

## **Committee Name:**

# **Senate Committee – Economic Development, Job Creation and Housing (SC–EDJCH)**

### **Appointments**

03hr\_SC-EDJCH\_Appt\_pt00

### **Committee Hearings**

03hr\_SC-EDJCH\_CH\_pt00

### **Committee Reports**

03hr\_SC-EDJCH\_CR\_pt00

### **Clearinghouse Rules**

03hr\_SC-EDJCH\_CRule\_03-

### **Executive Sessions**

03hr\_SC-EDJCH\_ES\_pt00

# **Hearing Records**

03hr\_ab0000

# **03hr\_sb0512**

### **Misc.**

03hr\_SC-EDJCH\_Misc\_pt00

### **Record of Committee Proceedings**

03hr\_SC-EDJCH\_RCP\_pt00

**Risch, Jay**

**From:** Risch, Jay  
**Sent:** Friday, March 05, 2004 4:48 PM  
**To:** Roller, Rachel; Mnuk, Katie  
**Subject:** SB 512

Rachel and Katie,

Thank you for relaying to me that your bosses both voted yes on 1. introduction and adoption of the amendment and yes on 2. passage as amended.

SB 512 Final results:

Intro and adoption:

Yes: 5-0

Passage as amended:

Yes: 5-0

Thanks –

Jay

Oakwood Village Residents **support** 2003 Senate Bill 512 (Senator Roessler) with the removal of the sunset provision. This sunset will only serve to halt all new development of needed benevolent senior housing, nursing homes, and assisted living facilities that are part of continuing care campuses until 2006 or after, depending on whether Columbus Park is reinstated. The sunset will leave many Wisconsin retirees in a situation of great uncertainty for at least two years. Should they leave the State? Can they afford to stay in their current retirement housing situation? Should they delay or cancel plans to move to a retirement community?

Please direct the Legislative Council to study this issue and report to the legislature by December 15, 2004. Clearly, property tax reform is needed to deal fairly with exemptions. However, any reform should not force truly needy people out of decent housing.

Thank you,

Resident of Oakwood Village

Margie Skalski  
Sally Thompson  
Lloyd Thompson  
Arlene Wright  
Wilbur C Wright  
Ann O'Herrin  
Mary F. Burch  
Rosemary C. Himmelsbach  
Sylvia Tackowski  
Vivian D. Toombs  
Marion Thor  
Beatrice M. Hagan

William E. O'Steen  
Ronald B. MacDonald  
Patricia M. McCormick  
Loyce L. Wolf  
E. Stenberg  
W. J. Jorgensen  
Irene Ellstad  
Kerri Schleit  
David W. Roberts  
John Oldham

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Thank you,

Resident of Oakwood Village

Joan Taylor  
Harvey Gaden  
M.P. Hawkey  
Laurena Wright  
Marion Turner  
Dorothy J. Dunigan  
Patricia E. Hansen  
Berene O. Isen  
Willard McLin  
Leo V. Hamacher  
Gertrude R. Peterson

Mary Lance  
Frances M. Wright  
Elsie M. Long  
Joseph A. Koral  
J. F. Keller  
E. F. Keller  
Mary Ellen Beach, Elva  
Viola Reiner  
Norma J. Kalthoff

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Please direct the Legislative Council to study this issue and report to the legislature by December 15, 2004. Clearly, property tax reform is needed to deal fairly with exemptions. However, any reform should not force truly needy people out of decent housing.

Thank you,

Resident of Oakwood Village

Jean N. Howberg

~~Donna~~

Mary B. Rolley ~~\_\_\_\_\_~~

Harry J. Kelly



## WISCONSIN CATHOLIC CONFERENCE

TO: Senate Committee on Economic Development, Job Creation and Housing  
FROM: John Huebscher, Executive Director  
DATE: March 5, 2004  
RE: Support for Senate Bill 512

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On behalf of the Wisconsin Catholic Conference, I urge you to support a modified version of Senate Bill 512.

The recent ruling of our Wisconsin Supreme Court in *Columbus Park Housing Corporation v. Kenosha* appears to have an adverse impact on many not-for-profit organizations that serve needy populations. Among these are Catholic Charities agencies that sponsor housing programs for Wisconsin's low-income elderly and persons with disabilities. Catholic organizations also support homeless shelters and other residential programs for the needy. In addition, parishes participate in interfaith hospitality networks to provide temporary housing and apartments to homeless families.

These programs provide the community with a valuable service. In many small towns of the Superior diocese, for example, housing programs operated by Catholic Charities are the only options available for low-income senior citizens. If such programs and others like them curtail or discontinue services because they cannot afford property tax payments, the communities in which they are located will lose more than they gain.

While we support SB 512, we have reservations about the "sunset" provision. Catholic agencies have submitted plans for some projects to WHEDA on the assumption they will be tax exempt when they are completed. The sunset introduces uncertainty into these projects that will inhibit and may actually prevent them from going forward. We hope that this uncertainty can be minimized so that worthwhile projects are not overly delayed.

Thank you for the opportunity to share our views in this matter.

TESTIMONY ON SENATE BILL 512  
BY Marty Evanson, Director of Bureau of Housing,  
Division of Community Development, Department of Commerce  
3/5/04

I am here, on behalf of the Department of Commerce to offer our perspective on the issue of preserving property tax exempt status for affordable housing projects owned by nonprofit organizations. Within Commerce, the Bureau of Housing (BOH) administers a variety of state and federally funded housing programs. Our mission is to preserve, improve and increase housing choices for Wisconsin residents of modest means. We do so primarily by providing financial and technical assistance to and through local organizations involved in efforts to meet affordable housing needs in communities across the state.

The Supreme Court's 11/03 decision poses serious obstacles to this work. Specifically, it jeopardizes the financial viability of existing publicly subsidized housing projects as well as future efforts to stimulate low-income housing development. This is so because these projects depend upon full or partial exemption from local property taxes to keep units affordable to the low-income families they are intended to serve.

Since 1992, BOH has awarded millions of dollars of federal HOME funds to a variety of nonprofits to develop and manage affordable rental units (about 200 projects totaling more than 1000 units). Many more projects have been provided with funds by HUD, US Dept. of Agriculture and WHEDA. Units built with these funds are rented to the most vulnerable members of our society – persons with developmental disabilities, formerly homeless persons, domestic abuse victims, individuals on fixed and extremely low-income sources.

As a condition of receiving federal HOME and other funds, developers are required to adhere to federally imposed affordability standards. These standards tie rents that can be charged to the incomes of tenants, most of which are fixed and/or very low. Needless to say, HOME funded projects have been underwritten with the knowledge the property is tax exempt and the assumption it would remain so or payments in lieu of taxes were established. Nonetheless, the financial viability of these projects is precarious. A new, and unanticipated, requirement to pay property taxes will upset this already tenuous situation. Raising rents will put these units beyond the means of low-income tenants, forcing evictions and violating affordability restrictions. Failure to raise rents will lead to property foreclosures. Either scenario will trigger federal sanctions that will require state and local agencies to repay HOME funds to the federal government.

The impact of the Supreme Court decision is every bit as serious for the future development of affordable housing in Wisconsin. Annual state planning documents, necessary to receive federal funds, consistently identify the

development of an affordable housing inventory as a top priority. Each year, millions of federal dollars are dedicated to this goal. Clearly, the added burden of property tax payments will make it much more difficult to develop affordable housing projects. Some nonprofit organizations will be unable to undertake these projects. Even the short-term uncertainty that this bill leaves will have a chilling effect on new development as nonprofit organizations refrain from undertaking new projects that contain added risk. Federal funds available to the state will be difficult to deploy and we will lose the housing and economic benefits they generate. Evidence of this has already appeared. Last month, the Bureau of Housing received word that the recipient of a substantial housing development award was returning its funds because a northern WI community had signaled its intent to revoke the project's tax exempt status.

A significant proportion of our housing and homeless funds are used to prevent evictions and help low-income families get established by assisting with security deposits and first-month rent payments. The sluggish economy has dramatically increased the demand for this assistance and lengthened waiting lists. Rent increases driven by new property tax levies will divert scarce state GPR funds away from needy families and into local tax coffers with little positive impact on solving individual and community housing problems.

Low-income housing is frequently developed by our nonprofit sponsors on properties that need extensive redevelopment (such as infill, brownfields, and demolition). This type of development yields many positive community benefits but often requires long lead times and construction timeframes that may take years to complete. Levying taxes during the holding and construction periods will make these projects even more unfeasible or will require yet more scarce public subsidies.

Legislative solutions to this issue should also reflect that low-income housing development is most effective when associated with mixed income/mixed use property. The higher revenues are used to subsidize the lower income residents. Local assessments need to look at the pro rata portion of the low-income units within such properties.

The Department of Commerce welcomes the support of state legislators in addressing this issue in a fair and rational manner. Failure to act quickly will have profound effects on Wisconsin's most disadvantaged citizens. SB 512 provides welcome, if temporary, "relief. We offer our assistance to the bill sponsors as well as to the legislative study committee it proposes in the search for a more permanent solution to this issue.



**Statement for Public Hearing  
March 5, 2004**

Senator Stepp, Chair. and Members of the Senate Committee on Economic Development,  
Job Creation and Housing;  
Representative Wieckert, Chair. and Members of the Assembly Committee on Housing:

My name is Fran Bicknell. I am here today representing the Portal Foster Center, a small non-profit provider of homes for twelve adults with severe developmental disabilities. Our agency owns five single-family homes. Three of the homes serve two individuals and two of the homes have three residents. I also represent the Autism Society of Wisconsin, a statewide advocacy organization. Our most basic principle is support for people with autism so that they can live in their communities. ASW and Portal Foster support the intent and basic features of SB 512.

The members of the Portal Foster Center Board of Directors see a great need for SB 512. We absolutely do not have the resources to continue this housing if we are required to pay property taxes. The continuation of property tax exemption and the roll back to 2002 are essential features of this bill to allow us to continue our work.

All of our residents are severely disabled. They are dependent on SSI or SSDI with incomes that range from \$6000 to \$10,000 per year. All are below 30% of the Area Median Income for Dane County. In addition, their long term care is funded by CIP 1B, a grossly under-funded Medicaid waiver program that also does not allow its funding to be used for board and room. These residents cannot afford to pay higher rent. In fact, we cannot charge more than 30% of their income for rent for those who live in our HUD home.

We do not have any employees. The members of our Board of Directors serve as volunteer property managers. We arrange all of the home repairs, buy new appliances and arrange semi-annual inspections, snow removal and general upkeep of the homes. We do contract with another agency to help with our reporting for HUD.

We do all that we can to provide homes for adults with disabilities and to save money for Dane County and its taxpayers.

We also support the requirement for a Legislative Council Study. The issue of tax exemption for non-profits is complex and cannot be solved quickly. Therefore, it is imperative that the sunset provision that could put us in this same situation in 2006 be eliminated. The Legislature will have the same power to amend the statutes without this sunset provision. Therefore this provision is not necessary to move toward a system of essential fairness for all the stakeholders.

The Autism Society of Wisconsin, and the small Portal Foster Center in Madison, both support the passage of SB 512 with an amendment to eliminate the sunset provision that endangers many disadvantaged and disabled citizens in Wisconsin.



ASSESSOR'S OFFICE

Mary P. Reavey  
Assessment Commissioner

Peter C. Weissenfluh  
Chief Assessor

**Testimony 2003 Senate Bill 512**  
**Friday, March 5, 2004**  
**Mary Reavey**  
**Assessment Commissioner**  
**City of Milwaukee**

Senators Stepp, Brown, Moore, Plale, and Roessler,

Thank you for the opportunity to speak about this very important issue.

Although I am here to speak on behalf of the City of Milwaukee I am also here as an assessment professional, citizen, and taxpayer. I have had the pleasure to work, live, and pay taxes in many Wisconsin municipalities and have always been happy to call myself a Wisconsinite. I have been the City Assessor for 3 of Wisconsin's largest municipalities and have been in the profession for over 25 years. Recently I have seen many of these exemption issues pass through the budget bill without hearing so I do commend you that you have brought this issue to hearing and are taking open testimony on it today.

It is because of my experience in the assessment profession and my involvement with property taxes on the front line that I appeal to you not to rush legislation through for the sake of time. The proposal that Senators Roessler and Stepp bring to the table allowing for a moratorium, sunset and study by the legislative council staff will allow for this issue to get the attention it deserves. To just undo the result of the Supreme Court Case and endorse the status quo is neither forward thinking nor good public policy. The debate on what in residential housing should be exempt needs to be thorough. The problem with keeping status quo is that it will perpetuate the problem I've seen all over Wisconsin. That is that low-income homeowners and elderly homeowners find it difficult to stay in their homes and end up subsidizing other elderly with more financial resources that receive this property tax exemption. There are many examples of these high-end projects in Wisconsin and they are not confined to its more urban areas. Several I checked require endowments or entrance fees of over \$200,000 and continued monthly payments of \$1,000 to \$2,000. Does that sound like the type of renter or resident that needs a tax exemption? If you do not allow the debate this situation will continue. Please think about other seniors who pay property taxes before you make your decision. Because, if you had my job you would experience the volumes of mail from homeowners that includes the comments I will read to you now:

- Mr Hoppe: "I soon will be 79 years old and except for the years that I was in the army during WWII, I have lived all my life in Milwaukee. Between the boys in Madison and you at City Hall I can't afford to live in this state anymore. I am seriously thinking of leaving." May 16, 2003 letter to Assessor
- Ms Jossart: "I received an \$8.00 increase in my monthly income but every thing is going sky high. I have a difficult time to make ends meet. I will be 84 years old and I did look forward to having a few more years." May 30, 2003 letter to Assessor
- Ms. Grochowski: "I have bad heart trouble. I am 87 years old and I get 1 social security check a month." May 20, 2003 letter to Assessor.

These are just a few excerpts from the many, many letters we receive from persons struggling to meet their tax obligations.

In Milwaukee, the subsidy to high-end independent living centers that cater to the wealthy amounts to \$7.5 million dollars. This is money that could be spent putting police on the street, teachers in our schools, or to offset tax burdens for everyone.

I urge you to think about all senior citizens when you make a decision regarding this exemption. Please consider either passing the bill as is without amendment or reviewing Rep. Berceau's bill as an alternate. Do not to pass an ill-conceived last minute proposal to just make the issue go away. It deserves proper consideration.

Thank you for listening. I would be happy to answer questions you may have.

Sincerely,



Mary Reavey  
City of Milwaukee  
Assessment Commissioner

**TESTIMONY  
BEFORE  
THE SENATE COMMITTEE ON  
ECONOMIC DEVELOPMENT, JOB CREATION AND HOUSING**

**March 5, 2004**

**By  
Wisconsin Community Action Program Association  
(WISCAP)  
Bob Jones,  
Housing and Energy Director**

**In Support of  
Senate Bill 512**

Good afternoon. I am Bob Jones, the Housing and Energy Director for the Wisconsin Community Action Program Association.

WISCAP is the statewide trade association for Wisconsin's sixteen Community Action Agencies, and three single-purpose agencies: the Coalition of Wisconsin Aging Groups, the Foundation for Rural Housing and United Migrant Opportunities Services (UMOS). Community Action Agencies are private, not-for-profit organizations which provide services to help low-income families become self-sufficient. Among the many critical services they are engaged in to meet their mission is assistance in the provision of affordable housing.

I am testifying on behalf of our member organizations to urge the Committee's support for SB 512.

The ability of our members to provide affordable housing is in serious jeopardy due to the impact of the Supreme Court decision in *Columbus Park v. City of Kenosha* and its subsequent removal of the property tax exemption for 'benevolent' organizations - including Community Action Agencies - which provide housing to low-income families.

Our statewide network of CAAs and single purpose agencies own and operate over 400 units of affordable housing to over 1,500 low-income individuals. In addition, they manage approximately 1,000 rental units. Without corrective action, this housing will be put at risk in numerous ways:

In many cases, rents will have to be raised. This will only serve to put further pressure on the limited-income budgets of low-income tenants.

In some cases, these rent increases will be covered by increasing the rent subsidies available. But this will be done at the cost of reallocating scarce housing resources already directed at low-income households ... a case of 'robbing Peter to pay Paul'.

Where rents cannot be raised (because they are at federally-mandated ceilings or where doing so would be counterproductive to the household's achievement of economic self-sufficiency) the organization will have to do its own 'robbing Peter' to find resources to pay the taxes.

Many of these developments were made possible on the thinnest of financial margins and paying property taxes were not figured into the equation. By now

having to make these payments, the development could become financially untenable. This would mean selling the property and getting out of the business or, in some cases, even foreclosing. In some of these situations, the property could end up the responsibility of the local city or municipality and, in an irony, be back off the tax rolls but with the added financial burden of the locality for maintaining the property. These options do nothing to help create or provide affordable housing.

In some ways, the most harmful impact of losing this exemption is the one hardest to quantify – that is the chilling effect on future development. We all know of the critical importance to families, communities and the economy of providing affordable housing. The future willingness or capability of organizations to develop projects under the financial pressures caused by *Columbus Park* will be seriously constrained.

Already, one of our member agencies is being forced to confront this new reality. The Indianhead Community Action Agency, in northwest Wisconsin, may be forced to suspend a housing development project and decline a \$565,196 federal grant because of the *Columbus Park* ruling. This action would deny ten low-income families access to decent affordable housing. And we have no doubt the chilling effect of *Columbus Park* is already creating cause for this type of retrenchment throughout the state.

It is our firm conviction that the statute which has come under question due to the Supreme Court's ruling - and which has previously authorized an exemption from paying property taxes for close to thirty years - was intended, by the Legislature, to allow not-for-profit organizations this critical exemption so that they may provide services to low-income households, to the benefit of all, including the local governing authority.

SB 512 reaffirms this intent and we support it wholeheartedly and enthusiastically.

In closing, we would like to stress the importance of taking action quickly to prevent irreparable harm. Many agencies cannot afford even a temporary shift to a status where they must pay property taxes - the resources are just not there and projects will be jeopardized.

To that end, we want to thank Senator Roessler and Senator Stepp for their sponsorship of this bill, and the committee and others for your willingness to take this matter up with such urgency.

It is of critical importance that the property tax exemption for residential housing for low-income households be restored now.

Thank you for the opportunity to make these comments. I would be happy to answer any questions.



**Testimony on Senate Bill 512  
March 5, 2004**

**Peter Weissenfluh, WAAO**

I am Peter Weissenfluh. I have been involved with the assessment profession for over thirty years and oversee the exemption function as a major part of my job. I am also the chair of the legislative committee for the Wisconsin Association of Assessing Officers. I sat on the Governor's task for reviewing the problems with the exemption for Benevolent Retirement Homes for the aged.

The decision by the Supreme Court, based on a literal and narrow read of the preamble to 70.11, brings to the forefront at least two important observations:

1. Property tax exemption legislation needs to be crafted carefully and with full scrutiny and open discussion on public policy.
2. The second major observation flowing from the decision is that major "unfinished" business comes back to the forefront for much deserved discussion.

Let me talk about each.

There was never any doubt in my mind that corrective legislation would be created to deal with the potential downside on housing service providers for the "poorest of the poor." Such a bill is before us today. WAAO supports the original Roessler bill that came out of the Joint Committee on property tax exemption. We cannot, however, support any amendment to permanently roll back the clock to the pre-Columbus Park decision.

The unfinished business I spoke of is the undefined legislative phrase of "benevolent retirement home for the aged." This language is found in section 70.11 (4) of the statutes, and is potentially impacted by the decision. It needs a specific definition. It should not be defined by conflicting case law as it is now. Important public policy issues and questions need to be discussed:

- a) Should independent living centers that charge entry endowment fees (after pre-screening for health and wealth) that are part of continuum of care campus be entitled to full property tax exemption?



- b) Should residential units occupied by individuals with so-called Life-care contracts be entitled to full property tax exemption when residing in independent living centers?
- c) Is the concept of cross-subsidization valid in the area of property tax exemption? Especially when the continuum of care facilities are, in effect, subsidized by all other property owners, including those elderly, struggling to pay their property taxes. Many of those elderly could not even dream of qualifying to enter the very facilities they help subsidize.

These questions scream for public debate and not swept into law with an amendment to a bill attempting to assist providers for the poorest of the poor.

If an amendment is deemed needed it should include an income test to provide a safety net for low-income housing providers. The original proposal crafted by WHEDA (now sponsored by Rep. Berceau) with its federal income limits is preferable to a complete roll back.

Finally, I want to comment on Section 3, the nonstatutory provision of the bill. It should include, in addition to the current language, a requirement that the legislative council explores and recommends a definition for a "retirement home for the aged." Nor should the study be limited by the word "leased." Life care agreements, residential living contracts and a whole host of other examples of agreements can potentially come in to play and be impacted by the Columbus Park decision.

Thank you, I would be happy to answer any questions you may have.

March 5, 2004

TO: Senator Cathy Stepp, Chair  
Senate Economic Development, Job Creation and Housing Committee

Members,  
Senate Economic Development, Job Creation and Housing Committee

FROM: Elizabeth Schumacher, Director Government Affairs

RE: SB 512

Meriter Health  
Services, Inc.  
202 S. Park Street  
Madison, WI 53715-1596  
608.267.6000  
www.meriter.com

On behalf of Meriter Health Services, thank you very much for this opportunity to provide testimony regarding SB 512. We urge members to support SB 512 without the sunset provision, and to support passage of the bill with that amendment.

As part of our community mission, Meriter offers retirement services to over 440 residents. Meriter is a non-profit organization, offering independent living, assisted living and skilled nursing facilities, among other facilities and services. As a values and mission driven organization, we believe that the retirement services we offer to members of our community are essential. A newly imposed tax would negatively affect our ability to provide care and impose a huge burden.

We strongly support an amendment to SB 512 that would remove the sunset provision and urge members to support passage of SB 512 with that amendment. We would welcome the opportunity to work with the legislature and legislative council to further discuss and research these issues in the future.

Thank you very much for your time and consideration. Please contact me at 267-5606 or [eschumacher@meriter.com](mailto:eschumacher@meriter.com) if you would like additional information or have questions.



## TESTIMONY ON 2003 SENATE BILL 512

before the Senate and Assembly Housing Committees  
(Senate Members: Stepp (Chair), Roessler, Brown, Moore & Plale)  
(Assembly Members: Wieckert (Chair), Townsend, Kribech, Olsen, Morris, Krusick)

by Antonio R. Riley, Executive Director  
Wisconsin Housing and Economic Development Authority

**WISCONSIN  
HOUSING AND  
ECONOMIC  
DEVELOPMENT  
AUTHORITY**

March 5, 2004

Jim Doyle  
Governor

Perry Armstrong  
Chairman

Antonio R. Riley  
Executive Director

I want to thank the Chairs of these two committees, Senator Stepp and Representative Wieckert - Senator Roessler, Senator Moore, Representative Morris and other members of the Committees for moving so quickly to act on this critical legislation. I am Antonio R. Riley, Executive Director of Wisconsin Housing and Economic Development Authority. Thank you for this opportunity to testify.

201 West Washington Avenue  
Suite 700  
P.O. Box 1728  
Madison, WI 53701-1728  
608/266-7884  
800/334-6873  
fax 608/267-1099

The Authority has been quite concerned about the ramifications of the *Columbus Park* decision since it was filed by the Supreme Court last November. If the legislature does not act to at least soften the impact, it will be much more difficult and expensive in the future for the Authority to carry out much of its mission.

101 West Pleasant Street  
Suite 100  
Milwaukee, WI 53212-3962  
414/227-4039  
800/628-4833  
fax 414/227-4704

These programs provide funding for thousands of rental apartments occupied by low-income households throughout Wisconsin. Many of these households include members who are elderly, handicapped, mentally ill, frail, physically ill, victims of violence, or in transition to a better life, or who otherwise have special needs. Many are simply the working poor. Many households include young children whose parents are doing the best they can with limited means to raise their children well.

www.wheda.com  
info@wheda.com  
www.wisconsin.gov

WHEDA supports equal  
housing opportunities for  
all persons

Throughout its entire history, the Authority has carried out much of its mission by relying heavily on nonprofit organizations which develop, own and operate low-income housing. The Authority has provided a very substantial amount of financing to these organizations, with great success.

For decades in Wisconsin, property tax exemption has been an important and sometimes essential tool for nonprofit housing owners. It allows them to offer lower rents, better maintenance, and more services for the residents. With this help, residents are able to move up and out of poverty, become self sufficient, or at least maintain a level of self respect in safe and sanitary housing.

In recent years, Federal housing policy has focused on the essential role of nonprofit housing providers in efforts to preserve the existing stock of low-income housing throughout the nation; and the Authority has joined in this focus. This housing is at risk of being converted to market-rate housing as the restrictive covenants and subsidies which were put in place decades ago expire.

On Tuesday, Governor Doyle announced Wisconsin's new "Saving Our Stock" of Affordable Housing Program. The "SOS Program" is a \$10 million initiative to help preserve existing low-income housing in Wisconsin, which the Authority will help administer. Nonprofit organizations, and the property tax exemption that has traditionally been available for nonprofit housing owners, are critical elements of the SOS Program.

Ever since the *Columbus Park* decision was filed, we have been working closely with nonprofit housing providers, taxing authorities and members of the legislature to work through the issues involved in addressing the decision legislatively. It is complex.

You have before you for consideration today 2003 Senate Bill 512. We applaud Senators Roessler and Stepp for the substantial time and effort that they have devoted to the *Columbus Park* issues over the last two months. We agree wholeheartedly with them that these issues must be addressed by the legislature during this session.

The Bill provides that the Legislative Council staff must study the effect of *Columbus Park* and report to the legislature no later than December 15, 2004. The Authority supports this effort.

The Bill provides for a change in the law which is intended to reverse *Columbus Park*, and it is retroactively effective to January 1, 2002. We support this approach. It protects the most vulnerable in our population, and it supports the efforts that nonprofit organizations have made in the housing area for many decades. This approach will allow the Authority to continue its work and its mission, and it will not undermine the work of nonprofit housing providers which is already in place.

As originally drafted, the Bill also provided for the new legislation to sunset on December 31, 2005. The Authority does not support any sunset. The negative effect of a sunset provision is twofold.

**First, commencing immediately nonprofits will need to assume that their housing will be taxable commencing January 1, 2006.**

They will need to plan accordingly and begin now to lease only to residents who will be able to pay the increased rent as of that date. Under the IRS rules applicable to Section 501(c)(3) public charities, they cannot evict tenants for inability to pay. The poorest of the poor, or those most in need for other reasons, will likely be the first to be turned away. The increase in rent will vary by housing project, but generally might be on the order of \$150.00 to \$300.00 per apartment per month.

Nonprofits will only be able to undertake new housing projects on the assumption that the housing will be taxed. Once again, it will be most difficult to accommodate the poorest of the poor. Therefore, we can expect that no new housing for the poorest of the poor will be undertaken while the sunset is in effect.

**Second, lenders, including the Authority, will not provide new financing or refinancing of nonprofit housing unless the nonprofit can prove that it can pay property taxes.**

All mortgage lenders examine projections of rental income and operating expenses when deciding whether or not to make a loan. If the income is not sufficient to pay taxes, the lender will not make the loan. This will mean that housing with rents low enough for the poorest of the poor will

not be financed, because the poorest of the poor are unable to pay rent high enough to pay property taxes.

The Authority strongly supports the amended version of SB512 removing the sunset provision. It is always possible in the future, after permanent legislation is adopted, for new legislation to be introduced which changes the property tax exemption law.

Here are some real examples of the kind of housing that will be adversely affected by 2003 Senate Bill 512 if it includes a sunset provision:

- A nonprofit has owned low-income housing for 20 years. The property has always been tax exempt. The nonprofit has applied to the Authority for refinancing. The savings on mortgage debt service is to be applied to needed capital improvements of the housing, such as new siding, roof and appliances, and to improved social services for the residents. The nonprofit is willing to commit to keeping the housing for low-income households for another 25 years. If the housing is subject to property tax, the debt service savings will go to taxes and not to needed improvements or services.
- A nonprofit is about to begin construction of nine units of housing for chronically mentally ill persons who live on social security disability, about \$620.00 per month. Property taxes could double the rent to about \$300.00 per month. The nonprofit is prohibited by HUD financing from charging the residents more than 30% of their

monthly income for rent and utilities. This would be about \$186.00. Therefore, the project will not work if property tax must be paid.

In summary, WHEDA strongly supports the amended version of Senate Bill 512 reversing *Columbus Park* retroactively to 2002, removing the sunset provision, and providing for a study by the Legislative Council . However, a bill containing sunset provision would not have our support.

Thank you for this opportunity to testify. Are there any questions that I can answer for you?



March 5, 2004

TO: MEMBERS OF THE SENATE AND ASSEMBLY HOUSING COMMITTEES

FROM: Patti Seger, Policy Development Coordinator, Wisconsin Coalition Against Domestic Violence

RE: Support for Senate Bill 512

Thank you to members of both the Senate and Assembly Housing Committees for taking testimony today on Senate Bill 512. I represent the Wisconsin Coalition Against Domestic Violence, a statewide, non-partisan, non-profit membership organization representing WI domestic abuse programs, victims of domestic violence and their children, and others concerned with ending domestic violence.

Fleeing an abusive relationship is difficult, especially if one has nowhere to go. Many victims have few resources, and the lack of affordable housing and waiting lists for subsidized housing force many victims to choose between living in an abusive home or living in the streets. In 1990, a Ford Foundation study found that 50% of homeless women and children were fleeing abuse<sup>1</sup>. In addition, 46% of cities surveyed by the U.S. Conference of Mayors identified domestic violence as a primary cause of homelessness<sup>2</sup>. Many victims of domestic violence find temporary safety at domestic violence shelters, but they ultimately must move themselves and their children to long-term housing.

The recent Supreme Court decision in *Columbus Park Housing v. City of Kenosha*, 2003 WI 143 will have a significant and devastating impact on housing options for low-income victims of domestic violence and may further increase homelessness in this population. As they advocate for families who experience domestic violence, domestic violence programs have struggled to identify safe, affordable housing stock within their communities. To permanently end a violent relationship, women of all socio-economic groups are in need of safe and stable housing, sustained counseling for themselves and their children, and access to community resources, including daycare, transportation, and job and life skills training to enable them to gain independence and support their families. Transitional housing provides victims of domestic violence with an inexpensive, safe place to live for an average of 6 to 24 months, during which women can save money, look for affordable housing, and access supportive services that allow them to gain independence from their batterers. In Wisconsin, 27 domestic violence programs currently offer transitional housing to families escaping violence.

<sup>1</sup> Jean Zorza, 1991  
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MADISON, WISCONSIN 53703-3041  
608-255-0539 | FAX: 608-255-3560



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Domestic abuse services are available in all 72 Wisconsin counties and among all 11 tribal nations. These programs provide a critical and life saving services for more than 30,000 women, children and men annually. The 27 programs that operate transitional housing facilities for victims and their children are often a key component of service in the communities in which they are located. In some cases, local domestic violence programs operate transitional living facilities in lieu of emergency shelter. Transitional housing tenants are low-income, are often on Section 8 vouchers, or pay what they can for rent based on sliding fee scale. Domestic abuse programs provide a wide range of services on-site to assist these families to transition from an abusive environment to one that is safe and stable.

Domestic abuse programs are notoriously underfunded. During the past 2 years, programs have lost unprecedented levels of funding from federal, state and local governmental funding sources. Additionally, the economic recession has meant that charitable giving has also been down. Therefore, these programs that provide critical services to victims are struggling to continue to exist. The operating budgets for domestic abuse programs are tightly planned, and with little financial resources, there is little wiggle room to address new financial obligations. The long term prognosis for raising additional funds to support domestic violence services is grim at best. Therefore, any fix to address the Columbus Park decision needs to be permanent, without any sunset clauses. The Columbus Park decision, which would require these previously tax-exempt programs to pay property taxes would literally devastate most, if not all, of them. This will lead to a loss of a significant housing and service option for many families experiencing domestic abuse.

Beyond the impact directly on domestic abuse programs, the Columbus Park decision will also lead to decreased affordable housing stock in all communities. Again, for those who advocate for families experiencing domestic violence, this will simply add one more barrier for many victims to overcome if they chose to leave the abusive situation. It is important that the Legislature act swiftly in responding to this issue that could impact so many low-income families in Wisconsin by passing SB 512 with an amendment removing the sunset period.

The Wisconsin Partnership  
for Housing Development, Inc.



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Statement by William C. Perkins, Executive Director,  
The Wisconsin Partnership for Housing Development, Inc.

March 5, 2004

Joint Hearing on SB 512  
Senate Committee on Economic Development, Job Creation and Housing  
Assembly Housing Committee

I urge you to vote to approve SB 512.

The loss of property tax exemption for rental housing owned by nonprofit corporations, as a result of last November's Supreme Court ruling, is a serious threat to our ability to provide affordable housing options to lower-income people and the elderly. The Wisconsin Partnership has been working with a statewide network of nonprofit housing organizations since the Court ruling to help devise a reasonable solution. We have heard from nonprofit owners of housing for thousands of lower-income Wisconsin residents. They provide housing for families with children, people with disabilities, people with mental illnesses, people who have been homeless, victims of domestic abuse, and senior citizens. Many of the housing developments they own have been important contributions to neighborhood and community revitalization.

Some housing developments operate under legally binding regulatory agreements that prevent them from raising rents. If they become ineligible for property tax exemption, they may have no choice but to default on their mortgages and cease operations, and the housing will be lost as an affordable option for people with limited incomes. Other developments may not have legal restrictions on their rents, but neither they nor the residents can afford the additional cost of property taxes. Again, defaults on mortgages and loss of valuable affordable housing resources are likely results. Some nonprofit owners own more than one development. They report that they may have to sell some housing to pay property taxes on other housing they own. We don't believe that the Legislature wants any of those catastrophic consequences to happen.

We understand the concern of local governments and others about the "ground rules" for deciding whether nonprofit-owned rental housing should be exempt from property taxes. SB 512 includes a "sunset" clause to respond to those concerns -- a temporary restoration of the property tax exemption, so that we can all figure out what the "ground rules" should be. The problem with a "sunset" clause is that no one will know whether any nonprofit-owned rental housing will continue to be exempt. Housing that needs capital improvements will not be able to secure financing for the improvements because lenders won't know whether it can be repaid. Housing that needs to be refinanced, because operating costs may have increased over time and lower-cost financing options are available, won't be able to secure new financing because lenders won't know whether it can be repaid. New housing developments that provide housing for very low-income residents, if they rely on property tax exemption to be financially feasible, will not be able to secure financing.

Thousands of units of housing in Wisconsin built over the past 30 years are now affordable because of contracts between the owners and the federal government. Those contracts have been expiring over the past several years, and will continue to expire over the next several years. Many owners of those developments want either to be able to sell the housing to nonprofit owners who will keep them affordable or convert them to more expensive housing. If nonprofit owners can't secure financing because the longer-term status of property tax exemptions isn't known, we could lose affordable housing that we can't afford to replace.

We respectfully urge Sen. Roessler and Sen. Stepp to consider removing the "sunset" clause from SB 512, and we urge the members of the committee to support that change. Removing the "sunset" clause will not prevent the Legislature from continuing to consider whether future changes should be made in the standards for property tax exemption for nonprofit-owned rental housing, with appropriate protections for projects that arrange new financing based on being exempt, and it will make it possible to save affordable housing in danger of being lost.

We appreciate the leadership shown by Sen. Roessler and Sen. Stepp, as well as other members of the Legislature, on this issue and we look forward to working with you to assure that the affordable housing needs of people in Wisconsin are met.

STATE OF WISCONSIN  
REPORT OF THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS  
2003 SENATE BILL 512

[Introduced by Senators Roessler and Stepp.]

**General Nature of Proposal**

Current law exempts certain property from the property tax, including certain property owned and used exclusively by churches or religious, educational, or benevolent associations. Under current law, if exempt property is leased the property does not automatically become taxable if the lessor uses all of the income earned from leasing the property for maintenance of the leased property or construction debt retirement of the leased property, or both, and if the lessee would be exempt from property taxes if the lessee owned the property. This latter requirement is generally referred to as the "lessee identity condition."

In *Columbus Park Housing Association v. City of Kenosha*, 671 N.W.2d 633 (2003), the Wisconsin Supreme Court determined that property owned by a benevolent organization that purchased blighted property, rehabilitated it, and rented it to low-income families who received federal rent subsidies who are not exempt from property tax because it did not meet the "lessee identity condition." In other words, because the low-income tenants would not be entitled to the exemption if they owned the property, the property was not entitled to the exemption when it was leased to the tenants.

The bill provides that, for property tax assessments beginning in 2002 and ending in 2005, the "lessee identity condition" does not apply in the case of leased "residential housing." Under the bill, to maintain a property's exemption while leased, the lessor of "residential housing" would still need to use all of the income earned from leasing the property for maintenance of the leased property or construction debt retirement of the leased property, or both. In addition, the "lessee identity condition" would still apply in the case of leased property that is not "residential housing." In addition, the bill requires the Legislative Council staff to study the effect of the *Columbus Park* decision on property tax exemptions for leased property. The bill directs the Council staff to report its findings, conclusions, and recommendations to the Legislature no later than December 15, 2004.

**Legality Involved**

There are no questions of legality involved.

**Fiscal Effect Upon the State and Its Subdivisions**

The Department of Revenue explains the fiscal effect of the bill as follows:

In its decision in *Columbus Park Housing Corporation v. Kenosha*, the Wisconsin Supreme Court held that property owned by Columbus Park -- a non-stock and non-profit corporation that buys and rehabilitates residential property and rents these properties to qualified low-income

- 2 -

families -- was not exempt from property taxation. The Court based its decision on the preamble to sec. 70.11 which states that exempt property leased to another retains its exemption only if the lessee can also claim exemption from property taxes. Since the low-income families that rent from Columbus Park are not exempt from property taxes, the Court held that Columbus Park's property was not exempt from property taxation.

Previous to the decision, an organization such as Columbus Park was considered to be a benevolent association whose property was exempt under the provisions of sec. 70.11 (4) of state statutes.

Under current law, as a result of the Court decision, municipalities may be able to treat affected property as omitted property for the 2002 and 2003 assessment years, and issue tax bills for those years as if the property had been taxable. In addition, the property is to be placed on the tax rolls and treated as other taxable property beginning with the 2004 assessment.

Under the bill, the previous interpretation of the law which was applied to property such as that owned by Columbus Park will remain in effect for the 2002 to 2005 assessment years. Beginning with the 2006 assessment year, this property would be subject to property taxation.

Based on information from the exemption summary reports filed in 2002 by owners of exempt housing with municipalities and submitted to the Department of Revenue, the total value of exempt housing (excluding nursing, retirement, and religious housing) is estimated to be about \$862 million. It is not clear that the entire \$862 million is now taxable under the Columbus Park decision and would become exempt under the bill, but assuming the entire amount is taxable and a net average statewide tax rate of \$20.55 per \$1,000 equalized value (the net rate for 2002/03), about \$17.7 million ( $\$862 \text{ million} \times 0.02055$ ) in property taxes would be shifted to other taxpayers for the 2004/05 and 2005/06 tax years. Subsequently, this property would again be taxable.

If the higher property taxes resulting from the Columbus Park decision are shifted to renters, these renters would be eligible for the Homestead Credit, to the extent they meet the income and other requirements for that credit. This bill, by exempting low-income housing for 2004/05 and 2005/06, would eliminate credits for these renters, since Homestead cannot be claimed on tax-exempt housing, except when payments in lieu of taxes are made on the housing. Assuming that credit is claimed on the full \$17.7 million in property taxes that otherwise would have been paid on exempt housing, with minimal reduction due to payments in lieu of taxes, and that the Homestead Credit equaled 45.2%, which was the credit as a percent of rent constituting property taxes for Homestead claims filed in 2003, this bill would reduce Homestead Credits by approximately \$8 million per year in both FY05 and FY06. This "reduction" essentially

offsets unanticipated additional expenditures on Homestead that resulted from the Columbus Park decision.

The State of Wisconsin imposes a tax of \$0.20 per \$1,000 of equalized value for purposes of state forestry programs. If the \$862 million in previously exempt housing that is taxable under the Columbus Park decision is exempt for 2004/05 and 2005/06, the state forestation tax would decrease by \$172,400 (\$862 million X 0.0002) each year.

**Public Policy Involved**

The bill is good public policy.

03/03/04

*JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS*