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Another week, another Dark Store defeat

While the Wisconsin Legislature can't seem to grasp it, members of the State Bar are beginning to get the idea: the Dark Store Loophole is a loser. This week the City of West Bend declared victory over a Dark Store play by Menards. The home improvement chain withdrew three year's worth of Dark Store-based claims that it was being taxed too much. In a news release, City Administrator Jay Shambeau said the decision proves that his assessors, like many others in Wisconsin who face Dark Store claims, were doing it right all along.

"Our City Assessors take great pride in their work and establish fair and equitable assessed values," stated City of West Bend Administrator, Jay Shambeau. The cancellation of this lawsuit affirms the fact that the City of West Bend assessments were proper and fair all along. Shambeau also states, "The residents and property owners in West Bend should find peace in knowing that our city staff work hard to establish uniform and law-based assessments on all property assessments."

We don't have the exact numbers involved in this case, but similar claims from big box stores have called for cuts as large as half their tax bill, shifting tens of thousands of dollars in taxes onto homeowners, small independent businesses and manufacturers every year. In addition to shifting the tax burden to others, the cost of defending an assessment decision can easily exceed \$50,000, forcing many cities and villages to make the hard choice and agree to a settlement. The Mayor of West Bend, Kraig Sadownikow, is pleased the city stuck to its guns and didn't negotiate a settlement.

"West Bend has been a leader in combating the dark store theory," states City of West Bend Mayor Kraig Sadownikow. "I am proud of our city council and staff for their resistance to buckle to the big box pressure to accept a settlement offer. Any type of settlement would have caused a tax shift to other city property taxpayers. This was unacceptable in my opinion."

Governor Tony Evers included language in his state budget bill that would have closed the Dark Store and Walgreens loopholes once and for all. On a party-line vote, Republican leaders in the Legislature removed that language from the bill. While the future of Dark Store legislation may be uncertain, the future of dark store arguments winning in Wisconsin court rooms looks even shakier. The good news is that, despite the significant legal costs, cities and villages that have stood up to the tax-shifting strategy have been succeeding lately. If this discourages enterprising tax lawyers for big box stores from using dark store strategies, it's good news for taxpayers.

Way to go, West Bend!

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