

# ORCA TALES

November 2007 "We can tell you more about them than their mother" Volume 14 Issue 11

## Legal Opinion:

### Court Records on EXISTING Tenants?

#### Question :

I screen my potential renters through Orca exclusively. May I also request a court record search on existing tenants?

#### Answer:

*Fair Credit Reporting*, at § 7.2.3.3, describes that one of the permissible purposes for which a consumer report can be obtained is:

"... involving review of an account. Thus, a creditor may obtain a report on a current customer to determine whether the consumer continues to meet the terms of the account, or for the purpose of deciding to retain or modify current accounts."

Thus, the concept of the "ongoing review" is well established.

#### Limitations on Review:

This memo discusses investigative searches generally and no reference is made in the question presented or in this responsive memo to a particular case or circumstance.

Credit reporting laws are quite complex. A complete analysis of this question would require literally hours of research, which is likely beyond the scope of the analysis you have requested.

I base my opinion primarily upon the text of the book, *Fair Credit Reporting*, published by the National Consumer Law Center. No supplemental or independent research has been performed.

Another question is whether the authorization for the release of information used by AHA is sufficiently descriptive to encompass the concept of an ongoing review. (Continued on back page)

**Want to Order Court Records on an Existing Tenant?**  
Orca Information has created an addendum with the above wording. Go to: [www.orcainformation.com](http://www.orcainformation.com)  
You will find it on our home page

Properties in Lake Chelan!!

Contact: Dan and Jan Folsom

[www.johnlscott.com](http://www.johnlscott.com)

Office Phone

Office Phone: (509) 687-9573

Office Fax (509) 687-6248

## Landlord Legalities

**Q: What does Washington's medical marijuana law do?**

**A:** Washington's medical marijuana law (Chapter 69.51A RCW) was enacted by voters in 1998 as an initiative. It allows doctors to legally recommend medical marijuana to patients for some medical conditions. Under state law, patients may possess a 60-day supply of medical marijuana if it is based on a doctor's written recommendation. However, a 60-day supply has not yet been defined in law or rule.

**Q: Why is the law being changed?**

**A:** Lawmakers made changes to medical marijuana laws through Engrossed Substitute Senate Bill 6032. Their goal was to make clearer that patients should not be prevented from lawfully using medical marijuana and that doctors should use their best judgment in recommending it to their patients. The bill also described how designated providers can aid patients and gave better direction to law enforcement about medical marijuana use.

**Q: What are the key changes to Washington's medical marijuana law?**

**A:** Lawmakers made the following major changes: "Primary caregivers" were renamed "designated providers" and were defined as people:

-Over the age of 18.

-Designated in writing by a patient as his or her provider.

-Prohibited from consuming marijuana obtained for the medical use of the patient

<http://www.doh.wa.gov>

*Northwest Rental Owners Association*



*Legal Opinion Continued*

I have recommended to clients that their authorizations for an "ongoing review" be included in their lease documents. The following example is from the lease form that I use.

**"Resident authorizes owner to obtain supplementary credit and/or screening reports at any time during and up to one year following Resident's occupancy of the premises at owner's expense. Except as disclosed on resident's application, resident warrants that they have never been convicted of nor pleaded guilty or no contest to a felony (whether or not resulting in a conviction) and that residents have never been convicted of or pleaded guilty or no contest to a misdemeanor involving sexual misconduct, or a crime against a child (whether or not resulting in a conviction). Resident agrees to promptly notify owner in case of any change in this status during tenancy. Resident represents and warrants the accuracy of all information contained on resident's rental application. A subsequent determination that resident provided false or inaccurate information on the rental application is a breach of the terms of this agreement and owner may take legal action to terminate this agreement in such case."**

I have not found authority indicating that this language is necessary or required to permit an ongoing review. However, in an abundance of caution, I have seen fit to use this language in my own lease forms to resolve any ambiguity in my favor.

As a recommendation for the future, AHA may wish to modify their Release of Information form to include similar language.

**Executive Summary:**

Provided that all other requirements of the Fair Credit Reporting Act and similar laws are complied with in a given instance, it is my opinion that it is a permissible practice to request ongoing reports for the purpose of performing an "account review."

*From Christopher T. Benis, Attorney at Law Office of Harrison Benis & Spence LLP*

**A BIG THANKS TO ALL FOR UPDATING YOUR FCRA COMPLIANCE PAPERWORK! WE APPRECIATE YOUR COOPERATION!!**

## **Get The Washington State Fair Housing Newsletter Online**

[www.metroke.gov/diasocre](http://www.metroke.gov/diasocre)

**This month's articles:**

**Farm Workers Deserve Discrimination-Free Housing**

The Washington State Human Rights Commission (WSHRC) is increasingly concerned about race and national origin discrimination against farm workers in the state. We are hearing about housing discrimination, shortages and deplorable conditions from a growing number of farm workers, advocates, school professionals, and others connected to farm worker communities.

**Homeless Service Providers and Fair Housing Compliance**

Fair housing and homeless issues intersect. By incorporating fair housing principles into program operations, homeless service providers minimize risks of violating civil rights laws and thus, can focus on ending homelessness, not perpetuating it.

**New Publications Focus on People with Criminal Records, Religious Accommodations**

HUD recently announced that it is creating a new Fair Lending Division that will review mortgage lending practices throughout the nation.

**New Lending Division Created at HUD to Investigate Allegations of Discrimination**

HUD recently announced that it is creating a new Fair Lending Division that will review mortgage lending practices throughout the nation.

The Washington State Fair Housing Update is a quarterly publication of Fair Housing Assistance Program (FHAP) Agencies and non-profit fair housing organizations. For more information contact us:

**U. S. Dept of Housing & Urban Development**  
206-220-5170/ [www.hud.gov/offices/fheo](http://www.hud.gov/offices/fheo)

**Washington State Human Rights Commission**  
360-753-6770/ [www.hum.wa.gov](http://www.hum.wa.gov)

**Seattle Office for Civil Rights**  
206-684-4500/ [www.cityofseattle.net/civilrights](http://www.cityofseattle.net/civilrights)

**Tacoma Human Rights & Human Services Department**  
253-591-5151/ [www.cityoftacoma.org/HRHS](http://www.cityoftacoma.org/HRHS)

**Fair Housing Center of Washington**

**Reminder:**

The Orca Pod will be giving thanks with their families on November 22. Happy Thanksgiving from the Orca Pod!!!

