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From: hdsesq2@aol.com
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To: Comments Mailbox
Cc: hdsesq2@aol.com
Subject: [External]Comments to Report and Recommendations of the Judiciary Special Committee On Landlord Tenant Procedures

Good day

I write this as an attorney representing various residential multi-family landlords and being one myself. In my 40+ years as an attorney, I believe this is the first time that I have penned and submitted comments pertaining to pending or proposed legislation or court functions. While it is appreciated that there is a reality arising from the pandemic and the cessation of eviction proceedings which has given rise to a backlog and administrative problems when the "flood gates are opened", it is respectfully suggested that the report has dealt with a problem in a manner which will only exacerbate the backlog and make it moreso. With the anticipated backlog being what it likely will be, and looking to the future to facilitate the administration of such cases as expeditiously as possible, any amendment to procedures should have as a goal the streamlining of processes, not the opposite. The report takes a relatively well understood process and adds elements and time and paperwork and potential hearings which is the antithesis of streamlining. A mere review of the timeline attached as part of the report attests to that. The concept of 8 weeks from an eviction filing to a trial is significantly longer than my experience with such matters over the last 4 decades. It is also of great concern that the 8 weeks proposed will turn out to be a "wish list" moreso than itself being a reality.

It is respectfully suggested that the additional filing requirements on landlords (especially those with a significant number of rental units, not a "mom and pop" situation) only increases the paperwork, time, and cost. As minimal as those may be individually, when multiplied by a case load that frequently is somewhat repetitive in the nature of non-payment cases (the bulk of landlord-tenant eviction litigation), it will tend to only lead to further time expended not only by the initial filing but by the court personnel in reviewing same.

The concept of a tenant case information statement is fraught with disaster and will itself only give rise to further delays when considering language differences, experiential differences, and presence or absence of being able to complete forms by the general public. That is especially true if adjournments, extensions, or any additional time is provided regarding tenant case information statements particularly in simple non-payment cases. The report

suggests that tenants will now have an affirmative obligation to a pre-procedure filing requirement where heretofore no answer or anything is required. It is suggested that this alleged aid to the process will only become a sword to reward deleterious conduct leading to further delays of tenants who understand and "play the system" when faced with financial leasehold obligations. Presuming the innocence and absence of experience of many tenants will also likely delay the entirety of the process if the tenant case information statement is a prerequisite for the case to make it to a trial calendar.

I further respectfully suggest that the concept of a case management conference will also only further delay the proceedings (see comment above about the 8 weeks) unnecessarily. The caseload judges and court personnel will be facing in any attempt to address the multitude of matters that have been put on hold (and which numbers are growing) due to the governor's executive order will only be worsened by a process that requires an additional procedural case management conference prior to trial. The typical present protocol has included mandatory mediation prior to a trial which, in the vast majority of cases, obviates most trials. In addition, adding an element of time to be expended separate and apart from a trial date will have the propensity itself of further delay, especially when there is a motive to delay as long as possible (which is a reality that must be accepted as a truism for many tenants who have simply stopped paying because the law permitted it).

Further, the unnecessary need for an additional case management conference is supported by my experience over many decades in that (certainly experienced) residential landlords will attempt to be reasonably accommodating with a settlement agreement and payment plan on the trial date. Frankly, such landlords usually extend themselves even prior to an eviction filing as long as there is a mutuality of communication and cooperation with the tenant. This reality stems from a variety of factors: (1) not wanting to unnecessarily sit around the courthouse waiting to be heard; (2) the reality that if a tenant agrees to a payment plan frequently there will be compliance; (3) a tenant-agreed payment plan further provides the tenant with a degree of control and a psychological benefit that he/she was not only a part of the problem but a significant part of the solution. Accordingly, I suggest that the maxim "if it ain't broken don't fix it" is applicable. I believe that strong encouragement of settlement on the trial date will be far more efficient and productive than adding additional layers to the pre-trial and general eviction process.

The problems now faced by the judiciary and the public are not the fault of either. However, the report, in what appears to be more of a magnanimous gesture to tenants, has fostered procedures that will only cause yet additional delays and add layers to a process which, itself, but for the pandemic, functioned rather well pre-pandemic.

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