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Supreme Court Refuses Dark Store Case

Wisconsin courts continue to reject dark store arguments presented by big box stores attempting to reduce their assessments. On February 24, 2021 the Wisconsin Supreme Court denied Lowe's Home Centers' petition for review of the October 29, 2020 Court of Appeals (District IV) decision affirming a trial court decision dismissing an excessive tax assessment claim filed by Lowe's against the Village of Plover for the 2016 and 2017 tax years. In *Lowe's Home Centers, LLC v. Village of Plover*, the village assessed an open and flourishing Lowe's store at \$7,356,600. Lowe's argued the property should be assessed at \$4,620,000. The court of appeals concluded that the circuit court properly rejected 8 sales of vacant or dark big box stores offered by Lowe's expert as evidence that the village's assessment was too high. The court of appeals said that Lowe's argument fails "because it is contrary to the Property Assessment Manual's explicit directive that 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."

"This is the latest in a line of recent circuit and appellate court decisions rejecting dark store arguments as a basis for overturning big box store property assessments," said Jerry Deschane, Executive Director, League of Wisconsin Municipalities. "We are pleased the courts are upholding the good work of municipal assessors against efforts by big box stores to shift more of their property tax bill onto other property owners, who are mainly residential homeowners."

The League of Wisconsin Municipalities filed an amicus brief with the court of appeals in support of the Village of Plover's assessment. Wisconsin Manufacturers & Commerce filed an amicus brief with the Wisconsin Supreme Court in support of Lowe's petition for review.

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

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