

Bob Vujea – Meijer
2018 Legislative Council Study Committee on Property Tax Assessment Practices
August 7, 2018

Introduction

Chairman Olsen, Vice-Chair Allen, Senators and Representatives, and Committee Members:

Thank you for the opportunity to appear before you today to discuss property tax assessment and appeal practices. My name is Bob Vujea, I am a Property Tax Manager for Meijer, and I have been a property tax professional for over 40 years, and have been a Meijer Team Member for 33 years.

While Meijer is relatively new to Wisconsin, our stores have been serving hard-working men, women and children in communities across the Midwest since Hendrick Meijer opened his first grocery store in Greenville, Michigan over 80 years ago. Meijer pioneered the “one-stop shopping” concept, offering everything from fresh produce to pharmacy services and electronics. We employ over 77,000 Team Members and operate 241 supercenters in 6 states – most recently entering the Wisconsin market in 2015. Since first opening in Grafton, we have expanded to 10 Wisconsin store locations from Kenosha to Howard, and operate a Meijer Distribution Center in Pleasant Prairie. Each of our supercenters employs 200 to 300 Team Members and, when you include our Pleasant Prairie facility, Meijer employs over 3,000 Wisconsin Team Members.

Our commitment to Wisconsin is strong, and we look forward to growth opportunities here. As part of that commitment, we take great pride in giving back to our Wisconsin communities through Meijer programs such as Simply Give, Food Rescue and free prescription offerings. Meijer gives over 6% of its annual net profits back to community organizations, and is proud to be family owned and operated. As a company, we believe that our core values resonate with our customers in Wisconsin and across the Midwest: putting the customer first, embracing competition, focusing on freshness, safety and health, and treating each other with dignity and respect. It is with those values in mind that I speak to you today regarding property tax assessment and appeal practices.

The Sales Comparison Approach is NOT a “Loophole”

First, I would like to comment on the sales comparison approach to property tax assessments: The sales comparison approach is not a tax loophole, accounting trick or big business gimmick. As the members of this Committee know, there are three commonly used approaches to determining a property’s value: the sales comparison approach, cost approach and income approach. All three have been used by appraisers across the country for decades. They are not new or unique to Wisconsin, and they are not limited to large retailers. Indeed, under Wisconsin law, the sales comparison approach is the most preferred of the three approaches for assessment. To eliminate any of these approaches, especially the sales comparison approach, would severely limit an assessor’s ability to determine a property’s true value, as well as a taxpayer’s right to appeal an assessment.

In 2017, the Wisconsin Legislature introduced Senate Bill 292 and Assembly Bill 386, which would have severely limited – and may have even eliminated – the sales comparison approach as an assessment method for appraisers and taxpayers. The bill’s provision prohibiting the use of vacant or so-called “dark” properties as comparables attracted considerable attention. But where did this concept of “dark” properties come from? It is generally accepted by appraisers that a property’s value should be determined by what that property would sell for on the open market. Value should be based on the “sticks and bricks” that compose the physical structure, and not the nature or success of the business being conducted within those four walls, or the number of cars in the parking lot. Imagine two homes located next door to each other: The homes are on the same street, in the same neighborhood, are the same size and are even painted the same color, but one is home to a family of 5, while the other is home to a retired couple. Should the family’s home be considered more valuable than the couple’s home simply because there is more activity going on in their house? Of course not. The same logic applies to retail properties on the open market – all properties should be appraised as vacant or available regardless of the occupant. A potential buyer is not concerned with the previous owner’s business. The

buyer is purchasing the physical structure – not the business inside the structure – and that purchase determines the market value for comparable properties, whether vacant or occupied. Meijer and many other taxpayers seek out sales of comparable properties to help determine our properties' values. At times, the closest comparison in size, location and type happens to be a vacant and available property. In recent years, some have argued that a bustling Meijer store could not possibly be valued at the same rate as a vacated former retail location. That assertion is the basis of the so-called "dark store" theory, and represents a fundamental misunderstanding of the sales comparison approach. Again, it is generally accepted that value is based on what a property's "sticks and bricks" are worth on the open market, and not the nature or success of the business conducted on that property. The structure's occupant has no bearing on the property's value.

Some of the misunderstanding around unoccupied stores can be attributed to the role of functional and economic obsolescence in determining property value. For example, a new Meijer store with its custom signage, drive-thru pharmacy windows and interior fixtures costs a certain amount to build, and is worth a certain amount to Meijer, and Meijer alone, because of its intrinsic value to Meijer's retail business. The same applies to any large retailer. A potential buyer would not offer what the property is worth to Meijer to purchase the property as real estate on the open market. Specific design elements created to match the current occupant's business model in addition to other obsolescence would require significant and costly construction and renovation by any buyer. Regardless of construction costs or intrinsic value to the present user, a property is only worth what a buyer will pay for it on the open market. That value can be comparable between two active, successful large retail or manufacturing properties, or between an active, successful retail property and a vacant property.

The sales comparison approach is not limited to vacant properties, however, as the sales of occupied properties are often used as comparisons. The practice of using vacant properties for sales comparisons led to the term "dark stores", which has been a powerful marketing tool, but unfairly

demonizes large retail taxpayers for adhering to a perfectly legal and preferred appraisal approach. The term “dark stores” is a misrepresentation of the use of the sales comparison approach, particularly when it is used to reference *all* comparisons – vacant or otherwise.

Deed Restrictions

I would also like to discuss deed restrictions as presented in these bills: Deed restrictions *should* be taken into consideration during an appraisal. Senate Bill 292 and Assembly Bill 386 attempted to address the impact of deed restrictions on sales comparisons by eliminating *any* property upon which a seller places *any* deed restriction, which may limit its use. Not only does this provision infringe upon property rights by punishing a property owner for deed restricting the property, but it also presupposes that all deed restrictions have a significant negative impact on property value. Perhaps a deed restriction prohibits an adult book store, a pool hall, or even a particular type of bar or restaurant from the property. Does that necessarily diminish the property’s value? Could such a restriction *improve* a property’s value? Rather than [RLG1] completely disregarding a property subject to a deed restriction as a comparable property, the appraiser should consider what impact – if any – a deed restriction has on a property, and then determine the validity of the comparable property and any adjustment that should be made to account for the deed restriction. Each property and deed restriction is unique, and should be handled on a per case basis rather than implementing an arbitrary, blanket prohibition on deed restrictions.

Market Segmentation

Market segmentation presents additional concerns. Senate Bill 292 and Assembly Bill 386 define a real estate market segment as, “A pool of potential buyers and sellers that typically trade in properties similar to the property being assessed.” While that definition appears innocuous, it can lead to significant tax implications if it is used to describe the market segment so narrowly as to limit it to a specific business or business type. We have already seen examples in which a market segment is defined

as the same type of business, selling the same products, on the same street corner, equally distant from a major highway. In such cases, the market segment would be so narrow that the only potential buyer would be the property owner itself – in other words, Meijer would be the only potential buyer for a Meijer store – effectively eliminating the sales comparison approach, which is universally accepted in Wisconsin as the primary method to assess property value. [RLG2]

Uniformity Clause

The sales comparison discussion also raises serious questions regarding Article VIII, Section 1 of the Wisconsin Constitution, or the Uniformity Clause. If the rule of taxation shall be uniform – as Article VIII, Section 1 states – what impact would restricting the sales comparison approach have on other types of properties? Certainly, targeting only large retailers for restriction of the sales comparison approach would necessarily violate the Uniformity Clause. The only way to avoid this would be to have the provision apply equally to all property and property owners. This, however, would cause the provision to reach far beyond its intended target – large retailers – and would significantly affect industrial, commercial and residential properties of all kinds. Imagine a homeowner whose neighbor moves away, leaving a vacant home for sale across the street. Would that homeowner be prohibited from challenging a property tax assessment based on the neighbor's sale price simply because the neighbor's house is empty? Imagine an auto parts manufacturer placing a deed restriction on its property that no other auto parts manufacturer can operate at that location. Should that restriction preclude the property from being used as a comparable for other manufacturers?

Conclusion

In closing, the sales comparison approach to property tax assessment is not a loophole, trick or gimmick. It is a commonly used approach to determine a property's value, and it has been upheld in courts across the country for decades. The only gimmick here is the misleading – albeit effective – marketing campaign around the ominous “dark store” term. Large retailers are being singled out and

demonized for a practice that is universally used across all property classes. This characterization is, plainly, untrue and unfair to the retail community.

At Meijer, we pride ourselves on being good corporate citizens, and doing our part to support the communities we serve. The sales comparison approach is not an attempt to avoid those responsibilities. We are happy to pay our fair share in property taxes along with the many other taxes tied to our business operations that we pay and collect on behalf of state and local governments. Corporate income tax, sales and use taxes on purchases and supplies, personal property tax on fixed assets, payroll tax, customer sales and use taxes, gas and diesel taxes, tobacco and liquor taxes are just some of the taxes retailers generate *in addition* to property tax. If property tax assessments continue to emphasize the business operations on a property over the “sticks and bricks,” we will drift dangerously close to double taxation on business operations.

The *Legislative Council Staff Brief* for this Committee raises the question of, “How, if at all, property tax assessment practices should be modified or clarified to account for the unique real property needs of large retailers.” In terms of clarification, I urge the Committee to consider the following:

- Focus on the physical structures, rather than the nature or success of the business being conducted on the property.
- Take obsolescence into consideration when comparing properties – even new properties with custom features are subject to functional and economic obsolescence.
- Take deed restrictions into consideration when determining a property’s value, but do not eliminate all deed restricted properties from serving as comparisons.
- Do not define market segments so narrowly as to eliminate all other properties from service as comparisons.

- Consider the impact that limits to the sales comparison approach may have to Wisconsin's Uniformity Clause.
- The retail community generates tax revenue for state and local governments in many ways. To tax properties based on business operations is a form of double taxation.

Again, I thank you for the opportunity to address the Committee today, and I look forward to your questions.

