



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

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Contact: Jerry Deschane, Executive Director, League of Wisconsin Municipalities, 608-347-1792,
jdeschane@lwm-info.org

Latest Court of Appeals Decision Further Confirms Demise of Dark Store

Wisconsin courts remain unconvinced by dark store arguments presented by big box stores attempting to reduce their assessments. On July 7, 2021 the Wisconsin Court of Appeals (District 1) issued the latest in a string of court decisions rejecting dark store strategies and upholding municipal assessments. In *Lowe's Home Centers, LLC v. City of Wauwatosa*, the city assessed an open and flourishing Lowe's store at \$13,614,700. Lowe's argued the property should be assessed at \$7,100,000. The court of appeals concluded that the circuit court properly rejected the sale prices of various vacant or dark big box stores offered by Lowe's expert as evidence that the city's assessment was too high. The court of appeals agreed with the circuit court finding that Lowe's had "selected dark and vacant properties that were not reasonably comparable to the Lowe's property."

"This latest decision puts one more nail in the dark store strategy coffin," said Jerry Deschane, Executive Director, League of Wisconsin Municipalities. "Courts at all levels continue to uphold the quality work of municipal assessors against dark store arguments made by big box stores seeking to shift more of their property tax bill onto residential homeowners and other property taxpayers."

Deschane added: "At the end of the day, this fight has been about fairness. All property owners are assessed on the fair market value of their property. The dark store argument is an attempt to gain an unfair tax break that is unavailable to most taxpayers, and we are grateful that numerous Wisconsin courts have rejected that argument."

Read the Court of Appeals decision [here](#).

Read an article published in the July 2021 issue of *The Municipality* magazine highlighting other recent court decisions rejecting dark store and *Walgreens* based assessment challenges [here](#).

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