

# League of Wisconsin Municipalities: Files amicus brief in first dark store case before Wisconsin Supreme Court

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The League of Wisconsin Municipalities recently filed an amicus brief with the Wisconsin Supreme Court in *Lowe's Home Centers, LLC v. City of Delavan*, involving a challenge by Lowe's to its property tax assessment using the dark store theory. Both the circuit court and the court of appeals, consistent with many other lower court decisions rejecting the dark store theory, upheld the city's assessment against Lowe's claim that it was excessive.

The League filed an amicus brief in this case because the Court's decision may significantly impact other taxpayers in Wisconsin. If the Supreme Court reverses the court of appeals' decision, the result will be a tax shift from large commercial retail properties to homeowners and small businesses. The League's brief seeks to educate the Court about the negative practical implications of accepting Lowe's dark store related theories.

Lowe's has challenged its property tax assessments not only in the City of Delavan, but also in the City of Wauwatosa and the Village of Plover. In each of these cases, the circuit court and court of appeals rejected using the sale prices of closed and vacant stores as a basis for lowering the assessment of an open and thriving store in a good location.

The Court's decision in this case will have far reaching implications not only as to Lowe's properties but as to the assessment practices applicable to commercial properties around the State.

League Executive Director Jerry Deschane offered the following statement:  
“Wisconsin municipalities have a deep interest in ensuring our property tax system is fair and equitable for all taxpayers. In contrast to this principle, Lowe’s dark store related theories would result in an unequal application of the law and a massive tax shift causing other taxpayers to make up the difference. The League and its member municipalities are focused on avoiding having more of the tax responsibility shifted to homeowners and small businesses, who already bear most of the tax burden.”

A link to the Amicus Brief is available [here](#).