

Jerry Deschane: Dark Store Day: A holiday wish for tax fairness

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Leaders of the Wisconsin legislature will determine whether Christmas 2018 will be merry or just more expensive for property owners in Wisconsin. City and village leaders around Wisconsin are making one wish: that the Legislature takes a vote on the Dark Store and Walgreens loophole repair bills. The bills have plenty of bipartisan support and will pass both houses with overwhelming margins, provided they are scheduled for a vote. If the Legislature doesn't act, look for residential taxpayers to pay more, an average of 8% more in the future, to cover the tax break for these national retailers. Ho, ho, ho.

Tax attorneys representing national chain stores have come up with a novel reading of property tax law that has resulted in \$10 million retail properties paying property taxes on half or less of that value. It's called the "dark store theory," because it holds that large retail buildings are only worth what they could be sold for as vacant, "dark" buildings. Wisconsin law needs to be clarified so that common sense and fairness once again prevail.

Reversing the 2008 Walgreens v. Madison Supreme Court decision is equally important. That decision requires an assessment using the income approach of retail property leased at "above market" rents to be based on theoretical "market rents" rather than the actual rents being paid under terms of Walgreen's leases. As a result, numerous newer buildings housing Walgreens stores have sold for millions of dollars more than the value at which they can be assessed for tax purposes.

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Over time, these loopholes will slash the commercial property tax base in Wisconsin, and more of the property tax burden will be shifted to small businesses, homeowners and other taxpayers whose properties are assessed at fair market value. Homeowners already pay more than two-thirds of the property tax bill. They should not bear more.

Senate Bills 291 and 292 close these unfair loopholes, and we ask you to call your Senator or Representative to get them on the Legislature's calendar for a vote. Cities, villages, counties and towns throughout Wisconsin have declared Monday, December 11, 2017 "Dark Store Day," to call attention to this problem. Here's hoping we won't have a Dark Store Day again next year.

— *Deschane is executive director of the League of Wisconsin Municipalities.*