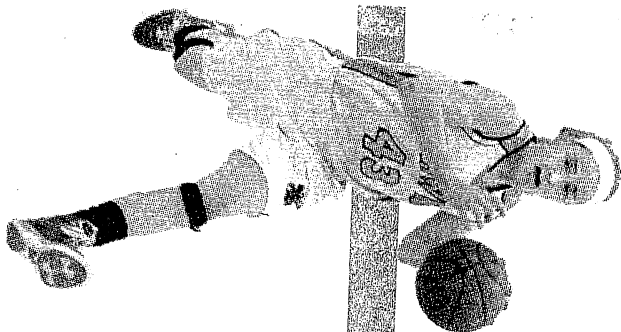


NEWS GRAPHIC



Still undefeated

Grafton girls make their presence known in game against Messmer High School.

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Coming Tuesday

The Cedarburg American Legion Post and the Auxillary host their annual Christmas party for Clement J. Zablocki VA veterans.



A 'dark' tax strategy

Tax strategies get big box stores tax breaks up to 50 percent

By Melanie Boyung
News Graphic Staff

GRAFTON — If "dark store" assessing spreads to Grafton, it could cost the village hundreds of thousands of dollars in taxes.

So the Village Board Monday formally asked the state and Gov. Scott Walker to close the loopholes within tax law that allow for some national chain retailers and pharmacies cutting their tax bills, sometimes in half.

"There's always somebody trying to work through a loophole," said Jim Brunnquell, village board president.

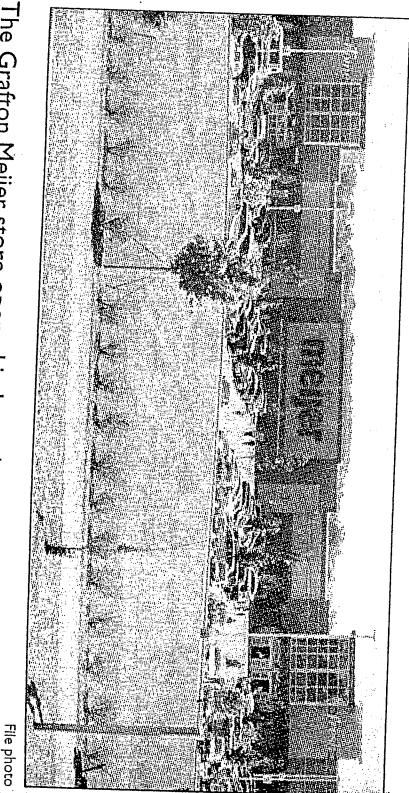
The factors used in assessing property taxes are set by state law, and for commercial properties in Wisconsin include purchase value of the land, construction cost of facilities, recent comparable land sales and the income generated by the business, among others. Large-scale retailers are arguing that income should not be a factor — that the assessment on an operating business should be equal to that of a similar, but vacant, building: the dark store.

"Some of these national, commercial retailers are asking the

assessor not to use income, which is typically the key basis for that property (assessment)," said Village Administrator Darrell Hofland.

Hofland prepared a report for the board's resolution using information from the League of Wisconsin Municipalities. The report said retailers are arguing that their assessment should equal that of dark stores because their properties would never sell for their actual construction costs on the open market; many retailers have facilities built specifically for their stores' needs that others would not require, or placed restrictions on the property that it cannot be sold to direct

The Grafton Meier store opened in June; the company has used the "dark store" tax strategy in other states, including its base-state, Michigan.



File photo

competitors after they are gone.

"We did receive a visit from corporate staff at Meier within a week or two of them opening their store, wanting the village to adhere to this dark store theory," Hofland said.

The village of Pleasant Prairie in Kenosha County made a settlement agreement with Target in September, based on the dark store theory. Pleasant Prairie

Loophole: Court orders Oshkosh to pay Walgreens \$69,549 tax refund

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Administrator Mike Pollocoff published an article on the matter in the village newsletter; it was also reprinted in the LWM publication "Municipality" this month.

Pleasant Prairie agreed to give the Target there – just one store – a \$118,946.56 refund based on three years' worth of valuation. Whereas the village had valued the business at between \$12 million and \$14 million from 2012 and 2014, Target argued it should be valued at \$6.6 million, based on the assessments of similar but abandoned properties in Kenosha County.

Pollocoff's said Pleasant Prairie settled at a valuation of about \$10.78 million to avoid rising litigation costs.

While these tax arguments are relatively new in Wisconsin, they have already taken hold in other states. The Michigan Association of County Treasures estimated that court rulings upholding the lower assessments have cost communities across the state nearly \$75 million in taxes.

"Some communities have actually been engaged in litigation with these national chains, as the commercial property owners as for significant discounts," Hofland said.

The other assessment technique being used, triple net lease, has been employed with success in Wisconsin. Walgreens and CVS stores across the state have argued that their tax bill should be only half of what they are paying because they rent buildings rather than own them, and the rent they pay does not accurately reflect property values.

Statistics in Hofland's report showed that Walgreens leased about 80 percent of its stores nation-

ally, and CVS about 95 percent of theirs. The companies contract with developers to have stores built to highly specific standards and then lease for an amount including rent, construction costs, property taxes and operating costs. They have argued that the properties' value for tax reasons should not be based on what investors will pay to own a drugstore lease, but what landlords could get if the drugstore left and another business moved in, because other retailers generally pay much less.

The Winnebago Circuit Court recently ruled in favor of an Oshkosh Walgreens, ordering the city of Oshkosh to pay the Walgreens a \$69,549 tax refund, according to Hofland's report.

For many communities, property taxes are the main revenue source for community services and programming. If municipalities are forced to honor these tax strategies that cause drastic decreases in commercial property taxes, that would equate to tax burden shifts to residential properties and decreased municipal budgets.

Legislation has been introduced in Michigan that would close the loopholes; the Republican-controlled Indiana Legislature recently passed a new law with strong bipartisan support prohibiting assessors from valuing new or operating box stores the same as nearby abandoned stores. The Grafton resolution asks Wisconsin lawmakers to follow that lead.

"The thought is that our state legislature needs to address this issue sooner than later, in light of the lawsuits that are already out there in communities around Wisconsin," Hofland told the board.

(Melanie Boyung can be reached at mboyung@conley.net.com.)