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## Indiana Court Decision Good News for Big Box Retail

*By Morgan Thomas, Chicago*

Big box retail stores represent billions of dollars of assessed value in Indiana. A ruling by the Indiana Board of Tax Review in favor of a major retail store may serve as a precedent for other big box outlets to win lower property tax assessments.

### IS RETAIL VALUE TIED TO SALES?

Assessors typically consider a property's income when assigning value to commercial property, including retail stores.

However, lawyers successfully argued that the East 96th Street Meijer store in Marion County, one of the most successful in the state, should be compared with other stores that have been vacated and sold. Appraisers refer to this approach as the "dark store theory."

Meijer attorney Stephen Paul explained, "Sure, a fully functional store is worth more than an empty store, but the additional worth is in the business being conducted there. It's not from the real estate."

The Tax Review Board's ruling follows a recent, similarly decided case on a Kohl's department store in Kokomo. Both cases hinged on the interpretation of the state standard of value-in-use.

### MULTI-MILLION DOLLAR REFUND

The decision, which covers tax years 2002-2012, leaves Marion County owing a \$2.4 million property tax refund to Meijer.

Marion County Assessor Joseph O'Connor said he hasn't decided yet whether to appeal to the Indiana Supreme Court.