

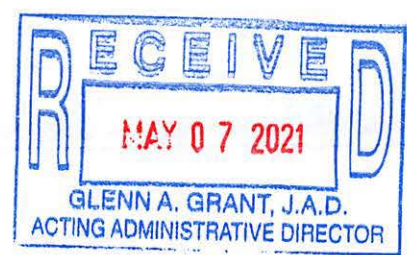
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May 6, 2021



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(VIA NEW JERSEY LAWYER'S SERVICE)  
Honorable Stuart J. Rabner  
R. J. Hughes Justice Complex  
25 W. Market St., P.O. Box 023  
Trenton, New Jersey 08625-0970

Re: Maintaining Our Communities, Report of the Judiciary Special  
Committee on Landlord Tenant

Dear Judge Rabner:

While the pandemic has resulted in some tenants having serious financial hardships, the Moratorium has resulted in severe hardships for landlords as well. Many of them have hung on hoping that the non-paying tenants will soon be replaced by paying tenants. Much of the outstanding rent will never be recovered by landlords. It seems grossly unfair to them for the judiciary to choose this time to institute policies which place a greater burden on landlords, substantially increase the amount of time it takes to evict a tenant, and increase the cost of an eviction. The Special Committee admits that the period from filing a complaint until a trial date will increase to 6-8 weeks. This is approximately double the time it has taken in the past. How is this going to assist the Court in getting through the backlog?

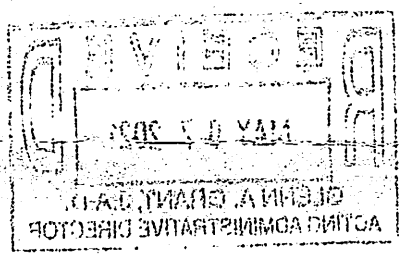
In the interest of brevity, I will not address each recommendation individually, but will speak to the unfair burdens put on landlords by the recommendations without there being any positive effect on the process.

Recommendations 1,2 and 3 which address changes to or additional forms which would then be reviewed by court staff would create an unnecessary burden on landlords and landlords' attorneys. First is requiring the filing of a Landlord Case Information Statement.

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MEMORANDUM FOR THE DIRECTOR

DATE: 10/15/54  
SUBJECT: [Illegible]



[Illegible typed text]

[Illegible typed text]

This document is not required for any other filing in the Special Civil Part. Why should it be in Landlord/Tenant matters? The Special Committee states that the Landlord Case information Statement would "capture information in a standardized format. It would help guide an enhanced initial review for purposes of differentiated case management." The idea of case management in a landlord/tenant case is ludicrous. The vast majority of Landlord/Tenant cases are for non-payment of rent, and do not require case management. There is far more differentiation in Special Civil Part cases, yet there is no requirement for a Case Information Statement for those cases. In addition, while it would be an onerous burden on Landlord/Tenant were this requirement to be prospective, the requirement that Landlord Case Information Statements would have to be filed retroactively for pending cases appears to be not only unnecessary but punitive. In addition, all of the information requested on the top half of the page is readily available from the complaint itself.

The recommendation regarding case management conferences will result in further delays. The reason that there have not been Case Management Conferences in Special Civil Part matters is that these cases are designed to be expedited matters, and in the case of Landlord/Tenant matters, they are intended to be summary actions. You do not have a summary action if you have required Case Management Conferences and settlement conferences before the trial date. These recommendations, by delaying the process, defeat the purpose of summary actions.

There are three particularly egregious recommendations by the Special Committee. They are Recommendation 9, 10 and 14. Recommendation 9 will discourage settlements resulting in the courts being overwhelmed with trials because no landlord will agree to a settlement that does not grant him an immediate Judgment of Possession. And it is unlikely that any tenant will accept a settlement that grants the landlord an immediate Judgment of Possession, when they are given a choice. Unfortunately, this impasse will not benefit tenants or landlords because the tenant often need time to pay their outstanding rent which they will not get if the case goes to trial and the court finds for the landlord. In that event the tenant will have to pay immediately or face eviction. The burden on the court and on landlords if this recommendation were adopted, would be exacerbated if Recommendation 10 were also adopted. Requiring every settlement agreement with an unrepresented tenant to be reviewed and approved by the court would require an unprecedented expansion of the number of judges hearing Landlord/Tenant matters. It would also result in the process being delayed, as the court would have to list far fewer cases on a single day to allow for the review of all settlements for pro se tenants. In the past almost every Landlord/Tenant case was accomplished on a single day and both landlords and tenants went home that day with their settlements. If Recommendation 10 is adopted it is likely

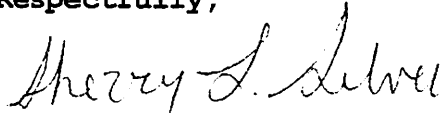
that additional court appearances will be necessary resulting in increased costs to the landlord, and judicial inefficiency.

Regarding Recommendation 14, the purpose of requiring a tenant who is asserting Marini defenses to deposit the rent in Court, is to insure that these defenses are not just being asserted to delay an eviction. For the Special Committee to cut in half the amount to be deposited defeats that purpose. In addition, it would be a waste of judicial resources to have every Marini case have a hearing regarding the amount of money to be deposited in order for the tenant to have a Marini Hearing. In addition to the waste of judicial resources, this system would permit some tenants, whose habitability defenses have no merit, to continue to live in their apartments rent free for a longer period of time.

In summation, the Recommendations which I have addressed place a greater burden on landlords and on the Judiciary. In addition, the delay in the process may not help the tenants. The longer the delay, the more rent accrues, and the less likely the tenant will be able to pay it. Also, it appears that many of these Recommendations not only do not address the backlog, but if adopted will only add to it. Therefore, I request that the Special Committee not adopt Recommendations 1,2,3,5,7,10 and 14.

Thank you for your consideration,

Respectfully,



SHERRY L. SILVER

SLS: sss

✓ cc: Honorable Glenn A. Grant  
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