

Target, Menards, Farm & Fleet in battle with city

By Chris Bucher

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WAUKESHA — Some bigbox stores in the city are furthering the monetary burden on taxpayers.

In Waukesha, those companies are filing suit against the city, alleging that it's assessed their property at too high a value. As evidence, the companies compare their assessed property value to similar big-box buildings that lay vacant and have been assessed a much lower rate.

In turn, companies are threatening municipalities and ultimately paying far less in property taxes. But the full amount of property taxes still must be made up, which means single-family home owners and smaller businesses are charged more on their tax bills.

"To make up for that loss in revenue, the tax rate has to go up a bit," Waukesha Assessor's Office Director Paul Klauck said. "That means the residential property owners and the smaller commercial property owners have to pay a bit more in taxes because the big guy isn't paying their fair share of taxes; it comes out of everybody else's' pocket."

The 'dark store theory'

The strategy of using the vacant buildings as leverage in a lawsuit or settlement isn't new, but it's been increasing in recent years. It's called the "dark store theory," and it's essentially a tax loophole to claim the fair market value of the store should be based on sales of similar-sized properties that have been abandoned.

The city of Waukesha is currently going through court proceedings with three big-box stores that are using that same strategy to pay less in property taxes.

Target, 1250 W. Sunset Drive, was assessed by the city in 2017 for a preliminary property value of \$10,335,100. In its court documents, the corporation uses comparable properties to allege that it's actually only worth \$3.75 million.

The same applies to Menards, 2315 W. Bluemound Road, which was assessed by the city at \$15,985,600

for 2017. The hardware store came back to the city and said that it should actually be assessed at \$8,264,000.

The third company is Blain's Farm & Fleet, 2310 Kossow Road, which has gone through the same process previously and settled with the city for its 2011, 2012 and 2013 values. Now, it's come back and alleged that the city's assessed property value of \$6,028,500 for 2015-16 should be \$4,500,000 instead.

"They're using court decisions that have allowed them to go this way to say their stores are to be valued as though they're vacant and not as though they're running," Waukesha Mayor Shawn Reilly said. "Their argument is that as soon as they build (the stores), they're worth about half of what they cost to build because they're not worth much if they're vacant."

"I think the people who probably feel it the most are the single-family homeowners," Reilly said. "It basically means that the total amount of shared taxes shift from the commercial buildings and more to residential buildings."

A spokesman from Target said in a statement that the company goes through a routine procedure when evaluating its store's property values.

"We follow property valuation standards as outlined by Uniform Standards of Professional Appraisal Practices, International Associate of Assessing Officers and Appraisal Institute and state law," the statement said. "There are three methodologies to determine value in the appraisal of real estate — sales comparison, income and cost. We analyze available market data to determine whether Target's properties are being assessed fairly and equitably.

"Target remains committed to supporting the communities in which we do business, and this includes paying a fair share of property taxes."

Representatives from Farm and Fleet and Menards could not be reached prior to press time.

Resolutions being crafted

It's an issue that virtually all municipalities have felt across the state. So much so that Waukesha, 32 other municipalities and Washington County

have signed resolutions to try to counteract the tactic. Those other municipalities include Brookfield and Wales.

A resolution signed by Reilly on March 7 requests Waukesha's Common Council to urge Gov. Scott Walker and the state Legislature to "protect homeowners and main street businesses from having even more of the property tax burden shifted to them by passing legislation."

The resolution asks to clarify the law so that leases are "appropriately" factored into the valuation of leased properties and, when using the comparable sale method of valuation, assessors should only consider properties that are similar in size and not vacant or abandoned.

"To me this is a pretty big issue," Reilly said. "I don't think the big box stores and the CVS' and Walgreens' should pay more on taxes than everyone else, but they should pay taxes based on the value of their property; I don't believe that they are."

Two state lawmakers are trying to end the "dark store theory." State Sen. Duey Stroebel, R-Cedarburg, and Rep. Rob Brooks, R-Saukville have been crafting a bill that's supposed to be unveiled in a "couple of weeks," Stroebel said, adding that the "courts have really kind of hijacked the assessment process."



The Target at 1250 W. Sunset Drive in the Shoppes at Fox River is one of three big-box stores in Waukesha to allege they were overassessed in property value.

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