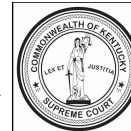


**COMMONWEALTH OF KENTUCKY
SUPREME COURT
CASE NO: 2025-SC-0015**



Received: 2025-SC-0015 10/21/2025
Filed: 2025-SC-0015 10/21/2025
M. Katherine Bing, Clerk
Supreme Court of Kentucky

LWAGLVKY 1 LLC et al. c/o WALGREEN CO.

APPELLANTS

**APPEAL FROM THE COURT OF APPEALS
CASE NO. 2024-CA-0302-MR**

COLLEEN YOUNGER, JEFFERSON COUNTY
PROPERTY VALUATION ADMINISTRATOR, et al.

APPELLEES

**MOTION OF THE COUNCIL ON STATE TAXATION
FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF IN SUPPORT OF APPELLANTS**

Pursuant to Kentucky Rule of Appellate Procedure (“RAP”) 34(B)(1), the Council on State Taxation (“COST”) respectfully moves the Court for leave to file the brief tendered with this motion as *amicus curiae* in this proceeding. COST is a non-profit trade association representing multistate and multinational corporations dedicated to preserving and promoting nondiscriminatory state and local taxation of multijurisdictional business entities. Throughout its history, COST has vigorously advocated for policy initiatives to promote the equitable division of tax burdens among taxpayers. COST supports Appellants’ position that the Jefferson County Property Valuation Administrator (“PVA”) violated the equal protection, and uniformity guarantees of both the United States Constitution and the Kentucky Constitution.

As *amicus curiae*, COST writes to assist the Court with the proper interpretation and application of the principles underlying the Fourteenth Amendment’s Equal Protection Clause. This action directly impacts the rights of all Kentucky property taxpayers. COST as a national organization is uniquely positioned to address the equal protection and uniformity issues raised in this matter. The application of equal protection (and uniformity) principles to the PVA’s selective

and disparate use of a drugstore valuation formula is especially important because, absent reversal, the Court of Appeals' opinion essentially authorizes local assessors to arbitrarily decide whether comparable property within the same classification can have radically different taxable values. The lower courts incorrectly upheld the PVA's selective and disparate application of a "drugstore valuation formula" solely to Appellants' stores, thereby substantially increasing real property tax assessed values for Appellants

As *amicus curiae* COST is positioned to provide this Court with an analysis of an equitable and fair property tax system. The Court of Appeal's erroneous dismissal of Kentucky's longstanding precedent that the value of the property itself, as opposed to contract rent, determines the value of ad valorem tax applied is not representative of a property tax system that is fairly administered, and tax burdens equitably distributed among taxpayers.

Finally, the Court of Appeal's holding leaves the Commonwealth of Kentucky vulnerable to further constitutional challenges given the greater subjectivity of its property tax system. Therefore, COST believes this Court would be greatly assisted by permitting it to participate as an *amicus curiae*, and to file its brief attached.

For these reasons, Amicus moves for leave to file the accompanying brief in support of Appellants. The filing fee required by RAP 13(B)(1)(f) is tendered herewith.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that on this 21st day of October 2025, a true and accurate copy of this motion along with the \$150 filing fee was electronically filed with the clerk of the Kentucky Supreme Court, State Capitol Building, Room 235, 700 Capitol Avenue, Frankfort, KY 40601, and a copy was served, by first class United States mail, postage prepaid, upon the following: Mark A. Loyd, Bailey Roese, Stephanie M. Bruns, Dentons Bingham Greenebaum LLP, 3500 PNC Tower, 101 South 5th Street, Louisville, KY 40202; Natalie Johnson, Kathryn Goodwin, Jefferson Co. Attorney's Office, First Trust Center, 200 S. Fifth St., Ste. 300N, Louisville, KY 40202; Jefferson Co. Board of Assessment Appeals, c/o Jefferson Co. Clerk, Bobbie Holsclaw, P.O. Box 33033, Louisville, KY 40232; Hon. Russell Coleman, Attorney General, Office of the Attorney General, The Capitol, 700 Capitol Avenue, Ste. 118, Frankfort, KY 40601; Kentucky Board of Tax Appeals, by and through Frederick Higdon, Chair, Office of Claims and Appeals, 500 Mero St. 2SC1, Frankfort, KY 40601; Hon. Sarah E. Clay, Judge, Jefferson Circuit Court, Division Nine, 700 W. Jefferson St., Louisville, KY 40202; Kate Morgan, Clerk, Court of Appeals, 669 Chamberlin Ave., Suite B, Frankfort, KY 40601; Mark F. Sommer, Elizabeth M. Ethington, Frost Brown Todd LLP, 400 W. Market St., 32nd Floor, Louisville, KY 40202; and Michele M. Whittington, Morgan Pottinger McGarvey, 175 E. Main St., Ste. 200, Lexington, KY 40507.

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**COMMONWEALTH OF KENTUCKY
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COLLEEN YOUNGER, JEFFERSON COUNTY
PROPERTY VALUATION ADMINISTRATOR, et al.

APPELLEES

**BRIEF OF AMICUS CURIAE COUNCIL ON STATE TAXATION
IN SUPPORT OF APPELLANTS
(Filed Electronically)**

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CERTIFICATE OF SERVICE

The undersigned certifies that on this 21st day of October 2025, a true and accurate copy of this Brief of Amicus Curiae Council on State Taxation in Support of Appellants was electronically filed with the clerk of the Kentucky Supreme Court, State Capitol Building, Room 235, 700 Capitol Avenue, Frankfort, KY 40601, and a copy was served, by first class United States mail, postage prepaid, upon the following: Mark A. Loyd, Bailey Roesse, Stephanie M. Bruns, Dentons Bingham Greenebaum LLP, 3500 PNC Tower, 101 South 5th Street, Louisville, KY 40202; Natalie Johnson, Kathryn Goodwin, Jefferson Co. Attorney's Office, First Trust Center, 200 S. Fifth St., Ste. 300N, Louisville, KY 40202; Jefferson Co. Board of Assessment Appeals, c/o Jefferson Co. Clerk, Bobbie Holsclaw, P.O. Box 33033, Louisville, KY 40232; Hon. Russell Coleman, Attorney General, Office of the Attorney General, The Capitol, 700 Capitol Avenue, Ste. 118, Frankfort, KY 40601; Kentucky Board of Tax Appeals, by and through Frederick Higdon, Chair, Office of Claims and Appeals, 500 Mero St. 2SC1, Frankfort, KY 40601; Hon. Sarah E. Clay, Judge, Jefferson Circuit Court, Division Nine, 700 W. Jefferson St., Louisville, KY 40202; Kate Morgan, Clerk, Court of Appeals, 669 Chamberlin Ave., Suite B, Frankfort, KY 40601; Mark F. Sommer, Elizabeth M. Ethington, Frost Brown Todd LLP, 400 W. Market St., 32nd Floor, Louisville, KY 40202; and Michele M. Whittington, Morgan Pottinger McGarvey, 175 E. Main St., Ste. 200, Lexington, KY 40507.

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PURPOSE AND INTEREST OF AMICUS CURIAE

The Council On State Taxation (“COST”) submits this brief as *amicus curiae* in support of Appellants (“Walgreen Co.”) in the above-captioned matter.

COST is a non-profit trade association formed in 1969 to preserve and promote equitable and nondiscriminatory state and local taxation of multijurisdictional business entities. COST represents approximately 500 of the largest multistate corporations in the United States, including businesses operating in every industry segment. Many of COST’s members are engaged in business in the Commonwealth of Kentucky and have a vested interest in fair and equitable property taxation in the Commonwealth.

As *amicus*, COST regularly submits amicus briefs on state and local tax cases pending at the U.S. Supreme Court or a state’s highest court that are important to multijurisdictional business. Related to Kentucky tax cases, COST submitted an amicus brief to the U.S. Supreme Court in support of a petition for a writ of certiorari from this Court related to a Kentucky corporate income tax issue, *Johnson Controls, Inc. v. Miller*, 560 U.S. 935 (2010), pet. denied; *Miller v. Johnson Controls, Inc.*, 296 S.W.3d 392 (Ky. 2009). COST, on behalf of its members, seeks equitable taxation including ensuring that state courts apply fair and equitable property tax administrative practices. This includes, for example, not allowing the adoption of property tax practices that inequitably impose substantially different property tax valuations on similar property used by businesses in the same industry (*i.e.*, classification) based merely on the properties having different ownership structures. The differential valuation of properties used by businesses operating in the same industry sector creates inequitable selective and disparate tax treatment.

INTRODUCTION

As a matter of longstanding policy, COST seeks fair administration of state and local taxes, including property taxes. Our policy positions, which include distributing tax burdens fairly among all types of taxpayers, are approved by the COST Board of Directors.¹ These positions not only guide COST staff but are also available to the public to provide what we believe constitute principles of fair and equitable state and local taxation. A fundamental tenet of COST's policy is to oppose property tax practices that selectively treat one taxpayer differently than other similarly situated taxpayers. This type of tax administration not only represents bad tax policy, but it also raises concerns under both the Equal Protection Clause of the 14th Amendment to the U.S. Constitution and the Kentucky Constitution.²

The Court of Appeals held it was acceptable for the property valuation administrator (PVA) to use above-market contract rents to value Walgreen Co.'s real property, as opposed to market-based rents used by the PVA to value similar types of properties. The Court of Appeals' holding is a significant departure from the State's established precedent and violates the Equal Protection Clause of the U.S. Constitution. Specifically, the Court of Appeals' decision violates the Equal Protection Clause by artificially (and selectively) allowing the PVA to value certain retail properties with above-market contract rents differently than those owned fee simple or having market contract rents. The Court of Appeals affirmed differential valuation methods even though the properties are otherwise similarly situated retail properties. The Court of Appeals' decision not only has constitutional infirmities but also reflects poor tax policy. Amicus will highlight the poor

¹ COST policy positions are available at: <https://www.cost.org/state-tax-resources/cost-policy-positions/>.

² Amicus in this brief will focus on the 14th Amendment issues and adopts the legal arguments set forth in Appellants' brief.

tax policy through reference to its scorecards that are utilized to encourage state legislatures to improve their state and local tax administrative practices.

In a nutshell, the Court of Appeals held that properties with above-market contract rents can be valued based on a business (financing) valuation while other similarly situated properties lacking above market rents are valued based on the property itself and not the value of the business operating or using such property. This dichotomy results in the inequitable administration of the Kentucky property tax which this Court should correct.

The Commonwealth has long held that it is the fee simple interest, *e.g.*, the value of the real property itself, that must be valued for ad valorem tax purposes. “The terms ‘fair cash value’ and ‘fair market value’ are synonymous.” *Kentucky Department of Revenue v. Hobart Mfg. Co.*, 548 S.W.2d 297, 300 (Ky. 1997). In *Hobart* this Court addressed below-market contract rents and held, “... even though the lessee may have the better of the bargain (*e.g.*, if the rent is lower than another lessee would be willing to pay), the taxing authority still collects a tax on the full value of the property.” *Id.* at 299. Similarly, though a property realizes above-market contract rent, the value for property taxes should still be based on the full value based on a willing buyer and seller without taking into consideration any above-market contract rents.³

³ Any additional value *to the lessor* created by contract rents in excess of market rents is attributable to the lease – an intangible, not the real property, and that lease value is exempt from state and local property taxes. The lease provides the *lessee* certain rights with respect to the real property (possession, etc.) and, for the *lessee*, constitutes an interest in real property. *Hobart Mfg. Co.*, 548 S.W.2d 297; *Fayette Co. Bd. of Supervisors v. O’Rear*, 275 S.W.2d 577 (Ky. 1954). To the extent the lease terms provide for below-market rents *to the lessor*, the lessee’s leasehold estate itself has a fair cash value (*i.e.*, someone would be willing to pay the *lessee* to step into the below-market lease); that leasehold interest is taxed separately to the *lessee* only where the owner of the fee title is exempt. *Compare O’Rear*, 275 S.W.2d 577, and KRS 132.195(1) (enacted in 1988, after *O’Rear* and *Hobart Mfg.*).

For the *lessor* however, the lease simply is a contract that provides rights to a future revenue stream – *i.e.*, *intangible personal property*. Where, as here, the contract provides above-market rent *to the lessor*, such excess value is associated with the favorable lease, not the real property,

While not the focus of this amicus brief, Appellants' brief makes another critical point asserting that the Court of Appeals decision should be reversed because it violates the Kentucky Constitution uniformity of taxation provision, *see* Ky. Const. § 171. Amicus supports this concern; however, the focus of this brief is primarily on the Equal Protection Clause, as applied via the Fourteenth Amendment, and on the need for good property tax administrative practices. COST, as a national organization representing multistate and multinational businesses, has a strong interest in this Court reversing the Court of Appeals' decision and requiring equal valuation of all similarly situated properties used by members of the same industry, regardless of whether they realize above-market contract rents.

STATEMENT OF THE CASE

Amicus adopts and fully supports the "Statement of the Case" as presented in Appellant's brief. Specifically, amicus adopts the arguments that the PVA's valuation, upheld by the Court of Appeals, resulted in Walgreen Co. having its property valued significantly higher than other similar retail drugstore properties. To justify its holding, the Court of Appeals erroneously noted as support for its decision that "Walgreens is not the typical commercial enterprise because they are paying two and three times more in rent than the local market rent." Ct. of App. Op. at 16. However, in so doing so, the Court of Appeals ignored the disparity in the methods used by the PVA to value Walgreens' property, *e.g.* the use of an income approach using above-market contract rents rather than using the market-based contract rents. Addressing the above-market rents, the Court of Appeals incorrectly noted that in the use of "the income approach for tax

and the lease, as intangible personal property, is exempt from tax. Kentucky generally repealed state and local property taxes on intangible personal property effective July 14, 2000. *See* KRS 132.096(9) ("The following classes of property, shall be exempt from state and local ad valorem taxes ... (9) All *intangible personal property* ...") (emphasis added) (KRS 132.096 was enacted in 2023 and replaced former KRS 132.208 which first codified the repeal in 2000).

appraisals, this higher rent reasonably accounts for higher valuations.” *Id.* The fundamental issue this Court must address is whether the PVA’s selective use of different valuation methods to assess similarly situated retail properties violates the Equal Protection Clause and the Uniformity Clause of the Kentucky Constitution. COST respectfully urges this Court to respond in the affirmative and reverse the Court of Appeals’ decision.

ARGUMENT

I. The PVA’s Selective Valuation Practices for Valuing Properties Realizing Above-Market Rent Greater Than Other Similarly Situated Properties Violates the U.S. Equal Protection Clause.

Two landmark U.S. Supreme Court cases have addressed Equal Protection concerns related to the administration of property taxes by the states. The U.S. Supreme Court in *Allegheny Pittsburgh Coal Co. v. County Commission of Webster County, West Virginia*, 488 U.S. 336 (1989), held an assessor created “gross disparities” and denied equal protection guaranteed to taxpayers by the Fourteenth Amendment where the assessor valued properties with recent sales using only the purchase price and only making minor adjustments in value if there was no recent sale. *Id.* at 338. Three years later, reviewing a California initiative to address concerns with the growth in property taxes and to provide property tax relief, the U.S. Supreme Court affirmed, based on an actual change to California’s law, ruling that property continuously owned by the same property owner could have different taxable values than that of an owner just purchasing a property. *Nordlinger v. Hahn*, 505 U.S. 1 (1992).

The issue in this case more clearly aligns with the U.S. Supreme Court’s analysis in *Allegheny Pittsburgh Coal* and not the *Nordlinger* decision. Like the issue before this Court, *Allegheny Pittsburgh Coal* dealt with assessors imposing different property tax valuation methods for comparable properties without the legal authority to do so. In contrast, the Court in *Nordlinger* sustained different valuation methods for comparable properties because California law explicitly

mandated those different methods and that law was found to be rationally related to its goals of controlling rapid rises in property taxes. The U.S. Supreme Court has made it clear – a state may divide property into classes and assign to each class a different tax burden so long as those divisions and burdens are neither capricious nor arbitrary and rest upon some reasonable consideration of difference or policy. *Allegheny Pittsburgh Coal*, 488 U.S. at 344 (citing *Allied Stores of Ohio v. Bowers*, 358 U.S. 522, 526-27 (1959) and *Brown-Forman Co. v. Kentucky*, 217 U.S. 564, 573 (1910)).

Kentucky law requires, within the same property classification, that the PVA’s assessments be “fairly designed for the purpose of reaching, and reasonably tends to reach, an approximation of the fair voluntary sales price.” *Fayette County Board of Supervisors v. O’Rear*, 275 S.W.2d 577, 579 (Ky. 1955). Additionally, “[i]n Kentucky, local real property taxes must be *ad valorem*, that is, based on assessed value. The term “ad valorem” literally means “according to worth.”” *City of Bromley v. Smith*, 149 S.W.3d 403, 405 (Ky. 2004). However, in this case the PVA’s valuations of Walgreens Co.’s retail drugstore properties were not based “according to worth” because the PVA’s “assessed values were [] around two or three times larger than other similar stores located in the local areas of the assessed [Walgreen Co. stores].” Ct. of App. Op. at 3.

Of note, the General Assembly has adopted a unique property taxation system for public service corporations which expressly mandates use of a business enterprise valuation methodology and levies tax on the intangible personal property of the enterprise. See KRS 136.115 to 136.180. Kentucky law provides the assessor “shall determine the fair cash value of the operating property of a domestic public service corporation *as a unit*.” KRS 136.160(1) (emphasis added) (implementing Ky. Const. § 172); see KRS 136.120(2)(a) (“The property of the taxpayers shall be classified as *operating property*, nonoperating tangible property, and *nonoperating intangible*

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allocable share of the total property tax burden can only be meaningfully evaluated by comparison with the share of other similarly situated relative to their property holdings.” *Id.* at 346. While *Allegheny Pittsburgh Coal, supra*, addressed systematic and unconstitutional undervaluation of properties, the same analysis and conclusion holds true when a PVA systematically overvalues certain types of properties because the properties are subject to above-market contract rents.

II. Other States Have Come to Similar Conclusions – Using Equal Protection or Not Allowing Above Market Contract Rents for Property Valuations

Two other states in the Midwest are illustrative because they have either applied equal protection to strike down unfair property taxation or have held their state law does not support valuing property for tax purposes using above-market contract rents. In 1994, the Ohio Supreme Court addressed an as-applied equal protection clause challenge. The Ohio Supreme Court addressed whether a telecommunications company subject to a significantly higher property tax valuation rate than its competitors was entitled to relief when its competitors had a lower property tax valuation rate. *See MCI Telecomm. Corp. v. Limbach*, 625 N.E.2d 597 (Ohio 1994). At that time, Ohio’s property tax was imposed on telecommunications companies at a significantly higher assessment rate than other businesses operating in the state.⁴ MCI Telecommunications Corporation was subject to assessment on 100 percent of its personal property tax value and successfully argued the Ohio Department of Taxation’s application of the state’s property tax regime violated the equal protection clause because MCI’s competitors were assessed as general businesses on only 31 percent of their personal property tax value. *Id.* Specifically, the Ohio Supreme Court held that “two taxpayers within the same class owning or leasing the same type of

⁴ See H.B. 66, 126th Gen. Assemb. (Ohio 2005). This case occurred before Ohio’s 2005 tax reform phased out a personal property tax on telecommunications companies and general businesses.

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somehow appreciated in value; it fully supports that the above-market lease itself has a value which is independent of the real property.

Both the Ohio *MCI* case and the Wisconsin *Walgreen* case are instructive for why this Court should reject the PVA's use of above-market contract rents to value the retail drug stores used by Walgreen Co.

III. The Court of Appeals' Opinion Should be Reversed Because It Runs Counter to Good Property Tax Administration.

COST and its members have long supported fair, efficient, and customer-focused state and local tax administration. COST has a general overall policy position on "Fair, Efficient, and Customer-Focused Tax Administration."⁵ COST also has a specific policy position addressing property tax administration, which is highlighted in its policy statement on "Fair and Equitable Property Tax Systems."⁶ In line with these policy positions, COST in partnership with the International Property Tax Institute (IPTI)⁷ has created comparison reports ("Scorecards") designed to encourage state policy leaders (*e.g.*, legislators and other state officials) to improve their property tax administrative practices.

⁵ COST, *Fair, Efficient, and Customer-Focused Tax Administration*, available at: <https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/fair-efficient-and-customer-focused-tax-administration---revised-feb-2024---final.pdf> (last visited October 20, 2025).

⁶ COST, *Property Tax Administrative Systems – Fair and Equitable*, available at: [cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/fair-and-equitable-property-tax-systems.pdf](https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/fair-and-equitable-property-tax-systems.pdf) (last visited October 20, 2025).

⁷ IPTI is widely recognized as the world's leading international organization specializing in property tax policy and practice. IPTI is a nonprofit organization with members around the world. Its mission is to provide impartial, objective expert advice in the area of property tax systems and promote the concept that these systems should be fair and equitable and meet the needs of all stakeholders, *i.e.*, governments, taxpayers, practitioners, and academics.

In 2019 COST and IPTI published their latest “The Best (and Worst) of International Property Tax Administration” (“Scorecard”). This Scorecard explicitly highlights the importance of transparency, consistency, and procedural fairness as keys to the administration of an equitable property tax system, noting:

“[T]he following characteristics of property tax systems * * *, in our view and in the view of taxpayers, represent fair and efficient property tax administration:

- **Transparency**—A fair and efficient property tax system must be transparent to policymakers and taxpayers alike. That includes providing an adequate explanation of the law and regulations on a jurisdiction’s website, adequate notice of a proposed valuation, the ability to compare values placed on other properties in the jurisdiction (without disclosing confidential information; *e.g.*, income, expenses, *etc.*), and with frequent revaluations.
- **Consistency**—Consistency is a key attribute for a jurisdiction with a fair and efficient property tax system. Tax forms, filing dates, assessment rates/ratios, adequate assessor training, *etc.*, must be consistent across a jurisdiction, and centralized oversight of local assessors’ practices should be the norm.
- **Procedural Fairness**—To avoid negative perceptions, taxpayers should be afforded a sufficient amount of time to file an appeal, a balanced and reasonable burden of proof, review before an independent arbiter of an assessor’s or a property tax board’s findings, and the ability to partially pay (or escrow) any disputed tax. Fairness also requires that the interest rate paid on refunds of overpaid taxes is at the same rate as is levied on the underpayment of the taxes.”⁸

This Court should reverse the Court of Appeals’ decision because it undermines the key feature of “consistency” by dramatically upending how PVAs can value properties with different ownership structures (*e.g.*, above-market contract rents versus fee simple ownership). Many COST members are subject to property tax assessment in Kentucky and have relied on the Kentucky Constitution’s guarantee that property shall be assessed for tax purposes based on its fair cash

⁸ COST & IPTI, *The Best (and Worst) of International Property Tax Administration*, at 3-4 (June 2019), <https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-studies-articles-reports/2019-international-property-tax-scorecard---final.pdf> (last visited October 20, 2025).

value, which is the “... estimated at the price [the property] would bring at a fair voluntary sale[.]” Ky. Const. § 172. This Court should not allow PVAs to selectively and disparately value property receiving above market contract rents. That inequitably imposes highly distorted valuations on such properties as compared to those properties not encumbered with above-market rents. In the 2019 edition of the COST/IPTI Scorecard, Kentucky received an overall score of “C” and a “B” in consistency. Kentucky’s present grades do not reflect the recent Court of Appeals’ decision to allow unfair property valuations with owners that have similar property but are encumbered with above-market contract rents. A revised Scorecard will likely be issued later this year or early next year. The Court of Appeals’ decision, if left standing, will likely have a detrimental impact on the overall evaluation of the Kentucky property tax system.

COST members have relied on the Commonwealth’s longstanding rule that the valuation of the taxpayer’s property (**outside of those property taxpayers subject to central assessment as a public service corporations**) is based on the *property* that is used or held by the taxpayer as of the lien date unencumbered with above market rents, as opposed to the *enterprise/business value* investors might use to value a property with above-market contract rents.⁹ To now upend this long standing rule violates both the consistency and transparency tenets of good tax policy.

CONCLUSION

This appeal gives this Court the opportunity to correct the lower courts and the PVA’s disparate valuation treatment of the property used by Walgreen Co. as compared to other similarly situated properties without above-market contract rents. The Equal Protection Clause prohibits

⁹ Amicus acknowledges that public service corporations in Kentucky are subject to a special, centrally assessed property tax system, that can include a business enterprise valuation and intangible personal property, *see Revenue Cabinet v. Comcast Cablevision*, 174 S.W.3d 743 (Ky. 2003); however, Walgreen Co.’s property in dispute in this case is not property of a public service corporation enumerated in KRS 136.120.

local assessors, without any statutory authority, from selectively and disparately singling out certain properties for one valuation method when other similar properties are valued using another more favorable method. Absent the Kentucky General Assembly creating a separate property tax classification as it has for public service corporations, all property in the Commonwealth should be equally valued using fee-simple valuation methods and not leased-fee valuation methods. Based on the foregoing reasons, Amicus respectfully requests this Court to reverse the Court of Appeals' decision.

Respectfully submitted,

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WORD COUNT CERTIFICATE

This document complies with the word limit of RAP 34(B) because, excluding the parts of the document exempted by RAP 15(E), it contains 3.967 words according to the count of Microsoft Word software.

/s/ Stephen A. Sherman
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Case Title: LWAGLVKY 1 LLC, C/O WALGREEN CO., ET AL	Confirmation Number: 210432000
V. COLLEEN YOUNGER, JEFFERSON COUNTY PROPERT VALUATION ADMINISTRATOR, ET AL.	

#	Item Description	Amount
1	Supreme Court Printing Fee	\$150.00
TOTAL:		\$150.00