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IN A PRECEDENT-SETTING CASE, JUDGE RULES REAL ESTATE COMPANY MUST INFORM RENTERS ABOUT CREDIT CHECKS

Big Win for Tenants as Court Upholds the Tenant Screening Law, Requiring Rental Agents to Inform Prospective Tenants if Credit and Background Checks are Used

New York State Supreme Court Judge Janice Taylor has dismissed all claims brought by Arash Real Estate and Management Company of Queens (Arash), which challenged the Department of Consumer Affairs' (DCA) enforcement of Local Law 2 of 2010, or the Tenant Screening Law. This law mandates that rental agents post a sign informing prospective tenants whether or not tenant screening reports are used. A tenant screening report provides information such as consumer credit history, rental and eviction records, criminal history and employment verification. The sign must inform renters of their right to dispute the accuracy of the information in the report directly with the reporting agency, to obtain a free credit report annually, and, as required by federal and state law, list the names and addresses of any consumer reporting agencies used. The law also requires rental agents to notify prospective tenants if they do not lease or rent to them based on information in the tenant screening report and their right to obtain a free report if the agent does not lease or rent to them based on the report. Judge Taylor's ruling upholds the law and DCA's ability to enforce it.

"This is an important victory for the millions of New Yorkers who rent their home," said DCA Commissioner Julie Menin. "New Yorkers should not be blacklisted from renting an apartment without knowing why or being able to correct details that might be inaccurately reported. The law in question is simple to comply with and thanks to the Court upholding this important law, we are now able to enforce and make sure New Yorkers are protected and informed."

Many prospective renters may not be aware rental agents use credit reports and other reports to evaluate if they would be a suitable tenant and that these reports can contain inaccuracies or misleading information. Tenant screening reports function like consumer credit reports and use information from the Office of Court Administration such as filings in housing court without information about the results of those actions or the context for the proceedings. For example, a tenant screening report may state that a landlord

commenced eviction proceedings against a tenant but not that the proceeding was dismissed or it may list a judgment against a tenant for non-payment when the Court actually found the tenant legally withheld the rent. These types of reported items can essentially blacklist someone from renting another apartment.

The law, which went into effect June 2010, requires real estate agents, management companies and landlords who request application information from a tenant directly to inform the tenant whether or not they use tenant screening reports. DCA has a checklist available so businesses know what inspectors look for in the sign and a downloadable sign available at [nyc.gov/BusinessToolbox](http://www.nyc.gov/BusinessToolbox) (link to: <http://www.nyc.gov/BusinessToolbox>).

Undercover DCA inspectors investigated Arash in January 2013 and, even though Arash rented apartments, no sign was posted. In April 2013, an Administrative Law Judge found Arash guilty of failure to comply with the law and imposed a \$500 fine. Arash appealed in that court and when the appeal was denied, took the case to the State Supreme Court. DCA has conducted nearly 800 inspections under the law and issued violations to one in four businesses for failing to have the required sign posted.

Arash Real Estate challenged that the law and rules stemming from it are preempted by State laws, which allow real estate agents to take renters' information without any restrictions; that the City's law and rules are overly vague and thus violate Arash's constitutional rights; and that since the principal purpose of its business is to sell real estate, not rent it, Arash is not subject to the law. All of these arguments were dismissed by Judge Taylor.

DCA encourages New Yorkers who notice that a rental agent does not have the required sign posted to file a complaint with DCA at nyc.gov/consumers or by calling 311. New Yorkers can also tweet a tip to [@NYCDCA](https://twitter.com/nycdca) (link to: <http://www.twitter.com/nycdca>) and post to DCA's [Facebook page](https://www.facebook.com/nycdca) (link to: <http://www.facebook.com/nycdca>).

The Department of Consumer Affairs (DCA) licenses, inspects, and educates businesses, mediates complaints, educates consumers, and offers free financial counseling and safe banking products. DCA enforces the Consumer Protection Law, the Paid Sick Leave Law and other related business laws throughout New York City and licenses nearly 80,000 businesses in 55 different industries. Through targeted outreach, partnerships with community and trade organizations, and informational materials, DCA educates consumers and businesses alike about their rights and responsibilities. DCA's Office of Financial Empowerment assists low-income New Yorkers with innovative programs and services to increase access to high-quality, low-cost financial education and counseling, safe and affordable mainstream banking, and access to income-boosting tax credits and savings. For more information, call 311 or visit DCA online at [nyc.gov/consumers](http://www.nyc.gov/consumers) (link to: <http://www.nyc.gov/consumers>) or on its social media sites, [Twitter](https://twitter.com/nycdca) (link to: <http://www.twitter.com/nycdca>), [Facebook](https://www.facebook.com/nycdca) (link to: <http://www.facebook.com/nycdca>), [Instagram](https://www.instagram.com/nycdca) (link to:

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