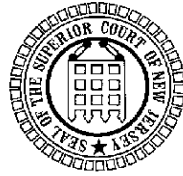


**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION**

**HANY A. MAWLA
JUDGE**



**216 HADDON AVENUE
WESTMONT, NEW JERSEY 08108
(856) 854-3493**

February 14, 2022

Glenn A. Grant
Administrative Director of the Courts
Attention: Comments on Proposed Amendments to Rule 1:38-3 - Public Access
To Landlord Tenant Records More than Seven Years Old
Hughes Justice Complex
P.O. Box 037
Trenton, New Jersey 08625-0037
Via email Comments.Mailbox@njcourts.gov

Re: Proposed Amendments to R. 1:38-3 – Public Access To Landlord Tenant
Records More than Seven Years Old

Dear Director Grant:

The Supreme Court Committee on Diversity, Inclusion, and Community Engagement (“SCC-DI&CE”), in its advisory role to the Court, writes in full support of proposed Rule 1:38-3(f)(11). The Rule would remove from public record landlord/tenant matters in which the judgment of possession entered is older than seven years. The SCC-DI&CE believes the proposed Rule properly balances the principles of institutional transparency and individual privacy, which underly Rule 1:38, and are contained in the Court's June 5, 2020 statement “recommitting the Judiciary to the elimination of barriers to equal justice, including for individuals historically and currently excluded from and disadvantaged by court processes.”

The Court’s July 16, 2020 *Action Plan for Equal Justice* recognizes that the current disclosure of certain administrative records “creates inappropriate hardships for disadvantaged populations (e.g., records of landlord/tenant complaint filings that do not note the outcome).” As the SCC-DI&CE noted in a prior commentary letter relating to proposed amendments to Rule 1:38-3(f), current practice allows landlords and landlord representatives to obtain information from prior eviction filings to determine a prospective tenant’s eligibility for residential tenancy. This practice is

problematic because the previous filings may not provide the substantive details and necessary context, and contain significantly dated information. As a result, litigants who were evicted for non-payment of rent many years ago continue to suffer the stigma of being a financial risk to a landlord where the litigant's financial circumstances may have changed. The use of stale eviction proceeding records punishes those who need stable housing the most. Further, public access to judgments of possession entered more than seven years ago is inconsistent with general credit practices.

The proposed changes to Rule 1:38-3 remedy an unfairness, which disparately impacts historically marginalized constituencies, including people of color as well as poor and working class families who rent in New Jersey. We thank the Court for the opportunity to provide commentary on this effort to foster fairness and eliminate structural inequities.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Hany A. Mawla', written in a cursive style.

Hany A. Mawla, J.A.D., Chair
Supreme Court Committee on Diversity, Inclusion, and Community Engagement

cc: Morris G. Smith, J.A.D., Vice-Chair, SCC-DI&CE
Steven D. Bonville, Chief of Staff
Lisa R. Burke, Acting Diversity, Inclusion, and Community Engagement
Program Manager