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To: Members of the Special Committee on Tax Exemptions for Residential Property
From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities
Date: September 28, 2004
Re: Narrowing the Section 70.11(4) Tax Exemption Applicable to Property Owned by Benevolent Associations that is Leased as Residential Housing

Thank you for inviting us to comment on the tax policy issues raised by the *Columbus Park Housing* case and subsequent legislation overturning that decision. We welcome the legislature's attention to the impact that tax exemptions, such as the one at issue in *Columbus Park*, have on municipalities and property tax payers.

The Problem

Wisconsin municipalities rely on the property tax for much of their revenue. Unfortunately, over the last 35 years the property tax base has been steadily eroding due in large part to the creation of numerous property tax exemptions by the legislature.

The creation of new property tax exemptions and the expansion of existing exemptions have shifted most of the burden of paying for municipal services onto homeowners. In 1970, homeowners paid 50.6% of all property taxes in Wisconsin. In 2004, residential homeowners pay 70% of the total property taxes in Wisconsin. In Minnesota, residential homeowners currently pay about 50% of the total property tax levy.

We viewed the *Columbus Park Housing* decision as providing the legislature with a rare opportunity to revisit the purpose and public policy goals behind the tax exemption for residential housing facilities owned by benevolent associations. Over the years, the courts have interpreted the exemption to be much broader than the legislature originally intended. The courts ruled that the exemption applied not only to non-profit associations providing housing to the poor but also to independent living facilities providing high-end housing to affluent elderly. Some of the housing facilities that are eligible for the tax exemption require residents to pay endowments as high as \$200,000.

To help illustrate the implications for municipalities, the tax shift that occurs annually in the City of Milwaukee as a result of this tax exemption is \$8 million. The portion of the \$8 million that goes to non-profit organizations providing housing to low income tenants is very small – roughly \$500,000. The rest of the \$7.5 million in tax exemptions goes to independent living type facilities providing high-end housing for middle and upper-middle income residents.

We opposed Act 195 because it merely restored the status quo that existed before the *Columbus Park Housing* decision. We believe the legislature squandered an opportunity to fine-tune the tax exemption for property owned by benevolent associations that is leased as residential housing.

The Solution: Take a Step Towards Stemming the Erosion of the Tax Base

In our view the property tax exemption for benevolent associations in 70.11(4), Stats., should be limited to nonprofit housing facilities that serve residents who are legitimate subjects of charity as measured by an income test. We believe that nonprofit high-end housing facilities that charge expensive endowments and monthly fees should not be exempt from property taxes even if income from the facility is used for the community at large or for residents of affiliated facilities. The exemption was surly intended to help promote affordable housing, not to give a tax break to facilities serving middle or upper income residents.

According to the Wisconsin Taxpayers Alliance, the number of seniors in Wisconsin will double over the next 25 years to 1.3 million. With our society quickly aging, there will be an increase in expensive “nonprofit” senior-housing facilities and also an increase in the number of elderly who cannot afford these types of facilities. It is imperative, therefore, that the legislature clarify the scope of the property tax exemption applicable to residential housing provided by benevolent associations. The Legislature must ensure that tax relief goes where it is needed and where it can advance the sound public policy goal of increasing the availability of affordable housing for society’s less fortunate. Otherwise, property tax paying homeowners will continue to subsidize high-end housing facilities serving affluent members of the community and will continue to bear an unfair proportion of the cost of municipal services.

Thank you for listening to our concerns. We look forward to working with the Committee as it struggles to address this important tax policy issue.