

The “Dark Store” Theory Defined

There are actually two assessment theories used by commercial and manufacturing property owners to artificially lower their taxes. One has been labeled the “dark store” theory, while the other has been coined the “Walgreen’s lease loophole”. The dark store theory involves manipulating the comparable sales assessment approach in order to shift taxes to home owners and small businesses. The Walgreen’s lease loophole manipulates the use of market rents to artificially decrease taxes.

Comparable Sales Assessment Loophole (i.e., dark store theory)

When people say “dark store” they are referring to the manipulation of the comparable sales assessment approach. This is because the owner of the big box store that wants to shift taxes away from themselves argues for the use of sales of vacant buildings as comparable sales for its property. Big-box retailers will find stores vacant for years. Those vacant stores then get sold for less money than a fully operational store would. The retailers argue these “dark stores” are “comparable”, and they demand a lower assessment on their newer, fully operational building.

A hypothetical helps to best understand this situation. Assume a retailer purchased a vacant lot for \$3 million and constructed a \$7 million dollar building. The property is then assessed at \$10 million. The retailer will then find a vacant property recently sold for \$5 million. The big-box store then goes to the board of review and eventually the circuit court arguing its new building should be assessed at \$5 million, despite it being new. Frequently, the courts will side with the stores. In some cases retailers argue their property is worth less than what they paid for the land!

Further, these retailers will often place conditions on their properties that purposely reduce the value. For instance the property might have a restrictive covenant limiting the use of the land in the future and thus the value. Despite the fact that the owner voluntarily decreased their own property value with these restrictions, they will argue that they should pay less taxes, which causes everyone else to pay more.

Although this is called the “dark store” theory, a more accurate term might be “dark property” because the practice is sure to spread to other types of properties. For example manufacturing facilities have already started to use this theory to lower their assessments.