

**STATE OF WISCONSIN
SUPREME COURT**

COLUMBUS PARK HOUSING CORPORATION,

Plaintiff-Respondent,

v.

Appeal No. 02-0699

CITY OF KENOSHA,

Defendant-Appellant-Petitioner.

**LEAGUE OF WISCONSIN MUNICIPALITIES'
AMICUS CURIAE BRIEF**

**Review of District II Court of Appeals Decision regarding an appeal from the
Circuit Court for Kenosha County, the Honorable David M. Bastianelli Presiding,
Circuit Court Case No. 00CV745.**

**Claire Silverman
(State Bar # 1018898)
Legal Counsel
League of Wisconsin Municipalities
202 State Street (Suite 300)
Madison, WI 53703
(608)267-2380**

concluding that the oversight and involvement of the Kenosha Housing Authority satisfied the lessee identity condition. The Kenosha Housing Authority does not own or control the property in question and its relationship to the property cannot be characterized as pervasive.

Columbus Park contends that the language in *Deutsches Land* is only applicable when an exempt organization leases its property to a for-profit entity and that the limitation in the § 70.11 preamble would only apply if the tenants were for-profit entities. See Columbus Park Brief at p. 24. Columbus Park claims that if *Deutsches Land* and the preamble to § 70.11 are held applicable in a situation like that here, to the tenants' leases, then that will represent a dramatic shift in the law and nursing homes and retirement homes will suddenly find themselves without an exemption from general property taxes because the lessees (tenants or residents) would not themselves be exempt under § 70.11(4), Stats.

This is clearly incorrect and not a cause for concern. These entities have been expressly granted exemptions by the legislature and as the City of Kenosha and the City of Milwaukee clearly explain in their briefs, there is no basis for such a concern. The residents of these institutions are not lessees in the typical landlord-tenant sense. See Kenosha Reply Brief at pp. 6-10; Milwaukee amicus brief at p. 13.

THE COURT OF APPEALS ERRED WHEN IT CONCLUDED THAT THE RENT USE CONDITION CAN BE MET BY LOOKING AT AN ENTITY'S LEASEHOLD PROPERTY ON AN AGGREGATE RATHER THAN A PROPERTY-BY-PROPERTY BASIS.