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April 30, 2020

SENT VIA E-MAIL

Governor Tony Evers
Wisconsin State Capitol
2 E Main Street
Madison, WI 53703

Dear Governor Evers:

The American Civil Liberties Union (ACLU) and the ACLU of Wisconsin urge you to immediately extend Emergency Order 15, the statewide moratorium on evictions in Wisconsin and commit to prevention of mass evictions after the moratorium ends.

Across the nation, the COVID-19 pandemic has already resulted in widespread and devastating economic consequences, as the number of unemployment claims filed has reached nearly 500,000 in Wisconsin alone¹. In the face of staggering unemployment numbers and climbing medical costs, millions of people living in the United States—and 1,678,088 renters living in Wisconsin—face the imminent threat of losing their homes. These consequences risk further spread of COVID-19 throughout Wisconsin and undermine efforts to protect public health and well-being. Moreover, the nearly guaranteed wave of evictions will inflict far-reaching and significant economic and social harm on well over a million Wisconsin residents—particularly on women, people of color, low-income residents, and other vulnerable communities.

We commend your efforts thus far in providing relief to Wisconsin residents through Emergency Order (“EO”) #15 and the other pieces of COVID response legislation. Yet it is critical that Wisconsin implement the following state-tailored policy measures in advance of May 26, 2020. We ask, at minimum, that the duration of EO #15 be extended through the duration of the state of emergency in Wisconsin, and be modified to specifically include the following:

1. Prohibitions on late fees and credit reporting based on missed rental payments;
2. Protections against tenant blacklisting; and,
3. Ensure the EO applies to every stage of eviction including initiation and enforcement.

While we believe these recommendations would provide base line protection for renters in Wisconsin, it is imperative that you consider the consequences in failing to extend and modify EO #15.

Evictions Will Disproportionately Harm Communities of Color—And Particularly Women of Color.

¹ <https://www.tmj4.com/rebound/wisconsin-department-of-workforce-development-answers-your-questions-on-unemployment-benefits>.

The ACLU’s Data Analytics team [analyzed national eviction data from 2012 to 2016](#), provided by the Eviction Lab at Princeton University, and found that on average, Black renters had evictions filed against them by landlords at nearly twice the rate of white renters.² Women of color, and particularly Black women, [bear the burden of eviction](#).³ The harmful impact of eviction is further compounded by other racial, gender, and socioeconomic barriers—such as wealth gaps, pay disparities, and inequities in our healthcare system.

Critically, the aftermath of an eviction persists for decades, as tenants with prior eviction records face major obstacles to accessing future housing opportunities. Landlords routinely employ screening policies that deny housing to any renter previously named in an eviction case, regardless of whether the case was dismissed, occurred many years ago, or was filed on unlawful grounds.⁴ As a result, eviction often exacerbates and reproduces conditions of economic insecurity for low-income women and communities of color.

These stark racial and gender disparities in eviction are even more alarming at local levels in Wisconsin. Our state is home to one of the most racially segregated cities in America. Sociologist Matthew Desmond shone a bright light on the racial disparities in evictions in the city of Milwaukee in his Pulitzer Prize winning book, “Evicted.” In 2016, one in eight renters in Milwaukee alone were forced to move due to eviction proceedings resulting in over 16,000 adults and children evicted by Milwaukee landlords. Moreover, “almost half of the city’s evictions took place in predominantly [B]lack inner-city neighborhoods, where one renter-occupied household in 14 was evicted annually.”⁵

The data on racial disparities in housing in Wisconsin is well documented and the impact of evictions on the women of color in our state cannot be ignored. It is also necessary to face the reality that consequences of evictions are far reaching and impact a person’s life beyond the pressing issues of homelessness. In Milwaukee, women who have been evicted often suffer depression, physical and mental harm, ongoing material hardship, and parenting stress.

Wisconsin Must Issue a Comprehensive Moratorium on Evictions That Will Also Prevent Mass Evictions After the Moratorium ends.

In light of the widespread and devastating impact of eviction during the pandemic, we urge you to immediately adjust and extend EO #15 so that it reflects a comprehensive moratorium on evictions throughout the entire state for the duration of the state of emergency. In doing so, Wisconsin must implement a moratorium that prohibits every stage of the eviction process and

² Sophie Beiers et al., *Clearing the Record: How Eviction Sealing Laws Can Advance Housing Access for Women of Color* (Jan. 10, 2020), <https://www.aclu.org/news/racial-justice/clearing-the-record-how-eviction-sealing-laws-can-advance-housing-access-for-women-of-color/>.

³ Matthew Desmond, *Poor Black Women Evicted at Alarming Rates, Setting Off a Chain of Hardship* (Mar. 2014), https://www.macfound.org/media/files/HHM_-_Poor_Black_Women_Are_Evicted_at_Alarming_Rates.pdf.

⁴ Sandra Park, *Unfair Eviction Screening Policies Are Disproportionately Blacklisting Black Women* (Mar. 30, 2017), <https://www.aclu.org/blog/womens-rights/violence-against-women/unfair-eviction-screening-policies-are-disproportionately>.

⁵ Matthew Desmond, *Eviction and the Reproduction of Urban Poverty*, 118 AJS 1, 88–133 (July 2012), <https://scholar.harvard.edu/files/mdesmond/files/desmond.evictionpoverty.ajs2012.pdf>.

without exceptions for types of tenants or lease violations. The State must also plan ahead to prevent mass evictions and other enduring housing consequences after the moratorium ends.

Wisconsin's Moratorium Must Halt Every Stage of the Eviction Process.

An [effective eviction moratorium](#) must prohibit landlords and housing providers from proceeding with any stage of the Wisconsin's eviction process, including, but not limited to: (1) formal or informal issuance of eviction notices; (2) service of legal process in eviction actions; (3) filing of new eviction cases; (4) eviction hearings; and (5) enforcing orders of eviction, including orders that were issued prior to the date that the moratorium went into effect.⁶ Moreover, the moratorium should extend or toll all court deadlines for pending eviction proceedings for at least 30 days after the moratorium is lifted. Absent a clear and comprehensive moratorium, tenants still face a heightened risk of losing their homes or sustaining an eviction filing record that may unjustly act as a barrier to housing in the future.

EO #15 has a moratorium in place that is set to expire on May 26th, 2020 and does not provide for extensions for the duration of Wisconsin's emergency declaration. We believe this moratorium should remain in effect throughout the state of emergency and stay in effect for at least 45 days afterwards, to prevent mass evictions and the devastating harm that will result from such action.

Wisconsin's Moratorium Must Continue to Prevent Evictions During and Shortly After the Pandemic, with Extensions.

Given the ongoing and unpredictable nature of the COVID-19 pandemic, the Wisconsin moratorium must, at a minimum, continue until at least 45 days or longer⁷ after the following conditions are met: (1) the period for mandated or recommended social distancing has ended; (2) Wisconsin has determined the moratorium is no longer needed to control or limit the spread of COVID-19; and (3) Wisconsin has determined there are no further public health, economic, or other circumstances supporting the continued need for the moratorium. Moreover, an effective eviction moratorium should allow for extensions as necessary to allow tenants reasonable time to apply for and receive financial resources and assistance following the conclusion of the pandemic. The moratorium should also guarantee that landlords and housing providers give at least 30 days' notice to evict a tenant upon expiration of the moratorium period.⁸

We also encourage you to act immediately to protect Wisconsinites from tenant blacklisting. In our state, this often appears in several forms including, but not limited to, discrimination against individuals by landlords directly refusing to rent to a prospective tenant due to past evictions appearing on Wisconsin CCAP, or constructively refusing to rent by charging double or triple the amount in security deposits solely based on locating an eviction entry on Wisconsin CCAP. To accomplish this, we recommend ensuring that any eviction order entered during and

⁶ National Housing Law Project, *Protecting Renter and Homeowner Rights During Our National Health Crisis*, <https://www.nhlp.org/campaign/protecting-renter-and-homeowner-rights-during-our-national-health-crisis-2/>.

⁷ See, e.g., Mass. H. 4647, *An Act Providing for a Moratorium on Evictions and Foreclosures During the COVID-19 Emergency*, <https://malegislature.gov/Bills/191/H4647>.

⁸ See, e.g., Coronavirus Aid, Relief, and Economic Security Act (CARES Act), § 4024.

following the pandemic are shielded so they will not act as a bar to future housing opportunities when the economic hardship of a renter may be alleviated.

Wisconsin's Moratorium Should Apply to All Types of Tenants and Lease Violations.

In light of the ongoing public health crisis and its economic consequences, all residents—regardless of their circumstances or background—must have access to safe and stable housing throughout the course of the COVID-19 pandemic. Given the extraordinary circumstances that Wisconsin residents are facing, an effective eviction moratorium should not be limited to evictions for non-payment of rent. Rather, the moratorium must prohibit all evictions and include protections that go beyond the current parameters of EO #15. One way to expand EO #15 would be to require an affidavit from landlords indicating that their property is not secured by a federal loan. This would combine the strength of EO #15 with the extended federal moratorium on evictions under the CARES Act,⁹ which prohibits landlords with federally backed mortgages from bringing evictions during the federal moratorium. This small step would be an added a layer of protection for all tenants.

The Moratorium Should Prohibit the Collection of Late Fees and Protect Tenants Who Assert Rights Provided by the Moratorium.

The moratorium should prohibit landlords from imposing fees or fines associated with the late payment of rent due during the period of the moratorium, which can often be considerable. Additionally, Wisconsin should prohibit landlords from retaliating against tenants who seek protections under the moratorium.

Wisconsin Must Also Prevent Mass Evictions After the Moratorium Ends.

The issuance of a moratorium will play an important role in mitigating the public health and economic impact of the pandemic. In addition to containing further spread of COVID-19 by ensuring residents can comply with stay-at-home orders, a moratorium will prevent the harmful aftermath of eviction, such as medical and mental health issues, financial hardship, and homelessness.¹⁰ However, permitting mass evictions to take place the moment the moratorium lifts will similarly cause huge upheavals in local communities, harm public health, and threaten families. For that reason, Wisconsin should commit to adopting policies that would prevent mass evictions once the moratorium ends. Key policies should include requiring landlords to negotiate payment plans prior to the filing of eviction cases, creating renters' relief funds to cover back rent, providing renters with a grace period of at least 30 days to pay rent, establishing a right to free legal counsel to tenants facing eviction, and exploring other creative strategies for addressing this unprecedented threat to community stability. Such policies should provide meaningful mechanisms to ensure compliance by landlords and housing providers. For example,

⁹ <https://crsreports.congress.gov/product/pdf/IN/IN11320>.

¹⁰ Matthew Desmond & Carl Gershenson, *Housing and Employment Insecurity among the Working Poor*, Oxford: Social Problems Advance Access 1–12 (Jan. 11, 2016), <http://scholar.harvard.edu/files/mdesmond/files/desmondgershenson.sp2016.pdf?m=1452638824>; see also Allison Bovell-Ammo & Megan Sandel, *The Hidden Health Crisis of Eviction*, Boston Univ. School of Public Health (Oct. 5, 2018), <https://www.bu.edu/sph/2018/10/05/the-hidden-health-crisis-of-eviction/>.

Wisconsin officials should issue guidance for housing courts to require landlords and housing providers to show that they have engaged in good faith negotiation of payment plans prior to filing for eviction.

Wisconsin Should Also Protect Tenants from Blacklisting Because They Face Eviction After the Moratorium Ends.

The mere filing of an eviction—even where an eviction judgment is not entered—deprives tenants of housing opportunities, because, as mentioned previously, landlords often will not rent to anyone who has been subject to an eviction case. This type of blacklisting is devastating, locking out families from better housing, schools, and employment for decades. Wisconsin must ensure that any evictions filed during this period do not impede tenants’ opportunities for the rest of their lives by preventing consideration of evictions filed during this crisis period. Moreover, Wisconsin should prohibit landlords and housing providers from reporting missing or late rental payments to credit agencies or debt collection agencies to avoid future economic hardship following the pandemic.

With the first of the month rapidly approaching, it is critical that Wisconsin act quickly to protect its residents against eviction. Wisconsin’s actions will provide the certainty and stability that residents need to ensure that no one is at immediate risk of losing their homes while we work to find longer-term solutions to handling unpaid rent, providing economic and financial support, and ensuring access to stable housing in the aftermath of the COVID-19 pandemic.

We encourage you to act quickly in addressing the critical issues facing the residents of Wisconsin. If you have any questions or concerns, please contact me at mcollins@aclu-wi.org. Thank you in advance for your time.

Sincerely,

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