

2021 RES-115
PROVIDING LEGAL COUNSEL FOR RESIDENTS FACING HOUSING INSECURITY

There were an average of 183 eviction filings per month in Dane County in 2019, the most recent pre-pandemic year. That means nearly 2,200 individuals or families were potentially displaced. The Centers for Disease Control eviction moratorium ended July 31, 2021, and eviction filings are expected to resume in Dane County at a high rate.

Experiencing an eviction can have profound negative health and mental health effects, and can cause a bout of homelessness, loss of personal belongings, public court eviction record, neighborhood instability, challenges securing future housing, and educational disruption for children. Consequences have been even more dire in light of the COVID-19 pandemic, which sunk many low-income individuals deeper in debt through job cuts and losses, medical bills, and a scramble to provide childcare.

In response, cities and counties across the country are establishing programs to provide legal counsel to residents facing eviction. New York City, Cleveland, and – recently – Milwaukee County have programs in place.

Whether facing eviction or foreclosure, the judicial process of removing a person or family from their home can happen with surprising speed. Prior to filing an eviction action in Small Claims Court, as required by law for an eviction, a landlord must lawfully terminate a tenant’s tenancy. The whole process can sometimes occur in a span of less than a month. Similarly, for homeowners facing foreclosure, only 20 days is given to a homeowner to file a formal response with the court and face being removed from their home.

Access to legal counsel helps to even the playing field for tenants and homeowners and can mean the difference between staying in their homes or facing homelessness. Tenants and homeowners often are unaware of their legal rights or are not trained in the legal procedures to properly enforce them. Unlike cases in criminal court, low-income tenants and homeowners are not guaranteed legal representation. Both landlords and lenders often have legal representation in eviction and foreclosure efforts. One recent program showed that over 90% of the tenants facing eviction who were provided legal counsel in 2020 in Dane County were able to stay in their homes.

Access to legal counsel makes a difference for tenants and homeowners. While legal representation is not required for small claims housing matters, tenants and homeowners often do not know their legal rights. On the other hand, both landlords and banks often have legal representation in small claims matters. Legal Action of Wisconsin’s Eviction Defense Project indicates that, in Milwaukee County, 90 percent of eviction cases are dismissed or delayed when a tenant has legal representation.

Legal Action of Wisconsin’s Dane County Eviction Defense Project provides individuals with brief legal advice, settlement assistance, document drafting, and in-court representation in eviction-related legal matters. The initiative is meant to give tenants meeting certain qualifications better access to legal aid lawyers and involving the private bar through pro bono work.

The American Rescue Plan Act’s funding has a goal of economic recovery for people and businesses affected by the pandemic, and eviction and foreclosure prevention fits well within that goal.

51 An Eviction and Foreclosure Defense program in Dane County would help prevent negative
52 outcomes of individuals and their families being evicted as they would have legal representation
53 to advocate for them and help them understand the eviction process from beginning to end.

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55 **NOW, THEREFORE, BE IT RESOLVED**, the Dane County Board of Supervisors supports making
56 legal representation available to all Dane County residents facing eviction or foreclosure.

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58 **BE IT FURTHER RESOLVED**, the Dane County Board of Supervisors authorizes the
59 appropriation of \$50,000 from Dane County's allocation from the American Rescue Plan Act
60 (ARPA) to the Department of Human Services - Housing Access and Affordability Division (DHS-
61 HAA) to establish a Housing Security Defense Program for the remainder of 2021, and supports
62 inclusion of \$150,000 in each of the 2022, 2023, and 2024 budgets.

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64 **BE IT FURTHER RESOLVED**, the Dane County Board of Supervisors hereby authorizes the
65 Department of Human Services - Housing Access and Affordability Division to develop and
66 administer a service contracts for an amount up to \$50,000 for the remainder of 2021 with Legal
67 Action of Wisconsin – Dane County Eviction and Foreclosure Defense Project, with the intention
68 of renewing the contract for 2022, 2023, and 2024 using ARPA funds, which will be appropriated
69 at a later date.

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71 **BE IT FINALLY RESOLVED** that DHS-HAA provide quarterly reports to the Health and Human
72 Needs Committee regarding contract performance and outcomes.