



February 14, 2022

SENT VIA ELECTRONIC DELIVERY

The Honorable Glenn A. Grant
Administrative Director of the Courts
Hughes Justice Complex
P.O. Box 037
Trenton, NJ 08524-0037

**Subject: Comments on Proposed Amendments to Rule 1:38-3 – Public Access To Landlord
Tenant Records More than Seven Years Old**

Dear Judge Grant:

On behalf of the New Jersey Apartment Association (“NJAA”), we appreciate the opportunity to comment in support of the above captioned proposal concerning access to certain records of landlord-tenant cases that are maintained by the Judiciary. Specifically, the proposal would amend rule 1:38-3 to restrict access to court records in landlord-tenant cases that resulted in the issuance of a judgment for possession once they are older than seven years.

The NJAA is an association of owners, managers, and developers of more than 220,000 apartment homes formed to represent the interests of the multifamily housing industry in New Jersey. One in three New Jersey families rent their home and more than one million of New Jersey residents live in professionally managed rental apartments.

NJAA previously commented on the Court’s request for comments on the September 16, 2020, proposal restricting access to court records that did not result in the issuance of a judgement for possession or where a judgment of possession was entered, but subsequently vacated. We noted in those comments that the proposed rule change concerning records that did not result in the issuance of a judgment for possession would have removed many records that properly reflect a person’s suitability as a tenant and ignores the significant negative impact of repeat offenders on housing providers, especially small property owners who rely on consistent and timely rent payments to meet their own financial obligations.

We also noted that restricting public access to tenancy records could have unintended consequences for the very population that the court seeks to help. Landlords, who can no longer rely on court records, will instead be forced to give greater weight to other valid nondiscriminatory screening criteria, such as credit history or collections. Therefore, a tenant with poor credit, but a strong history of paying rent, will have no way of proving himself/herself. Furthermore, landlords may seek other risk mitigation strategies, such as higher income standards, increased security deposit demands, or higher rents, which may disproportionately harm low-income renters.

Accordingly, we continue to have concerns with the proposed limitation on Landlord-Tenant records contained in the September 16, 2020.

We do, however, support this proposal, which would limit access to landlord-tenant records where judgments for possession were entered more than seven years ago. Unlike the records sealed in the prior proposal, **we do not believe that tenancy records that are older than seven years provide necessary insight into an applicant's suitability as a tenant.** As such, restricting access to these older records would not negatively affect a landlord's ability to properly screen applicants for rental housing.

It is also important to note that the proposed seven-year time period is in alignment with the Fair Credit Reporting Act (FCRA), 15 U.S.C. Sec. 1681 et seq., which prohibits consumer reports from containing information concerning civil suits or judgments that "antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period" (Sec. 605 (a)(2)).

Accordingly, we support this proposed change to rule 1:38-3, and thank you for the opportunity to provide comments.

Very truly yours,

A handwritten signature in black ink, appearing to read "Nick Kikis", written over a horizontal line.

Nicholas J. Kikis
Vice President
Legislative & Regulatory Affairs
New Jersey Apartment Association