



## Criminal Records Screening for Tenants Must be Limited to Seven Years

By Michael F. McLaughlin, Associate Attorney & B. Tony Branson, Partner, Olsen Law Firm PLLC

Consumer reports that incorporate the results of criminal background checks serve an important purpose for the welfare of park residents and park owners alike, because information contained in a prospective tenant’s criminal report can assist managers in determining whether or not a particular applicant qualifies for tenancy in the community. The landlord’s important interest in protecting the community for crime competes against an applicant’s interest to secure affordable housing and to make a fresh start after demonstrating good behavior. In an effort to address these competing concerns, the Washington State Legislature created time periods that prevent a consumer reporting agency from disclosing an applicant’s criminal record dating back further than seven years from the date of inquiry when the applicant applies for residency.

The Fair Credit Reporting Act, RCW 19.182 prohibits a consumer reporting agency from providing clients with an applicant’s “records of arrest, indictment, or conviction of an adult crime that, from date of disposition, release, or parole, antedate the report by more than seven years.” 19.182.040(1)(e) Consumer reporting agencies that provide their clients with reports of an applicant’s criminal convictions which are older than seven years face possible legal liability if a landlord or manager relies on that report to deny an applicant tenancy. In a recent class action lawsuit in King County that was brought by tenants represented by the ACLU against a credit reporting agency, the agency agreed to settle for over \$100,000 because it reported criminal records that exceeded the time requirements imposed by the Fair Credit

Reporting Act. See *Wilson v. Rentgrow, Inc.*, Case No, 13-2-15514-1 SEA (2013). It remains unclear what liability, if any, a landlord would face for denying an application based on illegally disclosed information for a consumer report.

RCW 59.20.073 confirms that a manufactured housing landlord cannot unreasonably deny any transfer for a rental agreement upon sale of the home, and must accept or deny a request for transfer upon the same terms that the landlord accepts or deny any new tenants. To satisfy this legal duty, the landlord should consistently apply its screening criteria to ensure that an applicant is not improperly denied, so as to avoid a courtroom altogether or at least minimize the risk arising from any legal action. This would include hiring a consumer reporting agency that complies with the Fair Credit Reporting Act’s limitations, to ensure that you review applications containing on the most relevant and accurate information.

Be sure to follow the same screening methodology for each applicant you screen to prevent claims of housing discrimination. If you have questions about any specific situation where such records have been disclosed, consult with legal counsel to confirm your rights.

*Michael McLaughlin is an associate attorney at Olsen Law Firm PLLC where he represents landlords in residential and manufactured housing matters.*

FEATURED FORM OF THE MONTH:

### New Tenant Checklist

Thank you for the form  
Coldwell Banker Tara Property  
Management, Oak Harbor

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*“Retha did an amazing job  
this morning helping me out.  
She went above & beyond  
the call of duty. I just  
wanted you to know what a  
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have.”*

-G.S Seattle, WA

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# ORCA TALES

November 2014

Employment Background Investigations

Volume 21 Issue 11

## Important Announcement



### WE ARE UPGRADING!

The week of November 3rd you will see our new website and logo!

Note: the website may be down on Saturday, November 1st during our upgrade.

Questions? Contact us at [orca@orcainfo-com.com](mailto:orca@orcainfo-com.com)

Visit us on the web: [www.orcainformation.com](http://www.orcainformation.com)

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## Mark your Calendars!

Please note these important dates:

November 1st, 2014 - New Website will be launched.

November 15th, 2014 - Office Closed for Training

November 26th, 2014 - Office will be closing at 3:00 p.m.

November 27th, 2014 - Office Closed in Observance of Thanksgiving

November 28th, 2014 - Office will open at 9:00 a.m.



# Happy Thanksgiving!

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