% less than their purchase price. They are in litigation for 2015 and 2016 assessment years.
3	Mayfair Mall is contesting their value for 2013, 2014, 2015 and 2016. Over the course of the last 5 years they have had multiple appraisals. Their appraisals for financing have all been in excess of \$500 Million but their appraisals for tax appeals are significantly lower at \$300 million. Reducing their value results in a 30% reduction of a very substantial value. The value of Mayfair Mall is about 8% of the City's total value.
4	Nordstrom is a newly constructed (2015) department store and is attached to Mayfair Mall. They are contesting assessment years 2015 and 2016. They are seeking a 64% reduction. The premise for their appraisals and appeal uses the dark store strategy.
5	Best Buy is also contesting multiple years, 2015 and 2016. They are seeking a 62% reduction for each year using the dark store strategy. Best Buy is located across the street from Mayfair Mall on the busiest and most valuable location in the City of Wauwatosa.
6	Walgreens on Capitol Dr sold from Waltrust to a Delaware investor. Walgreens, as the tenant, is contesting the value, not the property owner. At this location, Walgreens is contesting assessment years 2013 thru 2016. Their opinion of value is almost half of the assessment and 60% less than the almost \$5,000,000 sale price.
7	This Walgreens is located on Wauwatosa Av also known as 76th St. and sold during Dec. of 2016. Waltrust, an arm of Walgreen's, sold this store to an investor for \$8,700,000 and then filed a claim against the City stating the value is only \$1.5M. Walgreens, as the tenant, is contesting the value for years 2013 thru 2016.
8	Walgreens is one of two tenants and occupies 50% of this property but is contesting the entire value of the site. The location of this site is directly kitty-corner from Mayfair Mall. The value for years 2013, 2014, 2015 and 2016 was lowered from \$11M to \$8M.
9	This office/storage type property sold for \$3,000,000 during 2010. Walgreens leases space to use as a call and distribution center for their equipment. Walgreens claims a value of less than 50% of the 2010 sale price.
10	This Walgreens pharmacy is located within the second busiest and highly traveled retail & commercial district in Wauwatosa undergoing redevelopment with a large number of newly constructed multi-family apartment complexes. They are a tenant at this site.
11	United Health Care leases a building located in our Research Park located just east of the Milwaukee Regional Medical Complex. The building sold last for \$18M and United Health claims a value of only \$9.5M.
12	Meijer built a 158,425 sf store on land they purchased for over \$6.7M, additional costs atop the \$6.7M of \$4M-\$6M for site contamination mitigation. The store was constructed and opened during 2015. They recently filed a claim with the City stating their total value is only \$7.9M.

**Impact of Tax Avoidance Strategies on City of WAUWATOSA - 2014**

Store Name	Address	Sale Year	Sale Price	Assmt Year	Original Assmt	Active case	Taxpayer Opinion	Settlement Value	Value Loss	TIF	City Tax Rate*	City Loss	Full Tax Rate**	Full Loss
1	Firestone	12300 W Burrelgh St	2005	\$10,411,500*	2014	3,120,000	Yes	1,380,684	1,739,316		0.00779	\$13,549	0.02339	\$40,683
2	Mayfair Mall	2500 N Mayfair Rd			2014	400,000,000	Yes	295,269,139	104,730,861		0.00779	\$815,853	0.02339	\$2,449,655
3	Walgreens	10800 W Capitol Dr	2012	\$4,949,600	2014	3,821,600	Yes	2,021,716	1,799,884		0.00779	\$14,021	0.02339	\$42,099
4	Walgreens	2656 N Wauwatosa Ave	2016	\$8,700,000	2014	3,484,100	Yes	1,518,752	1,965,348		0.00779	\$15,310	0.02339	\$45,969
5	Walgreens	2275 N Mayfair Rd			2014	10,871,400	Yes	5,029,635	5,841,765		0.00779	\$45,507	0.02339	\$136,639
6	Walgreens	1435 N 113th St	2010	\$3,000,000	2014	3,249,700	Yes	1,972,406	1,277,294		0.00779	\$9,950	0.02339	\$29,876
7	Walgreens	6600 W State St			2014	4,102,000	Yes	1,972,406	2,129,594		0.00779	\$16,590	0.02339	\$49,811
* Sale of Land only									<b>119,484,062</b>			<b>\$930,781</b>		<b>\$2,794,732</b>
									* 2014 City Tax Mill Rate=.00779 (City Loss)					
									** 2014 Overall Mill Rate=.02339 (Full Loss)					

**Impact Study Details**

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2	Kentucky Fried Chicken is the tenant of a leased property and are seeking a reduction of 62% of assessed value. Their stated of value is 72% less than their purchase price. They are in litigation for 2015 and 2016 assessment years.
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5	Best Buy is also contesting multiple years: 2015 and 2016. They are seeking a 62% reduction for each year using the dark store strategy. Best Buy is located across the street from Mayfair Mall on the busiest and most valuable location in the City of Wauwatosa.
6	Walgreens on Capitol Dr sold from Waltrust to a Delaware investor. Walgreens, as the tenant, is contesting the value, not the property owner. At this location, Walgreens is contesting assessment years 2013 thru 2016. Their opinion of value is almost half of the assessment and 60% less than the almost \$5,000,000 sale price.
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### Impact of Tax Avoidance Strategies on City of WAUWATOSA - 2013

Store Name	Address	Sale Year	Sale Price	Assmt Year	Original Assmt	Active case	Taxpayer Opinion	Settlement Value	Value Loss	TIF	City Tax Rate*	City Loss	Full Tax Rate**	Full Loss
1	Mayfair Mall		2500 N Mayfair Rd	2013	400,000,000	Yes	287,280,000		112,720,000		0.00769	\$866,817	0.02374	\$2,675,973
2	Walgreens		10800 W Capitol Dr	2012	\$4,949,600	Yes	2,050,000		1,771,600		0.00769	\$13,624	0.02374	\$42,058
3	Walgreens		2656 N Wauwatosa Ave	2016	\$8,700,000	Yes	1,518,752		1,965,348		0.00769	\$15,114	0.02374	\$46,657
4	Walgreens		2275 N Mayfair Rd	2013	10,871,400	Yes	5,029,635		5,841,765		0.00769	\$44,923	0.02374	\$138,684
5	Walgreens		6600 W State St	2013	3,249,700	Yes	2,000,000		1,249,700		0.00769	\$9,610	0.02374	\$29,668
* Sale of Land only									<b>123,548,413</b>			<b>\$950,087</b>		<b>\$2,933,039</b>

\* 2013 City Tax Mill Rate=.00769 (City Loss)

\*\* 2013 Overall Mill Rate=.02374 (Full Loss)

#### Impact Study Details

1	Lowes is contesting value based on the dark store theory and seeking over a 50% reduction for years 2016 and 2015. The 2005 sale of \$10.4M was the land sale only, Lowes built the building on the land.
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**CITY OF MADISON**

**PROPERTIES AT RISK**

**Re: Dark Store and Walgreens Issues**

Area	Parcel	Situs	Label	Current Year (2017)						Total
				PFA	GFA	Land	Imp			
9915	0710-164-0129-3	2002 S Stoughton Rd	A1 Furniture & Mattress	41556	41556	41556	\$436,000		\$1,491,000	\$1,927,000
9913	0810-272-0622-7	2302 East Springs Dr	Ashley Homestore	75566	75566	75566	\$1,874,500		\$5,964,400	\$7,838,900
9913	0810-272-0615-2	2161 Zeier Rd	Babies "R" Us	46283	46283	46283	\$1,184,000		\$3,161,800	\$4,345,800
9922	0708-261-0090-4	7433 Mineral Point Rd	Barnes and Noble	64223	64223	64223	\$1,997,000		\$1,093,500	\$3,090,500
9913	0810-272-0605-3	2452 East Springs Dr	Best Buy	45850	45850	45850	\$1,294,000		\$2,571,000	\$3,865,000
9922	0708-261-0095-4	7357 West Towne Way	Best Buy	45000	45000	45000	\$1,879,200		\$1,994,800	\$3,874,000
9913	0810-273-0094-6	53 East Towne Mall	Boston Store	138600	138600	138600	\$2,310,000		\$2,590,000	\$4,900,000
9922	0708-261-0096-2	36 West Towne Mall	Boston Store	144600	144600	144600	\$3,608,000		\$2,652,000	\$6,260,000
9925	0709-323-0206-4	4611 W Beltline Hwy	Brunsell Lumber & Millwork	43528	43528	43528	\$1,001,000		\$615,000	\$1,516,000
9922	0708-252-0401-2	6905 Odana Rd	Burlington Coat Factory	94071	94071	94071	\$1,503,500		\$6,556,500	\$8,060,000
9922	0709-303-0510-1	620 S Whitney Way	Copps Food	66145	66145	66145	\$2,365,000		\$6,135,000	\$8,500,000
9922	0708-252-0123-2	6701 Mineral Point Rd	CVS Pharmacy	12921	12921	12921	\$1,100,000		\$1,187,000	\$2,287,000
9913	0810-272-0602-9	2173 Zeier Rd	DSW Shoe Warehouse	27888	27888	27888	\$977,500		\$1,522,500	\$2,500,000
9915	0710-164-0812-4	2202 S Stoughton Rd	Farm & Fleet	113027	113027	113027	\$1,198,000		\$3,422,000	\$4,620,000
9913	0810-284-0917-7	1760 Eagan Rd	Former Leath (Dark)	40000	40000	40000	\$634,000		\$1,657,000	\$2,291,000
9912	0810-303-0223-6	2901 N Sherman Ave	Goodwill	52760	52760	52760	\$394,000		\$2,494,000	\$2,888,000
9925	0709-323-0220-4	4530 Verona Rd	Goodwill	72619	72619	72619	\$1,586,100		\$4,805,000	\$6,391,100
9913	0810-331-0309-5	4279 Lien Rd	Hobby Lobby	49554	49554	49554	\$1,082,000		\$4,458,300	\$5,540,300
9913	0810-271-0101-3	2425 East Springs Dr	Home Depot	116973	116973	116973	\$3,476,000		\$4,109,000	\$7,585,000
9925	0709-323-0219-7	4550 Verona Rd	Home Depot	116856	116856	116856	\$2,228,400		\$4,901,600	\$7,130,000
9914	0810-332-0909-1	3801 E Washington Ave	Hy-Vee	103769	103769	103769	\$2,684,000		\$6,252,200	\$8,936,200
9912	0810-093-0417-2	3821 Anderson Rd	J. F. Ahern	52480	52480	52480	\$482,500		\$1,479,500	\$1,962,000
9922	0708-261-0097-0	23 West Towne Mall	JCPenney	170961	170961	170961	\$3,806,900		\$3,273,100	\$7,080,000
9913	0810-273-0097-0	135 East Towne Mall	JCPenney	191764	191764	191764	\$2,014,200		\$3,484,300	\$5,498,500
9913	0810-272-0604-5	2602 East Springs Dr	Kohl's	81416	81416	81416	\$2,353,500		\$3,550,000	\$5,903,500
9922	0708-261-0089-7	7401 West Towne Way	Kohl's	111940	111940	111940	\$2,893,000		\$3,789,400	\$6,682,400
9921	0708-253-0107-4	6701 Watts Rd	Madison Lighting	28234	28234	28234	\$1,100,000		\$1,310,000	\$2,410,000
9921	0708-271-0119-1	430 Commerce Dr	Menards	206424	206424	206424	\$3,563,500		\$6,416,500	\$9,980,000
9913	0810-272-0612-8	2102 East Springs Dr	Menard's	161160	161160	161160	\$3,962,000		\$4,508,000	\$8,470,000
9922	0708-261-0091-2	7455 Mineral Point Rd	Metcalfe's Market	70500	70500	70500	\$2,761,000		\$1,051,000	\$3,812,000
9914	0710-111-2616-9	6010 Cottage Grove Rd	Metro Market	57601	57601	57601	\$1,040,000		\$8,367,000	\$9,407,000
9913	0810-331-0317-8	4271 Lien Rd	Michael's Arts & Crafts	49257	49257	49257	\$1,320,000		\$3,926,000	\$5,246,000
9922	0708-261-0083-9	7349 West Towne Way	Nordstrom Rack	30780	30780	30780	\$1,199,000		\$2,595,000	\$3,794,000
9925	0709-343-0705-4	2118 W Beltline Hwy	Northern Tool & Equipment	43746	43746	43746	\$825,000		\$1,800,000	\$2,625,000
9922	0708-254-0105-6	6201 Odana Rd	Odana Antiques	45050	45050	45050	\$1,320,000		\$1,514,000	\$2,834,000

9913	0810-284-1001-7	4016 E Washington Ave	Office Depot	30191	30191	\$954,000	\$2,895,500	\$3,849,500
9922	0708-261-0084-7	7341 West Towne Way	OfficeMax	25101	25101	\$721,000	\$2,392,500	\$3,113,500
9913	0810-271-1404-0	2301 East Springs Dr	Pawn America	33250	33250	\$1,458,500	\$1,313,500	\$2,772,000
9925	0709-343-0703-8	2148 W Beltline Hwy	Pet World	31033	31033	\$435,000	\$1,743,500	\$2,178,500
9913	0810-272-0623-5	2216 East Springs Dr	Petsmart	26475	26475	\$1,070,000	\$3,905,000	\$4,975,000
9921	0708-271-0113-3	8210 Plaza Dr	Petsmart	26988	26988	\$1,353,000	\$3,247,000	\$4,600,000
9912	0810-314-2102-7	2502 Shopko Dr	Pick & Save	72743	72743	\$1,498,000	\$4,552,000	\$6,050,000
9922	0708-262-0111-6	7483 West Towne Way	REI	27046	26986	\$945,000	\$2,422,000	\$3,367,000
9922	0708-252-0419-5	6725 Odana Rd	Rogan's Shoes	50142	50142	\$1,188,000	\$3,152,000	\$4,340,000
9921	0708-264-0202-9	7050 Watts Rd	Sarn's Club	118394	118394	\$3,273,000	\$3,387,000	\$6,660,000
9913	0810-273-0201-7	2002 Zeller Rd	Savers Thriftstore	31550	31550	\$767,500	\$2,122,100	\$2,889,600
9913	0810-273-0093-8	43 East Towne Mall	Sears	127672	127672	\$2,090,000	\$2,470,000	\$4,560,000
9922	0708-261-0099-6	53 West Towne Mall	Sears	126629	138599	\$4,301,000	\$844,000	\$5,145,000
9922	0708-261-0092-0	7401 Mineral Point Rd	Shopko	124705	124705	\$3,610,800	\$7,693,200	\$11,304,000
9913	0810-272-0601-1	2201 Zeller Rd	Shopko	118726	118726	\$1,881,800	\$7,909,000	\$9,790,800
9912	0810-314-2101-9	2602 Shopko Dr	Shopko (Park)	119923	119923	\$1,188,000	\$1,827,000	\$3,015,000
9913	0810-271-1402-4	2201 East Springs Dr	Slumberland	50147	50147	\$1,341,500	\$3,828,200	\$5,169,700
9922	0708-261-0085-5	7333 West Towne Way	Stein Mart	28102	28102	\$1,788,000	\$2,062,000	\$3,850,000
9925	0709-343-0702-0	2164 W Beltline Hwy	Steinhafels	88320	88320	\$1,051,000	\$3,967,800	\$5,018,800
9913	0810-224-0402-4	5201 High Crossing Blvd	Steinhafels	123952	123952	\$2,031,000	\$2,432,000	\$4,463,000
9913	0810-331-0310-2	4301 Lien Rd	Target	130407	130407	\$2,411,000	\$6,800,500	\$9,211,500
9921	0708-224-0204-9	201 Junction Rd	Target	123820	123820	\$2,684,000	\$7,092,000	\$9,776,000
9924	0709-202-0103-8	750 Hilldale Way	Target	147593	147593	\$4,079,000	\$7,199,500	\$11,278,500
9925	0709-323-0222-0	4716 Verona Rd	U-Haul (former Cub's Food)	73911	73911	\$1,542,600	\$447,000	\$1,989,600
9913	0810-274-0095-2	5402 Lien Rd	United Brick & Fireplace	29609	29609	\$110,500	\$707,200	\$817,700
9914	0710-102-1505-4	4522 Cottage Grove Rd	Walgreens	14715	14715	\$411,500	\$2,471,500	\$2,883,000
9938	0709-351-0811-2	2121 S Park St	Walgreens	12544	12544	\$440,000	\$1,675,000	\$2,115,000
9912	0810-303-0222-8	1725 Northport Dr	Walgreens	13500	13500	\$293,000	\$2,298,000	\$2,591,000
9913	0810-332-0318-4	3710 E Washington Ave	Walgreens	15120	15120	\$787,500	\$1,955,500	\$2,743,000
9914	0710-061-2935-0	2909 E Washington Ave	Walgreens	14987	14987	\$537,500	\$2,095,500	\$2,633,000
9914	0710-092-2410-7	104 Cottage Grove Rd	Walgreens	13450	13450	\$344,500	\$2,169,500	\$2,514,000
9914	0810-334-0407-1	4198 Nakoska Trl	Walmart	189446	189446	\$2,728,000	\$24,946,500	\$27,674,500
9921	0708-264-0203-7	7202 Watts Rd	Walmart	133991	133991	\$2,811,000	\$5,707,800	\$8,518,800
9914	0710-043-0916-0	3817 Milwaukee St	Woodman's	201340	201340	\$1,953,000	\$9,210,000	\$11,163,000
9921	0708-253-0102-4	725 S Gammon Rd	Woodman's	213240	213240	\$4,125,000	\$8,275,000	\$12,400,000

Total Assessed Value:

\$121,657,000

\$263,813,200

\$385,470,200

**Sheboyan Dark Store Assessment Impact**

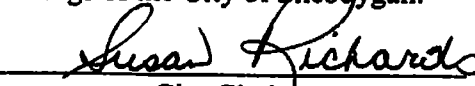
Name	Year	Property Type	Assessment		Change	City Only Tax Lost	All Taxing Entities Tax Lost	
			Original	Revised			City Only Tax Lost	Lost
JFM1 LLC (Memorial Mall)	2010	Real Estate	\$ 12,424,400	\$ 4,600,000	\$ 7,824,400	\$ 70,693.79	\$ 195,205.52	
JFM1 LLC (Memorial Mall)	2011	Real Estate	\$ 12,424,400	\$ 4,370,000	\$ 8,054,400	\$ 71,083.69	\$ 198,629.60	
JFM1 LLC (Memorial Mall)	2012	Real Estate	\$ 12,424,400	\$ 3,710,000	\$ 8,714,400	\$ 73,241.11	\$ 207,192.03	
JFM1 LLC (Memorial Mall)	2013	Real Estate	\$ 12,424,400	\$ 3,710,000	\$ 8,714,400	\$ 74,508.77	\$ 208,475.05	
JFM1 LLC (Memorial Mall)	2014	Real Estate	\$ 12,424,400	\$ 3,595,200	\$ 8,829,200	\$ 87,268.34	\$ 238,215.54	
JFM1 LLC (Memorial Mall)	2015	Real Estate	\$ 12,424,400	\$ 3,710,000	\$ 8,364,800	\$ 79,465.60	\$ 217,215.95	
JFM1 LLC (Memorial Mall)	2016	Real Estate	\$ 12,424,400	\$ 3,710,000	\$ 8,364,800	\$ 79,883.84	\$ 208,901.68	
<b>Total</b>					<b>\$ 536,145.14</b>	<b>\$ 1,473,835.37</b>		
Walgreens - 205930	2010	Real Estate	\$ 2,588,100	\$ 2,550,000	\$ 38,100	\$ 320.80	\$ 950.60	
Walgreens - 205930	2011	Real Estate	\$ 2,588,100	\$ 2,550,000	\$ 38,100	\$ 320.80	\$ 939.57	
Walgreens - 205930	2012	Real Estate	\$ 2,588,100	\$ 2,550,000	\$ 38,100	\$ 315.85	\$ 905.86	
Walgreens - 205930	2013	Real Estate	\$ 2,588,100	\$ 2,500,000	\$ 88,100	\$ 739.16	\$ 2,107.62	
Walgreens - 205930	2014	Real Estate	\$ 2,588,100	\$ 2,337,300	\$ 250,800	\$ 2,392.63	\$ 6,766.69	
Walgreens - 205930	2015	Real Estate	\$ 2,588,100	\$ 2,337,300	\$ 250,800	\$ 2,382.60	\$ 6,512.74	
Walgreens - 205930	2016	Real Estate	\$ 2,588,100	\$ 2,337,300	\$ 250,800	\$ 2,395.14	\$ 6,263.46	
<b>Total</b>					<b>\$ 8,866.98</b>	<b>\$ 24,446.53</b>		
Walgreens - 431734	2010	Real Estate	\$ 2,400,000	\$ 2,350,000	\$ 50,000	\$ 420.59	\$ 1,247.51	
Walgreens - 431734	2011	Real Estate	\$ 2,400,000	\$ 2,350,000	\$ 50,000	\$ 420.85	\$ 1,233.03	
Walgreens - 431734	2012	Real Estate	\$ 2,400,000	\$ 2,350,000	\$ 50,000	\$ 414.30	\$ 1,188.79	
Walgreens - 431734	2013	Real Estate	\$ 2,400,000	\$ 2,350,000	\$ 50,000	\$ 419.40	\$ 1,196.15	
Walgreens - 431734	2014	Real Estate	\$ 2,400,000	\$ 2,217,100	\$ 182,900	\$ 1,744.37	\$ 4,934.72	
Walgreens - 431734	2015	Real Estate	\$ 2,400,000	\$ 2,217,100	\$ 182,900	\$ 1,737.55	\$ 4,749.52	
Walgreens - 431734	2016	Real Estate	\$ 2,400,000	\$ 2,217,100	\$ 182,900	\$ 1,747.24	\$ 4,567.73	
<b>Total</b>					<b>\$ 6,904.30</b>	<b>\$ 19,117.44</b>		
Walgreens - 629780	2010	Real Estate	\$ 2,485,500	\$ 2,455,000	\$ 30,500	\$ 256.56	\$ 760.98	
Walgreens - 629780	2011	Real Estate	\$ 2,485,500	\$ 2,455,000	\$ 30,500	\$ 256.71	\$ 752.15	
Walgreens - 629780	2012	Real Estate	\$ 2,485,500	\$ 2,455,000	\$ 30,500	\$ 252.73	\$ 725.16	
Walgreens - 629780	2013	Real Estate	\$ 2,485,500	\$ 2,455,000	\$ 30,500	\$ 255.83	\$ 729.65	
Walgreens - 629780	2014	Real Estate	\$ 2,485,500	\$ 2,371,900	\$ 113,600	\$ 1,083.44	\$ 3,064.98	
Walgreens - 629780	2015	Real Estate	\$ 2,485,500	\$ 2,371,900	\$ 113,600	\$ 1,079.20	\$ 2,949.95	
Walgreens - 629780	2016	Real Estate	\$ 2,485,500	\$ 2,371,900	\$ 113,600	\$ 1,085.22	\$ 2,837.04	
<b>Total</b>					<b>\$ 4,269.68</b>	<b>\$ 11,819.90</b>		

**Grand Total of lost Tax Revenue**

**\$ 556,186.1      \$ 1,529,219.2**

OFFICE OF THE CITY CLERK  
Sheboygan, Wisconsin  
CITY HALL

I hereby certify that this is a true copy of a  
document from the Common Council  
proceedings of the City of Sheboygan.

  
City Clerk

Res. No. 27 - 17 - 18. By Alderperson Bohren. June 5, 2017.

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 hundreds 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

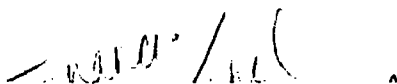
WHEREAS, there are over 200 Walgreens stores located in Wisconsin's cities and villages; and

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 City of Sheboygan has been heavily impacted by these tax avoidance strategies, losing \$556,186.10 in tax revenues just from revaluations in lawsuits filed by Walgreens and by the owner of the Memorial Mall; and

WHEREAS, it is not only the City, but the other taxing jurisdictions, including the County, School Districts, and Technical College District who lose out on such revaluations, such that the taxpayers of Sheboygan had to make up \$1,529,219.20 in tax revenue just as a result of those lawsuits; 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

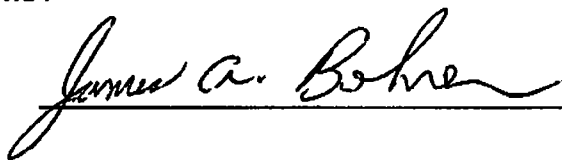


WHEREAS, the Michigan state house overwhelmingly passed similar legislation in May of 2016; and

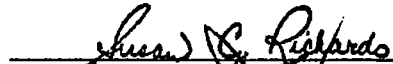
WHEREAS, a "Dark Store Bill," (LRB 0373) has been introduced in the Wisconsin Legislature, supported by legislators from both major parties. The Legislative Reference Bureau has provided analysis of the bill that states that the bill 1) "provides that, for property tax purposes, real property includes 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"; 2) "requires real property to be assessed at its highest and best use"; 3) more precisely defines "arm's-length sales" used to determine that highest and best use and the value of lease provisions and rent; and 4) reverses the 2008 Wisconsin Supreme Court finding in *Walgreen Company v. City of Madison*, 2008 WI 80, "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 property, as opposed to "contract rents," which is the amount that the lessee actually paid to rent the property."

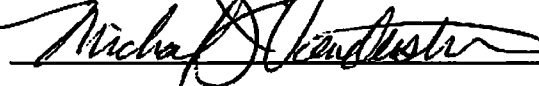
NOW, THEREFORE, BE IT RESOLVED, that the common council of the City of Sheboygan urges the Governor and the Legislature to protect homeowners and main street businesses from having even more of the property tax burden shifted to them by passing legislation clarifying that:

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.

  
\_\_\_\_\_

I HEREBY CERTIFY that the foregoing Resolution was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the 19<sup>th</sup> day of June, 2017.

Dated June 22, \_\_\_\_\_ 2017.  \_\_\_\_\_, City Clerk

Approved June 22, \_\_\_\_\_ 2017.  \_\_\_\_\_ Mayor

Published June 24, 2017.  
Certified June 22, 2017 to - Mayor; Glenn Grothman  
sen.grothman@legis.wisconsin.gov; Devin Lemahieu  
sen.lemahieu@legis.wisconsin.gov; Terry Katsman  
rep.katsma@legis.wisconsin.gov; Tyler Vorpapel  
rep.vorpapel@legis.wisconsin.gov; governor@wisconsin.gov



**Possible Impact of Full Implementation of the Dark Store Strategy and the Walgreens Decision on**

**Washington County Tax Bills**

Property Type	Actual <sup>(1)</sup>		Hypothetical <sup>(2)</sup>		Change	
	Equalized Value	% Total	Equalized Value	% Total	Equalized Value	% Total
Residential	\$10,805,281,100	78%	\$10,805,281,100	84%	\$0	6.20%
Commercial	\$2,036,407,000	15%	\$1,018,203,500	8%	(\$1,018,203,500)	-6.77%
Manufacturing	\$475,259,600	3%	\$475,259,600	4%	\$0	0.27%
All Other R.E.	\$305,326,900	2%	\$305,326,900	2%	\$0	0.18%
Personal Property	\$221,598,600	2%	\$221,598,600	2%	\$0	0.13%
Total Equalized Value	\$13,843,873,200	100%	\$12,825,669,700	100%	(\$1,018,203,500)	0%
Less TIDS	\$366,789,900		\$366,789,900		\$0	0%
EV for Tax	\$13,477,083,300		\$12,458,879,800		(\$1,018,203,500)	-7.56%
Tax Levy (no Library)	\$34,738,233		\$34,738,233		\$0	0%
Tax Rate	\$2.5776		\$2.7882		\$0.21	8.17%
<b>Tax Bill</b>						
Home Value of \$150,000	\$386.64		\$418.23		\$31.60	8.17%
Home Value of \$225,000	\$579.96		\$627.35		\$47.40	8.17%
Home Value of \$350,000	\$902.15		\$975.88		\$73.73	8.17%

**Notes:**

- Impact is shown for homes on average. Actual impact would vary by location/district.
- Does not include impact of repayment of prior year tax "overcollection", which would temporarily divert tax levy from operations to repay the obligation.

**Assumptions:**

(1) Uses 2017 Budget information and 2016 equalized value information. Note: The difference between the total equalized value reported on the Statement of Changes in Equalized Value and the EV for Tax Apportionment was inferred to be the value of all TIDS. The hypothetical total EV calculation was reduced by a like amount, to calculate the hypothetical EV for Tax Apportionment.

(2) Uses LWM's assumptions for value change:

- Strategy will be "fully implemented" (meaning it will eventually impact all commercial property).
- Businesses will successfully obtain a 50% reduction to the valuation used for tax purposes.

1 **WASHINGTON COUNTY, WISCONSIN**

2  
3 Date of enactment: 2/14/17  
4 Date of publication: 2/23/17

5 **VOTE**

6 **2016 RESOLUTION 64**

7  
8 **Advisory Resolution to Eliminate Property Tax Loopholes Used by**  
9 **National Chain Stores**

10  
11 **WHEREAS**, home owners in Wisconsin pay over 70% of the total statewide property tax  
12 levy; and

13  
14 **WHEREAS**, the disproportionate burden of property taxes on home owners will worsen  
15 unless legislators take action to close loopholes in property tax law that some national chains and  
16 big box retail establishments use to gain dramatic reductions in property taxes; and


17  
18 **WHEREAS**, lawsuits in Wisconsin are forcing assessors to reduce the market value of  
19 thriving national retail stores, shifting the tax burden to local businesses and home owners; and

20  
21 **WHEREAS**, some national chain stores in Wisconsin have argued in communities across  
22 the state that the assessed value of their property for property tax purposes should only be half of  
23 its actual value on the open market; and

24  
25 **WHEREAS**, some big box chain stores are using what is known as the "Dark Store  
26 Theory" to argue that the assessed value of a new, thriving store should be based on comparing  
27 their buildings to nearby vacant or abandoned stores from a different market segment and in  
28 many cases, courts have sided with the national chain stores, requiring communities to refund tax  
29 revenue back to the chain stores; and

30  
31 **WHEREAS**, the Indiana State Legislature has on two occasions in the last two years,  
32 overwhelmingly passed bipartisan legislation prohibiting assessors from valuing new big box  
33 stores the same as nearby abandoned stores from a different market segment; and

34  
35 **WHEREAS**, Michigan State House overwhelmingly passed similar legislation in May of  
36 2016;

37  
38 **NOW, THEREFORE, BE IT RESOLVED** by  the Washington County Board of  
39 Supervisors that this Board urges the Governor and Legislators to protect home owners and main  
40 street businesses from having more of the property tax burden shifted to them] by passing legislation  
41 that allows for leases to be appropriately factored into the valuation of leased properties.

42  
43 **BE IT FURTHER RESOLVED** that this Board urges the Governor and Legislators to enact  
44 legislation requiring assessors to consider as comparable only those sales within the same market  
45 segment exhibiting a similar highest and best use rather than similarly sized, but vacant properties in  
46 abandoned locations when using the comparable sale method of valuation.

47  
48 **BE IT FURTHER RESOLVED** that the County Clerk is directed to forward a copy of  
49 this resolution to Governor Scott Walker, the Wisconsin Counties Association and Washington  
50 County's Legislative Representatives with the request that they assist in this endeavor.

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VOTE REQUIREMENT FOR PASSAGE: Majority

RESOLUTION SUMMARY: Advisory Resolution Requesting the Governor and Legislators to enact legislation to close property tax loopholes used by national chain stores.

APPROVED: Introduced by Supervisor Christopher D. Bossert,  
(signed by Bradley S. Stern) as filed with the County Clerk.  
Bradley S. Stern  
County Attorney (signed by Christopher D. Bossert)  
Dated 2/16/17 Christopher D. Bossert, Supervisor  
District 3

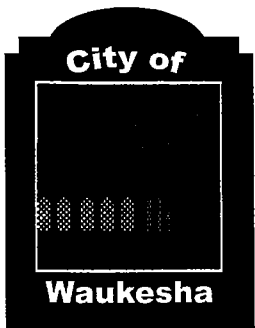
Considered 2/14/17

Adopted 2/14/17

Ayes 20 Noes 3 Absent 3

Voice Vote \_\_\_\_\_

(No fiscal impact at this time.)



## 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:** Assembly Ways and Means Committee  
**From:** Mayor Shawn Reilly  
**Copy:** Waukesha Common Council  
Representative Scot Allen  
Representative Adam Neylon  
Senator Chris Kapenga

**Date:** June 29, 2017

**RE: Support of AB 386 and AB 387**

Thank You Chairman Macco and members of the Assembly Ways and Means Committee for providing me with the opportunity to testify in support of Assembly Bills 386 and 387. I am here today as a tax payer, a homeowner, a recovering municipal attorney and as the Mayor of the City of Waukesha, Wisconsin's 7<sup>th</sup> largest city.

I support the passage of Assembly Bill 386 and Assembly Bill 387. 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 \$14,000,000 for its property. Menards took out a building permit to build its store, showing the cost to build as being \$7,000,000. Menards' current opinion of value is \$8,264,375.
- b) In 2008, Walmart paid \$8,250,000 for its property. Walmart took out a building permit to build its store showing the cost to build being



\$10,500,000. Walmart's 2017 Board of Review objection form indicates that its opinion of value is \$8,877,850.

- c) In 2008, Target paid \$2,624,000 for its property. Target took out a building permit to build its store showing the cost to build being \$7,000,000. Target's most recent court filing indicates its opinion of value is \$5,000,000.
- d) After the Walgreens Supreme Court ruling, Waukesha settled with Walgreens at approximately \$2,500,000 for each of our four Walgreens stores. The Walgreens store at 230 Madison Street sold in 2012 for \$4,900,000. Because of the court rulings, Waukesha is not able to increase the assessed value on any of the Walgreens based on that sale.
- e) In 2012, Woodmans paid \$11,875,000 for its property. Woodman's took out a building permit to build its store, showing the cost to build as being \$12,000,000. Woodmans' 2017 Board of Review objection form indicates that its opinion of value is \$14,000,000.

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 constituents each of us represent.

Making the situation even more unfair is 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 40 calls for service at Farm and Fleet, 85 calls for service at Menards, 93 calls for service at Target and 71 calls for service at one Walgreens.

I appreciate Representative Brooks, 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.

Respectfully

  
Shawn N. Reilly  
Mayor, City of Waukesha

**RESOLUTION NO. 71-17**

**SPONSOR: ALDERPERSON DANIEL L. PROZANSKI JR.**  
**CO-SPONSORS: ALDERPERSON CURT WILSON**  
**ALDERPERSON SCOTT N. GORDON**  
**ALDERPERSON DAVE PAFF**  
**ALDERPERSON PATRICK A. JULIANA**  
**ALDERPERSON JACK ROSE**  
**ALDERPERSON JAN MICHALSKI**  
**ALDERPERSON KEVIN E. MATHEWSON**

**TO URGE THE GOVERNOR AND STATE LEGISLATURE TO CLOSE  
LOOPHOLES THAT SHIFT A GREATER PROPERTY TAX BURDEN FROM  
COMMERCIAL TO RESIDENTIAL HOMEOWNERS**

---

**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.

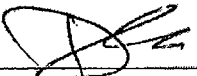
**NOW, THEREFORE, BE IT RESOLVED**, that the Common Council for the City of Kenosha, Wisconsin, urges the Governor and the Legislature to protect homeowners and main street businesses from having even more of the property tax burden shifted to them by passing legislation clarifying that:

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 FURTHER RESOLVED** that the City Clerk is directed to send a copy of this resolution to State Senator Scott Fitzgerald, State Senator Robert Wirth, State Senator Van Wanggaard, State Senator Duey Stroebel, State Senator Roger Roth, State Representative Robin Vos, State Representative Peter Barca, State Representative Samantha Kerkman, State Representative Tod Ohnstad, State Representative Robert Brooks, Members of the Joint Committee on Finance of the State Legislature and County Treasurer Teri Jacobson.

Adopted this 15th day of May, 2017.

ATTEST:

  
DEBRA L. SALAS, City Clerk/Treasurer

APPROVED:

  
JOHN M. ANTARAMIAN, Mayor

Date:

5/16/17

DRAFTED BY:

ALDERPERSON DANIEL PROZANSKI, JR.

REVIEWED BY:

EDWARD R. ANTARAMIAN  
CITY ATTORNEY

**Resolution #17-20  
Village of Pleasant Prairie**

**Resolution Urging the Governor and the Legislature  
to Close Loopholes that shift Property Taxes  
from Large, National Chain Corporations to  
Small, Local Businesses, Homeowners and Manufacturers**

**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 used by national retail and service chains across the country to attain dramatic reductions in their property taxes at the expense of local businesses, homeowners, manufacturers, and other taxpayers; and

**Whereas**, a carefully-orchestrated wave of 100s of lawsuits throughout Wisconsin is forcing municipalities to slash the assessed value of properties occupied by successful national retail and service operations, shifting their tax burden to local mom and pop shops, homeowners, and manufacturers; and

**Whereas**, national tenants of retail stores in Wisconsin, such as Walgreen's and CVS have successfully argued in communities across the state that the property they occupy should be assessed for less than half of their actual sale prices on the open market; and

**Whereas**, in most cases the courts have sided with the national tenants citing the 2008 Walgreen v Madison Supreme Court decision based on outdated WI Assessment Manual language, requiring communities to refund tax revenue back to the stores; and

**Whereas**, there are thousands of these types of properties located in Wisconsin's cities and villages; and

**Whereas**, owner occupied retail operations such as Target, Lowe's, Meijer, Menards and other big box chains are using what is known as the "Dark Store Method" to argue that the assessed value of a new store in an economically successful location should be based on comparing their buildings to sales of vacant and empty stores in abandoned locations; and

**Whereas**, the Republican-controlled Indiana state Legislature has on two occasions in the last two years overwhelmingly passed legislation prohibiting the valuation of new national retail stores by using sales of vacant stores in abandoned locations and from a different market segment; and

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



**Now, Therefore, Be It Resolved**, that the Village Board of the Village of Pleasant Prairie urges the Governor and the Legislature to protect homeowners, main street businesses, and manufacturers from having even more of the property tax burden shifted to them by passing legislation clarifying that:

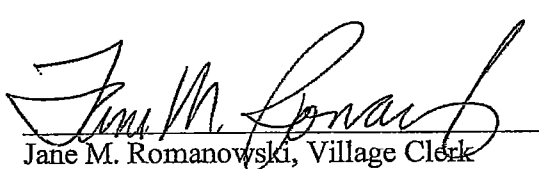
1. Leases are appropriately factored into the valuation of leased properties; and
2. When using the sales comparison method of valuation, assessors shall consider as comparable only those sales within the same market segment exhibiting a similar highest and best use with similar economic characteristics including similarities in occupancy and potential to generate income rather than similar sized but vacant and empty properties in abandoned locations.

Passed and adopted this 15<sup>th</sup> day of May, 2017.



John P. Steinbrink, Village President

Attest:



Jane M. Romanowski, Village Clerk

RESOLUTION NO. 17-012

RESOLUTION SUPPORTING SENATE BILL 291 AND  
SENATE BILL 292 REGARDING PROPERTY ASSESSMENTS

WHEREAS, the Village Board of the Village of Somers, Kenosha County, Wisconsin, is in support of SB291, the substance of which is to reverse a Wisconsin Supreme Court case known as Walgreens v. City of Madison, et al. By clarifying that for property tax purposes, real property includes any leases, rights and privileges pertaining to the subject property, including assets that cannot be taxed separately as real property, but are inextricably intertwined with the real property and is in support of SB292, generically known as the "Darkstore Bill" which clarifies that for property tax assessment purposes, property is not comparable to the property being assessed if the seller has placed restrictions on the highest and best use of the property or if the property is dark property and the property being assessed is not dark property.

THEREFORE, BE IT RESOLVED, that the Village Clerk/Treasurer forward a copy of this Resolution to appropriate representatives in the Wisconsin Assembly and Wisconsin Senate.

Dated this 13 day of June, 2017.

VILLAGE OF SOMERS



By: George Stoner  
George Stoner, President

Attest: Timothy Kitzman  
Timothy Kitzman, Clerk/Treasurer



June 28, 2017

Rep. John Macco  
Chairman, Committee on Ways and Means  
State of Wisconsin Assembly  
Room 308 North  
PO Box 8953  
Madison, WI 53708

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 southwest Milwaukee County. I write in support of the companion bills that aim to partially correct loop holes in the property tax policy that are currently being exploited by large retailers to the disadvantage of all other taxpayers.

I've heard 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 taxpayers.

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 as a ridiculous assumption. For the drug stores, the claim is that even though they have a highly restrictive lease or deed restrictions, 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 \$11,000,000.

Rep. John Macco

June 28, 2017

Page 2

Should courts continue to side with these retailers, coupled with levy limits, the reductions will shift associated property taxes from the retailers (where they've been since construction) 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 fluid and cursive, with a long horizontal stroke extending to the right.

Steve Olson

Mayor



To: Members of the Assembly Committee on Ways and Means  
From: Alliance of Wisconsin Retailers  
Date: June 29, 2017  
RE: Assembly Bill 386 and 387

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Best Buy  
Co., Inc.  
  
Blain's  
Farm & Fleet  
  
Home Depot

The Alliance of Wisconsin Retailers, which is comprised of leading names in the Wisconsin retail industry employing over 50,000 Wisconsinites, strongly opposes Assembly Bills 386 and 387. The intent of both of these bills is to drive property tax assessments on Wisconsin businesses higher, which will result in them paying dramatically higher property taxes.

JCPenney  
  
Kohl's  
  
Macy's

Both nationally and as well as in Wisconsin, the retail industry is hurting. Through March 20<sup>th</sup>, it was reported in Forbes magazine that major retailers had already announced the closure of 3,591 stores nationwide in 2017, a trend that unfortunately is likely to continue. While recovery from the last recession has been slow, we are also competing with an online marketplace that has a built in tax advantage, which in most cases, are not required to collect and remit sales taxes from consumers.

meijer  
  
Sears Holding  
Corporation

Assembly Bills 386 and 387 would widen this tax disparity, increasing the property taxes on brick and mortar stores in Wisconsin to the competitive advantage of out-of-state online retailers. A business environment that provides tax advantages to out-of-state retailers while punishing in-state retailers with significant property tax increases can't help but have a negative effect on the industry. As taxes are increased, store profitability decreases, leading to less affordable products for consumers and dampening a business's ability to hire and retain employees.

Shopko  
  
Target  
  
Wisconsin Jewelers  
Association

In pushing this Legislation, the League of Wisconsin Municipalities has repeatedly suggested that retailers are shifting property taxes to residential taxpayers. This is not accurate. Over the last ten years, residential property tax collections, as a percent of total tax collections, have *declined* 2.8% while commercial collections have *increased* by 2.7% statewide. (2017 LFB informational paper #13, Table 4, page 4).

Assembly Bill 386, relating to comparable sales, is an attempt to bypass the traditional real estate appraisal practices by removing a component of market conditions, which drives the changing valuations of commercial properties. This deviation from industry standards is intended solely to increase property tax assessments. Assembly Bill 387, relating to leased properties, is an attempt to overturn recent court decisions against assessor overreach. In the past few years, assessors in various municipalities used lease agreements incorrectly in determining a property's market value. This legislation is in response to courts siding with property owners through the appeal process.

By the supporters of these bills own admission, passage of either AB 386 or AB 387 will result in a dramatic property tax increase for Wisconsin businesses. The League of Municipalities has indicated it will increase 7 to 10% in many communities, upwards of 17% in others. While targeted to go after large retail stores, Wisconsin's constitution requires the bills to be applied uniformly, meaning the bill has no choice but to negatively impact all Wisconsin businesses equally.

Please support Wisconsin taxpayers by opposing this dramatic property tax increase.

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**TO: Members of the Assembly Committee on Ways and Means**  
**FROM: Terrence Wall**  
**DATE: June 29, 2017**  
**RE: Opposition to Assembly Bill 386 and Assembly Bill 387**

Dear Chairman Macco and Committee Members,

My first major concern is that these bills (AB 386 and AB 387) as proposed would give way too much power to assessors who already have a significant upper hand in determining assessments.

Remember that even if a property owner appeals an assessment, you're appealing to a board appointed by the municipality which is frequently made up of former municipal employees or former elected officials who always favor higher assessments and higher taxes, so property owners have little power in the relationship.

The City of Madison is now using its upper hand and a so-called independent third-party study to justify massively higher assessments on commercial property without disclosing the fact that the study was written by a former assistant city assessor, all so the city can push a disproportional amount of the tax burden onto commercial properties compared to the prior balanced approach.

I attached a recent *Wisconsin State Journal* article describing the massive property tax increase on local businesses for your reference.

In my case, on one of my properties the assessor exploded the assessment 60%! Some properties in Madison saw their assessments double or triple. With a 60% increase, it means in order for that property to avoid defaulting on its loan, the residents will have to pay \$104 more per month in rent just to cover the increase in the property assessment.

Requiring assessments at the "highest and best use" is also a major concern. Highest and best use takes into account only the most expensive theoretical use even if that use is not the actual current use. It's hypothetical. This results in a free-for-all for cities to raise assessments significantly. An existing business that is viable in the present location could be closed by a highest and best use assessment.

Instead, assessments should be required to take into account current use rent and restrictions by leases, easements, and building condition. Assessments should be based on similar types of properties, such as apartments, and should be comparable among the property class in a given location and given condition type (I.E. type of construction by building code). Presently, the City of Madison assessor is pretending apartment buildings and hotels have been sold based upon one or two sales by non-income-taxable and often out-of-state institutions that have paid a higher price. The result is that hundreds of commercial properties are being pressured to go out of business or sell. This hypothetical sale value is wrong. Property assessments should be required to limit their valuation to current property level income or current use but not business income from the tenant.

In conclusion, I urge you to think about the negative consequences these bills would have on all property taxpayers, including small business and residential taxpayers as you give unelected assessors virtually unlimited power to assess property in this state.

[terrence@twallenterprises.com](mailto:terrence@twallenterprises.com)



ASSESSMENTS | STEEP INCREASE FOR HOTELS, APARTMENTS

# Hotel, apartment owners contest whopping increases in property values

DEAN MOSIMAN [dmosiman@madison.com](mailto:dmosiman@madison.com)

Jun 18, 2017

The city of Madison has received a high number of challenges to new assessments of commercial properties, including The Hilton Monona Terrace, 15 E. Wilson St., which saw its assessed value jump by \$29.3 million, or 135 percent, to \$51 million. Thirty hotels and 46 apartment buildings are challenging assessments. The city says the properties were undervalued and that the new assessments are appropriate and warranted.

The Hub Apartments, 437 N. Frances St., which saw its assessed value jump \$64 million, or 123 percent, to \$115.9 million, is among many large apartment building to challenge new assessments.

Madison hotel and apartment owners are contesting huge spikes in property values this year — many increases are over 100 percent — but city officials say properties were undervalued and increases are appropriate and warranted.

Ahead lies a potentially lengthy appeal process and court fights with results deciding tens of millions of dollars in property value, millions in property taxes, and the balance of tax burden between commercial and residential property owners.

The Madison Concourse, 1 W. Dayton St., the city's biggest hotel, saw the largest dollar jump among hotels, a whopping \$41.7 million, or 215 percent increase, to \$61 million. The Hub Madison apartments, 437 N. Frances St., leaped \$64 million, or 123 percent, to \$115.9 million, the highest among apartment buildings.

The big increases surprised hoteliers and are "pretty unreasonable," said Charlie Eggen, president of the Greater Madison Hotel & Lodging Association.

The Concourse is among 30 hotels and the Hub among 46 apartment buildings with eight or more units to formally challenge assessments this year. The challenges from hotels is triple the highest sum in the past decade, while those from bigger apartments second most in 10 years.

The number of challenges from hotels is “astonishing,” Eggen said, adding that others are also concerned but likely missed the May 8 deadline for filing a challenge.

Developer Terrence Wall, who owns apartment buildings, called the increases “outrageous” and said they’ll ultimately affect renters.

City assessor Mark Hanson said increases result from many factors, including undervalued properties, improving markets, limited information in the assessor’s office to keep up with changes, and a surge of hotel construction and a new type of luxury apartments that triggered a sharper look at those properties.

“It’s a big jump for some of them in one year,” Hanson said. “I’m sure some of them were caught off guard by that, but we needed to get caught up. It’s a big shock, but it’s warranted.”

All told, the city received 228 appeals from all types of commercial properties, second most in 10 years, and 497 appeals from residential owners, which include single-family homes and apartments with up to three units, third most in 10 years.

“I think these kind of things do happen occasionally, but this is a big increase,” said professor Tim Riddiough, James A. Graffkamp chair in real estate and urban land economics at UW-Madison. “I don’t think you’ve seen anything like this locally for a long, long time.”

Mayor Paul Soglin, who was surprised by the number of big increases, said the city has not had a policy of intentionally under-assessing commercial properties, but noted that the result of new values will reduce the property tax burden for homeowners.

“The purpose of the system is equity and fairness,” he said.

## **A closer look**

The assessor’s office felt a need to look more closely at commercial properties due to trends including the volume of building permits and sales above assessed value after the Great Recession, Hanson said.

Like most places, the recession affected city property values for years, with revaluations for commercial properties plummeting \$377 million in 2009 and falling slightly for three more years. Revaluations for hotels fell \$11.3 million in 2010 and more the next year before steady, modest increases began in 2012. Apartments with eight or more units dropped \$102 million in 2009 and began to rebound a few years later.

The Downtown, which rarely saw a new hotel in previous decades, suddenly saw a surge of hotel construction and proposals, Hanson said. Meanwhile, the city began to see new "student-influenced" apartments, towers with spectacular amenities like swimming pools and hot tubs on rooftops, never built here before.

Hanson said he's not sure when the city last did a deep re-examination of hotels and apartments.

Two of the city's prominent hotels saw little annual change in value for nearly two decades. The Concourse and Hilton Madison, 15 E. Wilson St., had no change from 2001 to 2006 and from 2010 to 2014. The Concourse, valued at \$16.5 million in 2001, edged to \$19.4 million in 2016. The Hilton, valued at \$18.5 million in 2001, was at \$21.7 in 2016.

For this year, the assessor's office secured special funding for outside help to get better information on hotels and specific, income-based appraisals on student-influenced apartments, said Laura Doherty, assistant assessor for commercial property.

The result shocked many commercial owners, especially hoteliers.

George Wiesner, general manager of the Park Hotel, 22 S. Carroll St., which just completed a significant renovation, called the hotel's \$28.2 million increase — a staggering 651 percent — to \$32.5 million, "alarming."

Weisner declined further comment due to the pending appeal. The hotel's building permit for its renovation begun in 2015 shows the estimated cost of work at \$4.8 million, far less than the increase in the hotel's new value.

"Business has been good. No one really expected no increase," Eggen said. "But you look at the scale of the increases. The increases go way beyond what is typical."

The increases, he said, mean hotels will face potentially skyrocketing property tax bills, a challenge for operations that already have top-end room rates and are paying rising wages to retain staff, he said.

The values are appropriate, Doherty said. "A lot of this has been expected for the last couple of years," she said. "I don't believe any of these would have listed properties (for sale) at 2016 assessed value."

Soon after the city announced new values, the city noted a rare hotel sale, a sign it's on the right track on hotel values, she said.

The Sheraton Madison, 706 John Nolen Drive, was assessed at \$8 million in 2016 and saw a 202 percent jump of \$16.3 million to \$24.4 million in value for this year. In mid-April, days after new values were announced, the city learned the hotel had sold for \$19.25 million, 143 percent more than the 2016 assessment but still \$4.9 million less than the 2017 value.

"It tells me we're a lot closer this year than last year," Doherty said, adding that the hotel's value could be lowered to the sale price if the sale meets factors for a true fair-market transaction.

The Hilton Madison Monona Terrace, 15 E. Wilson St., which saw its assessment rise \$29.3 million, or 135 percent, to \$51 million, is working cooperatively with the assessor's office to provide more information to reach an accurate value, said Laurie Hobbs, spokeswoman for Marcus Hotels & Resorts, which owns the property.

"The recent sale of the Sheraton Madison, in which we owned a small equity interest, is helping us to establish a baseline for local hotel valuation in our efforts with the city to create an accurate assessment for the Hilton Madison," she said.

The city will always consider new information, Doherty said.

## **Luxury high rises**

The apartment market is evolving, too, with the luxury high rises plush with amenities catering to a mix of students and young professionals, Hanson said.

"It's been a surprise to see projects like that," he said. "No one could foresee that type of housing on campus."

Doherty added, "It's gotten very complex. And we don't have more people. It's been a learning process for us, too."

The city, Soglin said, looked more closely at many types of apartments.

Newer upscale apartments, such as the Hub and Ovation 309, at 309 W. Johnson St., both opened in 2015, showed substantial increases over the first three years of operations, the norm for such properties, Hanson said.

The Hub's new \$115.9 million value still may not be high enough, Hanson and Doherty said. New information suggests a transfer of ownership with the property selling for \$188.5 million, they said. News of a possible sale didn't come through the state

Department of Revenue, as usual, but after a tip and checking sources that track increasingly complex financial transactions, they said.

That means the Hub's value could rise or fall during the challenge process, depending on actual income information or proof of a fair market sale at the higher price, Doherty said.

Core Campus of Chicago, which built the Hub and is now constructing another upscale apartment building near UW-Madison, declined comment.

Not all apartments seeing big increases are Downtown. Wall said his Watermark Lofts, 950 John Nolen Drive, rose 18 percent, while Wingra Point, 1033 High St., jumped almost 60 percent. The higher assessments mean Watermark residents will pay an extra \$52 monthly in rent, while residents at Wingra Point will pay another \$106, he said.

The city is now beginning a potentially lengthy appeal process that begins with conversations and could end before the state Supreme Court.

"We still hope the process will work," Eggen said. "(But) my feeling is there's general will to take this far, if necessary."

### **Getting better information**

Assessing values of commercial properties is more challenging and complicated than for single-family homes, which is based on comparable sales in a property class where there's usually a large sample, Hanson said.

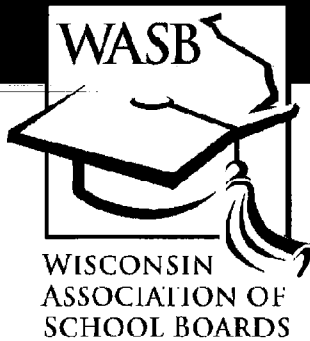
For commercial properties, including hotels and apartments, assessors can consider cost of construction, which often doesn't align with value; income, the most common method; and comparable sales, which is attractive but offers a relatively small sample size.

The income approach is tricky because state law allows commercial owners to withhold information unless challenging a new value. The city sometimes asks for the information but usually doesn't get it and must set values based on estimates produced through analysis of multiple factors, including number of rooms or units, room or rental rates, quality, location, expenses and more.

As a result, revaluations for many commercial properties, including hotels and apartments, soared this year. All commercial properties rose a stunning \$745 million,

including a \$258.2 million jump for hotels, while apartments with more than eight units jumped \$175 million. The increases are the most in at least 15 years.

"It would have been nice if we had done this a couple of years ago. Then you wouldn't have seen such a big jump," Hanson said. "We're doing the best we can with the information we have."



"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, Assembly Committee on Ways and Means  
FROM: Dan Rossmiller, WASB Government Relations Director  
DATE: June 29, 2017  
RE: **SUPPORT for ASSEMBLY BILL 386**, relating to property tax assessments based on comparable sales and market segments.

The Wisconsin Association of School Boards (WASB), on behalf of all 422 public school boards in the state of Wisconsin, **supports** Assembly Bill 386. 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 group of taxpayers or class of property owners can 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.

Assembly Bill 386 is designed to establish a set of reasonable statutory assessment "ground rules" or guidance to curb a strategy that a particular type of property owners—particularly so-called "big box retail chains—has sought to use to reduce its property tax burden, thus shifting a portion, often significant, of the property tax burden to other taxpayers, including homeowners and small businesses.

The brick and mortar stores of so-called "big box" retailers have proven to be a challenge for property tax assessors. While there will likely always be disputes over assessments between owners and assessors, the problem facing assessors is finding appropriate "comparables" within this market segment of "big box" stores because of some unique characteristics of these properties.

Unlike most other types of property, big-box stores are generally not built to be sold. Instead they are typically built and occupied by the owner—the first generation user. As a result, relatively few first-generation big box store properties are offered for sale. Those that are offered for sale are typically offered in a sale-leaseback transaction in which the property is sold to investors and then leased back to the big box retailer—thus, the big-box chain becomes the tenant.

Even when a big-box chain abandons a store, whether because there may no longer be customer support at that location or due to corporate downsizing or even a poor business decision, chances are good that the abandoned store may not be offered for sale to another retail chain that might profitably operate in that store location. In many cases, big-box retailers' stores have restrictions placed on them when they are sold. These deed restrictions (also known as restrictive covenants) prohibit a rival chain from operating in one of a big-box retailer's former stores. These deed restrictions arguably prevent these properties from being put to their highest and best use as retail stores and limit the number of potential buyers and sales among the pool of the most likely buyers—other retailers. They also prevent the vacant stores from being offered for lease to competing users, preventing potentially ideal users from negotiating and establishing market rent for the property.

This bill is prompted by the fact that big box retailers have argued, often successfully, that fully operational big box stores should be assessed in the same manner as abandoned, obsolete, vacant buildings—so called "dark stores"—earning this approach the nickname the "dark store strategy."

All property owners have a right to challenge their assessment for property tax purposes; however, big box chains have been particularly organized and aggressive in their property tax appeals in other states using this dark store strategy.

Assembly Bill 386 attempts to head off this scenario in Wisconsin. It legislatively clarifies long-standing statutory directives, in s. 70.32 (1), Stats., to consider recent arm's-length sales of "reasonably" comparable property and to consider all factors that, according to professionally acceptable appraisal practices, affect the value of the property to be assessed.

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.

Assembly Bill 386 attempts to define comparable sales or rentals of properties in a way that reflects the realities of how big box stores operate in the real estate market in a way that is fair to all taxpayers. The bill requires an assessor to consider all of the following as comparable to the property being assessed:

- Sales or rentals of properties exhibiting the same or a similar highest and best use with placement in the same real estate market segment; and
- 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.

The bill 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.

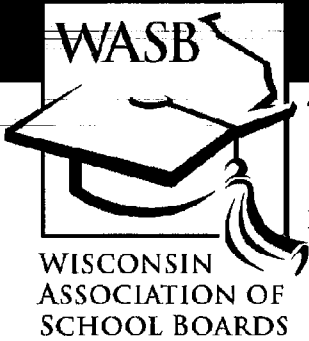
Assembly Bill 386 also provides that a property is not comparable to the property being assessed if the seller has placed restrictions on the highest and best use of the property or if the property is dark property and the property being assessed is not dark property. The bill defines "dark property" as property that is vacant or unoccupied beyond the normal period for property in the same real estate market segment.

This approach has both logic and merit. It clarifies for assessors what the highest and best use of the property is in a common sense way. If a big box store property is occupied by a first-generation user and is operating successfully, the highest and best use of that property is likely to be in its continued use as a first-generation big box store. Its use value and its exchange value would be identical in such a situation. The deed restrictions that often encumber big box properties eliminate potential buyers who would use the property in its highest and best use, thereby artificially lowering the potential sales price of the property. Under the bill, if an assessor determines such a deed restriction changes the highest and best use of the property so that it is no longer comparable or if the deed restriction substantially impairs the property's marketability, it could no longer be considered as comparable. Finally, while the sales or assessments of vacant or unoccupied big box stores ("dark stores") could be given consideration, they could no longer be considered as comparable. The bill directs assessors to ensure that the sale and the comparable have the same highest and best use.

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 school districts property tax base against erosion and prevent more of the property tax burden to other taxpayers, such as homeowners, who do not have the benefit of structuring their ownership or rental interests as big box retailers can.

For the reasons indicated, we support Assembly Bill 386. Thank you for the opportunity to address the committee today.





"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, Assembly Committee on Ways and Means  
FROM: Dan Rossmiller, WASB Government Relations Director  
DATE: June 29, 2017  
RE: **SUPPORT for ASSEMBLY BILL 387**, 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** Assembly Bill 387. 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, Assembly Bill 387 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, Assembly Bill 387 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 Assembly Bill 387. Thank you for the opportunity to address the committee today.



## **BOARD OF SUPERVISORS**

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

Good morning. My name is Jeff Nooyen. I am the County Board Chair for Outagamie County and also a member of the Grand Chute Town Board. I want to thank you for giving me the opportunity to address you on what is the single most important issue currently facing taxpayers in Outagamie County.

Outagamie County has been notified by several 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.

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 county's equalized valuation of \$14 billion dollars, or approximately \$700 million dollars is due to "dark store" retail buildings. If the value of these stores were cut in half, or \$350 million dollars, 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 \$140.00 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. None are registered voters in the State of Wisconsin.

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.

This week, opponents of this bill began running radio ads stating "Our leaders should look for ways to lower our taxes, not make it harder for small businesses and families to make ends meet." This is laughable. These are large national corporations. As a small business owner of 30 years, I find this offensive. I paid dues to the Fox Cities Chamber of Commerce for 25 years. Not one of these corporations are members of the local chamber. 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.

As a town board member, I see firsthand the disproportionate amount of local services they use, particularly police and fire. 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 home owners 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.

<b>RESOLUTION NO. 9190-16 of the COUNCIL AS A WHOLE</b>		
Committee Date: NA	Committee Action: NA	
Resolution urging the Governor and the Legislature to close loopholes causing more of property tax burden to shift from commercial to residential.		
Public Hearing: Na	Date Introduced: December 6, 2016	Council Action: Adopted

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

**WHEREAS**, the disproportionate burden is about to get much worse unless the Legislature closes loopholes that national drugstore chains and big box retail establishments are using across the county 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 forcing assessors to slash the market value of thriving national retail stores, shifting the tax burden to local mom and pop shops and homeowners; and

**WHEREAS**, retail drug stores in Wisconsin have argued in communities across the state that the assessed value of their property for tax purposes should be half of its actual value on the open market; and

**WHEREAS**, in many cases the courts have sided with retail drug store owners requiring communities to refund tax revenue back to stores; and

**WHEREAS**, big box chains are using what is known as "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

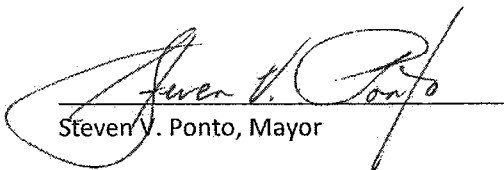
**WHEREAS**, the Republican-controlled Indiana State Legislature has on two occasions in the last two years overwhelmingly passed legislation prohibiting assessors from valuing new big box stores the same as nearly abandoned stores from a different market segment; and

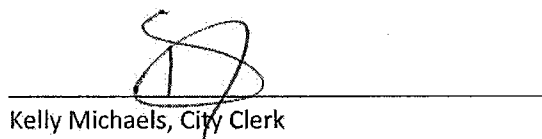
**WHEREAS**, the Michigan House of Representatives overwhelmingly passed similar legislation in May of 2016.

**NOW, THEREFORE, BE IT RESOLVED**, that the Common Council of the City of Brookfield urges the Governor and the Legislature to protect homeowners and main street business from having even more of the tax burden shifted to them by passing legislation clarifying that:

1. Leases are appropriately factored into the valuation of properties; and
2. Assessors must, when using the comparable sale method of valuation, consider as comparable those sales exhibiting a similar highest and best use market segment, rather than similarly sized but abandoned properties.

**PASSED AND ADOPTED** by the Common Council of the City of Brookfield, County of Waukesha, State of Wisconsin on the 6<sup>th</sup> day of December, 2016.

  
Steven V. Ponto, Mayor

  
Kelly Michaels, City Clerk

Prepared comments of Johnson Creek Village Administrator Kyle L. Ellefson.

Good morning/afternoon.

I would like to thank Chairman Macco, Vice Chairman Katsma and each of the Committee members for allowing me to speak about this issue.

I am the Village Administrator for the Village of Johnson Creek, a community of about 3,000 people located at the crossroads of State Highway 26 and Interstate 94. Our community is like many small Wisconsin municipalities, spending the majority of our resources on basic services like streets, parks and emergency services. Where Johnson Creek is different; and why this issue is absolutely critical for our future; is how the disproportionate amount of commercial development in our community will be particularly devastating for Johnson Creek if the use of these loopholes continues.

Commercial development accounts for nearly half of all assessed value in Johnson Creek, resulting in the unusual combination of a town of 3,000 people having a variety of commercial enterprises including Menards, Kohl's, a 12-screen movie theater, and an outlet mall with 60 national and international retailers.

Being located at one of the busiest intersections in the region, we see thousands of visitors come to our community every day to shop, dine, or stay. I see the persistently high volume of customers at these businesses located within eyesight of the Interstate, and knowing we are located between two of the largest metropolitan areas in the State, I understand how valuable these properties are, and why these commercial property owners have invested so much money in the land and buildings. What I cannot understand is why some of these same commercial property owners would compare this prime location to one that is not similar by almost any reasonable measure, and may not even be operating any longer. It is also worth mentioning that the Village's Tax Increment District that spent millions of dollars creating viable commercial opportunities for dozens of businesses will suffer directly, reducing tax revenue that was anticipated from the increased value of the very businesses that are benefiting from the improvements and incentives of the TIF District.

Johnson Creek operates with limited resources, and we work very hard to ensure our property tax levy remains reasonable for residential, commercial, and industrial taxpayers. If the commercial property values are manipulated to the point where we lose half of the assessed commercial value, a typical homeowner will see an increase of more than 20% on their total tax bill, adding nearly \$1,000 to their taxes every year. Several of our industrial taxpayers could expect an increase of \$20-70 thousand dollars each year. A blunt impact of that magnitude will discourage new equipment purchases, eliminate new or existing positions, and could wipe out years of policy progress, reducing Wisconsin's attractiveness on a regional and national level. This extraordinary increase in tax burden for the majority of taxpayers in the community will not result in improved services, will not see additional police or firefighters on the street, will not create better roads, and will not be used to expand park or recreation programs. This increase will be simply to maintain services. If we wanted to reduce the impact of the manipulated reallocation of property tax levy, our only realistic option will be to eliminate people, programs or services. Over time, this increased burden on residential properties will reduce the number of new homeowners, while leaving older homeowners on a fixed income no choice but to move from the homes they have lived in for years.

I have discussed this issue with the Johnson Creek School Superintendent as well, and he asked me to share that this issue is, *"very important to the integrity of the school funding formula."* *The District, "needs to be protected from this type of manipulation of the property valuations. With the school funding formula being based upon property values, any significant shift in decreasing property values, in which these maneuvers result, causes undue financial burdens upon our schools and the taxpayers left to pick up the slack."*

I think many of us in this room realize this loophole is not fair. I respectfully request you protect the fairness and integrity of our assessment system for all taxpayers, and take action to support this bill.

Thank you for your time.



Department of Administration  
Intergovernmental Relations Division

Tom Barrett  
Mayor

Sharon Robinson  
Director of Administration

Jennifer Gonda  
Director of Intergovernmental Relations

City of Milwaukee Testimony on AB 387  
Assembly Committee on Ways and Means  
June 29, 2017

The City of Milwaukee supports AB 387 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 <sup>th</sup>	3	2015	\$ 4,375,000	\$ 2,543,000	\$ 1,500,000	-66%
Walgreens	5201 N 91 <sup>st</sup>	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 <sup>th</sup>	4	2015	\$ 5,958,507	\$ 2,248,000	\$ 1,900,000	-68%
				<b>\$ 35,376,954</b>	<b>\$ 14,036,000</b>	<b>\$ 10,500,000</b>	<b>-70%</b>



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 AB 387 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](mailto:bwood@milwaukee.gov)



# COUNTY OF KENOSHA

## OFFICE OF THE COUNTY EXECUTIVE

Jim Kreuser, County Executive

1010 – 56<sup>th</sup> Street, Third Floor

Kenosha, Wisconsin 53140

(262) 653-2600

Fax: (262) 653-2817

June 28, 2017

Dear Ways and Means Committee Members:

As Kenosha County Executive, I urge your support of both 2017 AB 386 (dark store) and 2017 AB 387 (Walgreens reversal).

Like many other communities, ours has been negatively impacted as the result of a property tax cost shifting from retailers to residential taxpayers. By approving these bills, you will help eliminate this unfair practice of successful commercial businesses putting an unfair burden on hardworking homeowners.

To argue that a new large retail building in a burgeoning southern half of the City of Kenosha can be compared to a more than 30 year old former big box retail store in an older part of the City of Kenosha, for example, is ludicrous. This is a real example in Kenosha that would result in a \$250,000 blow to residential taxpayers.

A similar shift has occurred consistently with Walgreens stores as they seek to ignore the value of their operation and attempt to not pay their fair share in property taxes. There are multiple examples of this unfair practice in our county that have resulted in a shift of millions in taxes to homeowners.

Additionally, most of the time, large retail operators do not bring forth their assessment concerns to the Board of Review. They, instead bypass the process, withhold information and go right to Circuit Court. This practice wastes taxpayer dollars by going through the Court system.

These retailers are exploiting loopholes in the assessment law and are leaving residential property owners to pick up the bill, but without enjoying any increases in services. It is unfair and damaging to the wallets of residents.

I ask that you support 2017 AB 386 and 2017 AB 387. Passage of these bills will restore equity for residential taxpayers and allow municipalities and counties to fairly assess property and efficiently provide services.

Sincerely,

Jim Kreuser



JOHN M. ANTARAMIAN  
Mayor

June 29, 2017

Committee on Ways and Means  
State Capitol  
Madison, WI 53708

Dear Ways and Means Committee Member:

It is with the strongest conviction that I would like to pen my support for both 2017 AB 386 (dark store) and 2017 AB 387 (Walgreens reversal).

As I started to write this letter, I reviewed the League of Municipalities website which featured information on both of these bills. I was looking for talking points that would ring true with me, as Mayor of Kenosha, and also have importance to the community I govern.

I was struck as I got to the third page of the informational packet for the dark store legislation (AB 386). The third page contains two pictures. The top picture is a new Meijer store and the lower picture is an abandoned big box store that appeared to have been a Walmart. I was struck not only because of the verbiage between the pictures which states, "Should this new thriving store be valued for property tax purposes like the abandoned store in the photo below? **The result is that other taxpayers must pick up the slack.**" I was also struck because I am fairly certain these pictures may be from Kenosha.

The Kenosha Meijer store opened in 2015 at an approximate cost (actual cost will not be provided) of \$20M for land and improvements. Meijer appealed the 2016 assessment (\$19,480,400) on their new store and stated that the fair market value was \$9M. One of the data points used to justify the \$9M value was the bottom picture, our old Walmart. Not only was this property dark, it was 30 years older, and in an area of the city where the life cycle of commercial properties was at a completely different stage. If Meijer were to be successful using their dark store concept, more than \$250,000 yearly in taxes would shift to residential taxpayers.

Our community also sees the effect of the Walgreens decision. Two of our Walgreens have sold for \$5.5M and \$6.4M. Walgreens has appealed these properties and felt the value was \$1.8M. **How in good conscience can I explain to the taxpayers of Kenosha that sales of single family residential properties are valid to establish assessments but the sale of a marketed**

Committee on Ways and Means

June 29, 2017

Re: AB 386 and AB 387

Page 2

**property in which the price was negotiated, with a reported real estate value of \$6.4M (established by Walgreen's) on the real estate transfer return, should be assessed at \$1.8M.**

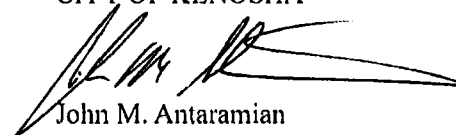
If successful in using the Walgreens decision on these two properties, nearly \$250,000 yearly in taxes would shift to residential taxpayers.

Thus with just three examples our community could have a huge shift in taxes (\$500,000) yearly to residential taxpayers. I do not want to think what could happen when all retail properties appeal and I have to explain to the taxpayers why they are seeing higher property tax bills without higher assessments and without increased services.

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Please join with me in supporting and moving forward both of these bills. Passage of these bills will allow the City of Kenosha to have fair taxation, increased efficiency, and reductions in cost.

Sincerely,  
CITY OF KENOSHIA



John M. Antaramian  
Mayor



# CITY OF JANESVILLE

*Wisconsin's Park Place*

## Impacts of the "Dark Store" Strategy in Janesville

### 2011 To Date

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- Tax shift from court-ordered settlements: **\$1,001,529** or **\$31.92** in increased property tax for the average assessed household in Janesville (\$121,400).
- "Dark Store" litigations cost the City of Janesville **\$181,257**.

### Menards Example

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- 2007 site and new construction costs at Menards: **\$27,934,100**.
- 2007 assessment: **\$17,579,600**.
- Assessment appeals began in 2013 using "Dark Store" comparisons for appraisals.
- In 2017, the City settled with a payout of **\$403,608**, a **\$12.86** tax shift for the average assessed home.

### Pending Cases

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- The City has five pending assessment appeals cases based on the "Dark Store" theory.
- If the pending appeals were granted, the tax shift would be **\$17,216,200**, or **\$548.65** for the average assessed home.

Wisconsin Assembly Committee on Ways and Means  
 Support for AB-386 and AB-387  
 June 29, 2017 Public Hearing  
 Jay Shambeau, Administrator  
 City of West Bend

Chairman Macco and Committee on Ways and Means:

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 (see attached) 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 AB-387 lease issue and the dark store AB-386 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:**

<b>AB-387</b>	<b>Last Sale</b>	<b>2017 Assessment</b>	<b>Big box recommended value</b>	<b>2016 Tax Rate</b>	<b>Estimated Tax Shift</b>	<b>Status</b>
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
<b>AB-386</b>	<b>Last Sale</b>	<b>2017 Assessment</b>		<b>2016 Tax Rate</b>	<b>Estimated Tax Shift</b>	<b>Status</b>
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 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,

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

Jay Shambeau, Administrator  
City of West Bend

RESOLUTION NO. 13  
2017 – 2018 COMMON COUNCIL

A RESOLUTION SUPPORTING SB292 & AB386 DARK STORE BILL AND SB291 &  
AB387, REVERSING 2008 WALGREENS VS CITY OF MADISON COURT DECISION

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**Whereas**, the City of West Bend is being impacted by a growing number of legal appeals involving big box and investment type properties. 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 comparing their buildings to nearby vacant or abandoned stores from a different market segment; and

**Whereas**, it is estimated that statewide, millions of dollars in property taxes will shift from large commercial properties to homeowners and other taxpayers over the next few years if these loopholes are not addressed through legislation; and

**Whereas**, three Republican legislators have prepared bills that would curb strategies used by major retailers to reduce tax assessments on their properties; and

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**Whereas**, Senate Bill 292 & Assembly Bill 386 clarify 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. These bills explicitly provide that assessors may not use a dark store as a comparable for property that is not dark or vacant; and

**Whereas**, Senate Bill 291 & Assembly Bill 387 reverse the Walgreens v. City of Madison decision by clarifying that leases are appropriately factored into the valuation of leased properties; and

**Whereas**, it is important to realize that if these bills are enacted, the City of West Bend will not receive additional tax revenue; however, it will prevent the significant tax shift from commercial to residential property tax payers.

**Now, Therefore, Be It Resolved**, that the City of West Bend urges Governor Scott Walker and the entire Legislature to support Senate Bill 292, Senate Bill 291, Assembly Bill 386 and Assembly Bill 387.

Adopted this 19<sup>th</sup> of June 2017, by the Common Council of the City of West Bend,  
Wisconsin.

Introduced by Alderperson Chris Jenkins

Kraig K. Sadownikow, Mayor

Attest: Stephanie Justmann, City Clerk



RESOLUTION NO. 27  
2016-2017 COMMON COUNCIL

A Resolution regarding Tax Loopholes used by National Chains Causing More of Property Tax Burden to be Shifted from Commercial to Residential

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

Whereas, that disproportionate burden is about to get much worse unless the Legislature takes action to close loopholes that some national chains and big box retail establishments 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 businesses and homeowners; and

Whereas, some national chain stores in Wisconsin have argued in communities across the state that the assessed value of their property for property tax purposes should be only half of its actual value on the open market; and

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

Whereas, 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 comparing their buildings to nearby vacant or abandoned stores from a different market segment; and

Whereas, the Republican-controlled Indiana state Legislature has on two occasions in the last two years overwhelmingly passed bipartisan 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 City of West Bend 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.

Adopted this 17th of October 2016, by the Common Council of the City of West Bend, Wisconsin.

Introduced by Alderperson Chris Jenkins

Kraig K. Sadownikow, Mayor

Attest: Amy Reuteman, City Clerk

RESOLUTION NO. 17- 012

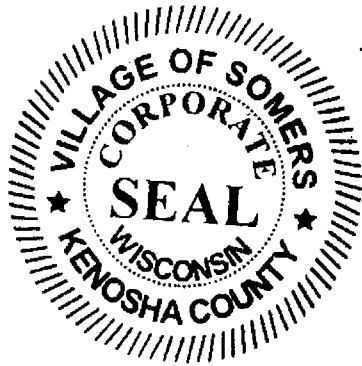
RESOLUTION SUPPORTING SENATE BILL 291 AND  
SENATE BILL 292 REGARDING PROPERTY ASSESSMENTS

WHEREAS, the Village Board of the Village of Somers, Kenosha County, Wisconsin, is in support of SB291, the substance of which is to reverse a Wisconsin Supreme Court case known as Walgreens v. City of Madison, et al. By clarifying that for property tax purposes, real property includes any leases, rights and privileges pertaining to the subject property, including assets that cannot be taxed separately as real property, but are inextricably intertwined with the real property and is in support of SB292, generically known as the "Darkstore Bill" which clarifies that for property tax assessment purposes, property is not comparable to the property being assessed if the seller has placed restrictions on the highest and best use of the property or if the property is dark property and the property being assessed is not dark property.

THEREFORE, BE IT RESOLVED, that the Village Clerk/Treasurer forward a copy of this Resolution to appropriate representatives in the Wisconsin Assembly and Wisconsin Senate.

Dated this 13 day of June, 2017.

VILLAGE OF SOMERS



By: George Stoner  
George Stoner, President

Attest: Timothy Kitzman  
Timothy Kitzman, Clerk/Treasurer

DAVISON LAW OFFICE, LTD.

1207 55<sup>th</sup> Street, Kenosha, Wisconsin 53140

Telephone No. (262) 657-5165 Fax No. (262) 657-5517 Email: [dmltd@sbcglobal.net](mailto:dmltd@sbcglobal.net)



# COUNTY OF KENOSHA

OFFICE OF THE COUNTY EXECUTIVE  
Jim Kreuser, County Executive

1010 – 56<sup>th</sup> Street, Third Floor  
Kenosha, Wisconsin 53140  
(262) 653-2600  
Fax: (262) 653-2817

June 28, 2017

Dear Ways and Means Committee Members:

As Kenosha County Executive, I urge your support of both 2017 AB 386 (dark store) and 2017 AB 387 (Walgreens reversal).

Like many other communities, ours has been negatively impacted as the result of a property tax cost shifting from retailers to residential taxpayers. By approving these bills, you will help eliminate this unfair practice of successful commercial businesses putting an unfair burden on hardworking homeowners.

To argue that a new large retail building in a burgeoning southern half of the City of Kenosha can be compared to a more than 30 year old former big box retail store in an older part of the City of Kenosha, for example, is ludicrous. This is a real example in Kenosha that would result in a \$250,000 blow to residential taxpayers.

A similar shift has occurred consistently with Walgreens stores as they seek to ignore the value of their operation and attempt to not pay their fair share in property taxes. There are multiple examples of this unfair practice in our county that have resulted in a shift of millions in taxes to homeowners.

Additionally, most of the time, large retail operators do not bring forth their assessment concerns to the Board of Review. They, instead bypass the process, withhold information and go right to Circuit Court. This practice wastes taxpayer dollars by going through the Court system.

These retailers are exploiting loopholes in the assessment law and are leaving residential property owners to pick up the bill, but without enjoying any increases in services. It is unfair and damaging to the wallets of residents.

I ask that you support 2017 AB 386 and 2017 AB 387. Passage of these bills will restore equity for residential taxpayers and allow municipalities and counties to fairly assess property and efficiently provide services.

Sincerely,

Jim Kreuser



June 29, 2017

Dear Representative Brooks:

I am writing to share my support for your "dark store bills."

I believe these bills are in the best interest of our State as well as local systems of government. As the Superintendent of the West Bend School District, I had the unfortunate experience of having a national chain sue and win a "refund." It was a significant amount of money that we had to pay back as a result of a new assessment of the property.

I believe that the value of a property for purposes of property taxes should be calculated not on what the lowest possible value of a property is, but a more realistic value of the property. When a property is appraised at a high level, but assessed at a low level for purposes of tax evasion -- I believe this to be fraud.

I applaud you for your diligence and foresight with these bills and you share my strongest support.

Sincerely,

A handwritten signature in black ink that reads "Ted".

Ted Neitzke

513 Brentwood Ct.

Port Washington, WI

CESA 6/CEO



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500 Genesee Street, Delafield WI 53018

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June 28, 2017

Representative Robert Brooks  
Via Email - [Rep.Rob.Brooks@legis.wisconsin.gov](mailto:Rep.Rob.Brooks@legis.wisconsin.gov)

Dear Representative Brooks,

The Common Council of the City of Delafield and I, are writing on behalf of the City's residents in support of the following two bills that will be the topic of the public hearing to be held by the Assembly Ways and Means Committee on Thursday, June 29, 2017:

1. AB 386, the Dark Store Bill. This bill will ensure that the dark store tax strategy being used by big box retail chains to cut their property tax bills in half in Michigan and other states does not take hold in Wisconsin. If this bill is not enacted and the dark store strategy wins in Wisconsin courts, the result will be a significant tax shift from commercial to residential property tax payers. Homeowners already bear a disproportionate share of the property tax burden (68%).

The bill is modeled after similar legislation that the state of Indiana passed in 2016. It 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 store as a comparable for property that is not dark or vacant.

2. AB 387, Reversing the 2008 *Walgreens v. City of Madison* decision. The 2008 Walgreens 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 and CVS 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. As a result, more of the property tax burden is shifted to homeowners and other taxpayers.

For example, the Wisconsin Court of Appeals recently relied on *Walgreens v. City of Madison* 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 must now make a \$350,000 tax refund.

In the City of Delafield we are currently dealing with numerous excessive assessment claims based on the dark store strategy or the *Walgreens v. City of Madison* decision. Following is a summary of the major claims that we are dealing with and the impact that they could have on the City's property tax base:

<b>Claimant</b>	<b>Year</b>	<b>Existing Assessment</b>	<b>Claimed Assessment</b>	<b>Potential Tax Base Decrease</b>
Walmart	2017	\$12,676,000	\$6,700,000	\$5,976,000
Walmart Center (strip mall)	2016	\$14,801,300	\$8,569,400	\$6,231,900
Kohl's	2015	\$ 9,104,700	\$4,942,771	\$4,161,929
Colder's	2017	\$5,600,000	\$3,935,000	\$1,665,000
KinderCare	2017	\$1,671,200	\$ 770,000	\$ 901,200

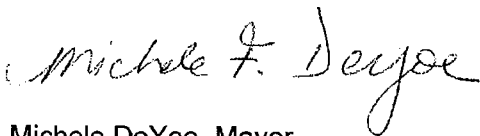
Delafield Woods	2016	\$6,909,100	\$3,027,051	\$3,882,049
Burger King	2016	\$1,110,900	\$ 548,450	\$ 562,450
Walgreen's	2016	\$3,142,400	\$1,810,329	\$1,332,071

**TOTAL:** **\$24,712,599**

The above numbers reflect individual claimed assessment reductions of up to over 56%. The more than \$24 million in potential tax base loss represents nearly 2% of the city's assessed value (TID out). The city fears that this is just the tip of the iceberg, as more and more commercial entities become aware of the dark store and *Walgreens v. City of Madison* decision loopholes. Although some view these strategies as an effective way for commercial businesses to reduce property taxes, the taxes don't just go away. Instead they are merely shifted to residential property tax payers, who then bear the additional tax burden. It is critical to the fairness of our tax system that all properties be assessed at their fair market value.

It would be appreciated if you would distribute this letter to the Assembly Ways and Means Committee for the public hearing on June 29 and have the letter entered into the public record on behalf of the City of Delafield.

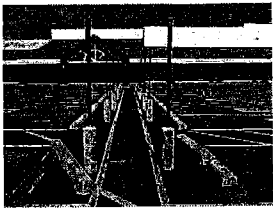
Sincerely,



Michele DeYoe, Mayor

# City to state: Hurry up on 'dark store' legislation

McLean Bennett, USA TODAY NETWORK-Wisconsin 2:45 p.m. CT June 20, 2017



(Photo: ANDREW JOWETT, TIMES HERALD)

**SHEBOYGAN** - The City of Sheboygan is throwing its support behind Wisconsin lawmakers' efforts to pass "dark store" legislation that could affect how much state businesses pay in local property taxes.

The city's Common Council, without discussion, voted unanimously Monday night to pass a resolution asking the governor and state Legislature "to protect homeowners and main street businesses from having even more of the property tax burden shifted to them" by passing the proposed legislation:

The "dark store" issue has been gaining traction lately in parts of the country after businesses have challenged how governments assess their brick-and-mortar stores' value. Companies have argued their properties should be assessed as being similar in value to nearby vacant — or "dark" — stores, which can

lower their taxes. Opponents have cried foul over what they claim is a loophole that shifts taxes from stores to homeowners.

"I just don't think the relief that some of the big-box retailers are getting is justified," said Council Alderman Jim Bohren, who presented Monday's resolution.

The document notes homeowners already pay more than two-thirds of the state's total property taxes. It warns "that disproportionate burden is about to get much worse unless the Legislature addresses tax avoidance strategies" by national chains and big-box retailers "to gain dramatic reductions in their property tax bills."

The city measure, which appears modeled on a draft endorsed by the League of Wisconsin Municipalities, makes explicit reference to a state Assembly bill that would prohibit tax assessors from using nearby dark stores as comparable properties when determining business' store values. A related Assembly bill would deal with leased properties' value.

Both bills have fielded support from Republicans and Democrats in the Assembly, including from Oostburg Republican Terry Katsma. Both have been referred to the Assembly's Ways and Means Committee.

Sheboygan officials said the city has already been hit by more than \$550,000 in lost tax revenue in recent years following challenges by local businesses over their tax bills. The biggest loss came when the former owners of Memorial Mall won more than \$800,000 in tax refunds two years ago over contested property assessments.

For the city, the mall case amounted to more than \$530,000 in lost taxes between 2010 and 2016, with losses also hitting other local jurisdictions, according to information provided by the city. Local Walgreens stores have also seen reductions in their property bills following challenges to their assessments.

The state's League of Wisconsin Municipalities has said the dark store taxing strategy can in some cases cut business' property tax assessments in half. The group is stumping for proposed state legislation that would effectively curb the practice.

"No appellate court in Wisconsin has endorsed the dark store strategy yet," the League notes on its website. "However, if this strategy becomes successful in Wisconsin it could result in a shift of millions of dollars in tax burden from commercial property owners to homeowners and other taxpayers."

Not everyone is behind the measure, though. Wisconsin Manufacturers & Commerce, the state's biggest business lobbying group, has criticized both bills, saying they could hurt Wisconsin's business climate and exorbitantly hike some stores' taxes.

"The legislation will dramatically change how property is valued in Wisconsin," the group wrote on its website last month. The proposed legislation, according to the group, would make it easier for assessors to include other variables besides property size, location and structure when determining a building's value.

Sheboygan joins a number of other municipalities in Wisconsin, including Plymouth, that has approved similar resolutions calling on state lawmakers to act on the issue.

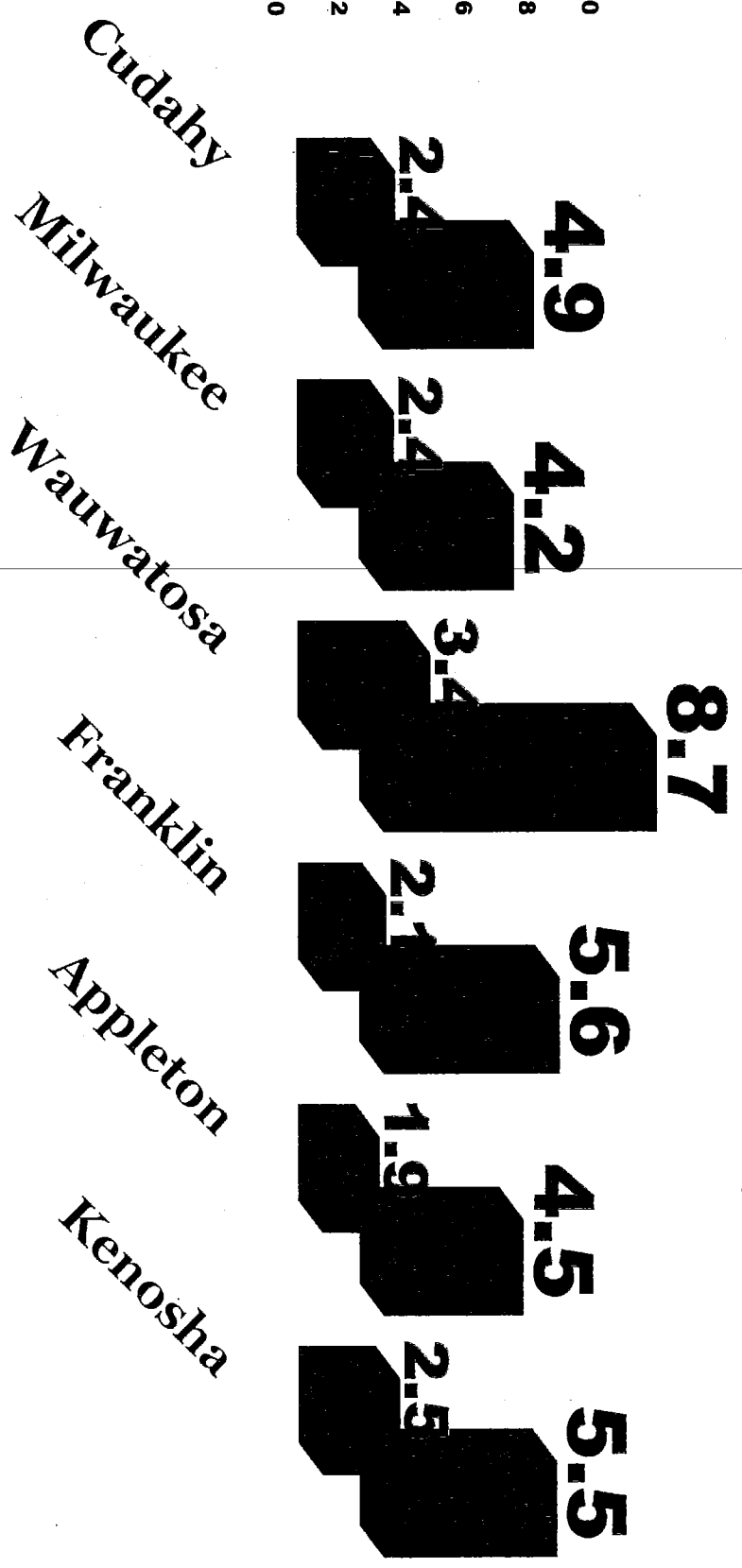
Reach McLean Bennett at 920-453-5133, [mbennett2@gannett.com](mailto:mbennett2@gannett.com) or [@Bennett\\_McLean](https://twitter.com/Bennett_McLean) on Twitter.

Read or Share this story: <http://shebpr.es/2tpLBBd>

# Walgreens/CVS Assessed Versus Sale Values

Millions of Dollars

10  
8  
6  
4  
2  
0



■ Assessed Value    ■ Sale Value



## Big box stores, police calls go hand in hand, analysis shows

By Kevin Passon [kpasson@hngnews.com](mailto:kpasson@hngnews.com) | Posted: Thursday, May 11, 2017 2:56 pm

Retail theft is not the only reason police officers respond to big box stores, but it's what people think of most when they see a patrol car roll through the parking lot.

Regardless of the reason for the service call, Monona police responded 1,873 times to eight big box stores in the city in 2016. That's a 30 percent increase in the number of calls (1,435) to the same eight stores in 2011.

And the cost? That comes to more than \$75,000 – not counting any follow-ups or investigations.

Monona Police Chief Walter Ostrenga says location is the main reason they have so many calls. Being adjacent to Highway 12/18, Highway 51 and Interstate 39/90 means access for people traveling through the area. Walmart's proximity to the Tellurian Detoxification Center and the Wisconsin Probation and Parole Office contribute to crimes in the area.

"A lot of that's just our geographic location, being surrounded by Madison, and some of the ease of crime being easy out on the beltline," added Monona Police Lt. Curt Wiegel.

The statistics from a report compiled by the MultiJurisdictional Public Safety Information System (MPSIS) Commission, which represents police departments in Fitchburg, Middleton, Monona, Sun Prairie and Verona.

It was recently presented to the Monona City Council during a discussion of big box stores' attempts to lower their property tax bills.

The Monona stores singled out in the report are Shopko, Walmart, Kohl's, Goodwill, Walgreens, Menards, Pick 'n Save, and Staples.



### Police calls on the rise

Monona police responded 1,873 times to eight big box stores, including Walmart and Kohl's, in the city in 2016. That's a 30 percent increase in the number of calls (1,435) to the same eight stores in 2011.

Of the 1,873 calls for service last year, 1,088 of them were for Walmart alone. The Walmart calls resulted in 1,517 officers being dispatched to the store, and those officers recorded 1,009 hours of work on those initial calls, bringing the cost to the police department to \$51,731.

For the eight Monona stores combined, there were 2,506 officers dispatched for the 1,873 calls. Those officers recorded 1,464 hours at a total cost of \$75,089.

Regarding calls for shoplifting, Wiegel said Walmart has its own policy on the value of the retail theft it will handle internally and at the value at which police are called.

City Administrator April Little said the city has been working with Walmart on some issues, and store management has been responsive.

“We have been trying to be proactive ... and they have been trying to be cooperative,” she said.

Alder Brian Holmquist suggested reviewing how and when officers respond. He said a lot of store loss prevention employees do not attempt to restrain shoplifters until police arrive; instead, they call police after the shoplifter has left the scene.

“To make a call to show up to someone who’s not there is a waste of time,” he said. “If they are not going to have any level of retaining the individual there or attempting to retain the individual there, why are we deploying someone there?”

Wiegel said loss prevention staff will hold shoplifters who are compliant, even though state law allows them to physically restrain them even to the point of using handcuffs as they wait for police to arrive. He said concern over liability is major reason why they don’t use force to restrain shoplifters.

In 2016, the Verona Police Department responded to 79 service calls to that city’s big box stores. The Middleton Police Department responded to 390 calls. Fitchburg had 595 calls, and the Sun Prairie Police Department responded to 1,605 calls.

Of all the service calls to 33 big box stores in these five communities, Monona accounted for 41 percent of all calls, and Monona’s Walmart accounted for 24 percent of all calls.

On a normal night in Monona, there are two officers on duty. Ostrenga said retail theft and other service calls can slow down response times to other incidents.

“You feel like you’re not providing the same service, the high level service you’d like to, but you have to prioritize by what sort of resources you have, and you’re limited by your resources,” he said.



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
    - (Hyvee & 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

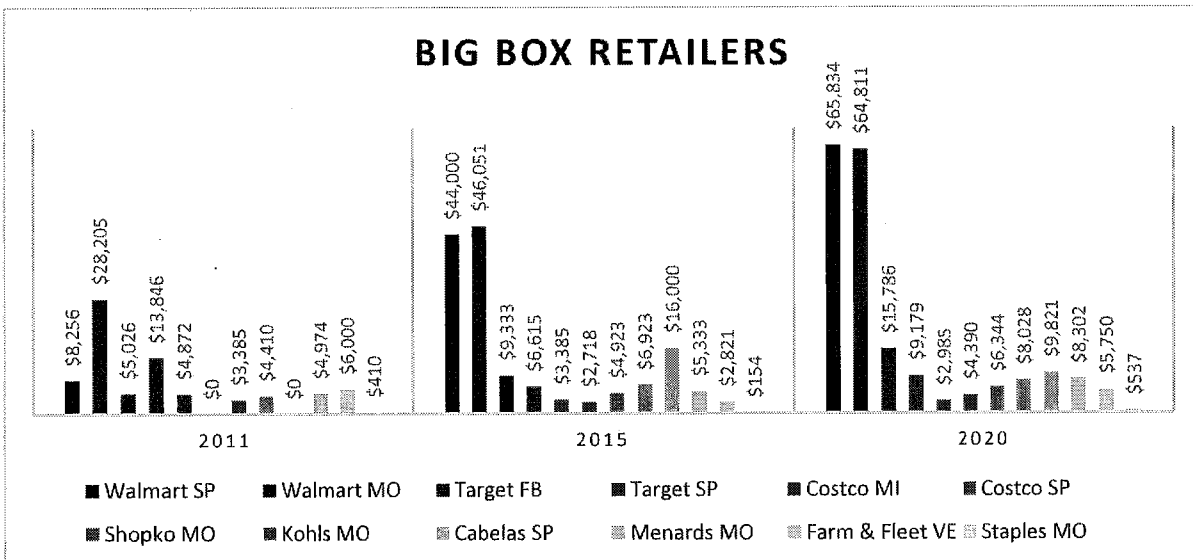
Friday, March 31, 2017

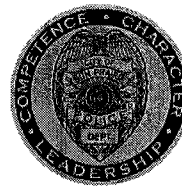


The following analysis is based off a request from Director Deschane of the League of Wisconsin Municipalities. The request is examining the number of calls for service from a "Big Box Retailer" due to legislative efforts to stop a property tax reduction that is proposed by the retailers. A few of the 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.

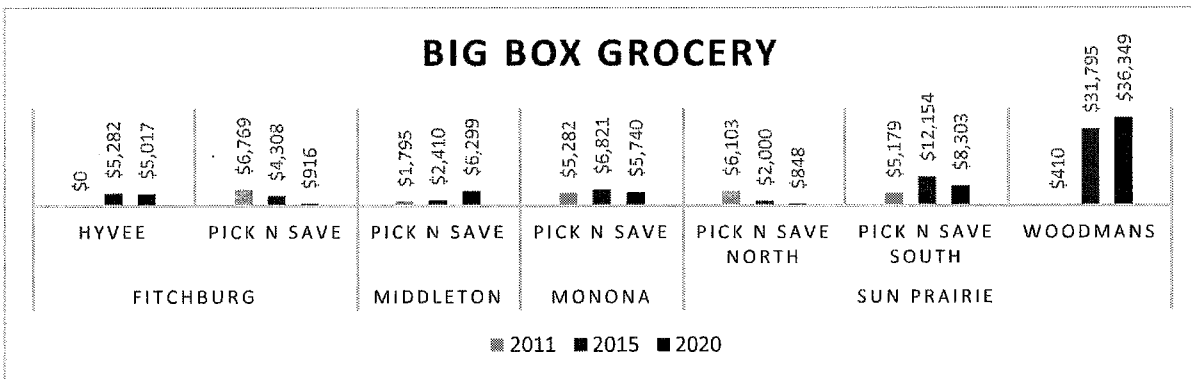
Since 2011, the number of calls for service to these establishments have increased by more than 50% to more than 4,500 calls for service in 2016 between all five jurisdictions. Using the before mentioned method to calculate an estimated cost to the initial call for service it was over \$212,000. The 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%.



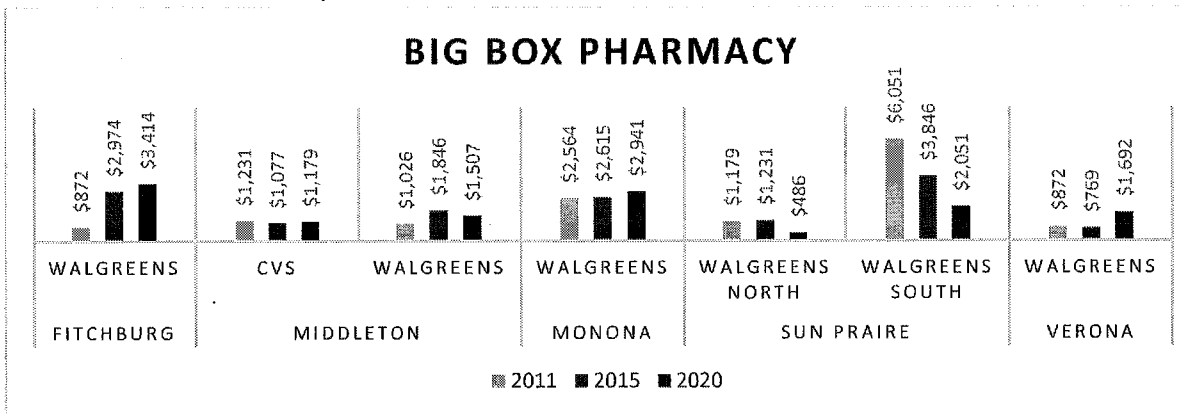


The largest number of calls for service comes from Walmart. Walmart is responsible for almost 35% (1,545 in 2016) of the calls for service between all the selected businesses. The Walmart located at 2151 Royal Ave in Monona, Wisconsin had a staggering 1,090 calls for service in 2016. Using the before 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 2<sup>nd</sup> 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.

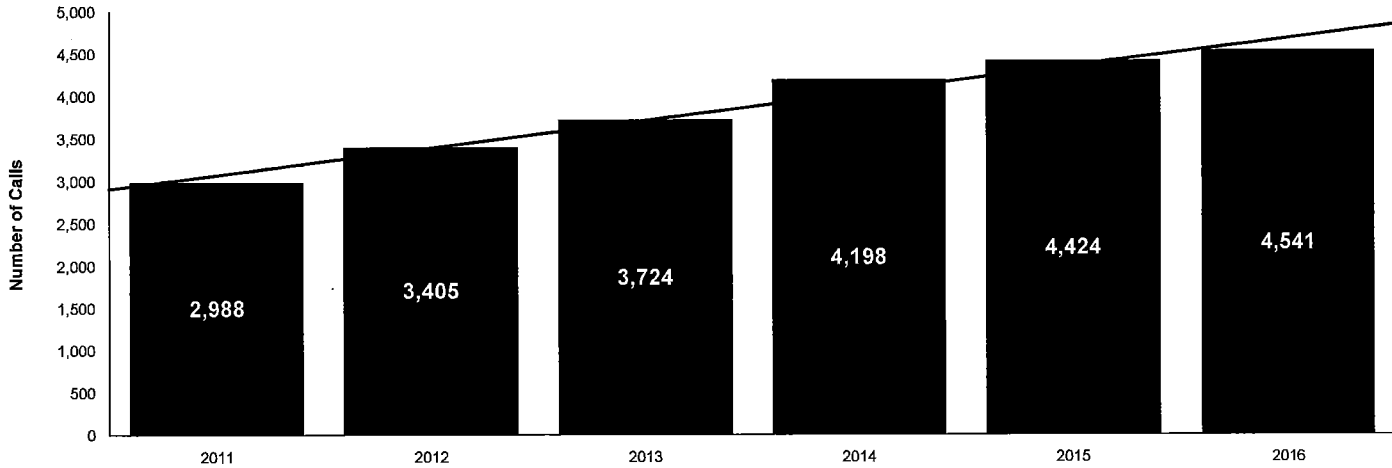


The final part of the analysis focused on the big box pharmacies that were standalone buildings. Analysis shows a spike in the number of calls for service to these stores in 2012 and 2013, but the forecast holds the estimate cost constant at approximately \$13,270 in 2020. The preceding report provides 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 Copsps 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	\$5,185
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 Copps 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.

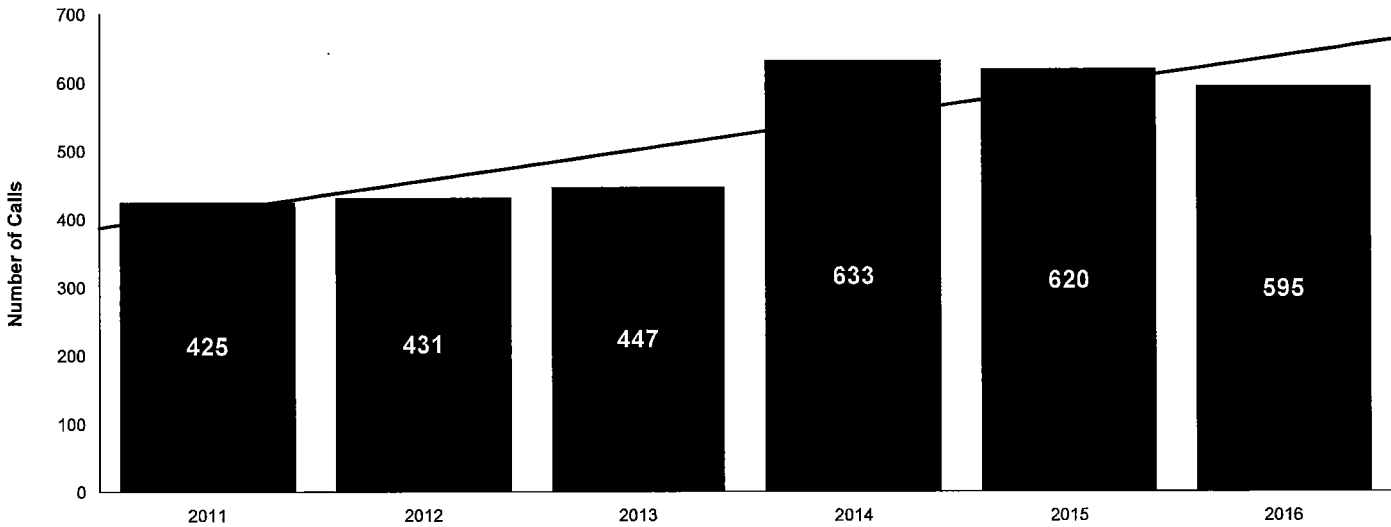


# Fitchburg Police Department

## Calls for Service

### Select Commerical Locations

#### 2011 -2016



	Year						Average	Standard Deviation	Normal Range
	2011	2012	2013	2014	2015	2016			
<b>Hy Vee - 2920 Fitchrona Rd</b>	0	0	2	269	209	116	0	0	0 - 0
<b>Walgreens - 2931 S Fish Hatchery Rd</b>	34	29	47	63	51	56	45	14	31 - 58
<b>Pick N Save - 3010 Cahill Main</b>	167	177	158	109	124	106	147	29	118 - 176
<b>Star Cinema - 6091 Mckee Rd</b>	54	66	72	42	46	48	56	13	43 - 69
<b>Target - 6321 Mckee Rd</b>	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**
<b>Hy Vee - 2920 Fitchrona Rd</b>	305	91	\$4,667	245	104	\$5,328	153	92	\$4,724
<b>Walgreens - 2931 S Fish Hatchery Rd</b>	84	39	\$1,978	75	59	\$3,012	79	28	\$1,458
<b>Pick N Save - 3010 Cahill Main</b>	155	87	\$4,441	157	84	\$4,311	142	93	\$4,792
<b>Star Cinema - 6091 Mckee Rd</b>	58	27	\$1,366	72	39	\$1,986	66	39	\$2,003
<b>Target - 6321 Mckee Rd</b>	189	135	\$6,916	248	183	\$9,378	341	228	\$11,894
	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.

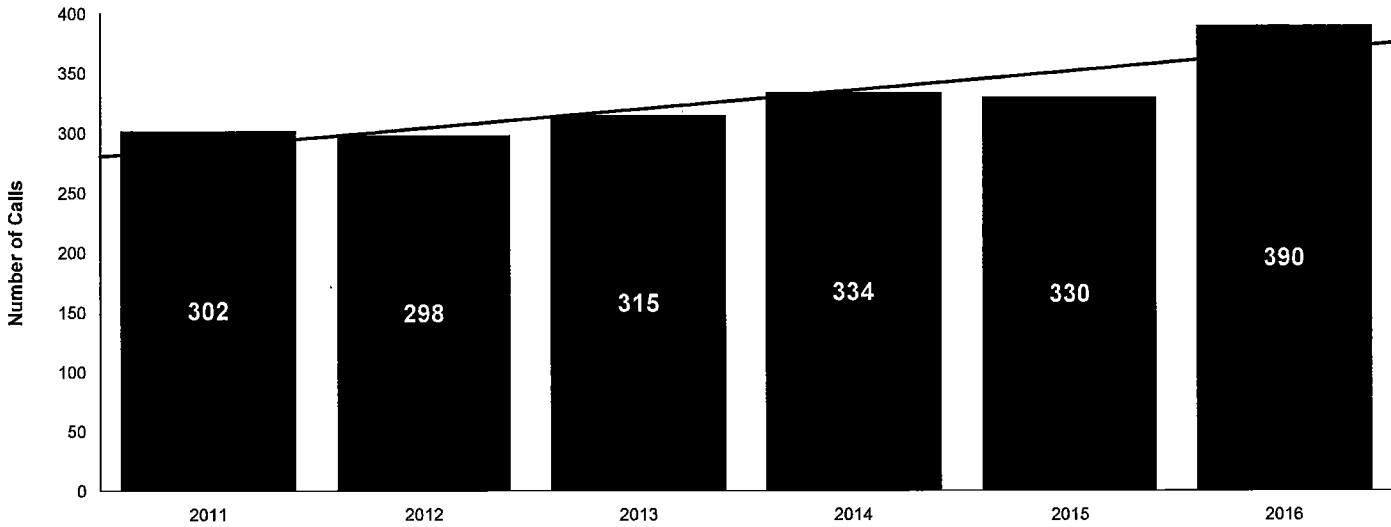




# Middleton Police Department

## Calls for Service

Select Commerical Locations  
2011 -2016



	Year						Average	Standard Deviation	Normal Range
	2011	2012	2013	2014	2015	2016			
<b>Walgreens - 2010 Branch St</b>	46	44	51	45	50	40	47	3	44 - 50
<b>Costco - 2150 Deming Way</b>	121	127	125	146	137	143	131	10	121 - 141
<b>Dollar Tree - 2524 Allen Blvd</b>	6	7	1	8	16	32	8	5	2 - 13
<b>Ace Hardware - 2540 Allen Blvd</b>	15	26	19	20	16	25	19	4	15 - 24
<b>CVS - 6210 Century Ave</b>	27	29	25	23	28	40	26	2	24 - 29
<b>Pick N Save - 6800 Century Ave</b>	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**
<b>Walgreens - 2010 Branch St</b>	61	34	\$1,746	66	36	\$1,870	55	19	\$974
<b>Costco - 2150 Deming Way</b>	178	85	\$4,353	163	67	\$3,417	170	74	\$3,800
<b>Dollar Tree - 2524 Allen Blvd</b>	11	15	\$760	19	10	\$501	37	20	\$1,043
<b>Ace Hardware - 2540 Allen Blvd</b>	28	13	\$643	22	17	\$880	30	16	\$796
<b>- 6210 Century Av</b>									
<b>CVS - 6210 Century Ave</b>	32	27	\$1,369	37	22	\$1,113	60	33	\$1,682
<b>- 6800 Century Av</b>									
<b>Pick N Save - 6800 Century Ave</b>	141	138	\$7,071	108	47	\$2,434	152	78	\$4,015
	451	311	\$15,932	415	199	\$ 10,213	504	240	\$ 12,309

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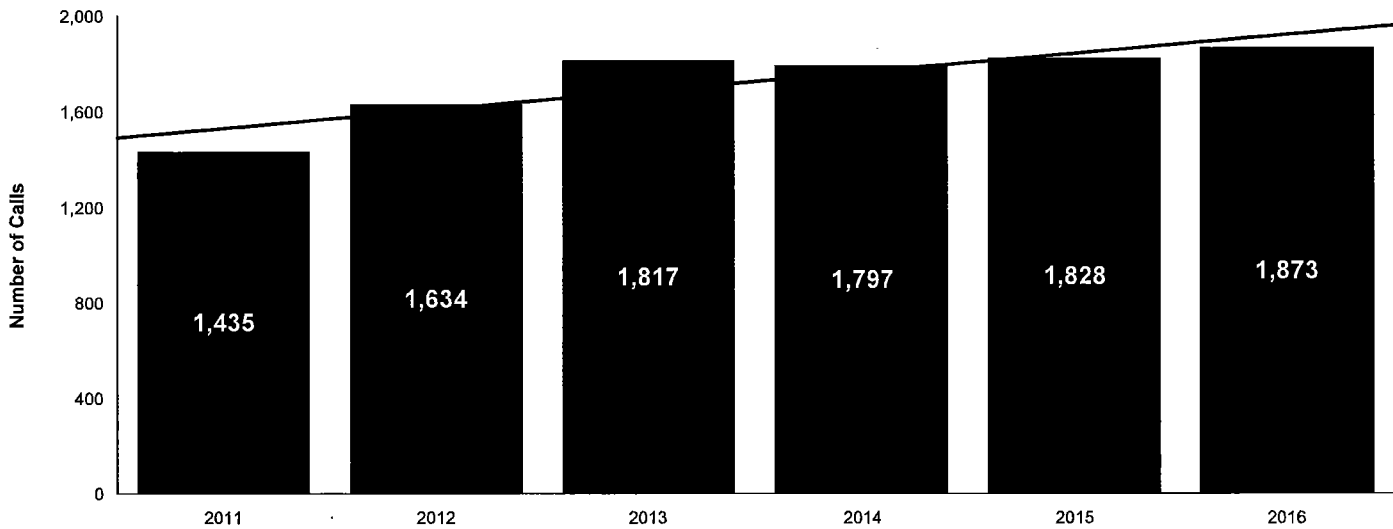


# Monona Police Department

## Calls for Service

Select Commerical Locations

2011 -2016



	2011	2012	2013	2014	2015	2016	Average	Standard Deviation	Normal Range
<b>Shopko - 2101 Broadway</b>	154	207	206	171	151	145	178	27	151 - 205
<b>Walmart - 2151 Royal Av</b>	695	812	1020	1035	1022	1088	917	155	762 - 1,072
<b>Kohls - 2501 Broadway</b>	107	164	117	119	168	206	135	29	106 - 164
<b>Goodwill - 2501 Royal Av</b>	33	17	22	29	29	36	26	6	20 - 32
<b>Walgreens - 5300 Monona Dr</b>	125	141	121	143	104	94	127	16	111 - 143
<b>Menards - 6401 Copps Av</b>	82	85	96	116	91	113	94	13	81 - 107
<b>Pick N Save - 6540 Monona Dr</b>	202	174	202	151	243	170	194	35	160 - 229
<b>Staples - 6580 Monona Dr</b>	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**
<b>Shopko - 2101 Broadway</b>	194	97	\$4,975	187	97	\$4,955	183	101	\$5,165
<b>Walmart - 2151 Royal Av</b>	1282	867	\$44,464	1413	898	\$46,054	1517	1009	\$51,731
<b>Kohls - 2501 Broadway</b>	147	85	\$4,372	224	135	\$6,942	268	122	\$6,275
<b>Goodwill - 2501 Royal Av</b>	40	19	\$957	40	12	\$637	46	16	\$840
<b>Walgreens - 5300 Monona Dr</b>	149	64	\$3,300	140	51	\$2,626	112	52	\$2,678
<b>Menards - 6401 Copps Av</b>	126	58	\$2,963	104	51	\$2,632	142	62	\$3,159
<b>Pick N Save - 6540 Monona Dr</b>	177	81	\$4,143	299	133	\$6,827	206	88	\$4,521
<b>Staples - 6580 Monona Dr</b>	35	9	\$484	20	4	\$199	32	14	\$721
	2150	1280	\$65,656	2427	1382	\$70,872	2506	1464	\$75,089

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\*\* 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.

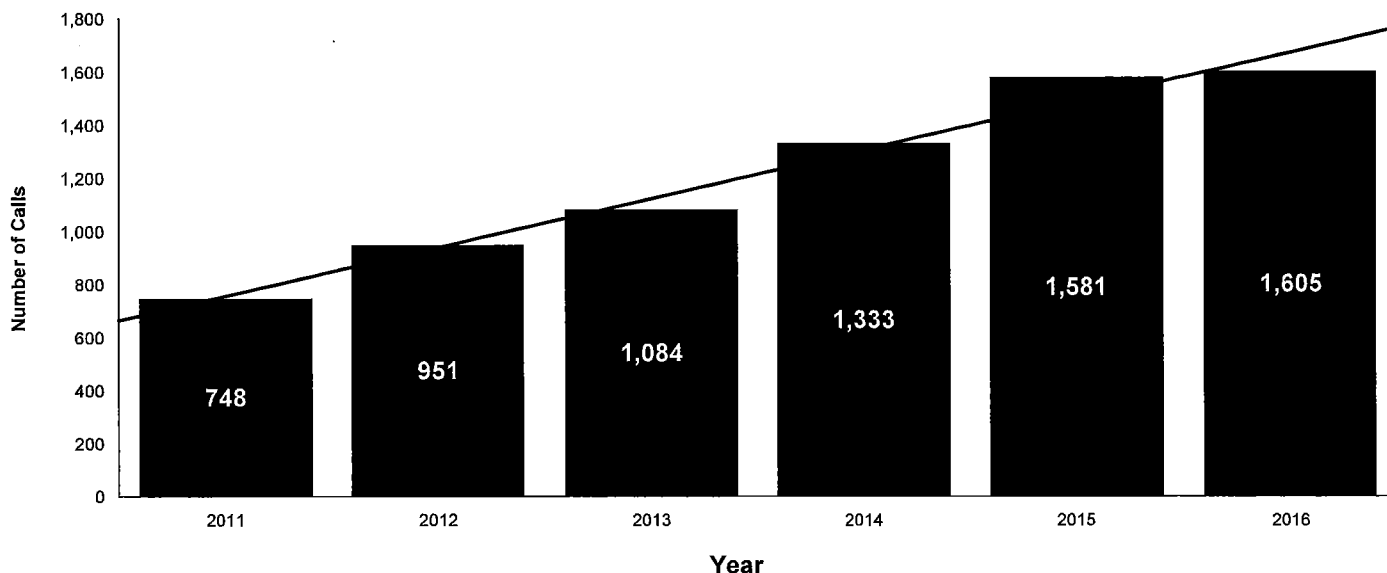


# Sun Prairie Police Department

## Calls for Service

### Select Commerical Locations

#### 2011 -2016



	2011	2012	2013	2014	2015	2016	Average	Standard Deviation	Normal Range
<b>Woodmans - 1099 S Grand Ave</b>	29	128	278	302	419	353	231	153	78 - 385
<b>Cabelas - 1350 Cabela Dr</b>	0	0	0	4	79	62	0	0	0 - 0
<b>Walmart - 1905 Mccoy Rd</b>	166	204	240	470	381	455	292	128	164 - 421
<b>Pick N Save - 2538 Ironwood Dr</b>	144	111	70	95	63	56	97	33	64 - 129
<b>Walgreens - 275 Davison Dr</b>	99	84	77	72	73	81	81	11	70 - 92
<b>Marcus Cinema - 2830 Hoepker Rd</b>	0	0	0	0	96	154	0	0	0 - 0
<b>Costco - 2850 Hoepker Rd</b>	0	60	85	88	94	106	0	0	0 - 0
<b>Walgreens - 546 N Grand Ave</b>	30	34	27	25	39	41	31	6	25 - 37
<b>Pick N Save - 640 E Main St</b>	100	91	136	141	184	109	130	37	93 - 167
<b>Target - 660 S Grand Ave</b>	145	156	105	85	104	108	119	30	89 - 149
<b>Aldi - 750 Bunny Trl</b>	0	0	0	0	13	20	0	0	0 - 0
<b>Dollar General - 924 Windsor St</b>	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**
<b>Woodmans - 1099 S Grand Ave</b>	426	354	\$18,170	590	620	\$31,802	537	527	\$27,016
<b>Cabelas - 1350 Cabela Dr</b>	5	1	\$69	117	313	\$16,038	89	72	\$3,667
<b>Walmart - 1905 Mccoy Rd</b>	728	960	\$49,225	574	859	\$44,026	667	511	\$26,196
<b>Pick N Save - 2538 Ironwood Dr</b>	130	114	\$5,844	83	40	\$2,026	85	62	\$3,170
<b>Walgreens - 275 Davison Dr</b>	104	61	\$3,139	101	76	\$3,881	116	40	\$2,058
<b>Marcus Cinema - 2830 Hoepker Rd</b>				129	69	\$3,533	204	105	\$5,404
<b>Costco - 2850 Hoepker Rd</b>	123	57	\$2,902	131	53	\$2,730	149	111	\$5,698
<b>Walgreens - 546 N Grand Ave</b>	26	10	\$494	49	24	\$1,238	47	20	\$1,033
<b>Pick N Save - 640 E Main St</b>	189	144	\$7,399	256	237	\$12,170	160	125	\$6,430
<b>Target - 660 S Grand Ave</b>	117	81	\$4,159	124	130	\$6,645	143	146	\$7,478
<b>Aldi - 750 Bunny Trl</b>				19	8	\$411	31	9	\$466
<b>Dollar General - 924 Windsor St</b>	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.

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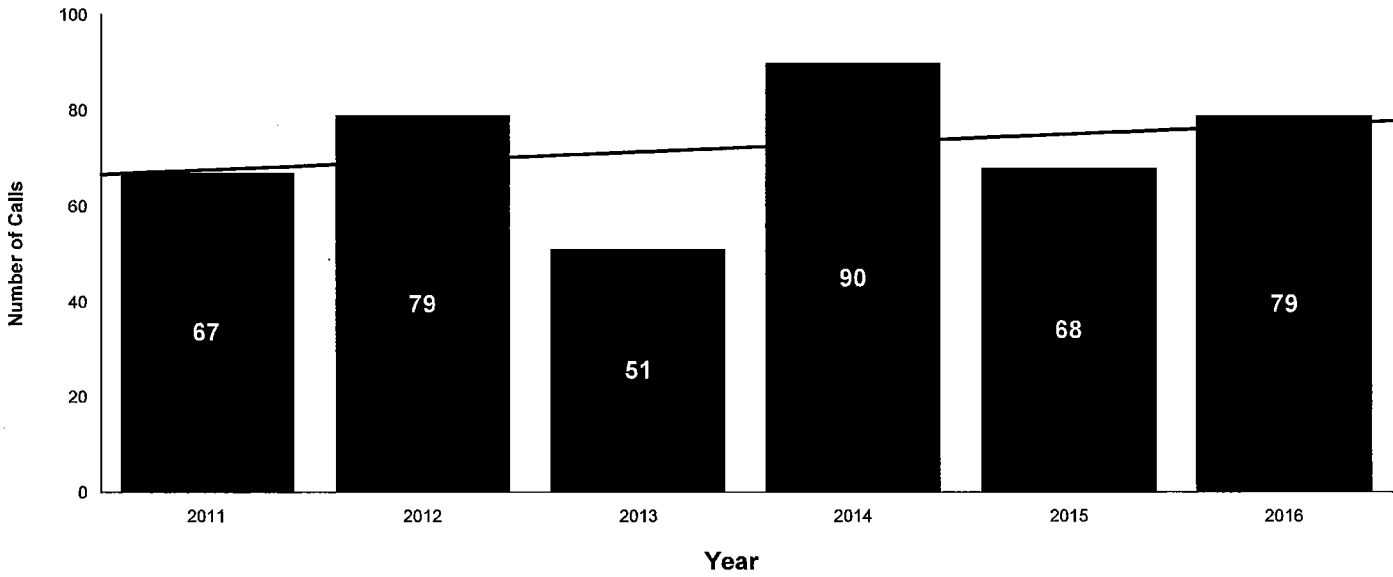


# Verona Police Department

## Calls for Service

### Select Commerical Locations

#### 2011 -2016



	2011	2012	2013	2014	2015	2016	Average	Standard Deviation	Normal Range
<b>Walgreens - 104 N Main Street</b>	29	30	19	44	17	23	28	11	17 - 39
<b>Farm &amp; Fleet - 600 Hometown Circle</b>	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**
<b>Walgreens - 104 N Main Street</b>	57	147	\$7,566	20	16	\$819	28	32	\$1,631
<b>Farm &amp; Fleet - 600 Hometown Circle</b>	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.



## WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director

Jessica Karls-Ruplinger, Deputy Director

TO: REPRESENTATIVE ROBERT BROOKS

FROM: Scott Grosz, Principal Attorney

RE: 2017 Assembly Bill \_\_ (LRB-0373/9) and Assembly Bill \_\_ (LRB-0372/6)

DATE: May 3, 2017

This memorandum provides an analysis of Assembly Bill \_\_ (LRB-0373/9) ("LRB-0373/9"), relating to property tax assessments based on comparable sales and market segments, and Assembly Bill \_\_ (LRB-0372/6) ("LRB-0372/6"), relating to property tax assessments regarding leased property, with respect to the Uniformity Clause of the Wisconsin Constitution and recent court decisions relating to taxation of property.

### **2017 ASSEMBLY BILL — (LRB-0373/9)**

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. [See, generally, s. 70.32, Stats.; *Nestlé USA, Inc. v. Wisconsin Department of Revenue*, 2011 WI 4, at pars. 25-30; and *State ex rel. Markarian v. City of Cudahy*, 45 Wis. 2d 683, 173 N.W.2d 627 (1970). ]

LRB-0373/9, relating to property tax assessments based on comparable sales and market segments, would specify new property tax assessment practices applicable to the determination of the value of property using generally accepted appraisal methods. In particular, the bill draft specifies that an assessor must consider the following as comparable to the property being assessed:

- Sales or rentals exhibiting the same or similar highest and best use as the property being assessed, with placement in the same real estate market segment. The bill draft

defines "real estate market segment" to mean a pool of potential buyers and sellers that typically trade in properties similar to the property being assessed, including buyers who are investors or owner-occupants. The bill draft also specifies that the pool of potential buyers may be found locally, regionally, nationally, or internationally. The bill draft defines "highest and best use" to mean a use that is legally permissible, physically, possible, and financially feasible and that provides the highest net return.

- Sales or rentals of property 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 similarities in occupancy and the ability to generate income. The bill draft specifies that such properties may be found locally, regionally, or nationally.

Additionally, the bill draft specifies that a property may not be considered as comparable if any of the following conditions apply:

- At or before the time of sale, the seller placed any deed restriction that changes the highest and best use of the property so that it is no longer comparable.
- At or before the time of sale, the seller placed a deed restriction that substantially impairs the property's marketability.
- The property is dark property, if the property being assessed is not dark property. The bill draft defines "dark property" to mean property that is vacant or unoccupied beyond the normal period for property in the same real estate market segment and specifies that the consideration of whether a property is vacant or unoccupied beyond the normal period may vary depending on the property location.

#### **2017 ASSEMBLY BILL — (LRB-0372/6)**

LRB-0372/6, relating to property tax assessments regarding leased property, would revise certain definitions and make other changes to general assessment practices. In particular, the bill draft does the following:

- 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. The bill draft 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.
- 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, 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 draft 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.

#### **WISCONSIN CONSTITUTION, ARTICLE VIII, SECTION 1**

Wisconsin Constitution, Article VIII, Section 1, commonly referred to as the "Uniformity Clause," provides as follows:

Art. VIII, Section 1. Rule of taxation uniform; income, privilege and occupation taxes. [As amended Nov. 1908, April 1927, April 1941, April 1961 and April 1974] 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.

The general principles of the Uniformity Clause were set forth in *Gottlieb v. Milwaukee*, 33 Wis. 2d 408, 147 N.W.2d 633 (1967). In that case, the Wisconsin Supreme Court stated that the Uniformity Clause requires that for direct taxation of property, there can be but one constitutional class. All property within that class must be taxed on a basis of equality so far as practicable and all property taxed must bear its burden equally on an *ad valorem* basis. All property not included in that class must be absolutely exempt from property taxation. The Legislature may classify property that is to be taxed and that which is to be wholly exempt and the test of such classification is reasonableness.

Constitutional analysis can be especially challenging when a constitutional test involves reasonableness. In fact, Uniformity Clause analysis has been described to require "an ad hoc, almost intuitive determination." [Jack Stark, *The Uniformity Clause of the Wisconsin Constitution*, 76 Marq. L. Rev. 577, 619-20 (1993).] However, it is rare, historically, that a court will choose not to defer to the Legislature when the test for legislative action is reasonableness. Several courts have discussed the requirement of reasonableness in distinctions drawn in assessment of the general property tax.

In *Estate of Heuel v. State*, 4 Wis. 2d 400 (1958), the court held that uniformity means "taxation which acts alike on all persons similarly situated." In *Associated Hospital Service, Inc. v. City of Milwaukee*, 13 Wis. 2d 447, 472 (1960), the court upheld a law that treated Blue Cross differently from other insurers, finding that real differences existed between the two classes of insurers. Nonetheless, the court also has noted that "[w]hen we are presented with a case in which the exemption is arbitrary and in which other persons of the same class owning property of the same general description are awarded exemptions of a lesser amount, the situation is one in which the rule of uniformity is violated." [See *Board of Trustees of Lawrence University v. Outagamie County*, 150 Wis. 244 (1912).]

Similarly, a previous Attorney General has opined on the application of the Uniformity Clause to a proposed exemption of homestead property. In the opinion, the Attorney General concluded that, despite a presumption of constitutionality, it would be unreasonable to consider homestead property as "so separate and apart" from residential property used for other purposes (e.g., rental or vacation property) as distinct classes under the Uniformity Clause. [66 Op. Atty. Gen. 337 (1977).]

## ANALYSIS

Generally, the bill drafts appear to satisfy several of the threshold inquiries with regard to the Uniformity Clause, in that the provisions of the bill drafts are created as general guidance on the assessment process, applicable to all types of property (residential, commercial, etc.) that are subject to taxation, and that the structure of taxation under the bill drafts acts alike on similarly situated taxpayers. Further, most provisions of the bill drafts may be generally characterized as legislative clarification of the long-standing statutory directives, in s. 70.32 (1), Stats., to consider recent arm's-length sales of "reasonably" comparable property and to



consider all factors that, according to professionally acceptable appraisal practices, affect the value of the property to be assessed.

To further analyze the substantive provisions of each bill draft, it may be useful to address those provisions in sequence.

### **LRB-0373/9**

#### **Specification of Property as Comparable**

LRB-0373/9 specifies that sales or rentals of each of the following must be considered as comparable to property being assessed:

- Sales or rentals exhibiting the same or similar highest and best use as the property being assessed, with placement in the same real estate market segment.
- Sales or rentals of property 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 similarities in occupancy and the ability to generate income.

In support of the constitutionality of these provisions, the treatment under the bill draft may be viewed as statutory codification of principles derived from the Wisconsin Property Assessment Manual and case law.

For example, the references to “real estate market segments” and review of properties “found locally, regionally, or nationally” relate to concepts discussed in *Nestlé USA, Inc. v. Wis. Dep't of Revenue*, 2011 WI 4. In *Nestlé*, the Wisconsin Supreme Court considered the assessment of an infant formula manufacturing facility, and discussed concepts relating to the specific market in which a property may be situated, as well as the assessor’s national search for comparable properties in upholding the assessor’s decision. In particular, the Court noted that an absence of recent sales does not necessarily indicate the absence of a specific market; in this case, a market specifically for infant formula manufacturing facilities relative to the market for general food manufacturing facilities.

The second provision of the bill draft, relating to the considerations for similar properties, codifies long-standing text of the Wisconsin Property Assessment Manual. [See, e.g., 2017 Wisconsin Property Assessment Manual, chapter 9, page 24.]

#### **Disqualification of Property as Comparable**

LRB-0373/9 specifically disqualifies the following property as comparable to property being assessed:

- Property on which the seller placed any deed restriction, at or before the time of sale, that changes the highest and best use of the property so that it is no longer comparable.

- Property on which the seller placed a deed restriction, at or before the time of sale, that substantially impairs the property's marketability.
- Property that is dark property, if the property being assessed is not dark property.

The principles that an encumbrance may affect the value of a property and that a property subject to an encumbrance may not be comparable to an unencumbered property are additional long-standing principles of assessment practice. [See, generally, 2017 Wisconsin Property Assessment Manual, chapter 9.] Therefore, the provisions of the bill draft to disqualify deed-restricted property as comparable may be viewed as statutory codification of another long-standing assessment practice.

With regard to the latter provision, the bill draft's disqualification of dark property relates to a concept discussed in *Bonstores Realty One, LLC v. City of Wauwatosa*, 2013 WI App 131. In *Bonstores*, the Court of Appeals affirmed a Milwaukee County Circuit Court decision relating to the assessment of the Boston Store at Mayfair Mall. In its decision, the Court of Appeals specifically stated that it was not error for the circuit court to deem reliance on comparison to "dark" stores to be unreliable with regard to assessment of a property that itself was not dark. [2013 WI App 131 at par. 22. See, also, the 2017 Wisconsin Property Assessment Manual, chapter 13, pages 12-13.]

#### LRB-0372/6

##### **Statutory Incorporation of Definitions**

LRB-0372/6 incorporates into the statutes definitions of "highest and best use" and "arm's-length sale." This treatment codifies long-standing text of the Wisconsin Property Assessment Manual. [See, e.g., 2017 Wisconsin Property Assessment Manual, chapter 9, page 12; chapter 10; and Glossary, pages 31 and 38.]

##### **Determination of Value of Leased Property**

LRB-0372/6 revises the definition of "real property," "real estate," and "land" to include leases and other assets that are inextricably intertwined with the real property. The bill draft also specifies that, in determining the value of leased real property, the assessor must consider lease provisions and actual rent, including lease provisions and rent associated with sale and leaseback of the property, if the lease provisions and rent are the result of an arm's-length transaction involving unrelated persons.

These provisions relate to the role of leases, actual rent, and "creative financing arrangements" in real property valuation as those terms were discussed in *Walgreen Co. v. City of Madison*, 2008 WI 80. While the *Walgreen* Court noted the legislative authority to determine the appropriate methods for valuing property for tax purposes, the Court discussed prior cases and the distinction between valuation of real property and valuation of a business concern as applied to leased property. The Court held that leased property must be assessed under the income approach in terms of market rent, rather than actual rent, unless the actual rent is lower

than market rent. The Court also cited the strict construction of tax statutes to hold that "creative financing arrangements" such as sale-leaseback transactions should be distinguished from other "ordinary" transactions for purposes of establishing property value under the applicable law. [*Walgreen* 2008 WI 80, at pars. 19, 54-75, and 82-85.] These provisions of LRB-0372/6 would instead specify that leases and actual rent and other inextricably intertwined assets must be considered in determining the value of leased property, to the extent the lease considered is primarily related to the property and not to the labor, skill, or business acumen of the property owner or tenant, rather than being omitted, generally, from the analysis of value under *Walgreen*.<sup>1</sup>

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

SG:jal

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<sup>1</sup> As the *Walgreen* case moved through the courts, the lower courts held that the taxpayer's claims regarding uniformity were without merit, and the Supreme Court limited its holding to the application and interpretation of the statutes and Property Assessment Manual and did not reach the uniformity issue. [*Walgreen*, pars. 2 and 12-14.] While not dispositive, the progression of the uniformity issue through the litigation may suggest that the issue of constitutional uniformity was of less concern to the Court than the appropriate application of legislatively prescribed valuation methods. Nonetheless, if a taxpayer were to challenge the bill draft on uniformity grounds, he or she may attempt to advance the argument that consideration of lease provisions as defined by the bill draft and actual rent, even between unrelated parties, results in assessment in excess of the "market" valuation of the property required for purposes of *ad valorem* taxation under the Uniformity Clause.



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June 28, 2017

Assembly Committee on Ways and Means  
Wisconsin State Legislature

*Sent Via E-mail*

**Re: COST's Opposition to Unsound Property Tax Valuation Proposals**

Dear Chair Macco, Vice-Chair Katsma, and members of the Assembly Committee on Ways and Means:

On behalf of the Council On State Taxation (COST), I am writing to express concern with A.B. 386 and A.B. 387, legislation that would inequitably subject certain types of business properties to artificially higher valuations compared to what the property would be valued using professionally accepted appraisal practices. This Committee should reject the unfair real property valuation changes proposed in the above referenced legislation.

**About COST**

COST is a nonprofit trade association consisting of approximately 600 multistate corporations engaged in interstate and international business. COST's objective is to preserve and promote equitable and nondiscriminatory state and local taxation of multijurisdictional business entities. COST's members conduct a significant amount of business in Wisconsin and its membership seeks to continue to have business property in the State valued on a "full value which could ordinarily be obtained therefor at private sale."<sup>1</sup>

**Fair and Equitable Property Tax System**

The COST Board of Directors has adopted a formal policy statement on Fair and Equitable Property Tax Systems.<sup>2</sup> That policy statement position is:

*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 business is not equitable and will negatively impact a state's business tax climate.*

<sup>1</sup> See Wisconsin Stat. § 70.32(1).

<sup>2</sup> COST's Policy Statements are available at: <http://www.cost.org/Page.aspx?id=3140>.

And specifically related to valuation methodology, the policy statement position is:

*A statewide valuation methodology that is conducted in accordance with Uniform Standards of Professional Appraisal Practice (USPAP) and updated on a regular basis to factor in changes in value, including depreciation and all forms of obsolescence, should be utilized.*

COST is very concerned about the negative ramifications A.B. 386 and A.B. 387 would have by altering Wisconsin's property tax law to bar appraisers, representing either side, from using nationally accepted appraisal practices to value business properties. These bills unjustly also do not account for valuation decreases that stem from the 2008 recession.<sup>3</sup>

#### **Concerns with A.B. 386 – Comparable Sales**

Appraisers representing both the property owner and the government need to have full use of nationally accepted appraisal practices when valuing property to accurately ascertain its "full value" for property tax purposes. This legislation would unfairly restrict the use of the comparable sales approach if the property is vacant beyond a reasonable time or the seller places a deed restriction on how the property can be used by a purchaser. The impact a vacancy or deed restriction has on a comparable property are items that appraisers can address in their proposed valuations; it should not be dictated by unfair legislation limiting the use of the comparable sales approach.

#### **Concerns with A.B. 387 – Above-Market Rental Rates**

In 2008, the Wisconsin Supreme Court correctly addressed the use of the income approach to value rental property and held that fee simple interest, upon which fair market value must be based, should reflect market lease rates, not actual contract rates, *see Walgreens Co. v. City of Madison* (752 N.W. 2d 689). Valuing and imposing a property tax on above-market rents subjects the property to taxation based on a financing value, not the fee simple interest value of the property which a willing buyer would pay. This proposed change to valuing above-market rents should be rejected for what it stands for—an unjust money grab by allowing local governments to overvalue property with above-market rents versus what the property would be valued for in the open market.

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<sup>3</sup> See Lev Borodovsky, "A Turning Point for Commercial Property," Wall Street Journal, June 26, 2017 p. B10. A graph shows that from 2007 to 2009 there was a 40% drop in commercial real-estate prices.

**Conclusion**

COST believes the policies proposed in A.B. 386 and A.B. 387 should be rejected. This would also prevent potential challenges to the proposed changes under the State's uniformity clause. Please contact me with any questions regarding this testimony or COST's position in this area.

Sincerely,



Fred Nicely

cc: COST Board of Directors  
Douglas L. Lindholm, COST President & Executive Director

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