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October 16, 2020

Via Electronic Mail

Glenn A. Grant, J.A.D.  
Acting Administrative Director of the Courts  
Comments on Proposed Amendments to Rule 1:38-3 – Records of  
Landlord/Tenant Matters Not Resulting in Judgment for Possession  
Hughes Justice Complex; P.O. Box 037  
Trenton, New Jersey 08625-0037  
[Comments.Mailbox@njcourts.gov](mailto:Comments.Mailbox@njcourts.gov)

**Re: LANDLORD/TENANT – PROPOSED AMENDMENTS TO RULE 1:38-3(f) TO REMOVE FROM  
PUBLIC ACCESS RECORDS OF LANDLORD/TENANT MATTERS NOT RESULTING IN A JUDGMENT  
FOR POSSESSION**

Dear, Glenn A. Grant, J.A.D,

Thank you for the opportunity to provide input to the Courts regarding the proposed amendments to the rules regarding public records of landlord-tenant matters not resulting in a judgement for possession. Please accept the following comments on behalf of the New Jersey Builders Association (NJBA):

NJBA shares the intended goal of this proposal to ensure that all NJ residents have an opportunity to find safe, quality and affordable housing, and along with its Mixed-Use Developers (MXD) affiliate represent members who provide a wide array of diverse housing choices to individuals of all income levels, in both suburban and urban environments, and are helping to meet the growing demand for vibrant downtowns which support our state's economic growth. We recognize the timeliness and importance of policies that protect NJ's residents during the pandemic and appreciate the Court's efforts to adopt policies that create more housing opportunities, but we ask that the Court reconsider its rule proposal since its application may lead to an unbalanced rental housing ecosystem and disproportionately impact the individuals and families who need it most.

NJBA is concerned with removing components of landlord-tenant records from public access. Landlord-tenant cases are often multifaceted and complex, containing a wide breadth of

*Since 1948, the New Jersey Builders Association (NJBA) has been the State's leading trade association and voice of the homebuilding industry in Trenton. As a major influencer on the state's economic strength, its mission is to advocate for a sustainable and healthy economy and a more affordable and vibrant housing market. NJBA's diverse membership includes residential builders, developers, remodelers, subcontractors, suppliers, engineers, architects, lawyers, consultants and industry professionals that are involved in constructing entry-level to luxury units in for-sale, rental and mixed-use developments.*

information. Removing from public access any record that does not result in a judgement for possession may create an incomplete and inaccurate representation of a person's history.

Last year, Governor Murphy signed P.L.2019, c.316, which requires landlords to allow tenants to pay rent up to three business days after an eviction order or lockout is executed and accept rent payments by any means. Under the new law, while a judgement for possession was issued, should the tenant ultimately pay, the case would be categorized as a dismissal. These recent statutory changes coupled with the Court's proposed rule changes unfairly ignores the several months of legal challenges and nonpayment creating financial burdens for owners who continue to have responsibilities while operating with reduced revenue. Further, many landlord-tenant cases result in settlements or other outcomes that do not contain judgment for possession, however the landlord is often the aggrieved party and is forced to endure unnecessary legal expenses. By establishing binary criteria for whether a record is available to the public, the Court would create a misleading representation of the disposition of landlord-tenant cases and would leave owners at a significant disadvantage in evaluating tenants who have a history of bringing landlords through costly legal battles. NJBA respectfully asks that the Court give greater consideration to the diverse outcomes of landlord-tenant matters and ensure that the public has access to useful and accurate information.

We thank you for the opportunity to offer these comments and look forward to continuing work with you to promote a healthy housing market for everyone. Should you have any questions or wish to speak further, please do not hesitate to contact me at (609)570-2166.

Sincerely,

Jeff Kolakowski  
Chief Executive Officer  
New Jersey Builders Association