

REAL

TALK



FROM THE POLK COUNTY ASSESSOR

www.assess.co.polk.ia.us

FALL 2018

BIG BOX RETAILERS' TAX APPEALS AND THE DARK STORE THEORY

Across the United States, big box retail stores like Target, Walmart, Kohl's, Lowe's, etc., have started using a controversial tactic known as the "dark store theory" to appeal their assessed values in an effort to lower their property taxes.

The term *dark store* means a vacant store with the lights turned off (as in dark because they are without electricity). Dark stores are vacant, single-tenant properties that have been rejected by the market for their original use and are considered second-generation space.

Dark store sales refer to sales that dark store proponents claim are appropriate comparables for valuing big box retail properties, regardless of whether they're occupied or vacant.

The dark store theory suggests that occupied, operational big-box stores should be valued as if vacant and available for sale or rent to a future hypothetical user, rather than as a functioning, occupied store.

When vacant, blighted, abandoned, deed-restricted sales are used as comparisons to value functioning, occupied stores, the end result is substantially lower assessments, hence, significant reductions in property taxes.

The dark store theory is typically used by retailers with 10,000 square feet or more (many that are feeling the pinch from online retailers such as Amazon), including grocery stores and drug stores. However, it's not typically used for other property types such as office properties, shopping centers, industrial properties, or apartment properties.

A SIMILAR APPROACH FROM THE 1990s

In the 1990s, an approach similar to the dark store theory was used to push for intangible value components in malls. Known as the business enterprise value theory, it was used with Merle Hay Mall. The case captured the issue perfectly for malls (*Merle Hay Mall v. City of Des Moines Bd. of Review* 564 N.W. 2nd 419 (1997)).

In the Merle Hay case, the court noted the business enterprise value theory "is not a generally recognized appraisal method." It went further to note, "It is undisputed that this method was designed in the late 1980s by a group of shopping mall owners in cooperation with real estate appraisers and real estate professors in a group called 'SCAN' (shopping center assessment network)." And, "...the

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THE DARK STORE THEORY SUGGESTS THAT OCCUPIED, OPERATIONAL BIG-BOX STORES SHOULD BE VALUED AS IF VACANT AND AVAILABLE FOR SALE OR RENT TO A FUTURE HYPOTHETICAL USER, RATHER THAN AS A FUNCTIONING, OCCUPIED STORE.

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business enterprise concept seems to be used almost exclusively in tax assessment cases, it is not used in all mall appraisals.”

CASES IN IOWA

While the dark store theory has succeeded for big box retailers in a few Midwestern states (namely Michigan, Indiana, and Kansas), to date, Iowa has fared pretty well in these types of cases. Since 1903, the Court has repeatedly held that consideration of the current use of the property is required when setting the assessed value for tax purposes.

For example, *Hy-Vee Food Stores, Inc. v. Carroll County Board of Review*, No. 12-1526, 2013 W.L.5498137, at *2, *# (Iowa Ct. App. 2013): When valuing a property used as a grocery store, it is appropriate to focus on comparable sales of grocery stores sold for continued use.

In *Homemakers Plaza, Inc. v. Polk County Board of Review*, No. 12-0634, 2013 WL 105220, at *7-*9 (Iowa Ct. App.

2013), the Court noted, “Valuation should be based on the ongoing use of the property. Valuing the property based on a different use by a future purchaser, predicated on the assumption that a future purchaser would not continue the existing use, improperly overlooks how the property is currently being used.”

The International Association of Assessing Officers (IAAO) released an official position paper on valuing big box retail properties in 2017. The document was designed to provide guidance in valuing this type of property. To view the document, [click here](#).



THE MULTI-RESIDENTIAL ROLLBACK EFFECT

Owners of multi-residential properties continue to reap the benefits of a property tax rollback that was first implemented by the Iowa legislature starting with 2013 assessments. The rollback percentage is multiplied by the assessed value to obtain the value of the property that is subject to taxation.

Since 2013, the rollback percentage for these properties has decreased each year and will continue to drop until 2022, when it becomes equal to the residential rollback, which is currently around 57%.

Randy Rippperger, Polk County Assessor, says the rollback is having a significant effect on multi-residential property values. With taxes going down because of the decreasing rollback, net incomes for multi-residential property owners will continue to increase, even if rents don't. The more income a property produces, the more value it has in the market.

We have observed that sales and prices are continuing to increase, and many out-of-state buyers have invested in these properties.

Here's a look at how the taxation of multi-residential properties has changed since 2013.

YEAR	PERCENT OF PROPERTY VALUE THAT'S TAXED
2013	95% of property value
2014	90% of property value
2015	86.25% of property value
2016	82.5% of property value
2017	78.75% of property value
2018	75% of property value
2019	71.25% of property value
2020	67.5% of property value
2021	63.75% of property value
2022	equal to the residential rollback

Randy says he expects the tax burden will continue to shift from multi-residential properties to commercial properties because their values are continuing to increase.

However, if commercial values start to weaken, this will likely mean an increase in the tax burden for residential property owners.

Note: Multi-residential properties were classified as commercial properties until 2015 when they were identified as their own category.

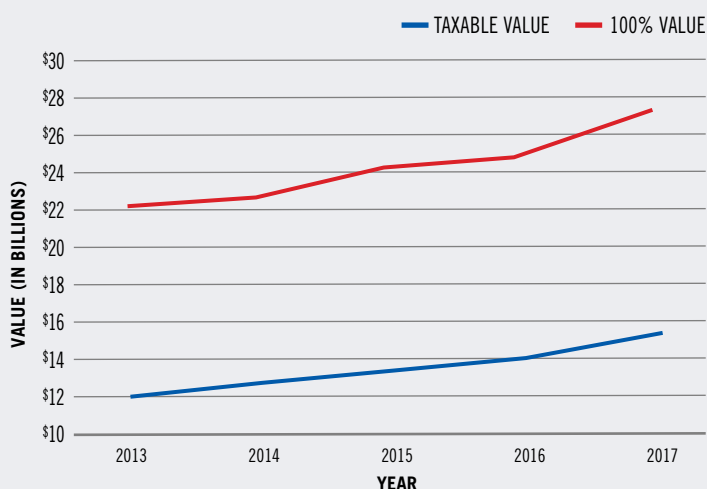
COMPARING TAXABLE TO ACTUAL VALUES ACROSS CLASSES

As you can tell by the previous article about the multi-residential property rollbacks, a property's value and its taxable value can and do differ.

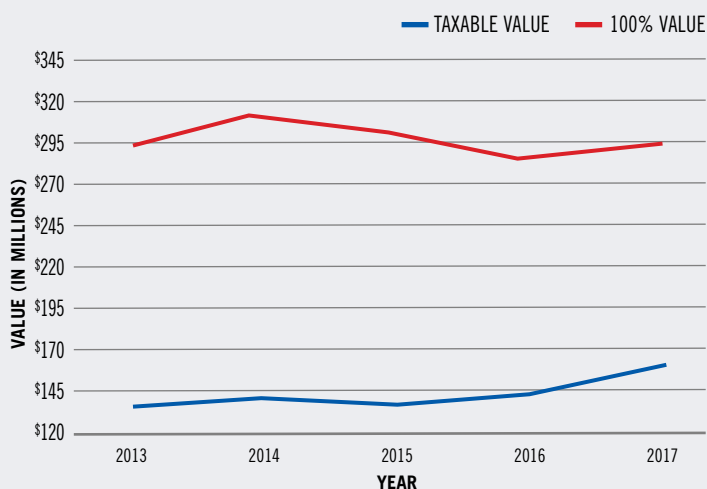
This is true for all classes of property. The following charts provide a breakdown for the different classes of property in Polk County — showing a comparison between taxable and actual values for the past five years.

Rollbacks enacted by the Iowa legislature are one reason for the difference in values — helping to keep tax increases reasonable for property owners.

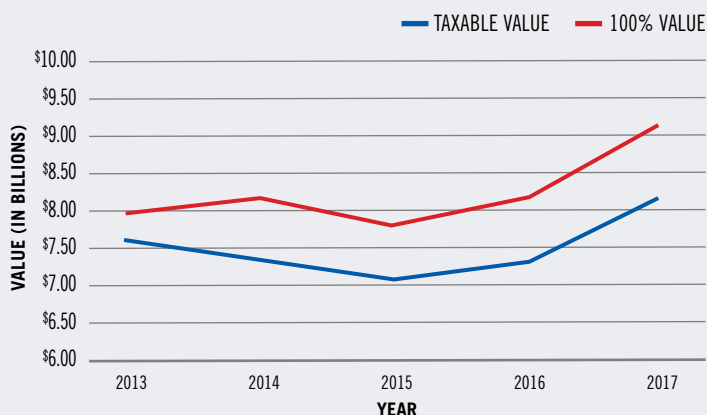
RESIDENTIAL CLASS – 100% VALUE VS. TAXABLE VALUE



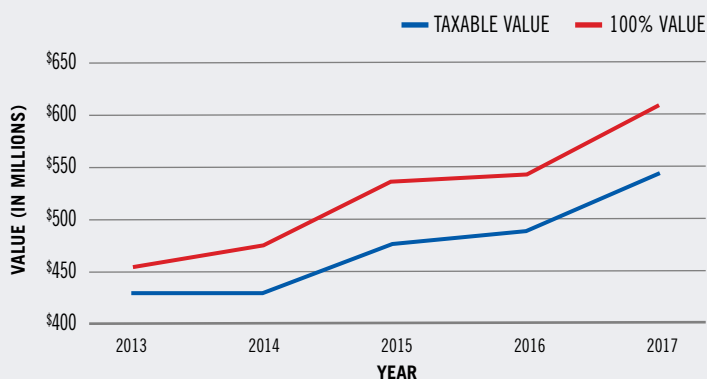
AGRICULTURAL CLASS – 100% VALUE VS. TAXABLE VALUE



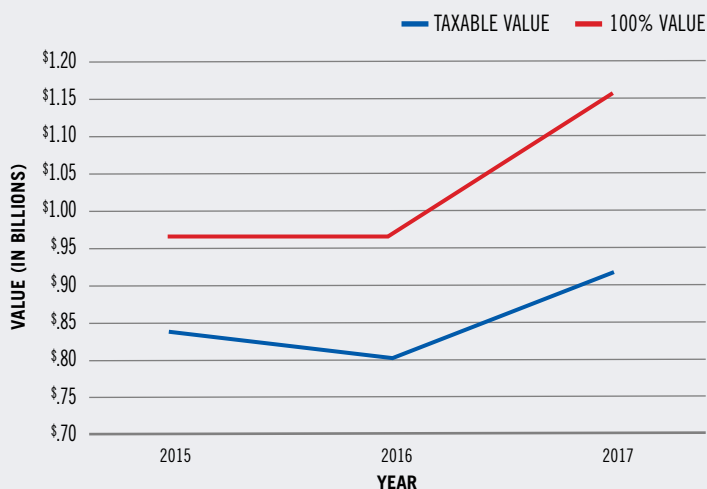
COMMERCIAL CLASS – 100% VALUE VS. TAXABLE VALUE



INDUSTRIAL CLASS – 100% VALUE VS. TAXABLE VALUE



MULTI-RESIDENTIAL CLASS – 100% VALUE VS. TAXABLE VALUE



The 100% values represented are the Assessor's adjusted values (abatements and exemptions are removed) as reported to the County Auditor, and don't reflect the same values as the Assessor's Abstract.

Note that the graph for the multi-residential class only has data for three years because this class was created by law for the year 2015.

YOU'VE GOT
QUESTIONS.
WE'VE GOT
ANSWERS!



The Polk County Assessor's staff answers hundreds of questions every month from property owners.

Here are answers to four common questions received by our office that may be helpful to you as well.

Q: When do assessments change?

A: The assessor revalues all properties every two years in odd-numbered years. Values can also change when the property changes. For example, if a new house or garage is built, or if there are other additions or demolitions.

Q: Do I need to let an assessor into my house?

A: While not required, it's helpful to let the person assessing your house see both the exterior and interior of your property for the most accurate assessment.

Q: My realtor/builder says my purchase price has nothing to do with the assessment. Is this true?

A: Your assessment is an estimate of what your property would be worth if it were placed on the market for sale. The assessor's office analyzes arm's length sale prices of properties to determine assessed values. (An arm's length sale means both parties are acting in their own self-interest. A parent-to-child sale, for example, would not be considered arm's length.)

Q: How can I determine if my assessment is fair and equitable compared to my neighbors?

A: You can do a neighborhood search on [our website](#) to see assessments for properties in your neighborhood and recent selling prices.

Watch for answers to more FAQs in future issues of *RealTalk*.

REAL TALK

QUESTIONS?

We hope you've found this issue of *RealTalk* to be informative. We'd like to know what you think. For more information on any of these topics, please contact us. We want to be your resource for property assessment issues.

Previous issues of *RealTalk* are archived on the Polk County Assessor's website at www.assess.co.polk.ia.us.

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OUR MISSION

The mission of the Polk County Assessor is to estimate the fair market value of residential and commercial property. The Assessor doesn't determine tax rates or calculate or collect taxes. If you have questions or want more information about what we do, please let me know.

Randy Ripperger
Polk County Assessor