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Date: August 25, 2022

To: Clerk of Wisconsin Supreme Court  
Attn: Deputy Clerk – Rules  
P.O. Box 1688 Madison, WI 53701-1688

From: Janet L. Zander Advocacy & Public Policy Coordinator  
Greater Wisconsin Agency on Aging Resources, Inc.

Re: **Petition 22-03 Eviction Record Retention** – regarding amendment to SCRs 72.01 (8), 72.01 (9), and 72.02 (10), Relating to Retention of Records in Eviction Cases

The Greater Wisconsin Agency on Aging Resources, Inc. (GWAAR) is a nonprofit agency committed to supporting the successful delivery of aging programs and services in our service area consisting of 70 counties (all but Dane and Milwaukee) and 11 tribes in Wisconsin. We are one of three Area Agencies on Aging in Wisconsin. Our mission is to deliver innovative support to lead aging agencies as we work together to promote, protect, and enhance the well-being of older people in Wisconsin. There are over one million adults aged 60 and older residing in our service area.

Thank you for this opportunity to provide written comments **in support of Petition 22-03 related to reducing the record retention period for evictions with no money judgments**. According to the National Low Income Housing Coalition (NLIHC), extremely low-income (those with income at or below the poverty guideline or 30% of their area median income [AMI]) Wisconsin renters face a significant shortage of affordable and available rental homes. Nearly 1 in 4 renter households in Wisconsin are extremely low-income and 28% of these are senior households.<sup>1</sup> Lack of affordable housing is one of the primary reasons why some low-income households (including older adults living on fixed incomes) become severely cost burdened which can lead to an inability to pay the rent, evictions, and even homelessness.<sup>2</sup>

In Wisconsin, most evictions are kept on record with the courts for 20 years regardless of whether an eviction was granted and regardless of whether a money judgment was entered. As demonstrated by the following story shared by GWAAR's Elder Law and Advocacy Center (ELAC),

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<sup>1</sup> National Low Income Housing Coalition, *Housing Needs by State/Wisconsin*, retrieved on Aug. 24, 2022 from <https://nlihc.org/housing-needs-by-state/wisconsin>.

<sup>2</sup> State of Wisconsin Interagency Council on Homelessness, *Welcoming Wisconsin Home – A Statewide Action Plan for Homelessness*, pg. 5; retrieved on Aug. 25, 2022 from <https://doa.wi.gov/Documents/Welcoming%20Wisconsin%20Home.pdfv>

eviction actions against tenants are often due to an inability to pay one's monthly rent or, in some cases, even their inability to *fully* pay the rent.

A client, who was forced to pay for more expensive housing due to no vacancies in low-income housing, was paying rent that was 2/3 of her total monthly income. Her car broke down and needed repairs, so she was not able to pay her entire rent balance for 2 months in a row. She explained to the landlord what happened, and he was understanding about it the first month. However, when she couldn't pay the full amount of rent the second month, it became an issue. The landlord was concerned that this could be a recurring issue and that the woman had no means to repay the outstanding balance, as she could barely afford to pay the monthly rent much less any more towards an outstanding balance. The landlord filed for an eviction after the second month that the rent was not paid in full and on time. The filing for eviction showed up on the Consolidated Court Automation Programs (CCAP) within about 2 days. When the woman got the eviction notice, she went to her local Aging and Disability Resource Center (ADRC). The Elder Benefit Specialist (EBS) worked with the landlord to negotiate on the woman's behalf to prevent an eviction granted against her, as that usually prevents a person from getting into low-income housing. Ultimately, the landlord agreed to mutually end the lease without pursuing an eviction further on the condition that the woman pay him the full amount of rent owed. The client borrowed money from an adult son and the landlord agreed to use her security deposit towards the outstanding rent balance as well. The landlord was repaid in full, the woman moved out, and the eviction case was dismissed. Unfortunately, however, it will remain on CCAP and with Wisconsin's open records laws, it's easy to find. Because of the eviction filed against her, the woman had an incredibly difficult time finding a new apartment after that even though there wasn't even a judgment of eviction. The simple fact that it had been *filed* was enough to create huge problems for her getting a new apartment.

Eviction records create a significant barrier to housing stability. As demonstrated by this story shared by GWAAR's ELAC, eviction records often prevent individuals from finding safe, affordable housing.

Earlier this summer, a 67-year-old client of the ELAC, who is disabled and receiving long term care services through the Partnership Program was given a notice of non-renewal from her property manager approximately 2 months before her lease expired at the end of May. She scrambled to find other housing, but likely due to two previous eviction filings on her record - one from 2018 (judgment of eviction – writ returned unserved/expired) and another in 2022 (dismissed after CORE funds were paid), she received rejections from everywhere she applied. In the end, this client's only option was to move to a second-floor apartment that was offered to her by her by a family member's friend whose father owns the building. The client is now paying \$950/month in rent and even though her gross Social Security benefits are approximately \$1300/month. The client felt she had no other choice but to accept this apartment because otherwise she would be homeless. The mental stress of trying to find a new place to live, along with the physical stress of trying to pack her belongings and get rid of possessions, was a very traumatic experience for her.

According to a Justice in Aging issue brief, "Older adult renters are more likely to pay a large

proportion of their income for rent than the population as a whole, and this extreme rental cost burden places them at increased risk of housing instability and homelessness.”<sup>3</sup> Evictions are far too common for low-income renter households spending more than half of their income on housing. Shortening the records retention period to one year for eviction actions that have/had no money judgment entered will effectively eliminate the 20-year barrier to stable housing resulting from the current rules.

Thank you for your consideration of these comments in support of adopting Rule Petition 22-03. Safe, stable, and affordable housing will improve older adults access to health care, sustain their community connections, and help them to aging in place.

**Working together to promote, protect, and enhance  
the well-being of older people in Wisconsin**

Contact:

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<sup>3</sup> Justice in Aging, *Issue Brief: Low-Income Older Adults Face Unaffordable Rents, Driving Housing Instability and Homelessness*, Feb. 16, 2021; retrieved on Aug. 25, 2022 from <https://justiceinaging.org/issue-brief-low-income-older-adults-face-unaffordable-rents-driving-housing-instability-and-homelessness/#:~:text=Older%20adults%20are%20at%20the,of%20housing%20instability%20and%20homelessness.>