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Lowe's Home Centers, LLC v. City of Delavan

Supreme Court of Wisconsin - February 16, 2023 - N.W.2d - 023 WL 2028779 - 2023 WI 8

Pursuant to statute allowing an action challenging the disallowance of a claim of excessive assessment, taxpayer, which owned property on which a home improvement store sat, brought action to recover the excess amount of property taxes that it believed that it had paid for two particular years, which claim the city board of review had disallowed.

After a bench trial, the Circuit Court entered judgment against taxpayer. Taxpayer appealed. The Court of Appeals affirmed. Taxpayer petitioned for review.

The Supreme Court held that taxpayer failed to demonstrate that assessments were excessive, despite argument that vacant “big box” retail locations should have been seen as comparable to taxpayer’s property under “tier 2” analysis.

In action brought pursuant to statute allowing action challenging disallowance of claim of excessive assessment, taxpayer, which owned property on which home improvement store sat, failed to present significant contrary evidence to overcome presumption of correctness in property tax assessments, despite taxpayer’s argument that vacant “big box” retail locations should have been seen as comparable to taxpayer’s property under “tier 2” analysis; those vacant properties were not just vacant, but “dark,” i.e., vacant beyond normal time period for commercial real estate, and Wisconsin Property Assessment Manual counseled against using such properties as comparable to properties that were not similarly “dark.”

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