

Dark Stores: What Are They and How Do They Impact Your Community

Michigan Municipal League
Capital Conference

Lansing Center
333 E. Michigan Avenue – Room 101
Lansing, MI 48933

March 23, 2016

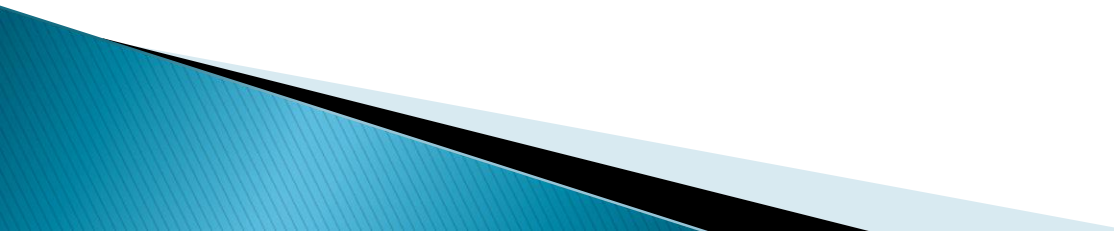
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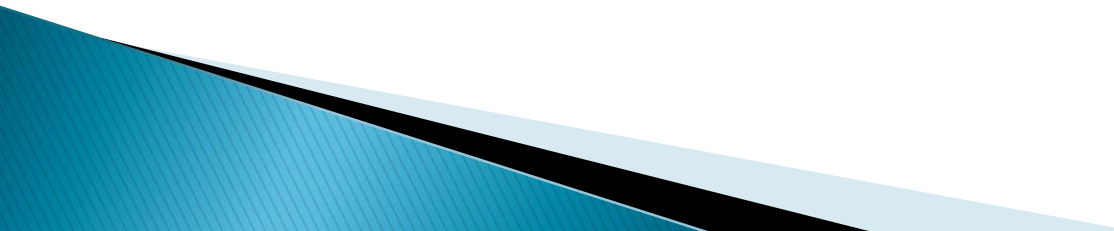
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COUNSELORS & ATTORNEYS

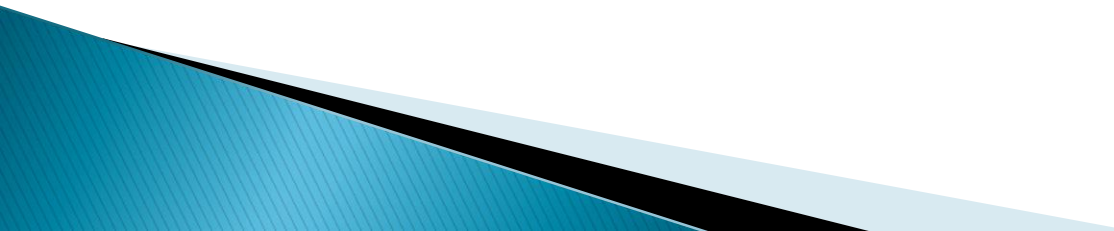
OUTLINE

- I. Introduction: What's in a Name?
 - II. Unpacking the Big Box: Review of the Dark Store Theory
 - III. Getting Boxed in: How Big Box Stores Have Been Treated by Courts and Tribunals
 - IV. Boxing Tips for Assessors
 - V. What's in Store for the Big Box: Legislative Solutions
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I. Introduction: What's in a Name?

- A. The History of “Big Box” Retailing.
 - B. The Definitions of “Big Box.”
 - C. Regional and National “Big Boxes.”
 - D. The “Dark Store Theory:” Key Points
 - E. The Dark Store Analysis and Impact.
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A. History of “Big Box” Retailing

- ▶ “Big Box” retail is new: gained prominence in the late 1980s and boomed in the 1990s. By 2010, 35% of vacant retail space in the United States was big box space.
 - ▶ The retailers are new, national and regional chains: Best Buy (1983); Home Depot (1981); Dick’s Sporting Goods (1984); Kohl’s (1979); Lowe’s (1994); Target (1962); Sam’s Club (1983); Sport’s Authority (1987); Borders (1985); Costco (1983); Walmart (1962); Circuit City (1984).
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A. History of “Big Box” Retailing

- ▶ The stores are new: Borders Books (first superstore in 1985 and closed 399 stores by 2011), Walmart (1987-2011 built 8,000 (88%) of its stores; plans to add over 200 this year and has added about 100 each of the last three years); Circuit City (580 stores from 1984-2009). Since the 1970's, retail space increased 20% *per capita*.
- ▶ Upsizing: Easier/Less expensive than renovating. Between 1987-2004, Walmart closed 107 stores in Texas and built 92 Super Centers.

B. Definitions of “Big Box”

A single-use store, typically between 10,000 and 100,000 square feet or more, such as a large bookstore, office-supply store, pet store, electronics store or toy store. (ICSC)

A general merchandiser or category killer. General merchandisers like Wal-Mart, Costco, and Target offer a wide variety of merchandise at deep-discounted prices. The product mix of these stores includes nearly everything shoppers need for their home, work, garden, garage, or car, as well as recreational items and apparel. Category killers like Office Depot, OfficeMax, Best Buy, and PetSmart offer a deep selection in a single category. (CB Richard Ellis)

B. Definitions of “Big Box”

A large stand-alone store that specializes in a single line of products, such as home improvement, toys or office supplies; no-frills discount stores that sell in volume and category killers are often big-box stores. (CoStar).

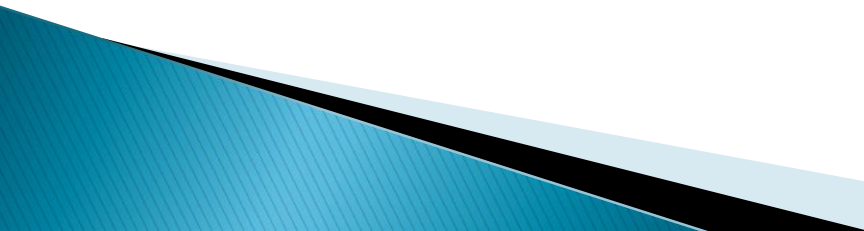
The Dictionary of Real Estate Appraisal (5th ed, 2010 Appraisal Institute), p. 19.

C. Regional and National “Big Boxes”

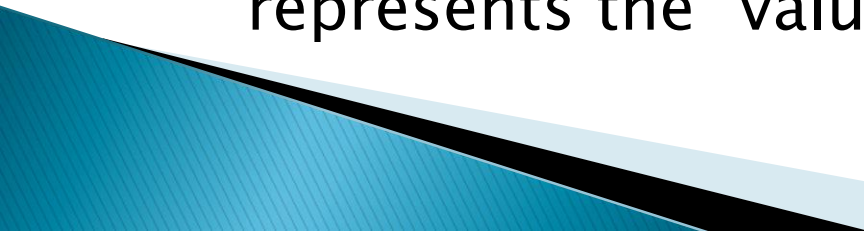
- **Department Stores**
- **Discount Department Stores**
- **Home Improvement Stores**
- **Furniture and “Big Ticket” Showrooms**
- **Discount Warehouses**
- **Category Killers**

All are “retail chains,” sharing a brand, centralized management and operating in multiple locations—nationally or regionally—and most are not local companies. That is, they often displace independent local businesses.

D. The “Dark Store Theory:” Key Points

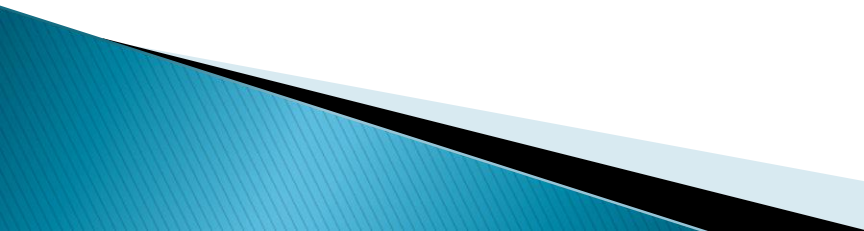
1. The Theory applies to national and regional retailers, not the bulk of retailers.
 2. The Theory is based on the cost to remodel a “box” by another “big box” retailer.
 3. The Theory claims that most of the “box” is not useful to another “big box” retailer and is “functionally obsolete.”
 4. The Theory claims that stores of national and regional retailers sell for “far less” than their construction cost.
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D. The “Dark Store Theory:” Key Points

5. The Theory claims that functional obsolescence is supported by actual sales.
 6. The sales must be adjusted or include only “fee simple” sales, no leaseholds.
 7. The sales are based on a “value-in-exchange” not a “value-in-use.”
 8. The Cost Approach cannot be used because it represents the “value in use.”
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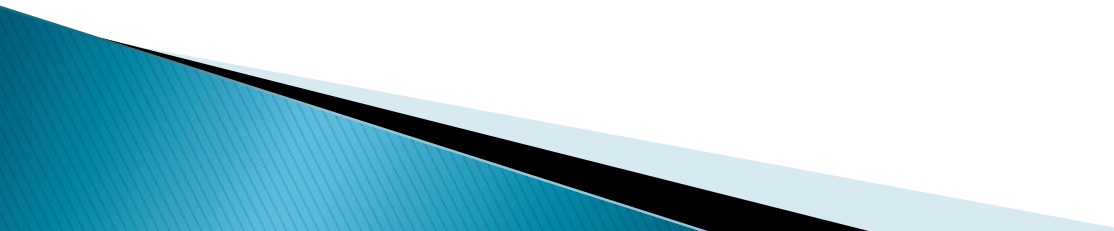
E. The Dark Store Analysis and Impact

Indiana Revenue Analysis

1. 45% reduction in assessed values resulting for a total annual reduction of \$3.5 billion.
 2. Annual revenue reduction of \$120.8 million.
 3. Reduced tax increment revenue of \$25.6 million.
 4. Increased taxes –tax shift– of \$49.9 million.
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E. The Dark Store Analysis and Impact

Michigan Revenue Analysis

1. Reduction from an average of \$55 psf to \$24 psf.
 2. Half of revenue loss is for school funding.
 3. Example: Lowes in Michigan receives an annual \$7,783,274.00.
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E. The Dark Store Analysis and Impact

Marquette County Commercial Corridor Impact

Total Potential Lost Revenues on "Big Box" Retail				
		2012	2013	2014
Township OP	4.9050	\$ 31,578.12	\$ 60,949.04	\$ 64,921.60
Fire	2.5000	\$ 16,094.86	\$ 31,064.75	\$ 33,089.50
Roads	0.8492	\$ 5,467.10	\$ 10,552.07	\$ 11,239.84
Library	0.9061	\$ 5,833.42	\$ 11,259.11	\$ 11,992.96
Heritage Trail	0.2000	\$ 1,287.59	\$ 2,485.18	\$ 2,647.16
County Operating	5.2938	\$ 34,081.19	\$ 65,780.23	\$ 70,067.68
Transit	0.5997	\$ 3,860.84	\$ 7,451.81	\$ 7,937.51
Special Programs	1.7169	\$ 10,448.14	\$ 20,165.99	\$ 22,724.55
School Operating	18.0000	\$ 115,883.01	\$ 223,666.20	\$ 238,244.40
School Debt	0.5500	\$ 6,116.05	\$ 6,834.25	\$ 7,279.69
School Sinking Fund	0.9500	\$ -	\$ -	\$ 12,574.01
Allocated/Spec. Ed	2.2048	\$ 14,194.38	\$ 27,396.62	\$ 12,574.01
State Education Tax	6.0000	\$ 38,627.67	\$ 74,555.40	\$ 29,182.29
Totals for all Jurisdictions		\$ 283,472.37	\$ 542,160.65	\$ 524,475.20

E. The Dark Store Analysis and Impact

City of Escanaba Commercial Corridor Impact

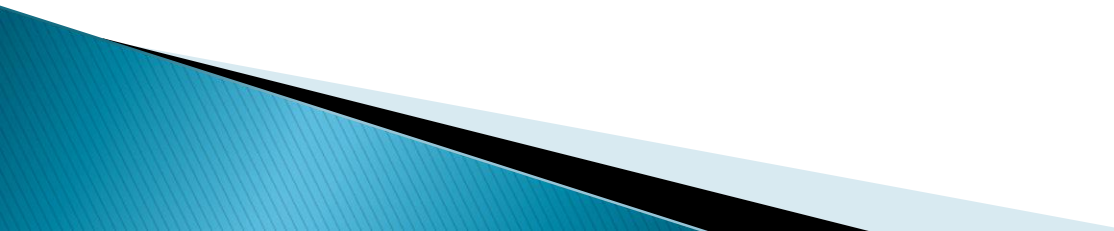
Total Potential Lost Revenues on "Big Box" Retail 2014			
City Operating	17.0000	(246,797.78)	*
Dispatch 911	0.3000	(4,355.25)	
Escanaba School Debt	4.7500	(68,958.20)	
Bay College	3.3076	(48,018.14)	
County Operating	5.0317	(73,047.79)	
Sheriff Rd Patrol	0.9000	(13,065.76)	
Com Action	0.6000	(8,710.51)	
School Operating	18.0000	(261,315.30)	
Intermediate School	2.3851	(34,625.73)	
Data	0.6000	(8,710.51)	
State Education Tax	6.0000	(87,105.10)	
Totals for all Jurisdictions		(854,710.08)	
* does not include 1 % admin fee			

E. The Dark Store Analysis and Impact Michigan v Other States

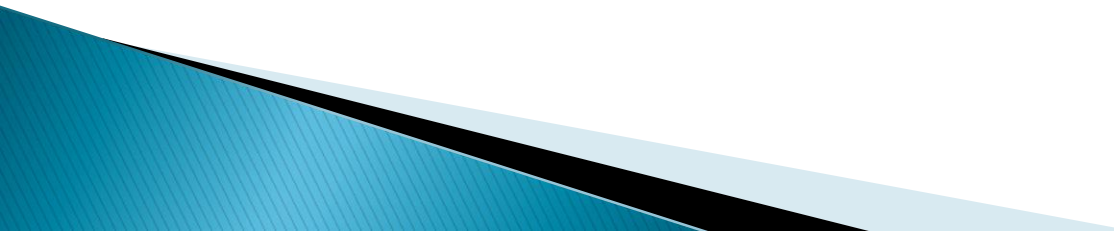
▶ Lowes in North Carolina	\$79.08
▶ Lowes in South Carolina	\$54.52
▶ Menards /Lowes /Target in WI	\$61.23
▶ Home Depot in Georgia	\$64.84
▶ Walmart in Arkansas	\$52.42
▶ Meijer in Ohio	\$43.64
▶ Lake County, Ohio	\$66.46
▶ Connecticut Avg.	\$77.53
▶ Michigan Avg PSF	\$24.39

The Dark Story Impact

“Michigan’s many recent big box property tax decisions spotlight issues applicable to many types of properties...” APTC

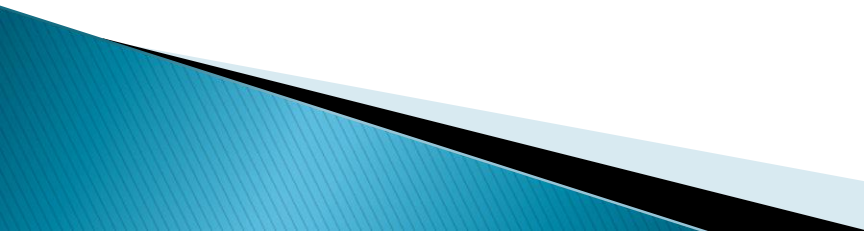


II. Unpacking the Big Box: Review of the Dark Store Theory

- A. “Build to Suit:” Disparate Treatment of Retailers.
 - B. “Trade Dress” and the Cost of Conversion.
 - C. Comparable Sales Prove Functional Obsolescence.
 - D. Value in Use v Value in Exchange
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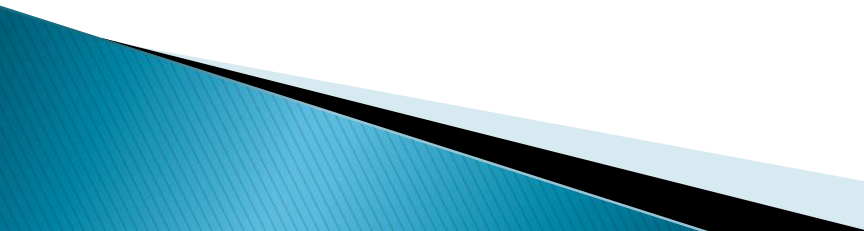
A. “Build to Suit:” Disparate Treatment

Each Big box retailer either builds or remodels its stores to be consistent with the retailer’s marketing (“build to suit”).

1. The “Dictionary” Definition: What is a “Big Box?”
 2. “Big box retailers:” who are they?
 3. “Built to Suit” concept, describing custom-built property with a above market rents applicable?
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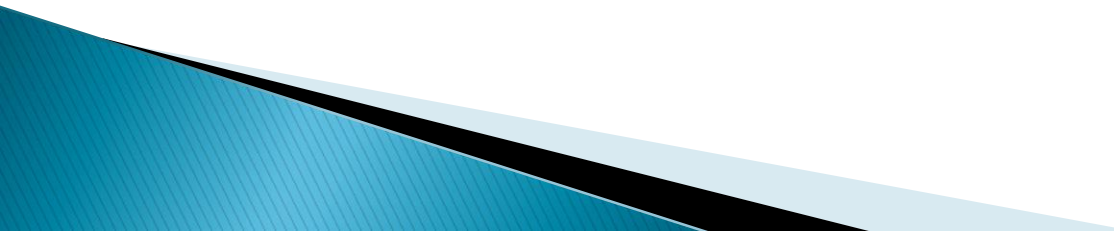
B. “Trade Dress” and the Cost of Conversion

The Theory claims that most of the “box” – walls, ceiling, roof, parking, utilities, etc.-- is not useful to another “big box” retailer.

1. Deed Restrictions: What proof if the buildings are not sold to other retailers.
 2. What about land value?
 3. What about improvement value?
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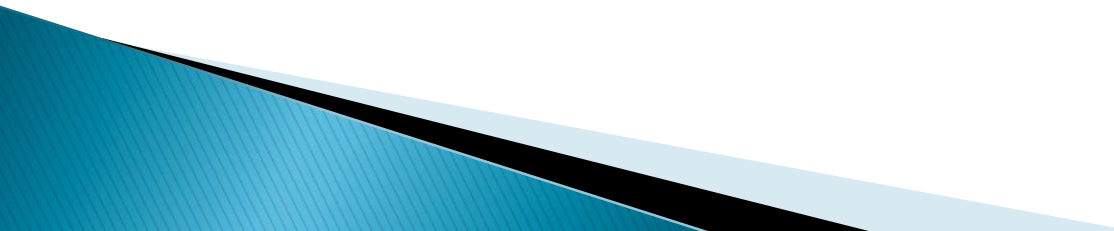
C. Comparable Sales Prove Functional Obsolescence

The Theory claims that stores of national and regional retailers sell for “far less” than their construction cost.

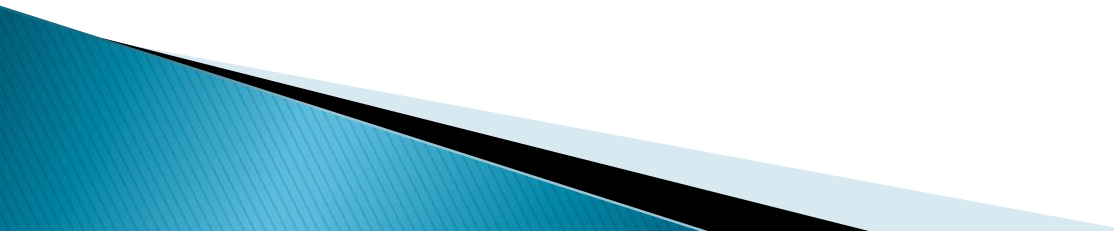
1. Deed Restrictions: Real?
 2. Does not “match” the highest and best use” of the current store; determined by Buyer
 3. Troubled Sales: forfeitures, bankruptcies or depressed land values.
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D. Value in Use v Value in Exchange


The sales are based on a “value-in-exchange” not a “value-in-use.”

1. Impossible to value occupied property?
 2. Purpose of Three Approaches to Value.
 3. Cost Approach. Isn't it user neutral?
 4. Economic Obsolescence and New Construction.
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III. Getting Boxed in: How They Have Been Treated by Courts and Tribunals

- A. Introduction to Big Box Litigation
 - B. Precedential Michigan Big Box Cases
 - C. Lowe's Home Centers, Inc, v Marquette Twp; Home Depot USA, Inc v Breitung Twp; Menards v City of Escanaba
 - D. Approaches to Value Considered By Other States
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A. Introduction to Big Box Litigation

- Only two published Michigan Court of Appeals decisions (1983 and 2005 – both Meijer cases) before 2012.
 - Prior cases relied on the cost approach.
 - Recent cases include: Ikea, Home Depot, Lowe's, Target, Kohl's and Meijer.
 - Recent cases rely on the comparable sales approach.
- 

A. Introduction to Big Box Litigation

- Cases in other states--Indiana, Minnesota, New York, Connecticut, and Ohio--appear to have followed previous Tribunal decisions. Unlike the Tribunal's recent decisions, courts in these states have not unilaterally adopted the secondary market for "Big Box stores" and their value determinations are dramatically greater than those in Michigan.

B. Precedential Michigan Big Box Cases

Thrifty Royal Oak Inc v City of Royal Oak

130 Mich App 207; 344 NW2d 305 (1983)

- ▶ 27 acre site with a 247,000 square foot building built in 1991-1992. Tax years are 1978-1980.
- ▶ MTT finds that the property to be a “unique” or special purpose property and utilizes the cost approach.
 - The comparable sales were so dissimilar to the subject that the two comparable sales approaches produced “distorted market values.”
 - Lack of reliable comparable sales demonstrates the unique character.
 - Questionable comparable sales justifies the Tribunal’s determination that the cost approach was a more reliable method.

B. Precedential Michigan Big Box Cases

Thrifty Royal Oak, Inc. v City of Royal Oak

- ▶ COA affirms assessment. The property was “unique” and justifies use of the cost approach. Using the cost approach did not consider custom improvements designed to “enhance the image” of Meijer. Use of a gross sales per square foot was a valid method for determining whether the store was economically obsolete.

B. Precedential Michigan Big Box Cases

Meijer v Midland

240 Mich App 1, 610 NW2d 242 (2000)

- ▶ 34 acre site with a 188,823 square foot building built in 1991-1992. Tax years are 1993-1994. Actual cost of construction was \$7,232,982.
- ▶ “All the experts who testified before the Tax Tribunal agreed that the true cash value of the subject property must be determined by finding the market value of the fee simple interest in the property, based on the assumption that the subject property is vacant and for sale.”

B. Precedential Michigan Big Box Cases

Meijer v Midland

240 Mich App 1, 610 NW2d 242 (2000)

- ▶ MTT adopted the cost approach and rejected the Petitioner's sales and income approaches because the comparables were former/retired stores sold in the secondary market and were too dissimilar in age and use to the subject property.
- ▶ COA remands to determine whether cost approach considered unique enhancements for Meijer.
- ▶ On remand, Meijer was unable to prove obsolescence except minimal "trade dress."

C. *Lowe's and Home Depot* (Background)

1. *Lowe's Home Centers, Inc, v Marquette Twp*, unpublished per curiam opinion of the Court of Appeals issued April 22, 2014 (Docket No. 314111; MTT Docket No. 385768); *Home Depot USA, Inc v Breitung Twp*, unpublished per curiam opinion of the Court of Appeals issued April 22, 2014 (Docket No. 314301; MTT Docket No. 366428).
2. Highest and Best Use: Petitioners conclude to a general retail use. Respondents conclude to the continued use as a home improvement store, and “continued use as a Lowes retail facility.”

C. *Lowe's and Home Depot* (Vacant Properties)

Sales of vacant comparable properties value the fee simple. Leased fee can be used, BUT not without “reasonable and supportable market adjustments for the difference in rights.” (p. 16, fn .12; citing *Appraisal of Real Estate*)

“the tribunal’s position [in *Home Depot*] was not that [the Respondent’s Appraiser’s] comparables...i.e., sales of “occupied” properties...could never be used in valuing a fee simple property, but rather that [the Respondent’s Appraiser] did not appropriately make adjustments for the differences between the sales of a leased fee interest...and a fee simple interest, which was the interest being valued in the present case.” (p. 16).

C. Menards v City of Escanaba

1. *Menards, v City of Escanaba*, issued January 7, 2015 (COA Docket No. 32518; MTT Docket Nos. 441600; 14-001918).
2. Highest and Best Use: Parties agree that the newly-built property would be for “continued use as a stand-alone retail facility.”
3. Questions: How to Uniformly Value the Fee Simple
 - a) Whether STC Method of Value is Valid.
 - b) Whether Deed-Restricted Comparable Sales may be used to Value the Fee Simple.
 - c) Whether Tribunal Determined a Highest and Best Use

D. Approaches to Value Considered by Other States

Meijer Stores v Franklin County

122 Ohio St. 3d 447 (2009)

- Affirms Board of Tax Appeals rejection of second-generation sales and rental comps and adopts the cost approach.
- Court rejects the argument that the Meijer store was a “built-to-suit” because Meijer owns the property and the concept applies to construction for rental by specific tenant.

D. Approaches to Value Considered by Other States

Meijer Stores v Franklin County

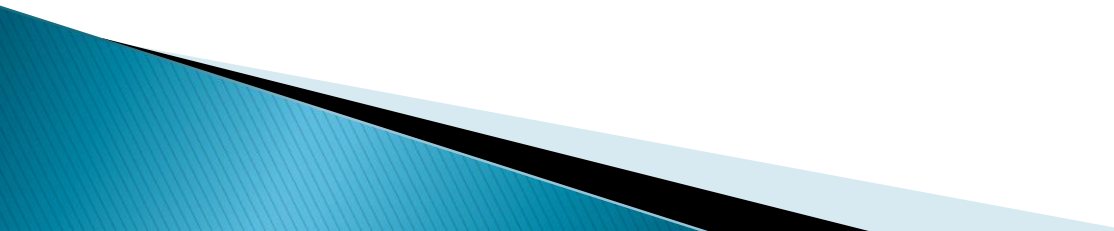
122 Ohio St. 3d 447 (2009)

- Rejects the leased fee to fee simple distinction because Ohio does not follow a strict market rent premise.
- Rejects the claim that the BTA's determination was a "value-in-use" because the property was a special-purpose property and was built for the special purpose of its current and foreseeable use.

D. Approaches to Value Considered by Other States

Meijer Stores v Smith

926 NE2d 1134 (Tax Court of Indiana, 2010)

- Considers sales of former “Big Box” stores in a secondary market.
 - Accepts that obsolescence occurs immediately on construction due to oversupply and the limited number of buyers due to the size and the dynamic nature of this particular form of retail.
 - Respondent presented no evidence.
 - Tax Court sets the value at \$6,300,000.
- 

D. Approaches to Value Considered by Other States

- ▶ *Meijer Stores, L P v Marion County*, Pet. Nos. 44-440-02-1-4-00573 (Ind. Bd. of Tax Rev., Dec. 1, 2014).
- ▶ *Kohl's Indiana, L. P.* Pet Nos. 34-002-10-4-00350, et. al. (Ind. Bd. Tax Rev., Dec. 31. 2014).

D. Approaches to Value Considered by Other States

Bonstores Realty One LLC v City of Wauwatosa

351 Wis 2d 439 (Court of Appeals of Wisconsin, 2013)

- Court rejects sales and rental comps of dark stores. All were distressed and inferior to the subject. Petitioner agreed that the subject was not “dark” and would never be “dark.”
- Petitioner also publically reported the purchase of the subject property for \$32 Million, though it claimed in the tax appeal that the property was worth \$11 Million.
- Court affirmed the assessment of \$25,593,300.

D. Approaches to Value Considered by Other States

- ▶ *Walgreen v City of City of Madison*, 752 NW2d 687 (2008).
- ▶ *Great Lakes Quick Lube, LP v City of Milwaukee*, 794 NW2d 510 (2010).
- ▶ *Target Corp v City of Racine*, (2015).

D. Approaches to Value Considered by Other States

- *Menard v Clay County*, 2015 WL 5944893 (Minn. Tax Regular Div.; Minn. Tax Court,, 14-CV-12-1500).
- *In re Target Corp.*, 2015 WL 2131691, unpublished decision of the Kansas Court of Appeals issued May 1, 2015 (Dk No. 111,602); *In re Prieb Properties, LLC*, 275 P3d 56 (2012).
- *Lowe's Home Centers, Inc. v Holman*, 2008 WL 2504221 (Mo. State Tax Com, 06-34004) June 6, 2008.

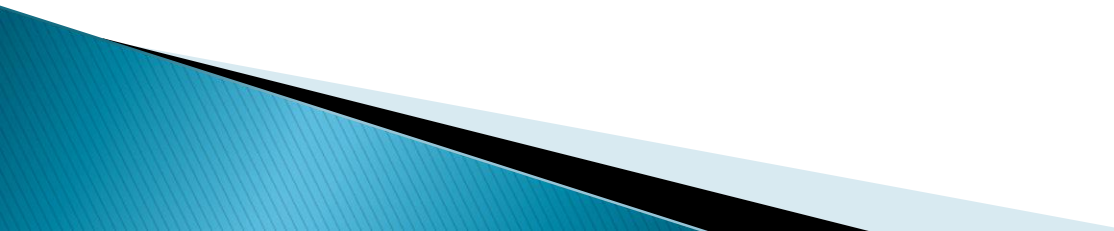
D. Approaches to Value Considered by Other States

- *Home Depot USA, Inc. v Assessor of the Town of Queensbury*, 129 A. D. 1427 (Supreme Court 2015); *Rite Aid Corp v Haywood*, 130 AD3d 1510 (2015); *Rite Aid v Otis*, 102 AD 3d 124 (2012).
- *Kohl's Illinois Inc. v Town of Clifton Park, et.al*, 123 AD. 3d 1315; 999 NYS 2d 250 (2014).
- *Hy-Vee Inc. v Dallas County Bd. of Rev.*, 856 NW2d 383 (2014); *Hy-Vee, Inc. v Carroll County Bd. Of Rev.*, 840 NW2d 726 (2013); *Soifer v Floyd County Bd. of Rev.*, 759 NW2d 775 (2009).

D. Approaches to Value Considered by Other States

- ▶ *Kohl's Homeport Associates LLC v Washington County Assessor*, decision of the Oregon Tax Court decided January 14, 2015 (TC-MD 140171D; 2015 WL 196374)
- ▶ *CVS Corp v Turner*, unpublished opinion of the Hillsborough County, Florida Circuit Court (Dk Nos. 07-008515, 08-01077, 09-020997, 10-009490) issued July 3, 2013
- ▶ *Home Depot USA, Inc. v City of Danbury*, 2012 WL 2149654 (Superior Court of Connecticut, 2012)
- ▶ *Burlington Coat Realty of East Windsor, Inc. v Town of East Windsor*, 2008 WL 224286 (Superior Court of Connecticut)

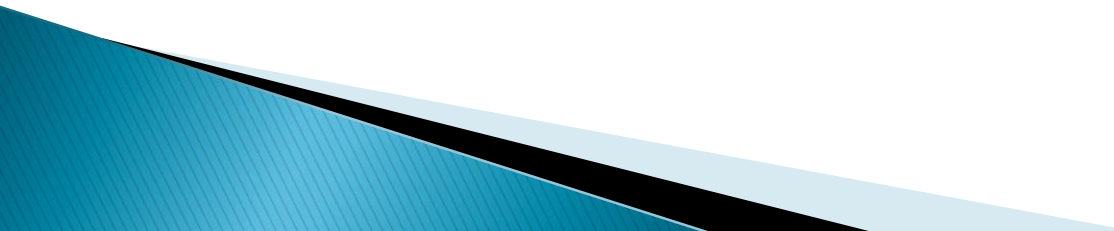
IV. Boxing Tips

- A. Definition of the Problem
 - B. Back-up the Assessment
 - C. Highest and Best Use
 - D. Functional Obsolescence
 - E. Economic Obsolescence
 - F. Risks and Rewards
- 

A. Definition of the Problem

1. Determining the property appraised (not just the rights): Real v Personal or Leased fee v Fee simple? Full bundle of rights? Or some severed
2. Define the purpose/intended use of the appraisal
Value in use or exchange?
3. Defining the type of value
Statutory definition of value or fair market value


B. Back-Up the Assessment

1. The 4th Method of Value.
User Neutral, Supports Cost Approach, Provides a Base-line for Uniformity.
 2. Burden of Proof
What happens if the Petitioner's Case Fails?
 3. Establish a Floor: Land Value and Improvement Value.
- 

C. Highest and Best Use

- 4-Part Test: Physical, Legal, Financially Feasible and Maximally Productive.
- “Reasonably Probable” determined by current use and in immediate future.
- “It provides conclusions that guide the appraiser in the application of the *three approaches to value*.” (PAV, p. 27)
- Three Approaches to Value: 1) Required; 2) Isolates Issues; 3) Reconciliation Supports Assessment.

C. Highest and Best Use

- Conclusion must be based on full understanding of the forces of supply and demand in that location, and be based on the principals of appraisal (Balance? Competition? Conformity? Etc.)
 - A true comparable has the same market forces as the subject
 - Sales of dark stores may reflect differing economics (supply and demand factors) from that of a functioning store
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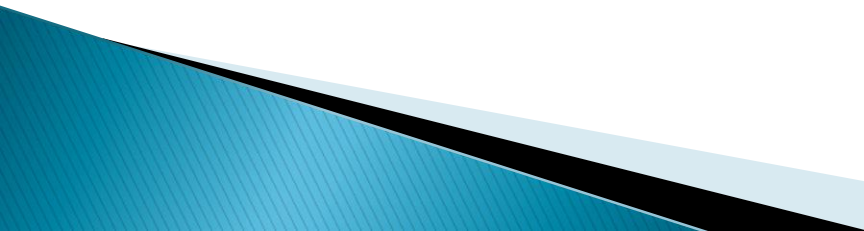
D. Functional Obsolescence

- ▶ “The functional utility of a special–purpose building depends on whether or not there is continued demand for the use for which the building was designed. When there is demand, functional utility depends on whether or not the building conforms to competitive standards.”
- ▶ The Appraisal of Real Estate, 14th ed, p 269

D. Functional Obsolescence

- ▶ Only applies to Building Improvement
- ▶ Curable functional obsolescence has three types:
 1. Deficiency
 2. Modernization
 3. Superadequacy
- ▶ Incurable functional obsolescence has two:
 1. Deficiency
 2. Superadequacy

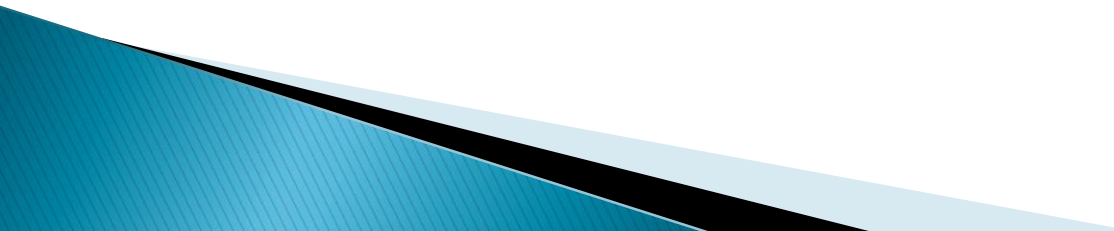
D. Functional Obsolescence

1. Have appraisers identified the specific items deemed to be functionally obsolete?
 2. Have they properly accounted for loss in value? (See Appraisal of Real Estate, 14th ed. Pages 623–632 for cost approach.)
 3. Have they adjusted for all other differences before determining a loss in value in sales comparison/income approaches?
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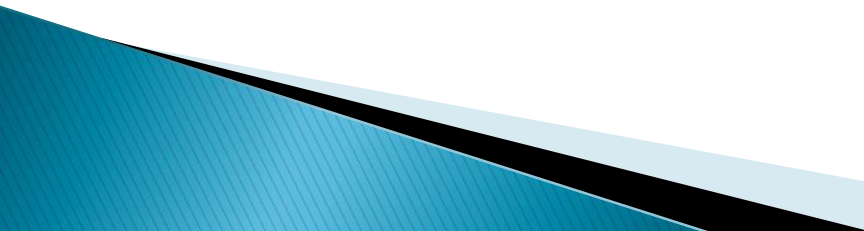
D. Functional Obsolescence

- ▶ Ask for and insist on receipt of all work papers in the appraiser's possession!
- ▶ Spend the money to see the sold "comparables".

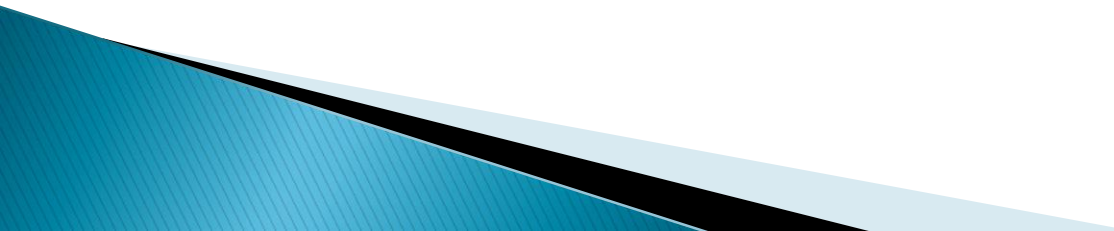
E. External Obsolescence

- It is important to fully analyze potential external obsolescence of both subject and all comps (sales and income) **and make adjustments for all differences**
 - Paired sales analysis is best support of adjustments for differences
 - Knowledge of external factors for all comps will require research
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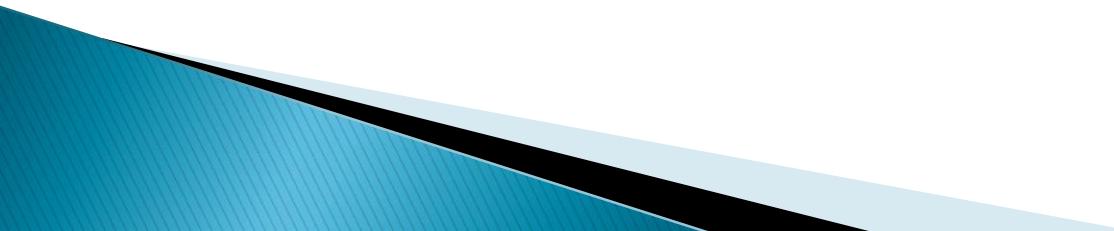
F. Risks and Rewards: Risks

- Portfolio, Sales and Leaseback Rentals
 - Leased Fee Sales
 - Excluding the Cost Approach
 - Restricted Deed Sales
 - Boilerplate HBU
 - Limited Comparable Sales and Rentals Base
 - Lacks of Sales and Rental Analyses.
 - Sketchy or “Back-At-The-Office” Work Files.
 - Reliance on the Appraiser
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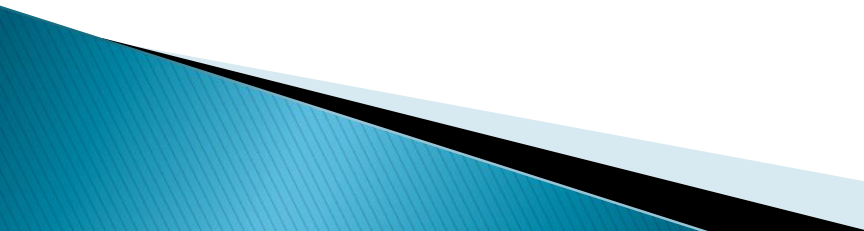
F. Risks and Rewards: Reward

- Impeach Comparable Sales and Rentals
 - Analyze Highest and Best Use
 - Three Approaches to Value Reconciled
 - Robust Cost Approach
 - Robust Land and Improvement Comps, supported by traffic counts, economic development comps.
 - Robust Cost Approach
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V. What's in Store for the Big Box

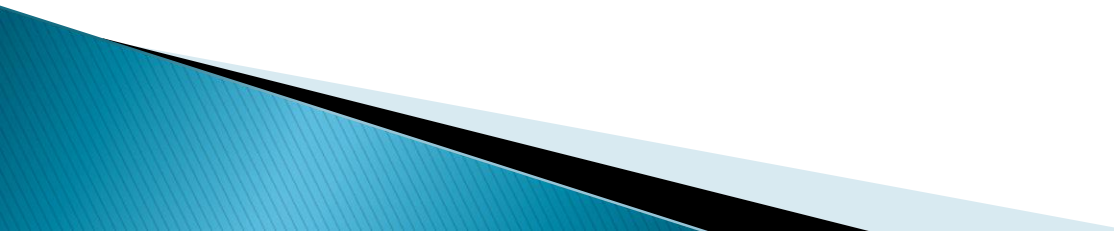
- A. Indiana: SECTION 8. IC 6-1.1-4-43
 - B. Ohio: ORC - 5713.03
 - C. Michigan Legislation: SB 524 and HB 4909
 - D. SB 537: MTT Reform
 - E. Tax Recapture Solution: HB 4681; Pending Michigan Legislation
 - F. Texas Tax Code 23.01
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A. Indiana Reform – SECTION 8. IC 6-1.1-4-43 [Effective March 1, 2014] (RETROACTIVE)

1. Requires cost approach to exclusively determine “big box” assessments and appeals.
 2. Prohibits use of restricted deed sales comparables.
 3. Prohibits use of vacant property as sales comparables.
 4. Retroactive to 2014.
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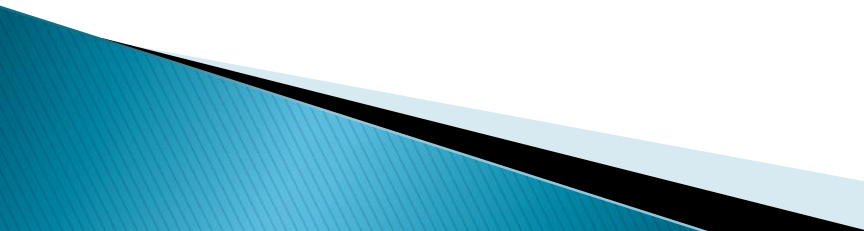
B. Ohio: OCR – 5713.03

“The county auditor, from the best sources of information available, shall determine, as nearly as practicable, the true value of the fee simple estate, as if unencumbered but subject to any effects from the exercise of police powers or from other governmental actions...”



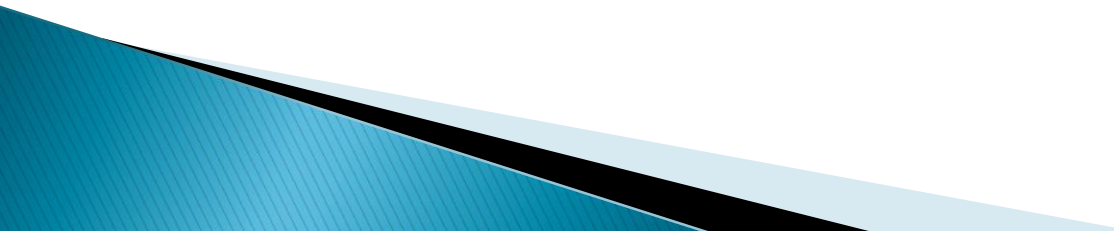
C. Michigan Legislation HB 4909 and SB 524: Proposed Zoning Solution

Provide municipalities (township, cities and counties) the ability to prevent use of restrictive deeds from undermining a Master Plan or other Zoning Ordinance.

1. Prevent the Use of Negative Use Restrictions from privately requiring uses inconsistent with a Master Plan.
 2. Eliminate the legal effect of negative use restrictions 90 days after a store becomes vacant.
 3. Permit local zoning ordinances approving retail establishments based on an approved plan for re-lease or re-use.
 4. Provide local units the ability to rehabilitate vacant stores that cause blight.
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C. Proposed GPTA Solution: SB 524

Define Highest and Best Use (“HBU”) in the Definition of True Cash Value

1. Prohibit speculative, theoretical HBUs by requiring that the HBU be “reasonably probable use ..in the immediate future and the present use of the property that results in the highest value.
 2. Exclude consideration of negative use restrictions that are contrary to zoning ordinances.
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C. Proposed GPTA Solution : SB 524

Define “limited use property” (“LUP”) and make it a rebuttal presumption that the cost approach be used.

1. LUP means property which “has a viable and supported economic demand for its continued use but which has a limited number of uses or lacks a sufficient market demand.”
2. Establish a rebuttable presumption that the cost approach be used to value limited use property.

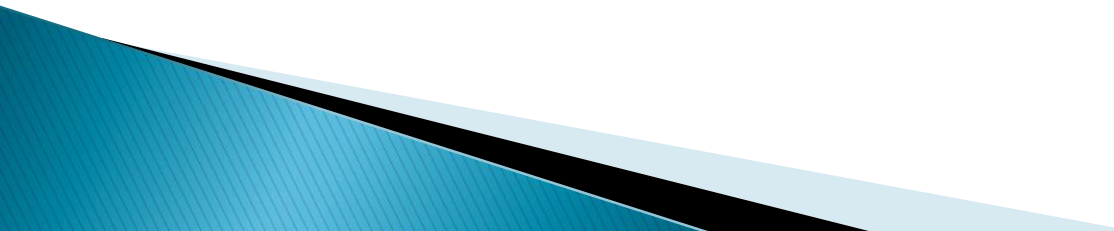
D. MTT Reform: SB 537

Improve Selection of Tribunal Judges and Establish a Budget.

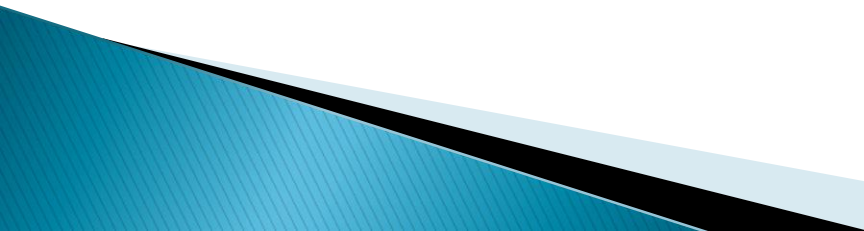
1. Appointments from list of recommended tax professionals
 2. Permit temporary appointments
 3. Establish disqualification standards
 4. Establish Salary
 5. Require compliance with ethical standards and productivity standards.
 6. Draft uniform filing time lines to be the same as the Michigan Court of Claims.
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D. MTT Reform: SB 537

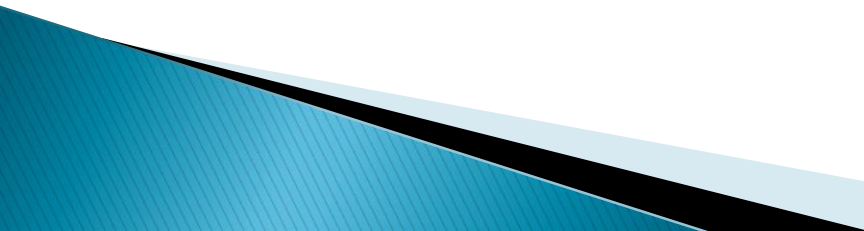
Other Rumored Changes re Dark Store fixes?
Or New Bill?

- Standards for Valuation
 - Standards for Evidence
 - Timing of Appraisals and Evidence Disclosures
 - Payment of Property Taxes
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E. Tax Recapture Solution: HB 4681 Public Service Providers Indemnification Act

- ▶ Applies to “qualified real property” (QRP) any property valued by the tribunal as “vacant and available” when the property was occupied.
 - ▶ Imposes a “user fee” on QRP equal to the amount of taxes reduced as a result of the tribunal decision; that is, it reverses a tax tribunal appeal.
 - ▶ Assessor establishes the amount of the “fee.”
 - ▶ Fee is paid annually.
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E. Tax Recapture Solution: HB 4681 Public Service Providers Indemnification Act

- ▶ QRP includes all property commercial, industrial or residential.
 - ▶ Unclear whether it applies to fee simple sales or requires leased fee sales. Result could increase assessments.
 - ▶ “Fee” is a tax under Michigan law.
 - ▶ Concern regarding the loss of appeal.
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F. Texas Tax Code 23.01

Section 23.01, Tax Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) The selection of comparable properties and the application of appropriate adjustments for the determination of an appraised value of property ... must be based on the application of generally accepted appraisal methods and techniques. Adjustments must be based on recognized methods and techniques that are necessary to produce a credible opinion.

F. Texas Tax Code 23.01 (cont.)

(g) Notwithstanding any other provision of this section, property owners representing themselves are entitled to offer an opinion of and present argument and evidence related to the market and appraised value or the inequality of appraisal of the owner's property.

This Act takes effect January 1, 2016.



QUESTIONS?

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