



MARYLAND
LEGAL AID

Advancing
Human Rights *and*
Justice for All

HUMAN RIGHTS IN MARYLAND'S RENT COURTS: A STATISTICAL STUDY

28.1%
PROBLEM:
172,635

71.9%
NO PROBLEM:
614,735

80
600,000
500,000
400,000
300,000
200,000
100,000

62%

Prepared by
Maryland Legal Aid's
Human Rights Project

24.4 %

24.5 %

24.0 %

5.8 %
7.5 %

RECLOSED



TABLE OF CONTENTS

FOREWORD 3

EXECUTIVE SUMMARY 4

INTRODUCTION 6

WHY RENT COURTS MATTERS..... 6

RESEARCH METHODOLOGY 8

RESULTS11

KEY FINDINGS & RECOMMENDATIONS..... 22

CONCLUSION 27

ENDNOTES 28

APPENDIX I..... 30
QUICK REFERENCE ON LEGAL REQUIREMENTS OF FEDERAL SUBSIDIES AND THEIR IMPACT ON FTPR CASES

APPENDIX II..... 31
KEY CASE LAW AFFECTING SUBSIDIZED PROPERTIES IN FTPR CASES

APPENDIX III..... 32
RENT COURTS AND INTERNATIONAL HUMAN RIGHTS LAW

APPENDIX IV 34
CONFIDENCE INTERVALS

ACKNOWLEDGMENTS 37

BENCH CHECKLIST FOR FTPR CASES 38

REFERENCE 39
FAILURE TO PAY RENT COMPLAINT FORM WITH APPLICABLE MARYLAND LAW

FOREWORD

For 104 years, Maryland Legal Aid has provided free, high quality legal services to Maryland's poorest and most at-risk individuals and families. A private, not-for-profit law firm, Maryland Legal Aid focuses on the critical and essential needs of clients and serves the most vulnerable populations, including older adults; people with disabilities; families in crisis; children at risk of abuse and neglect; and low-wage workers. Maryland Legal Aid serves Baltimore City and Maryland's 23 counties from 15 locations across the state. In 2012, the focus year of the Rent Court Study, the organization provided free legal services to more than 78,000 Marylanders.¹

After engaging with the community in a needs assessment and strategic planning process, Maryland Legal Aid was the first legal services organization in the country to adopt a human rights framework in 2009. It did so in response to the findings of the assessment, which revealed that affordable housing was one of the most pressing needs for low-income Marylanders – a need that if left unmet would not allow them to overcome poverty. Human rights law – a powerful tool to understand and address client and community concerns – recognizes that every human being has basic rights and freedoms simply by virtue of their humanity. Universal in nature, these rights and freedoms stem from the understanding that people's basic human needs must be met for them to live a life filled with dignity. In other words, basic human needs = basic human rights.

Housing is a basic human need and is central to people's ability to meet their other human needs. Without stable housing, children cannot excel in school; without habitable housing, health outcomes suffer; without housing that is accessible to transportation, finding and retaining employment becomes a challenge; without housing that is located near healthy food sources, people's physical and mental development may be impeded; without housing that is affordable, difficult choices between competing human needs are made with some needs remaining unfulfilled. Capturing this interconnectedness of human needs, human rights law articulates a standard for the right to housing that encompasses six distinct components of adequacy in housing. One critical component of the right to adequate housing is legal security of tenure, which underscores the critical role of the law and legal processes in protecting this important right.

In 2012, Maryland Legal Aid was selected as one of two legal services organizations in the nation to partner with the Local Human Rights Lawyering Project at the Center for Human Rights and Humanitarian Law at American University Washington College of Law to establish the Human Rights Project. In direct response to the findings of the needs assessment, one of the first areas of focus for the Project was addressing systemic impediments to acquiring and maintaining adequate housing in Maryland. Rent Court was immediately identified as a system that impacted housing outcomes for many low-income individuals and families. It is a system that is heavily used, but one that has not been systematically assessed. This desire to have hard numbers to evaluate the effectiveness of the system was the genesis of the Rent Court Study.

After rigorous and thorough data collection and statistical analysis, Maryland Legal Aid's Human Rights Project is pleased to present this Study of Rent Courts in Maryland. We hope that the Study's findings will further align the administration of Rent Courts with governing law, thereby improving the number of just and fair outcomes in Rent Court and protecting the right to adequate housing for individuals, families and communities in Maryland.

Sincerely,
Reena K. Shah, Esq.
Director, Human Rights Project
Maryland Legal Aid

EXECUTIVE SUMMARY

All residents of Maryland have a human right to due process, a fair trial², and legal security of tenure in preserving their housing.³ For many years, anecdotal evidence suggested that existing law relevant to Failure to Pay Rent cases was not being uniformly applied in Rent Courts throughout Maryland, potentially resulting in incorrect, inconsistent or unjust outcomes.

An initiative of Maryland Legal Aid's Human Rights Project, the Rent Court Study (Study) is the first statistical study of Rent Court processes in Maryland. The Study quantified the breadth and scope of some of the recurrent issues and problems that arise in Rent Court; those results reflect substantial risk to the human rights noted above. Even though Rent Court trials can be short, the impacts of adverse Rent Court decisions can be lasting and have ripple effects not only on housing, but on every facet of the lives of the individuals and families impacted by them. It is critical, therefore, for Rent Courts to minimize errors and institute reforms where needed to reduce the high number of outcomes identified through this Study that do not comport with legal requirements.

Designed and implemented with expert guidance from a statistician with the American Association of the Advancement of Sciences, the Study is statewide in scope and draws from a random sample of 1,380 Failure to Pay Rent cases from the year 2012, sufficient to permit statistically valid conclusions with respect to all Rent Court cases from that year. Creating the random sample revealed weaknesses in the availability of data in Rent Courts and the lack of standardized systems across judicial districts.

Maryland Legal Aid partnered with the District Courts of Maryland to obtain Failure to Pay Rent complaints and their associated audio recordings, which allowed the Study to track some of the most frequently cited areas of concern: improper service; lack of required licensing and lead paint certifications; failure to apply additional protections provided in subsidized units; improper foreclosure of the right to redeem; and missing military service and signature/attestations. The Study focused its analysis on default judgments. **The Study found, with a 95% confidence level, that an estimated 172,635 out of 614,735 (or almost every 3 out of 10) Failure to Pay Rent cases in 2012 had at least one type of error.**

The two types of errors that were most commonly noted included:

- 1. Incorrect Case Outcomes** – The case was wrongly decided based on existing Maryland law. The Study demonstrated that in an estimated 107,863 out of 614,735 cases (or 17.5% of cases), because of failures in meeting due process and other legal requirements, the outcome in the Rent Court case was incorrect.

Two issues were identified as primary causes of incorrect outcomes in Rent Court:

- **Legal Obligations Not Satisfied** – In an estimated 95,275 out of 614,735 cases (15.5%) at least one of the legal obligations the landlord must satisfy on the Failure to Pay Rent Complaint form in order to make a basic case for judgment and eviction

was not fulfilled. Further, in these cases, judges did not follow up to determine whether the landlords met their burden of proof and whether the legal requirements to obtain a judgement in Rent Court were met. The Complaints were thus deficient and no judgment should have been entered against tenants; however, default judgments were entered.

- No Service or Improper Service – In an estimated 52,232 out of 614,735 cases (8.5%), proper service – the most basic tenet of due process, affording adequate notice of legal claims and a meaningful opportunity to be heard – was not provided to tenants in accordance with Maryland law, but default judgments were, nonetheless, entered against the tenants.

2. Unclear, Insufficient or Incomplete Records – The information in complaint forms and audio recordings was unclear, insufficient or incomplete to allow for definitive conclusions. The Study demonstrated that in an estimated 79,385 out of 614,735 cases (or 12.9% of the cases), there was inadequate information.

These errors contributed to a finding of inadequate record-keeping:

- Type of Judgment Unknown – In an estimated 48,097 out of 614,735 cases (7.8%), it was impossible to identify with certainty the type of judgment in the case.
- No Audio Recording – In one judicial district, there were no audio recordings associated with a majority of the Failure to Pay Rent cases.

These and other results provide Maryland courts with the opportunity to improve processes to achieve better outcomes in the following areas:

1. Rent Court procedures necessary to afford due process and laws necessary to ensure justice must be more consistently followed;
2. Rent Court record-keeping systems must ensure preservation of complete case records;
3. Rent Court data collection systems must be comprehensive, easy-to-navigate and accessible.

Perhaps above all other responsibilities, Rent Court administrators and judges have a duty to design and administer Court processes and procedures that ensure just and fair outcomes in Rent Court. The Study used compliance with existing laws governing Failure to Pay Rent actions to measure the correctness of outcomes and to identify gaps. If Rent Courts can remedy the problems identified above, which are discussed in greater detail in this Report, they will be better positioned to meet their obligation to uphold Marylanders' human rights, while also reducing evictions, keeping people in scarce affordable housing, reducing homelessness, and increasing the integrity and transparency of Maryland's judicial system.

INTRODUCTION

ALL RESIDENTS OF MARYLAND HAVE A HUMAN RIGHT TO DUE PROCESS, A FAIR TRIAL, AND LEGAL SECURITY OF TENURE IN PRESERVING THEIR HOUSING.

The Rent Court Study (Study) is an exercise in trial monitoring, rooted in advancing the fundamental human right to a fair trial.⁴ For many years, Maryland Legal Aid clients have shared their negative experiences in courts that adjudicate Failure to Pay Rent (FTPR) cases – “Rent Courts.” Anecdotal evidence gathered by Maryland Legal Aid advocates from across the state suggested that existing law concerning summary ejectment actions was not being uniformly applied in District Courts, resulting in outcomes that did not comport with Maryland legal requirements.

We undertook a statistical analysis to determine the extent of the problems reflected by this anecdotal evidence, after finding that there were no previous statistical studies of Rent Court, nor were there other reliable reviews of how well Rent Court practices adhered to existing legal requirements.⁵ As part of Maryland Legal Aid’s emerging work in upholding the human rights of low-income individuals, families and communities, especially in housing cases, we concluded that it was essential to have more complete information. With the support of the District Court of Maryland, the Study collected data from a random sample of 1,380 FTPR complaint forms and their associated audio recordings to ascertain compliance with legal mandates governing FTPR actions and make statistically valid statewide conclusions for all 2012 FTPR cases.

WHY RENT COURT MATTERS

Due to the myriad and significant consequences associated with an eviction, state, federal and international laws provide important protections for tenants in Maryland’s Rent Courts. The right to due process involves proper notice before an action proceeds against a party in courts, a meaningful opportunity to be heard in the courts, and an opportunity to appeal a trial court’s ruling.⁶ The right to a fair trial incorporates the principles of procedural fairness and equality before the courts, requiring that cases satisfy legal obligations to state a prima facie case and that the burden of proof is met.⁷ Security of tenure in housing means that housing cannot be arbitrarily taken away and there must be legal processes instituted to safeguard from forced evictions.⁸ Together, these standards work to guarantee access to justice and to protect a tenant’s right to due process and security of tenure.

The state of Maryland upholds the human right to legal security of tenure in housing by prohibiting self-help evictions in rental housing and mandating legal processes and court orders before landlords are permitted to evict residents from their properties.⁹ As the primary adjudicators of these rights, Rent Courts are delegated the duty to ensure fair determinations in FTPR cases.

In 2012, the year Maryland Legal Aid studied, Rent Courts across Maryland adjudicated 614,735 FTPR cases. In the same year, about 33.5% of the population – approximately 723,780 households¹⁰ – rented homes. These numbers serve to recast Rent Courts not just as adjudicators of due process and housing rights, but as a dominant force in the rental housing landscape in Maryland.

The pressures and burdens on Rent Court administrators and judges to manage the

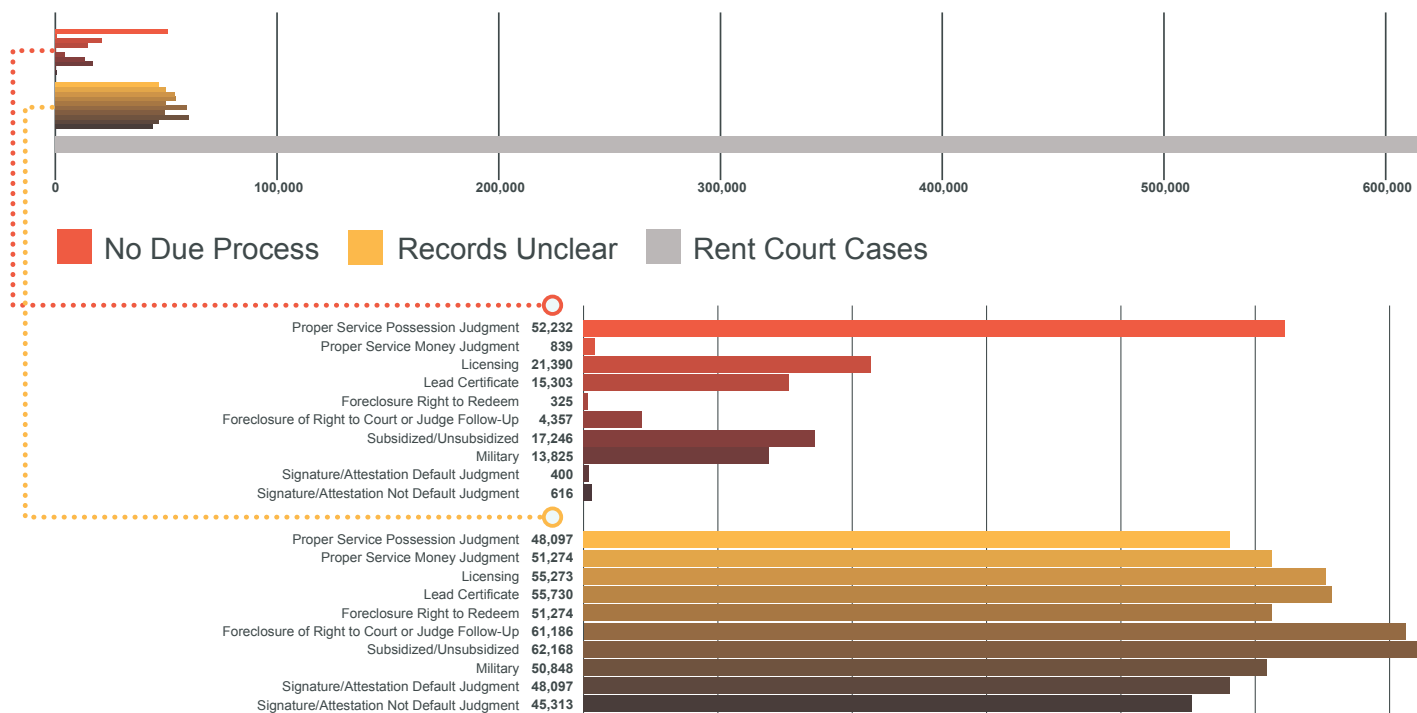
staggering volume of cases in Rent Court are certainly profound. Even more profound is the impact that adverse decisions in Rent Court can have on the lives of individuals and families who live in rental housing throughout Maryland.

Adverse decisions in Rent Court do not necessarily mean that individuals or families will automatically be evicted from their properties. If, however, a tenant is unable to pay judgments before scheduled evictions, or if a tenant's right to redeem has been foreclosed, the tenant faces certain eviction.

Eviction can be more than a loss of property; it can be a loss of dignity. For an already vulnerable or low-income individual or family, eviction can mean a state of high mobility or homelessness, which can result in serious ancillary consequences that touch many other areas of a person's life. Worsened health conditions;¹¹ increased risk of unemployment; diminished credit; and for children, poor educational outcomes,¹² are just a few of the adverse effects of threatened or actual loss of housing.¹³ **The economic cost to society is also significant.**¹⁴

Research indicates that some populations have greater difficulty obtaining other housing and remain homeless for longer periods after being evicted.¹⁵ Data show that of approximately 723,780 rental households in Maryland, 91,722 are low-income and utilize federal assistance programs.¹⁶ Of this population, 64% are African-American and other minorities, and 21% are individuals with disabilities.¹⁷ Research shows that adverse judgments in Rent Court occur disproportionately in these and other already vulnerable populations, such as victims of domestic violence and people with poor credit, and that in these populations, even one negative outcome in Rent Court can cause significant and even catastrophic hardship – much more so than in less vulnerable populations.¹⁸

The high stakes for tenants in Rent Court and the volume of cases together pose a tremendous challenge to the Courts to strike the correct balance between achieving judicial efficiency and ensuring fundamental rights to due process and security of tenure. In addition to a high volume of cases, Rent Court has other unique factors, such as the rapid scheduling of hearing dates; abbreviated trials; unequal power dynamics for pro se



litigants; minimal due process and evidentiary requirements; and the prospect of eviction within weeks of the proceedings. When the Courts fail to strike the correct balance, and efficiency takes priority over the protection of fundamental rights, the problems identified in this Report result.

RESEARCH METHODOLOGY

“By increasing the transparency of the judicial process, trial monitoring is itself an exercise in support of the right to a public trial. The presence of monitors can lead tribunals to implement improved fair trial practices and build confidence in the judicial process. [T]rial monitoring is a unique diagnostic tool for assessing the function of key elements in the justice system. It acts as a spotlight to identify areas that need reform.”¹⁹

The right to a fair trial is a fundamental element of American jurisprudence and is incorporated in international human rights standards. Fairness encompasses the principles of procedural fairness, equality before the courts, and the independence and impartiality of the tribunal. The International Covenant on Civil and Political Rights, which the United States ratified in 1992, guarantees the right to a “fair and public hearing by a competent, independent and impartial tribunal.”²⁰ Trial monitoring – the methodology used by Maryland Legal Aid in this Study – is an important means to protect the right to a fair trial.

Trial monitoring is a multi-faceted diagnostic tool used to collect objective data on the administration of justice and to monitor compliance with the law.²¹ The process of trial monitoring strengthens the right to a fair trial because the information collected and the analysis conducted as a result of the monitoring helps to highlight deficiencies in the administration of justice which, if remedied, could increase adherence to the rule of law and enhance the fairness, effectiveness and transparency of judicial systems. Maryland Legal Aid’s Rent Court Study retrospectively monitored Rent Court trials, using statistical methods to systematically study a full year of Failure to Pay Rent (FTPR) cases from Maryland’s 12 judicial districts.

FRAMEWORK

In conducting the Study, Maryland Legal Aid adhered to the methodological principles underlying trial-monitoring programs, which include the principles of non-intervention in the judicial process, objectivity, impartiality, and agreement.²²

- Non-intervention means that the monitors have no engagement or interaction with the Court regarding the merits of an individual case and do not attempt to influence outcomes in cases indirectly through informal channels;
- Objectivity means impartial reporting of accurate and reliable information regarding the functioning of the justice system; and
- Agreement involves a common understanding with the judiciary of the purpose of the trial monitoring as a diagnostic tool designed to enhance the implementation of fair trial standards.²³

Consistent with these principles, data collectors did not interfere with any of the judicial proceedings studied; existing Maryland Legal Aid attorneys, paralegals and administrative staff did not take part in the data collection; and the organization informed the former and current Chief Judges of the District Court of the purpose and goals of the

Study and obtained the Court's agreement. The agreement between the organization and the District Court established a partnership that was essential to the Study.

STUDY DESIGN & IMPLEMENTATION

Maryland Legal Aid designed the Study in collaboration with a statistician from the American Association of the Advancement of Sciences who has extensive experience designing studies for federal agencies, non-profit organizations, research and academic institutions.²⁴ Together, we created a survey instrument (described below), generated a random sample of cases, obtained the complaints and corresponding audio recordings from the Courts, collected data through independent data collectors, and analyzed the data to reach statistically sound, statewide conclusions about the procedures and outcomes in Rent Court.

SURVEY DESIGN

Maryland law applicable to FTPR cases affords a process intended to ensure just outcomes and fair administration of justice.²⁵ Embedded in the one-page FTPR complaint form developed by the Maryland District Court are requirements from Real Property § 8-401 and other applicable statutes, and from Maryland case law. The Study therefore treats compliance with requirements on the FTPR complaint form as a strong indicator of the level of due process afforded in Rent Courts across Maryland.

The survey instrument was designed to mirror the questions on the FTPR complaint form. Additional survey questions asked directly about the extent of the judges' follow-up during trial on issues already outlined on the complaint form. The data was collected in the survey instrument and stored on Maryland Legal Aid's internal, private intranet site.

Initially, during the early and experimental stages of the Study design, live monitoring of trials was attempted as a method of conducting the Study. Monitors were given a list of questions that tracked the format of the complaint and were asked to collect data during trial. Two problems arose with this approach:

1. Due to the extremely short duration of trials, which were often less than a minute or two, monitors were not able to capture all the data necessary for the purposes of the Study.
2. Because the monitors did not have a copy of the actual complaints filed in the cases they were observing, it was difficult to collect all the necessary information by listening to the court proceeding.

This live monitoring experience helped to inform the final design of the Study. To ascertain compliance with statutory safeguards, monitors needed to collect data from both the FTPR complaint form and from the trial record itself. The Study therefore shifted to a design based on compiling data from completed trials. This mode of data collection was preferable to live Rent Court monitoring in two ways:

1. It allowed for a thorough, deliberate and detail-oriented compilation of data from both

the FTPR complaint and the corresponding audio recordings; and

2. It allowed for re-design of the Study so that it could span the duration of an entire year, as compared with the three months that would have been included under the initial design featuring live monitoring. Studying a full year enhanced the accuracy of the Study by ensuring that results were not skewed by factors such as the practice of particular judges with temporary assignments to Rent Court.

RANDOM SAMPLE

The random sample consisted of 1,380 cases from Maryland's 12 judicial districts. The sample size was sufficient to permit statistically significant results for all FTPR cases in 2012, the first full year available to study.

Generating the random sample presented several challenges:

- There was no direct way to ascertain the number of FTPR cases per year.
 - The District Court's central office does not maintain the number of each type of case, but only the number of total landlord/ tenant cases per year (including Breach of Lease, Tenant Holding Over, and Forcible Entry and Detainer, among others).
 - There is no uniform signifier – either in the numbering system or in the case number formatting – across Maryland's 24 jurisdictions to permit identification of FTPR cases.
- Some local courts also did not have an accurate number of cases.
 - In four jurisdictions, random samples had to be regenerated because initial numbers provided by the clerks' offices as the total number of Failure to Pay Rent cases in 2012 were inaccurate.²⁶

DATA COLLECTION

Each data point was collected by two distinct data collectors and then compared and cross-checked to ensure accuracy of results. Students, recent law school graduates or master's program graduates²⁷ were carefully vetted to serve as monitors and collect data. Monitors were screened to assess their ability and commitment to collect data comprehensively and objectively. Prior to commencing data collection, monitors were trained on the structure and content of the survey instrument and the FTPR complaints. They were also trained on legal standards, laws, and issues that would be observed in the complaints and assessed through the audio recordings.

DATA ANALYSIS

Data cleaning is a lengthy and time-consuming process by which the data collected by the two data collectors is compared and cross-checked. Due to time and resources required to conduct data cleaning, data analysis was narrowed to focus primarily on default judgments in FTPR cases. Ten issues were checked for compliance with specific provisions of Maryland law as they appeared on the FTPR complaint form.

RESULTS

All Study results are at a 95% confidence level, with a margin of error of +/- 5%. The confidence intervals for all focus areas are provided in Appendix IV.

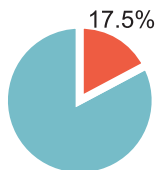
The problems identified were prevalent in all 12 judicial districts.

Findings of Significance Include:

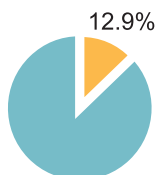
- **Type of Judgment Unknown** – In an estimated 48,097 out of 614,735 cases (7.8%), the Study could not identify with certainty whether the case was a default judgment or any other type of judgment.
- **An estimated 172,635 out of 614,735 (or almost every 3 out of 10) Failure to Pay Rent cases in 2012 had at least one type of error.**
- **Legal Obligations Not Satisfied** - In an estimated 95,275 out of 614,735 cases (15.5%) at least one of the substantive legal requirements to make a prima facie Failure to Pay Rent case was not satisfied. In these cases, judges also did not follow up to request further information on the deficiencies present on the face of the FTPR complaint, yet there were default judgments entered against the tenants.

“A landlord-tenant dispute, like any other lawsuit, cannot be resolved with due process of law unless both parties have had a fair opportunity to present their cases. Our courts were never intended to serve as rubber stamps for landlords seeking to evict their tenants, but rather to see that justice be done before a man is evicted from his home.”²⁸

DATA ANALYSIS IDENTIFIED TWO DISTINCT TYPES OF ERROR



Error 1: Incorrect Case Outcomes – The Study demonstrated that in an estimated 107,863 out of 614,735 cases (or 17.5% of cases), the case outcome was incorrect according to existing Maryland law.



Error 2: Unclear, Insufficient or Incomplete Records – The Study demonstrated that in an estimated 79,385 out of 614,735 cases (12.9%), the information provided in the complete FTPR case record – the complaint form and audio recording – was unclear, insufficient or incomplete to allow for definitive conclusions on the areas of study.

PROPER SERVICE POSSESSION JUDGMENT

Study Focus #1: If default judgment for possession of the premises, was there proper service?

INCORRECT CASE OUTCOME

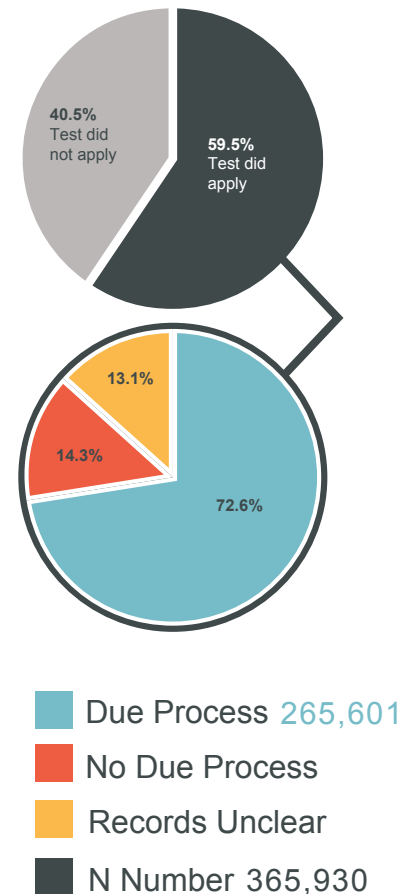
52,232

Tenant did not receive proper service as required by Maryland law. Court entered default judgment against tenant.

RECORDS INADEQUATE

48,097

Court records unclear, insufficient or incomplete.



MARYLAND LAW:

- Maryland law requires proper service of the Failure to Pay Rent complaint on the defendant tenant to ensure preservation of tenant's due process rights.
- The Due Process Clause of the 5th Amendment requires the government to provide the tenant notice and an opportunity to be heard before the tenant may be evicted.
- Proper service for possession judgment under Maryland law requires:
 - Delivering complaint via first-class mail; and
 - Affixing conspicuously on property.

PROPER SERVICE MONEY JUDGMENT

Study Focus #2: If default money judgment, was there personal service?

INCORRECT CASE OUTCOME

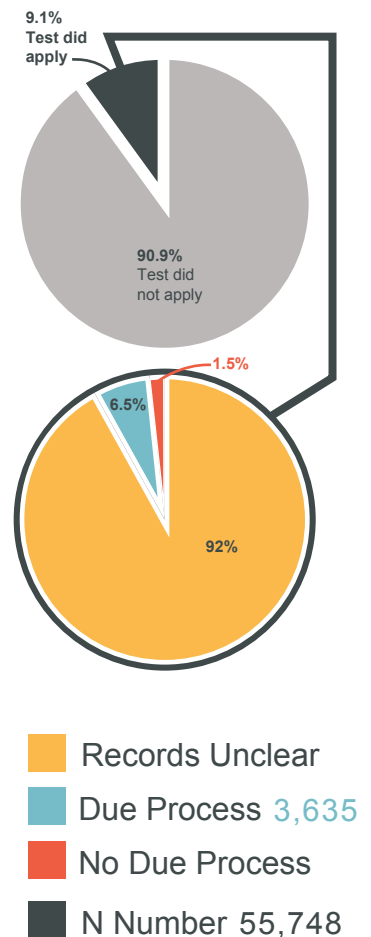
839

Tenant did not receive proper service as required by Maryland law. Court entered default judgment against tenant.

RECORDS INADEQUATE

51,274

Court records unclear, insufficient or incomplete.



MARYLAND LAW:

- Maryland law requires proper service of the Failure to Pay Rent complaint on the defendant tenant to ensure preservation of tenant's due process rights.
- The Due Process Clause of the 5th Amendment requires the government to provide the tenant notice and an opportunity to be heard before the tenant may be evicted.
- Proper service for money judgment under MD law requires personal service.

LICENSING

Study Focus #3: If default judgment and landlord indicated that license required, was license provided?

INCORRECT CASE OUTCOME

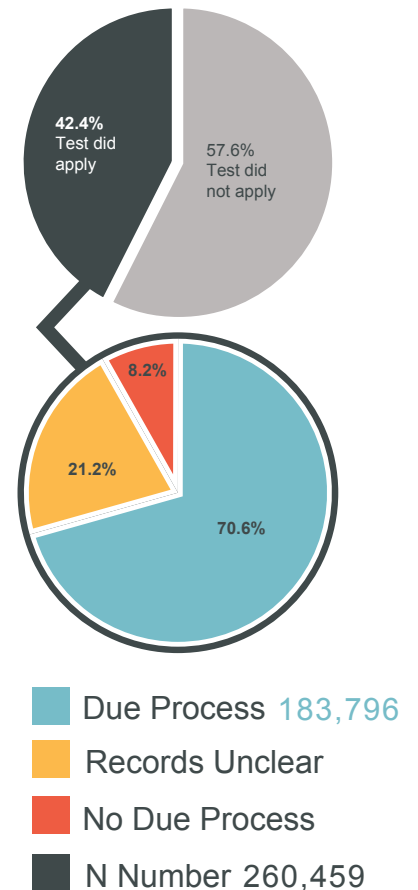
21,390

License needed, but not provided, as required under Maryland law. Court entered default judgment against tenant.

RECORDS INADEQUATE

55,273

Court records unclear, insufficient or incomplete.



MARYLAND LAW:

- In Maryland jurisdictions where licensing required, rental owners cannot use Rent Courts to evict if they do not have current license.
- If Rent Court procedures used, rental owners must affirmatively plead and demonstrate that they are licensed.
- Paragraph 2 of the Failure to Pay Rent complaint captures the legal requirements of licensing.

LEAD CERTIFICATE

Study Focus #4: If default judgment and landlord indicated lead certificate required, was registration number provided?

INCORRECT CASE OUTCOME

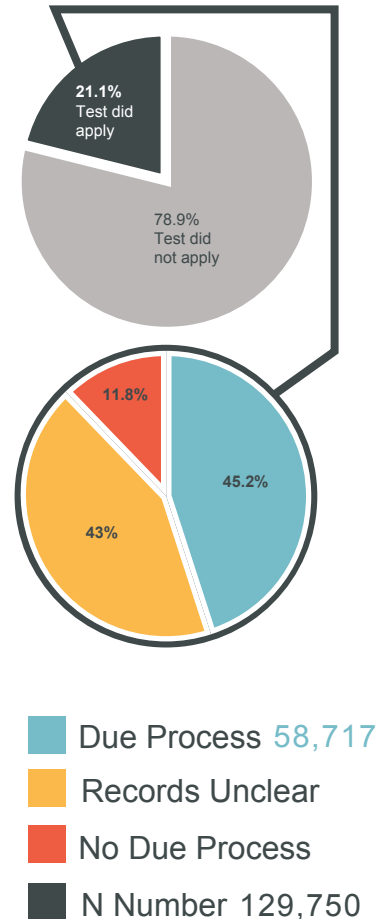
15,303

Lead certificate required, but no registration number provided as required by Maryland law. Court entered default judgment against tenant.

RECORDS INADEQUATE

55,730

Court records unclear, insufficient or incomplete.



MARYLAND LAW:

- Landlord must affirm registration of lead affected property and provide either inspection certificate number or a reason for not providing it before the Court can enter possession or money judgment.

FORECLOSURE OF RIGHT TO REDEEM

Study Focus #5: If where right to redeem was foreclosed, did landlord meet requirements to foreclose right under Maryland law?

INCORRECT CASE OUTCOME

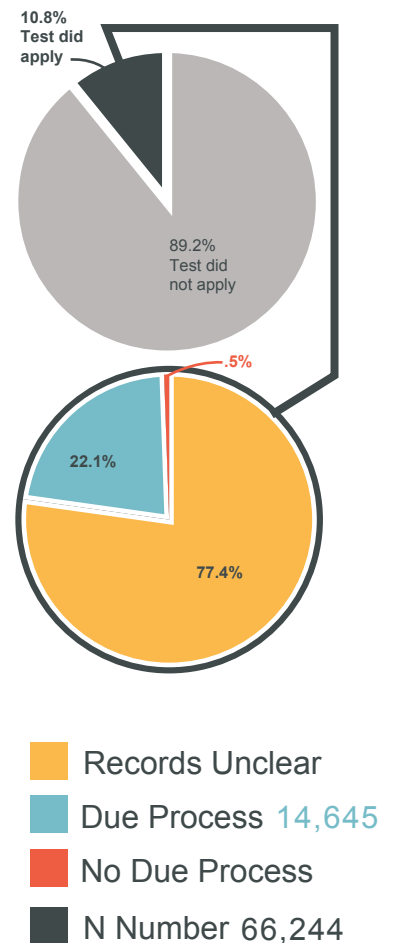
325

Foreclosure of Right to Redeem not requested in accordance with Maryland law. Court entered default judgment against tenant.

RECORDS INADEQUATE

51,274

Court records unclear, insufficient or incomplete.



MARYLAND LAW:

- The “right of redemption” allows tenants with a judgment for rent due to prevent eviction by paying the amount due up to the point at which a Sheriff comes to the tenant’s residence with an eviction warrant. A judgment for possession foreclosing the right to redeem assures eviction of the tenant from the property because the tenant loses the right to pay and stay. Paragraph 2 of the Failure to Pay Rent complaint captures the legal requirements of licensing.
- Paragraph 9 of the complaint captures this provision. If a judgment is entered in favor of the landlord, the tenant may remain in the property if the tenant pays the judgment amount, determined by the court, at any time before “actual execution of the eviction order.” However, a tenant has no right of redemption if three judgments of possession have been entered against the tenant in the past twelve months. In Baltimore City, tenants are permitted four prior judgments before the right to redemption is foreclosed.

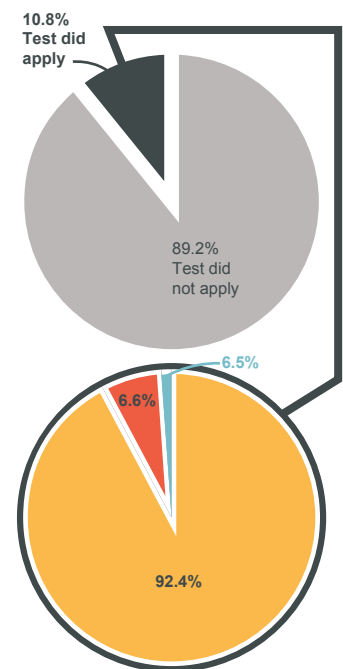
FORECLOSURE OF RIGHT TO COURT OR JUDGE FOLLOW-UP

Study Focus #6: If default judgment where right to redeem was foreclosed, did Court or Judge follow up to verify information provided on Failure to Pay Rent Complaint was in accordance with Maryland law?

INCORRECT CASE OUTCOME

4,357

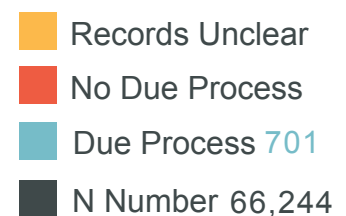
Court or Judge did not follow up to verify that information on Failure to Pay Rent Complaint was not in accordance with Maryland law. Court entered default judgment against tenant.



RECORDS INADEQUATE

61,186

Court records unclear, insufficient or incomplete.



MARYLAND LAW:

- A possession judgment foreclosing the right to redeem is a judgment that guarantees eviction of tenant from property. Given the dire consequences associated with an eviction, the writers of this Report support the practice of some MD Courts that verify the information provided by the landlord in support of the request to foreclose the right, prior to entering a judgment.

SUBSIDIZED/UNSUBSIDIZED

Study Focus #7: If default judgment, did landlord inform the Court if tenancy was subsidized or unsubsidized?

INCORRECT CASE OUTCOME

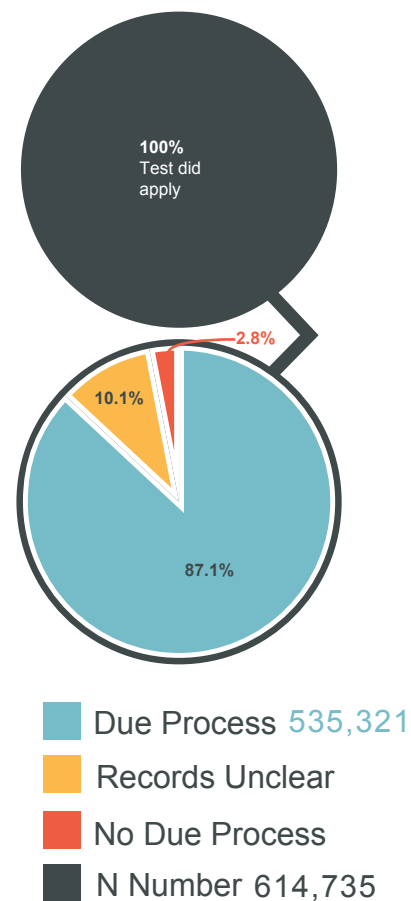
17,246

Court not informed whether tenancy subsidized or unsubsidized under Maryland law. Court entered default judgment against tenant.

RECORDS INADEQUATE

62,168

Court records unclear, insufficient or incomplete.



MARYLAND LAW:

- All parts of the Failure to Pay Rent complaint must be completed and the form must be signed before the Court can enter possession or money judgment. This is an important question because there are additional federal protections that apply to subsidized tenancies in Rent Court.

MILITARY

Study Focus #8: If default judgment, did landlord provide the required information on military service?

INCORRECT CASE OUTCOME

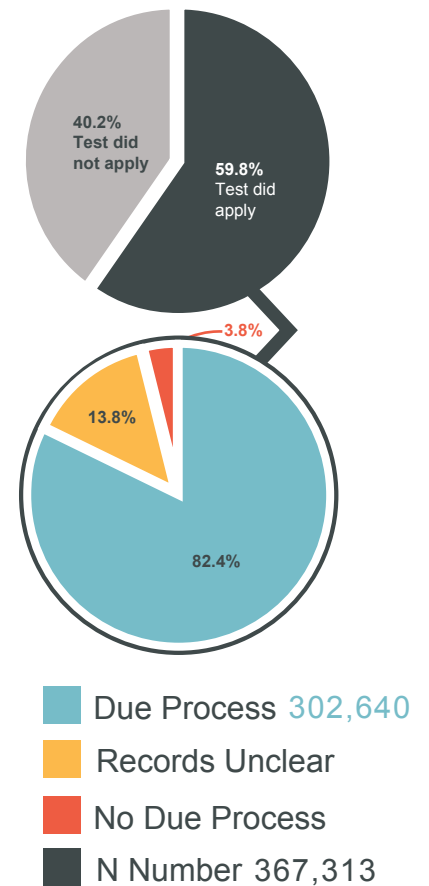
13,825

Court not informed about status of military service as required by Maryland law. Court entered default judgment against tenant.

RECORDS INADEQUATE

50,848

Court records unclear, insufficient or incomplete.



MARYLAND LAW:

- The complaint requires proof that the landlord has verified the tenant is not a member of the armed services to establish that the form of service effectuated was sufficient.
- The requirements under the law appear on the complaint in paragraph 8.
- The Servicemembers Civil Relief Act protects those in active military service. It prohibits landlords from evicting tenants that are in active military service if their rent is below approximately \$2,400 per month (this amount is adjusted each year for inflation) without a court order. Where a servicemember can show that his or her ability to pay rent is materially affected by military service, judges have the discretion to stay the eviction proceedings for 90 days or “adjust the obligation under the lease to preserve the interests of all parties.”

SIGNATURE/ATTESTATION DEFAULT JUDGMENT

Study Focus #9: If default judgment, did landlord attest to the veracity of the information by signing the complaint form?

INCORRECT CASE OUTCOME

400

Form not signed as required by Maryland law. Court entered default judgment against tenant.

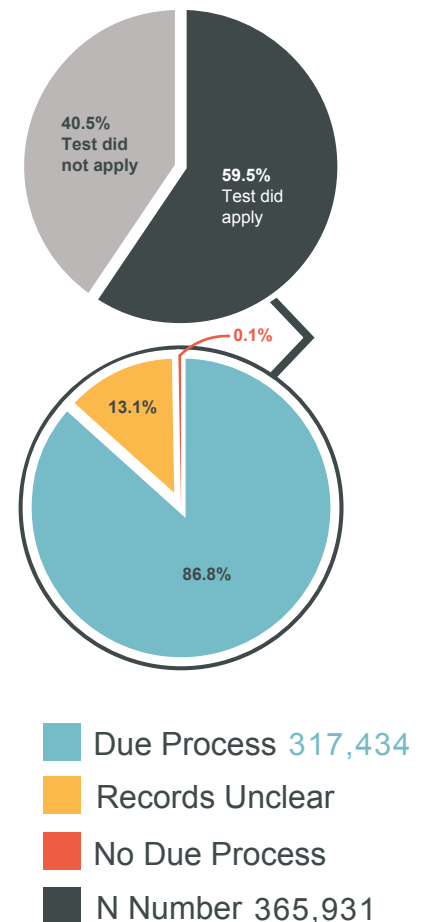
RECORDS INADEQUATE

48,097

Court records unclear, insufficient or incomplete.

MARYLAND LAW:

- Maryland law requires the landlord or agent to “file the landlord’s written complaint under oath or affirmation.”



SIGNATURE/ATTESTATION NOT DEFAULT JUDGMENT

Study Focus #10: Maryland law requires the landlord or agent to “file the landlord’s written complaint under oath or affirmation.”

INCORRECT CASE OUTCOME

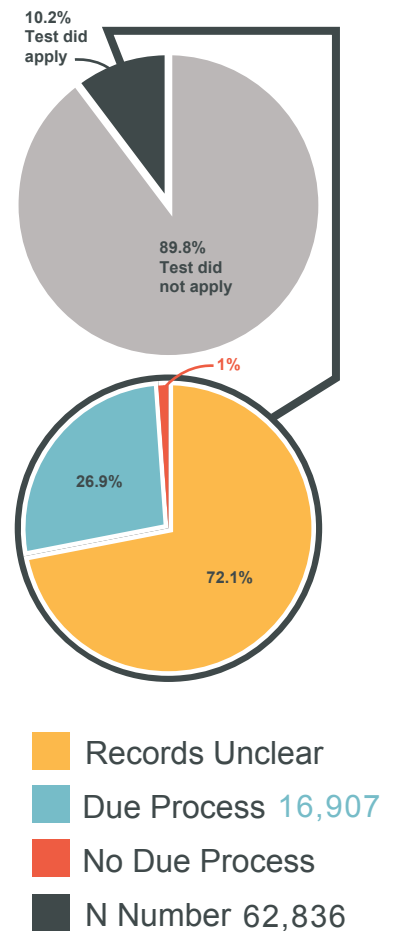
616

Form not signed as required by Maryland law. Court entered default judgment against tenant.

RECORDS INADEQUATE

45,313

Court records unclear, insufficient or incomplete.



MARYLAND LAW:

- Maryland law requires the landlord or agent to “file the landlord’s written complaint under oath or affirmation.”

KEY FINDINGS & RECOMMENDATIONS

Analysis of the data collected concerning the random sample of cases established the following:

I. **FAILURE OF DUE PROCESS**

A. **LEGAL OBLIGATIONS NOT SATISFIED**

Results:

- In an estimated 107,863 cases statewide, the Court entered judgment against tenants where existing Maryland law applicable to FTPR cases was not followed;
- In an estimated 95,275 cases, at least one of the legally mandated requirements on the FTPR complaint form, including proof of licensing, lead certificate, and military service, was not satisfied and left blank.

Key Findings:

- **There are either no checks or very limited checks of newly filed FTPR complaints** to ensure that complaints received and processed by the Court contain the legally mandated information.
- Lack of checks at the point of entry leads to an increase in volume of FTPR cases by approximately 95,000 (15.5%) annually – cases in which the complaints are incomplete and should be rejected.
- Anecdotal evidence suggests that the limited checks of newly filed FTPR complaints the Courts presently have in place do reduce unfair outcomes. For example, clerks generally do not accept FTPR complaints – that is, they do not allow a case to be initiated – if there is no signature on the signature line. This process needs improvement; the Study found that there were an estimated 1,016 cases where judgment was entered against the tenant even when the landlord did not sign and attest to the information on the complaint. This number was, nonetheless, low in comparison to other legal requirements that were tested, which yielded numbers in the thousands or tens of thousands.
- The cost of filing a FTPR complaint in court is generally paid by the landlord, but then awarded back to the landlord if the landlord prevails on the Complaint and the Court orders payment of court costs as part of the judgment amount. Therefore, the filing fee of an FTPR complaint is generally assessed to the tenant, and must be paid by the tenant as an additional cost to avoid eviction. When deficient complaints are processed and judgments are entered, tenants are penalized twice – first, by having judgments entered against them despite the complaints' deficiencies, and second, by having to pay court costs for complaints that should not have been accepted for filing in the first instance.

Recommendations:

- Institute robust checks of newly filed complaints to ensure that complaints that do not contain legally mandated information are not accepted or processed by the Courts.
- Use technology to require FTPR filings to be made on a fillable PDF form or another automated

form that makes every question mandatory, so that forms cannot be submitted and printed (four copies) until all fields are completed. Other advantages of a fillable PDF form or another automated form are that they can allow a case to be uniquely identified, aiding in the pairing of paper and audio files. They also can be designed to calculate electronically values for rent and late fees to prevent mathematical errors and increase legibility of the complaints. Collecting information electronically also may ease the establishment of systems that verify information required on the form, such as licensing, lead paint, and military service requirements, by automatically cross-checking them with existing data sets.

- Ensure appropriate due diligence during trial to verify that complaints properly set forth all required elements to state causes of action for eviction and meet burden of proof requirements for FTPR cases.

B. NOTICE AND SERVICE

Results: In an estimated 52,232 cases, the tenants were not served in accordance with Maryland law, but the Court entered default judgments for possession against the tenants.

Key Findings: Despite recognition in Supreme Court cases such as *Goldberg v. Kelly*,²⁹ *Mathews v. Eldridge*,³⁰ and others that **notice is a fundamental element of due process that affords defendants the opportunity to know that there is an action against them and present any objections or defenses**, the Rent Court's process of identifying cases that have not met service requirements is inadequate and must be addressed with urgency.

Recommendations:

- Institute robust checks to pre-screen FTPR complaints in advance of trial to ensure compliance with notice and service requirements.
- Institute an additional layer of screening during the day of trial to ensure that all complaints have been checked for service prior to issuing default judgments.

C. FORECLOSURE OF RIGHT TO REDEEM

Results:

- Only in an estimated 22% of cases, the right to redeem was foreclosed correctly according to Maryland law.
- In an estimated 0.5% of the cases, the Court entered judgments to foreclose the right to redeem when the legal requirements necessary to support this outcome were not met. While 0.5% seems low and even negligible, it amounts to an estimated 325 individuals or families who were unfairly and arbitrarily evicted from their homes in 2012.
- Only in an estimated 1.1% of cases did judges follow up to validate that legal requirements were met to foreclose the right to redeem – i.e. cases and dates listed on the complaints were actually judgments against the tenants in the past 12 months.

Key Findings: Foreclosure of the right to redeem guarantees eviction because tenants lose their right to “pay and stay.” **The safeguards in place at present related to foreclosure of right to redeem cases are inadequate to ensure that there are no faulty evictions as a result of incorrect judgments that do not comport with requirements under Maryland law.** Further, systems are not in place to verify the information provided by the landlord on the FTPR complaint form.

Recommendations:

- Institute heightened safeguards to protect security of tenure and ensure that outcomes with foreclosure of the right to redeem cases are entered in accordance with Maryland law after the exercise of due diligence by District Court judges.
- Institute processes prior to trial that verify the following:
 - The FTPR complaints include the number of judgments and dates;
 - Dates and judgments fall within the past 12 months; and
 - Judgments listed were in fact judgments against the tenant and not dismissals or judgments against the landlord.
- Conduct due diligence during trial to ensure complaints are adequately pled and sufficient proof is provided to verify information on the complaints.

D. DUE DILIGENCE OF JUDGES

Results: In an estimated 107,863 out of 614,735 cases (17.5%) in which the Study found due process violations, the audio recordings showed that judges did not require compliance with legal mandates prior to entering judgments against the tenant. The recordings in these cases reflected that there was insufficient judicial review of the complaint to identify deficiencies prior to entering a default judgment.

Key Findings: In addition to highlighting the **dearth of court processes and procedures to ensure compliance with statutory mandates**, the Study also found that there was a lack of due diligence on the part of the judiciary to require compliance with legal mandates to ensure fair administration of justice in the Court system.

Recommendations:

- Increase training of District Court Judges on issues specific to Rent Court.
- Utilize resources provided with this report, such as checklists, to ensure compliance with legal mandates.

II. INADEQUATE RECORD-KEEPING

A. PRESERVATION OF RECORD

Results:

- In an estimated 79,385 cases (12.9%), there were errors that indicated failures in preserving the record of the case.
- In an estimated 48,097 cases (7.8%), the disposition of the cases could not be conclusively determined. In these cases neither data collectors nor the statistician overseeing the data analysis could determine what the actual outcomes of the case were. The recurrent deficiencies noted included:
 - In some cases the disposition box was blank, and the case record, including the audio recording, contained no other disposition information.
 - In other cases the disposition box was blank, and although information regarding the disposition was provided on a separate sheet, the sheet did not provide all the information required in

the disposition box. The most common omission was the amount determined due and unpaid.

- In still others, the disposition box contained a stamp that did not provide the amount determined by the Court to be due and unpaid by the tenant.

Key Findings: An important finding of the Study is that the Courts do not adequately preserve the records of FTPR cases. **The fair administration of justice demands complete and accurate records of cases** – records that are necessary for appeals, for review and study by researchers, and for tenants to determine the amount due in order to satisfy adverse judgments. Preservation of the full record ensures fair proceedings. The Study, however, demonstrated that the Rent Court’s record-keeping – its preservation of complete and accurate records of cases and their dispositions – is flawed.

Recommendations: To ensure record-keeping and preservation of records:

- Improve legibility of records through the use of electronic fillable PDF forms.
- Record case dispositions, ensuring all fields in the disposition box are complete.
 - Phase out the use of existing stamps by judges that do not capture all the necessary information required in the disposition box.

B. **AUDIO RECORDING**

Results: In one jurisdiction, the Court was unable to provide the audio recordings associated with cases because it did not record all FTPR cases. In other jurisdictions, instead of providing the associated audio recordings for the requested cases, the Courts provided recordings of the entire docket, presumably because it would have been too time-consuming to identify cases within dockets as there was no mechanism to allow for the separation of the cases.

Key Findings: The Study identified two significant problems with the audio recordings in FTPR cases:

- Not all FTPR cases are recorded, raising further questions about adequate preservation of case records.
- The manner in which hearings are recorded in some jurisdictions does not allow the recording for any individual case to be identified without listening to the entire docket.

Recommendations:

- Record and store all audio recordings of FTPR cases to ensure adequate preservation of the record.
- Adopt a standard statewide audio recording mechanism that allows for the separation and identification of individual cases within the audio recordings.

III. **LACK OF DATA**

A. **NUMBER OF FTPR CASES PER YEAR**

Results: There is no readily available centralized or local data identifying FTPR cases, which presented

challenges in determining the size of the random sample.

Key Findings:

- The Study concluded that the Courts have no ability to ascertain the number of FTPR cases per year.
 - The District Court's central office does not have data reflecting the numbers of different types of cases, but only the number of all landlord/tenant cases per year (which include Breach of Lease, Tenant Holding Over, Forcible Entry and Detainer cases, among others).
 - As part of the random sample, some Courts provided Mobile Home Park Owners' complaints. These complaints assert an entirely different cause of action, governed by different Maryland laws, with different requirements on the complaint form.
 - There is no uniform signifier – either in the numbering system or in the case number formatting – across Maryland's 24 jurisdictions to uniquely identify FTPR cases.
- Some local courts do not have accurate records of the number of FTPR cases.
 - Random samples had to be regenerated in four jurisdictions because initial numbers provided by the individual jurisdictions' clerk's offices were inaccurate.

Recommendations:

- Institute a uniform, statewide numbering system of FTPR cases.
- Embed a signifier within the case number to sort and identify cases by type, including FTPR cases.
- Collect centralized data on the number of FTPR cases per year and the number of evictions related to FTPR cases.
- Collect more disaggregated data concerning the number of FTPR cases related to subsidized rental properties, the number of FTPR cases in which tenants are represented, and the number in which landlords are represented.

B. OUT-OF-DATE COMPLAINTS

Results: As part of the random sample, out-of-date complaint forms were received, indicating that courts were still accepting them for filing.

Key Findings: The Study examined complaints from 2012. The complaint form that should have been in use in all jurisdictions across the state during that time period is "DC/CV 82 (Rev. 7/11/2011)." Instead, the Study found significant numbers of complaint forms that were out of date, and thus did not contain questions pertaining to legal requirements clarified by new case law, such as the licensing requirement from the Maryland Court of Appeals case, *McDaniel v. Baranowski*.³¹ Failure to Pay Rent complaint forms are not modified to reflect minor cosmetic changes; they are modified to reflect changes in substantive law as found in case law or new or amended statutory requirements.

The *Baranowski* case held that landlord licensing is a pre-condition to a landlord's entitlement to use the Rent Court forum in the first instance. Earlier versions of the complaint form did not inquire about licensing. The fact that many courts were still accepting outdated versions of forms meant that there was no procedure whereby the Courts checked the licensing requirement, notwithstanding the holding in *Baranowski* that licensing is a necessary element to the landlord's use of the Rent Court forum and establishment of a prima facie case for a judgment and eviction.

Recommendations:

- Assure the use of the most up-to-date FTPR complaint forms to ensure that all legal requirements embodied in the forms are satisfied.

CONCLUSION

Rent Courts have the potential to be vanguards in protecting and upholding human rights to due process, a fair trial, and security of tenure in housing in Maryland. They adjudicate almost as many rent court cases as there are renters in Maryland, thus playing a vital role in the rental housing landscape in Maryland. What happens in just a minute or two during trials in Rent Court can have a profound impact on the lives of individuals and families who may be subject to adverse judgments in Rent Court entered in violation of existing Maryland law. Housing plays such an integral role in a person's life that the loss of that housing, for any reason, can have an enormous negative ripple effect not only on the person involved, but also on his/her family and the community at large.

First and foremost, Rent Court administrators and judges have a duty to design and administer Court processes and procedures that ensure just and fair outcomes that meet the requirements of Maryland law. While robust state, federal, and international laws exist to protect the rights of tenants in Rent Court, the findings of Maryland Legal Aid's Rent Court Study indicate that Rent Courts processes result in incorrect outcomes and that they are not providing adequate due process; are not maintaining and preserving records of FTPR cases; and are not collecting and retaining basic data on FTPR cases.

If Rent Courts address the issues identified in this Report, they will better meet their obligations to uphold due process and security of tenure, while also reducing evictions, keeping people in affordable housing, and reducing homelessness. These measures will serve to increase the integrity and transparency of Maryland's judicial system and enhance the state's commitment to upholding human rights.

ENDNOTES

- 1 In 2014, Maryland Legal Aid served 86,318 Marylanders, and in 2013, the organization served 99,500 Marylanders.
- 2 See International Covenant on Civil and Political Rights, adopted Dec. 19, 1966, art. 14 para. 1, 999 U.N.T.S. 171 at 176 – 177, *available at* <https://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20IV/IV-4.en.pdf>.
- 3 Office of the High Commissioner for Human Rights, CESCR General Comment 4: the Right to Adequate Housing, U.N. Doc. E/1992/23 (1991), *available at* <http://www.unhchr.ch/tbs/doc.nsf/0/469f4d91a9378221c12563ed0053547e>.
- 4 International Covenant on Civil and Political Rights, *supra* note ii.; U.S. Const. amend. IV, section 1.
- 5 Previous studies of Rent Court have been valuable in understanding the qualitative experience of Rent Court. See Barbara Bezdek, *Silence in the Court: Participation and Subordination of Poor Tenants' Voices in Legal Process*, 20 Hofstra L. Rev. 533 (1992); COURT OPERATIONS DEP'T. OF THE ADMIN. OFFICE OF THE COURTS, MARYLAND JUDICIARY ANNUAL STATISTICAL ABSTRACT, FISCAL YEAR 2012, (2013), <http://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/018000/018018/unrestricted/20132037e.pdf>.
- 6 *Goldberg v. Kelly*, 397 U.S. 254 (1970); *Mathews v. Eldridge*, 424 U.S. 319 (1976).
- 7 International Covenant on Civil and Political Rights, *supra* note 2.
- 8 Office of the High Commissioner for Human Rights, *supra* note 3.
- 9 Md. Code Ann., Real Prop. Section 8-216 (2013).
- 10 American Fact Finder, DP04: Selected Housing Characteristics 2012 American Cmty. Survey 1-Year Estimates, U.S. CENSUS BUREAU (2012), *available at* <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>. (Select “Advanced Search”, then type “DP04: Selected Housing Characteristics: 2012” in the topic name then type “Maryland” under State, then click “Go”, select dataset “2012 ACS 1-year estimates”)
- 11 ASS'N OF THE BAR OF THE CITY OF NEW YORK, REPORT ON LEGISLATION BY THE PRO BONO AND LEGAL SERVICES COMMITTEE AND HOUSING COURT COMMITTEE, 3(2014), www2.nycbar.org/pdf/report/uploads/RighttoCounselinHousingNYCProBonoHousingCourtReportFINAL2.27.15.pdf; *Homelessness & Health: What's the Connection?*, NAT'L HEALTH CARE FOR THE HOMELESS COUNCIL (June 2011), http://www.nhchc.org/wp-content/uploads/2011/09/Hln_health_factsheet_Jan10.pdf; BALTIMORE MAYOR'S OFFICE OF HUMAN SERVICES & MORGAN STATE UNIVERSITY SCHOOL OF ARCHITECTURE AND PLANNING, COUNTING MATTERS: BALTIMORE HOMELESS POINT-IN-TIME CENSUS REPORT 2011 (2011), <http://humanservices.baltimorecity.gov/Portals/HumanServices/downloads/2011%20Counting%20Matters%20City%20Homeless%20Point-In-Time%20Census%20Report.pdf>.
- 12 ASS'N OF THE BAR OF THE CITY OF NEW YORK *supra* note 11; INST. FOR CHILDREN & POVERTY & HOMES FOR THE HOMELESS, HOMELESS IN AMERICA, PART TWO: A STATISTICAL READER7 (2005), <http://www.icphusa.org/PDF/reports/HIA2%20final.pdf>.
- 13 ASS'N OF THE BAR OF THE CITY OF NEW YORK, *supra* note 11.
- 14 A task force evaluating access to civil legal services in New York estimated that increased access to legal services to those facing eviction cases would result in savings of \$116 million in shelter costs. TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVS. IN N.Y., REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK(2014), *available at* <http://www.nycourts.gov/accesstojusticecommission/index.shtml>. (Select “Annual Reports and Appendices”; then select “2014 Report”).
- 15 Comm. On the Elimination of Racial Discrimination, *Concluding Observations – United States of America*, ¶22, U.N. Doc. CERD/C/USA/CO/6 (May 8, 2008), *available at* <http://www.state.gov/documents/organization/107361.pdf>; EQUAL RIGHTS CTR., NO VACANCY: HOUSING DISCRIMINATION AGAINST SURVIVORS OF DOMESTIC VIOLENCE IN THE DISTRICT OF COLUMBIA (Apr. 2008), http://www.equalrightscenter.org/site/DocServer/DV_Report_FINAL_COPY.pdf?docID=152; *Domestic Violence, Housing, and Homelessness Fact Sheet*, NAT'L NETWORK TO END DOMESTIC VIOLENCE, http://nnedv.org/downloads/Policy/NNEDV_DVHousing_factsheet.pdf.
- 16 American Fact Finder, *supra* note 10; Ctr. On Budget and Policy Priorities, Maryland Fact Sheet: Federal Rental Assistance (2012), <http://www.cbpp.org/sites/default/files/atoms/files/4-13-11hous-MD.pdf>.
- 17 U.S. Dep't of Hous. & Urban Dev., *Picture of Subsidized Households*, HUD (2015), <http://www.huduser.org/portal/datasets/picture/yearlydata.html>. (Select “2012 Based on 2010 Census”; then select “State” for summary level; then select “Maryland”; then click “Get Results”).

- 18 EQUAL RIGHTS CTR., *supra* note 15; *Domestic Violence, Housing, and Homelessness Fact Sheet*, *supra* note 15; Melissa Maynard, *Public Benefits Alter State Poverty Rates*, USA TODAY, (Dec. 4, 2013, 9:51 AM), <http://www.usatoday.com/story/news/nation/2013/12/04/pew-stateline-stat-poverty-rates/3867527/>.
- 19 ORG. FOR SEC. & CO-OPERATION IN EUR., OFFICE FOR DEMOCRATIC INSTs. & HUMAN RIGHTS, TRIAL MONITORING, A REFERENCE MANUAL FOR PRACTITIONERS11 (2012), <http://www.osce.org/odihr/31636?download=true>.
- 20 International Covenant on Civil and Political Rights, *supra* note 2.
- 21 See ORG. FOR SEC. & CO-OPERATION IN EUR., OFFICE FOR DEMOCRATIC INSTs. & HUMAN RIGHTS, *supra* note 19, at 19.
- 22 *Id.* at 20-22.
- 23 *Id.*
- 24 Dr. Arthur Kendall has been the President of Social Research Consultants since 1972. He has provided methodological and statistical guidance and oversight to university faculty, graduate students, federal agencies, non-profit organizations, and research organizations in a myriad of disciplines including psychology, education, nursing, social work, sociology, political science, software engineering, medicine and public administration. Since 2008, he has consulted with Statistics without Borders to assist international humanitarian and human rights non-governmental organizations in Sudan and Niger. From 1981 to 2001, Dr. Kendall was the Senior Mathematical Statistician at the U.S. General Accounting Office (GAO). His responsibilities there included quality assurance in methodology, statistics, data handling and presentation of scientific information for evaluations of activities of Executive and Judicial branch agencies. He also provided guidance in framing studies of programs and reviewed and interpreted scientific studies and reports for Congressional Committees. He wrote and reviewed internal instructional and guidance materials on computer use, data quality, sampling, interviewing, survey research, secondary data analysis, content analysis, and meta-analysis and provided instruction on data mining, research design and statistics. He has also been a consultant to the Statistical Research Division of the Bureau of Census and has taught graduate level courses in statistics and research methods at Catholic University. Dr. Kendall is a members of the American Psychological Association, American Statistical Association, American Association of the Advancement of Science, among others and serves on multiple editorial boards. Dr. Kendall has a Ph.D. in Social Psychology from Catholic University and a B.A. in Philosophy from O.L. Providence Seminary.
- 25 Md. Code Ann., Real prop. Section 8-401 (2013).
- 26 Random samples were created for each judicial district based on the number of Failure to Pay Rent cases each local jurisdiction informed us they had for the year 2012. After the random samples were created and the cases from the random sample were requested from the local jurisdictions, it was discovered that the number provided to us of Failure to Pay Rent cases for 2012 was not accurate, and random samples had to be re-calculated. For example, if the jurisdiction initially stated that it had 100,000 Failure to Pay Rent cases in 2012 and the random sample generator requested the 99,765th case to study, it was later reported from the local jurisdictions that no such case existed. This scenario occurred in four local jurisdictions.
- 27 A special thank you to Catherine Gonzales, J.D., Sydney Dunnin, J.D., and Alex Cheatham, J.D. Candidate, from the University of Maryland Francis King Carey School of Law; India Beauford, M.A. in Legal & Ethical Studies and Fatima Wahab, M.A. in Legal & Ethical Studies, from the University of Baltimore; and Jackie Zamarripa, J.D. from the American University Washington College of Law.
- 28 *Pernell v. Southall Realty*, 416 U.S. 363, 385 (1974).
- 29 *Goldberg v. Kelly*, 397 U.S. 254 (1970).
- 30 *Mathews v. Eldridge*, 424 U.S. 319 (1976).
- 31 *McDaniel v. Baranowski*, 419 Md. 560, 563 (2011).

APPENDIX I

QUICK REFERENCE ON LEGAL REQUIREMENTS OF FEDERAL SUBSIDIES AND THEIR IMPACT ON RENT COURT CASES

If a tenant lives in a government subsidized property, or if a tenant receives a government housing subsidy, that tenant is provided important, additional protections under federal law, which affect the adjudication of Failure to Pay Rent cases.

The following general rules apply to all forms of subsidies:

1. Rent charges cannot be more than 30% of the household's income.ⁱ
2. A complaint is insufficient if the amount demanded exceeds the tenant's portion of rent owed.ⁱⁱ
3. Late fees cannot exceed 5% of the tenant's portion of the subsidized rent,ⁱⁱⁱ not of the total amount of market rent for the property. For example, if the total market rent for a subsidized property is \$,1500 and the tenant's portion of the rent is \$500, the landlord can only sue for \$500 per month, with a maximum allowable late fee of \$25 per month.

Further, below are additional requirements associated with the most common types of subsidies^{iv} that may impact the adjudication of Failure to Pay Rent cases:

- I. Housing Choice Voucher Program – Section 8 Vouchers
 - a. Landlord must provide a copy of the eviction notice provided to tenant to the Public Housing Agency (PHA).^v
 - b. Tenant must be granted the opportunity to have Section 8 verify the correct portion of the tenant's rent.^{vi}
 - c. The court must verify that the lack of rent payment to the landlord is not due to Section 8 having abated rent payments because the Landlord is in violation of Housing Quality Standards.^{vii}
- II. Public Housing
 - a. The Public Housing Authority (PHA) must provide 14 days' notice of lease termination that includes:^{viii}
 - i. The grounds for termination;
 - ii. The tenant's right to reply;
 - iii. The tenant's right to review relevant documents; and
 - iv. Whether there is an opportunity for a grievance.^{ix}
 - b. The PHA cannot file a rent court action until the deadline to request a grievance has passed.^x
 - c. If the tenant asserts the right to a grievance, the PHA cannot bring a court action until the grievance process is completed.^{xi}
- III. Project Based Section 8 & USDA Rural Assistance Program
 - a. The landlord must provide the tenant with written notice which states:
 - i. The date of the termination of tenancy;
 - ii. The specific dollar amount owed; and
 - iii. The date the amount was calculated.^{xii}
 - b. The landlord may only enforce the termination by judicial action.^{xiii}

ⁱ 24 C.F.R. § 982.503(d); U.S. Dep't of Hous. & Urban Dev., Fact Sheet for HUD Assisted Residents (Sept. 2010), http://www.hud.gov/offices/hsg/mfh/gendocs/facts_sec8.pdf.

ⁱⁱ 24 C.F.R. § 982.451(b)(4)(iii) and Housing Assistance Payments Contract Part C. 5d.

ⁱⁱⁱ Md. Code Ann., Real Prop. §§ 8-208(d), 8-401(b)(1)(iii).

^{iv} This is not an exhaustive list of federal subsidies that may impact a tenant's rights in Rent Court, but a list of the most common types of subsidies seen.

^v 24 C.F.R. § 982.310(e)(2)(ii) (West). "Regulations not applicable. 24 CFR part 247 (concerning evictions from certain subsidized and HUD-owned projects) does not apply to a tenancy assisted under this part 982." 24 C.F.R. § 982.310(g) (West).

^{vi} 24 C.F.R. §§ 982.505, 982.516 (West).

^{vii} 24 C.F.R. § 982.310(b)(West).

^{viii} 24 C.F.R. § 966.4 (l)(3)(i)(a) (West).

^{ix} 24 C.F.R. § 966.4 (l)(3)(ii) (West).

^x 24 C.F.R. § 966.4 (l)(3)(iv) (West).

^{xi} 24 C.F.R. § 966.4 (e)(8)(ii)(B) (West).

^{xii} 24 C.F.R. § 247.4 (e) (West).

^{xiii} 24 C.F.R. § 247.4 (a) (West).

APPENDIX II

KEY CASE LAW AFFECTING SUBSIDIZED PROPERTIES IN FAILURE TO PAY RENT CASES

McDaniel v. Baranowski, 419 Md 560, 19 A.3d 927 (2011) (discussing licensure requirement).

In order to invoke the summary ejectment process, a landlord in those jurisdictions requiring licensure must affirmatively plead and demonstrate that he is licensed at the time of the filing of the complaint.

Sager v. Housing Commission of Anne Arundel County, 957 F.Supp.2d 627 (2013) (discussing how rent payments cannot be appropriated for other fees and charges).

Allocation clause in public housing tenant's lease with county housing commission providing that if tenant made a payment that was not marked as "rent" or "for rent," the commission could apply the payment to maintenance charges, late fees, or legal fees before applying the payment to rent, violates Maryland statute (West's Ann.Md.Code, Real Prop, 8-208(d)), the Brooke Amendment to the United States Housing Act, the United States Housing Act, and the Maryland Consumer Protection Act.

Bringe v. Collins, 274 Md. 338, 335 A.2d 670 (1975) (discussing availability of jury trials in failure to pay rent cases).

Action by a landlord to recover possession of premises is historically an action at law to which the right to a jury trial attaches provided the amount in controversy exceeds [the jurisdictional amount required].

Joy v. Daniels, 479 F.2d 1236 (1973) (discussing how property interest extends beyond the lease term in subsidized housing).

Tenant who qualified for federally subsidized housing had a "property interest" beyond the term of her lease in that the tenancy could not be terminated except for good cause.

Purvis v. Forrest Street Apartments, 286 Md. 398, 408 A.2d 388 (1979) (discussing amount in controversy – de novo vs. on the record appeal).

In ascertaining the amount in controversy for the purpose of determining whether the appeal should have been on the record or de novo, the value of the right to possession should have been taken into consideration along with the amount of money claimed.

Solberg v. Majerle Management, 388 Md. 281, 879 A. 2d 1015 (2005) (discussing amount in controversy – de novo vs. on the record appeal).

Case involving Section 8 housing assistance tenants' right to possession of a home with a rental value of at least \$1,500 per month involved an amount in controversy in excess of \$5,000, and thus case should have been heard by the circuit court on the record made in the district court, rather than de novo.

Appendix III

RENT COURTS & INTERNATIONAL HUMAN RIGHTS LAW

International human rights law provides important protections for tenants in Maryland Rent Courts. The Maryland Constitution's treaty clause incorporates into state law all treaties made under the authority of the United States as the Supreme Law of the State, emphasizing that state judges are bound by them.ⁱ Likewise, federal courts often draw upon and reference international law in considering federal constitutional provisions.ⁱⁱ Thus, international law may hold important interpretative weight for the Maryland judiciary in considering its role in upholding and promoting the rights of tenants in Maryland's rent courts.ⁱⁱⁱ

Maryland's Constitution, Declaration of Rights: Article 2

"The Constitution of the United States, and the Laws made, or which shall be made, in pursuance thereof, and all Treaties made, or which shall be made, under the authority of the United States, are, and shall be the Supreme Law of the State; and the Judges of this State, and all the People of this State, are, and shall be bound thereby; anything in the Constitution or Law of this State to the contrary notwithstanding."

Right to a Fair Trial:

Article 14(1) of the International Covenant on Civil and Political Rights:

"All persons shall be equal before the courts and tribunals...everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law."

Article 13 of the Convention on Rights of Persons with Disabilities:

"States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages."

From General Comment 32 of the UN Human Rights Committee – Right to Equality before Courts and Tribunals and to a Fair Trial:

Equality before the tribunal means that the court cannot discriminate as between the parties, whether based on race, gender or even socioeconomic status. The principle of equality within the right to a fair trial also demands "that each side be given the opportunity to contest all the arguments and evidence adduced by the other party." The right to a fair trial also protects persons' ability to access tribunals. Access here does not simply mean physical access, but also extends to the participation in the proceedings in a "meaningful way."

Right to Housing:

Article 25(1) of the Universal Declaration of Human Rights (UDHR) and Article XI of the International Covenant on Economic, Social and Cultural Rights (ICESCR):

"Everyone has the right to a standard of living adequate for the health and well-being of himself (or herself) and of his (or her) family, including food, clothing, housing and medical care and necessary social services"

Article 17(1) of the International Covenant on Civil and Political Rights:

"No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation."

ⁱ Md. Dec. of R. art. 2.

ⁱⁱ See *Graham v. Florida*, 130 S. Ct. 2011, 2034 (2010); *Roper v. Simmons*, 543 U.S. 551, 575–78 (2005); *Lawrence v. Texas*, 539 U.S. 558, 576–77 (2003) among others.

ⁱⁱⁱ The U.S. has ratified the International Covenant on Civil and Political Rights (ICCPR) and the Committee on the Elimination of Racial Discrimination (CERD) and has signed, but not ratified, the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Although the U.S. ratifies treaties in such a way that they are non self-executing and thus not directly enforceable in U.S. courts, the U.S. nevertheless has an international obligation to comply with treaties it has ratified, and indeed must periodically report on its compliance with ratified treaties to an international committee of experts (the treaty bodies). Moreover, in ratifying the CERD and the ICCPR, the U.S. made it clear that state and local governments have primary responsibility for enforcing their provisions. See, e.g. U.S. reservations, declarations, and understandings, International Covenant on Civil and Political Rights, 138 Cong. Rec. S4781-01 (daily ed., April 2, 1992) (III (1) and II (5) respectively on non-self-execution and the federalism reservation). The U.S. may not violate the object and purpose of a treaty it has signed but not ratified, including the ICESCR. See Vienna Convention on the Law of Treaties art. 18, May 23, 1969, 1155 U.N.T.S. 331.

From General Comment 4 of the Committee on Economic, Social and Cultural Rights – Right to Adequate Housing:

Adequate housing must provide more than four walls and a roof. A number of conditions must be met before particular forms of shelter can be considered to constitute “adequate housing.” These elements are just as fundamental as the basic supply and availability of housing. For housing to be adequate, it must, at a minimum, meet the following criteria:^{iv}

Security of tenure: housing is not adequate if its occupants do not have a degree of tenure security which guarantees legal protection against forced evictions, harassment and other threats.

Availability of services, materials, facilities and infrastructure: housing is not adequate if its occupants do not have safe drinking water, adequate sanitation, energy for cooking, heating, lighting, food storage or refuse disposal.

Affordability: housing is not adequate if its cost threatens or compromises the occupants’ enjoyment of other human rights.

Habitability: housing is not adequate if it does not guarantee physical safety or provide adequate space, as well as protection against the cold, damp, heat, rain, wind, other threats to health and structural hazards.

Accessibility: housing is not adequate if the specific needs of disadvantaged and marginalized groups are not taken into account.

Location: housing is not adequate if it is cut off from employment opportunities, health-care services, schools, childcare centres and other social facilities, or if located in polluted or dangerous areas.

Cultural adequacy: housing is not adequate if it does not respect and take into account the expression of cultural identity.

Equality and Non-Discrimination:

Articles 14(1) and 26 of the International Covenant on Civil and Political Rights:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

iv UN Comm. on Economic, Soc. and Cultural Rights (CESCR), *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, U.N. Doc. E/1992/23 (Jan. 1, 1992).

Appendix IV Confidence Intervals

	Disposition			Failure DP	Cannot Tell	Either	out of 6
	DefaultDisp	NotDefaultDisp	ProplemDisp	AnyDefect1	AnyDefect2	AnyProblem	LLNotFill
	34	75	1	17	4	21	34
	25	58	1	17	9	26	10
	44	60	6	17	19	32	28
	41	67	1	54	26	62	38
	57	33	24	35	32	59	3
	34	40	34	7	39	46	9
	46	68	1	12	7	17	10
	49	63	0	10	2	12	14
	35	76	0	34	15	42	30
	51	49	1	5	13	17	10
	54	65	0	24	7	29	34
	49	58	3	43	6	48	59
	519	712	72	275	179	411	279
Statewide %	40.5%	51.7%	7.8%	17.5%	12.9%	28.1%	15.5%
Lower 95% CL	35.8%	47.0%	5.7%	14.6%	10.6%	24.8%	12.8%
Upper 95% CL	45.3%	56.4%	10.6%	20.6%	15.4%	31.5%	18.4%
Statewide #	248,804	317,833	48,097	107,863	79,385	172,635	95,275
Lower 95% CL	219,270	289,028	33,283	89,439	64,712	152,276	78,228
Upper 95% CL	278,339	346,638	62,911	126,288	94,058	192,994	112,322

	Proper Service Possession Judgment					Proper Service Money Judgment			
	Test_A_1	Test_A_2	Test_A_3	Test_A_4		Test_B_1	Test_B_2	Test_B_3	Test_B_4
	2	73	1	34		0	0	1	109
	8	50	1	25		5	20	1	58
	0	60	6	44		0	5	7	98
	32	35	1	41		0	0	5	104
	33	0	24	57		0	0	25	89
	0	40	34	34		0	0	35	73
	1	67	1	46		0	0	3	112
	0	63	0	49		0	0	0	112
	0	76	0	35		0	0	0	111
	0	49	1	51		0	0	1	100
	8	57	0	54		0	0	2	117
	28	30	3	49		1	1	4	104
	112	600	72	519		6	26	84	1187
Statewide %	14.3%	72.6%	13.1%	40.5%		1.5%	6.5%	92.0%	90.9%
Lower 95% CL	11.2%	68.6%	10.0%	36.6%		0.3%	2.8%	83.8%	88.8%
Upper 95% CL	18.1%	76.2%	17.1%	44.4%		7.3%	14.3%	96.2%	92.8%
Statewide #	52,232	265,601	48,097	248,804		839	3,635	51,274	558,987
Lower 95% CL	39,553	258,132	35,173	224,648		18	2,716	50,786	546,590
Upper 95% CL	64,910	273,071	61,022	272,960		1,660	4,555	51,761	571,384

	Licensing					Lead Certificate			
	Test_C_1	Test_C_2	Test_C_3	Test_C_4		Test_D_1	Test_D_2	Test_D_3	Test_D_4
	2	58	2	48		3	32	2	73
	8	33	3	40		0	18	9	57
	10	6	10	84		7	0	10	93
	11	15	5	78		12	1	15	81
	0	29	26	59		0	0	24	90
	3	36	34	35		3	4	34	67
	3	59	1	52		3	4	4	104
	8	10	1	93		2	3	0	107
	14	12	7	78		20	10	6	75
	2	38	1	60		1	3	7	90
	2	22	0	95		11	18	2	88
	11	27	3	69		18	30	3	59
	74	345	93	791		80	123	116	984
Statewide %	8.2%	70.6%	21.2%	57.6%		11.8%	45.2%	43.0%	78.9%
Lower 95% CL	5.4%	64.2%	16.5%	53.9%		7.3%	38.7%	36.5%	75.7%
Upper 95% CL	12.3%	76.2%	26.9%	61.3%		18.5%	52.0%	49.7%	81.9%
Statewide #	21,390	183,796	55,273	354,276		15,303	58,717	55,730	484,985
Lower 95% CL	12,476	167,923	41,588	331,320		8,012	50,211	50,092	465,925
Upper 95% CL	30,304	199,669	68,958	377,232		22,594	67,224	61,368	504,044

	Foreclosure of Right to Redeem					Foreclosure of Right to Court or Judge Follow-UP			
	Test_F_1	Test_F_2	Test_F_3	Test_F_4		Test_G_1	Test_G_2	Test_G_3	Test_G_4
	0	1	1	108		0	0	2	108
	0	0	1	83		0	0	1	83
	0	1	7	102		0	1	7	102
	0	7	5	97		7	0	5	97
	0	5	25	84		0	0	30	84
	0	4	35	69		0	0	39	69
	1	6	3	105		5	2	3	105
	0	1	0	111		1	0	0	111
	0	3	0	108		3	0	0	108
	0	2	1	98		0	0	3	98
	0	2	2	115		2	0	2	115
	1	0	4	105		0	1	4	105
	2	32	84	1185		18	4	96	1185
Statewide %	0.5%	22.1%	77.4%	89.2%		6.6%	1.1%	92.4%	89.2%
Lower 95% CL	0.0%	12.9%	64.3%	86.9%		2.9%	0.2%	84.4%	86.9%
Upper 95% CL	5.5%	35.3%	86.7%	91.3%		14.3%	6.5%	96.4%	91.3%
Statewide #	325	14,645	51,274	548,491		4,357	701	61,186	548,491
Lower 95% CL	0	6,918	43,559	534,830		2,939	0	59,852	534,830
Upper 95% CL	1,083	22,372	58,988	562,152		5,774	1,722	62,520	562,152

Subsidized/Unsubsidized					Military				
	Test_E_1	Test_E_2	Test_E_3	Test_E_4		Test_H_1	Test_H_2	Test_H_3	Test_H_4
	4	104	2	0		8	66	3	33
	0	75	9	0		0	58	1	25
	3	90	17	0		2	58	6	44
	15	72	22	0		8	59	1	41
	6	83	25	0		0	33	24	57
	0	74	34	0		0	40	34	34
	2	108	5	0		1	67	1	46
	0	111	1	0		0	63	0	49
	6	92	13	0		7	69	0	35
	3	86	12	0		0	49	1	51
	1	113	5	0		3	62	0	54
	4	102	4	0		17	41	4	48
	44	1110	149	0		46	665	75	517
Statewide %	2.8%	87.1%	10.1%	0.0%		3.8%	82.4%	13.8%	40.2%
Lower 95% CL	1.6%	83.9%	7.8%	0.0%		2.0%	77.6%	10.5%	36.4%
Upper 95% CL	4.9%	89.7%	13.0%	0.3%		7.0%	86.4%	18.0%	44.2%
Statewide #	17,246	535,321	62,168	0		13,825	302,640	50,848	247,422
Lower 95% CL	7,244	517,260	46,230	0		4,867	286,481	37,147	223,325
Upper 95% CL	27,248	553,383	78,106	1,844		22,783	318,799	64,549	271,519

Signature/Attestation Default Judgment					Signature/Attestation Not Default Judgment				
	Test_I_1	Test_I_2	Test_I_3	Test_I_4		Test_J_1	Test_J_2	Test_J_3	Test_J_4
	0	75	1	34		0	5	1	104
	1	57	1	25		0	5	0	79
	0	60	6	44		0	6	5	99
	1	66	1	41		0	3	5	101
	0	33	24	57		0	4	21	89
	0	40	34	34		1	0	35	72
	0	68	1	46		0	3	2	110
	0	63	0	49		0	0	0	112
	1	75	0	35		0	7	0	104
	0	49	1	51		1	6	0	94
	0	65	0	54		0	1	2	116
	0	58	3	49		0	21	4	85
	3	709	72	519		2	61	75	1165
Statewide %	0.1%	86.8%	13.1%	40.5%		1.0%	26.9%	72.1%	89.8%
Lower 95% CL	0.0%	82.8%	10.0%	36.6%		0.2%	17.7%	60.3%	87.4%
Upper 95% CL	0.9%	89.9%	17.1%	44.4%		5.7%	38.7%	81.5%	91.9%
Statewide #	400	317,434	48,097	248,804		616	16,907	45,313	551,899
Lower 95% CL	0	304,498	35,173	224,648		0	10,069	38,412	538,168
Upper 95% CL	959	330,370	61,022	272,960		1,747	23,745	52,214	565,630

ACKNOWLEDGMENTS

Conducting the first statistical Study of Rent Courts in Maryland was a challenging undertaking that took a tremendous amount of vision and work to actualize. Reena K. Shah, the Director of the Human Rights Project at Maryland Legal Aid spearheaded the Study and provided the leadership to see it through to its conclusion. A special thank you to Rachel Wolpert, co-chair of Maryland Legal Aid's Housing Human Rights Committee, for her sustained commitment and energy and also to the other core Committee members – Gregory Countess, Louis Dorsey, Alecia Frisby, Kathleen Hughes, and Matthew Zernhelt – for their continued guidance and insight to ensure the integrity of the endeavor. Special thanks also to other housing advocates from Maryland Legal Aid and those that have since departed the organization, who provided important insight at different stages of the Study, especially Joseph Rohr and Sarah Frush, as well as Lori Leibowitz, Kevin Mitchell, Jacob Ouslander, Desiree Reetz and Sarah Wilkinson. Thank you also to Jennifer Goldberg and Frank Natale, immediate supervisors of the Human Rights Project, for their strategic guidance; Faye Gibbs for her public relations and messaging expertise; Ashley Fails for her communications acumen, and Russ Bloomquist for his graphic design savvy. And finally, a note of gratitude to the executive team – Wilhelm Joseph, Shawn Boehringer and Gusti Taler – and Maryland Legal Aid's Board of Directors who understand the importance and power of using a human rights framework in legal services practice.

While many advocates at Maryland Legal Aid identified the need for such a Study, the actual Study would not have been possible without the partnership with the American Association for the Advancement of Sciences (AAAS). Thank you to Theresa Harris for selecting this Study as one worthy of securing the pro-bono expertise of AAAS experts. Our work with AAAS's Dr. Arthur Kendall was extraordinarily valuable and we thank him for his commitment and most importantly, the statistical expertise he brought to the endeavor. His experience in evaluating large systems played an important role in helping this Study come to fruition. Thanks also for his patience in translating statistical concepts to lawyers and for his generous donation of time and talent (i.e. the donation of over 250 hours of pro-bono services) towards the Study.

The Study was also made possible due to the partnership with the District Court of Maryland. A special thank you to former Chief Judge Clyburn who supported the vision for the Study and provided Maryland Legal Aid the Failure to Pay Rent complaint forms and audio recordings necessary to conduct the Study at no cost. Without this in-kind support, our ability to undertake the Study would have been compromised. Thank you also to Jamie Walter who provided advice, insight, and helped to keep things moving on the Court's end. Sincere appreciation is also extended to Ken Brown, now retired, who helped with the logistics and coordination support necessary to retrieve the 1,380 cases and audio recordings required for the Study from Maryland's 24 jurisdictions. Finally, thank you to Chief Judge Morrissey and Chief Clerk Warnken for welcoming the review of Study findings and recommendations.

A big thanks as well to the data collectors – India Beauford, Alex Cheatham, Sydney Dunning, Catherine Gonzalez and Fatima Wahab – for their diligence, attention to detail and patience in carefully teasing through and collecting data from 1,380 case complaints and audio recordings. Thank you as well to interns and fellows, Frank Vitale, Annielle Makon, Yong Chang and Jenny Melendez for research assistance. And finally, thank you to Jacqueline Zamarripa for being indispensable to the completion of the Study.

Great appreciation is also extended to Risa Kaufman at Columbia Law School's Human Rights Institute and the students of Columbia Law School's Human Rights Clinic – Jillian Hernandez, Sara Osama Kayyali, Nathiya Nagendra and Caroline Stover – for taking a deep interest in Maryland Legal Aid's clients and engaging with them to understand the impact of Rent Court on their lives. Thank you also for your research support and the assistance with the analysis of human rights framing of Rent Court issues.

Thank you as well to Lauren Bartlett and Hadar Harris of American University's Center for Human Rights and Humanitarian Law for your unwavering support of this Study and Maryland Legal Aid's Human Rights Project.

And finally, thank you to The Fund for Change (<http://www.thefundforchange.org/>) for supporting the work of Maryland Legal Aid's Human Rights Project and Rent Court Study.

BENCH CHECKLIST FOR FTPR CASES

ISSUE	SECTION OF FTPR COMPLAINT	✓	STATUTE/LAW
Complete entirety of complaint form under oath or affirmation	Whole complaint Signature line (after paragraph 9)	All parts of the Failure to Pay Rent complaint form must be completed and the form must be signed before court can enter possession or money judgment. RP § 8-401(b)(1)	Real Property § 8-401(b)(1)
Lead Paint Compliance	paragraph 3	Landlord must affirm registration of a lead affected property and provide either inspection certificate number or a reason for not providing it before court can enter possession or money judgment. RP § 8-401(b)(1)(vi); Environment Article § 6-801, § 6-811, § 6-812; § 6-815(c), § 6-817(b), § 6-819(f)	Real Property § 8-401(b)(1)(vi) Environment § 6-801, § 6-811, § 6-812, § 6-815, § 6-815(c), § 6-817(b), § 6-819(f), § 8-401(b)(1)(vi)(2)
Government Subsidy	paragraph 5	All parts of the Failure to Pay Rent complaint form must be completed and the form must be signed before court can enter possession or money judgment. RP § 8-401(b)(1)	Real Property § 8-401(b)(1)
Service for Money Judgment	Service confirmation (header)	Tenant must be personally served with complaint before court can enter money judgment. RP § 8-401(c)(2)(iv)	Real Property § 8-401(c)(2)(iv)
Judgment for Possession of the Premises	Service confirmation (header)	Tenant must be properly served before court can enter possession judgment. Proper service means the Failure to Pay Rent complaint must be mailed, first class, to the tenant and affixed conspicuously on the property. RP § 8-401 (b)(4)(ii)	Real Property § 8-401 (b)(4)(ii)
Licensing Requirement	paragraph 2	Landlord must verify compliance with local requirements for licensing before court can enter possession or money judgment. McDaniel v. Baranowski, 419 Md. 560 (2011)	McDaniel v. Baranowski, 419 Md. 560 (2011)
Foreclosure of Right to Redeem	paragraph 9	A landlord's request to foreclose the right to redeem must be supported by case numbers and judgment dates. All jurisdictions except Baltimore City require listing 3 prior possession judgments in the past 12 months; Baltimore City requires 4. Court must verify prior judgments before entering possession judgment foreclosing right to redeem. RP § 8-401(e)(2)	Real Property § 8-401(e)(2)
Default Judgment against active duty military	paragraph 8	Landlord must provide adequate proof that tenant is not in the military if tenant does not appear at trial. Court must ensure sufficient proof before entering a default possession judgment. Servicemembers Civil Relief Act Title III § 531	Servicemembers Civil Relief Act Title III § 531
Recording of Disposition	Disposition	Court must adequately preserve record of each case on the Failure to Pay Rent complaint form.	

Tenant must be personally served with complaint before court can enter money judgment. RP § 8-401(c)(2)(iv) Tenant must be properly served before court can enter possession judgment. Proper service means the Failure to Pay Rent complaint must be mailed, first class, to the tenant and affixed conspicuously on the property. RP § 8-401 (b)(4)(ii)


2. Landlord must verify compliance with local requirements for licensing before court can enter possession or money judgment. McDaniel v. Baranowski, 419 Md. 560 (2011)

3. Landlord must affirm registration of a lead affected property and provide either inspection certificate number or a reason for not providing it before court can enter possession or money judgment. RP § 8-401(b)(1)(vi); Environment Article § 6-801, § 6-811, § 6-812; § 6-815(c), § 6-817(b), § 6-819(f)

5. All parts of the Failure to Pay Rent Complaint form must be completed and the form must be signed before court can enter possession or money judgment. RP § 8-401(b)(1)

8. Landlord must provide adequate proof that tenant is not in the military if tenant does not appear at trial. Court must ensure sufficient proof before entering a default possession judgment. Servicemembers Civil Relief Act Title III § 531

9. A landlord's request to foreclose the right to redeem must be supported by case numbers and judgment dates. All jurisdictions except Baltimore City require listing 3 prior possession judgments in the past 12 months; Baltimore City requires 4. Court must verify prior judgments before entering possession judgment foreclosing right to redeem. RP § 8-401(e)(2)

 DISTRICT COURT OF MARYLAND FOR _____ Located at _____		No. of tenants 1 2 3 4 CASE NUMBER TRIAL DATE & TIME	
Landlord _____ Address _____ City _____ State _____ Zip _____		Affixed on Premises Date _____ <input type="checkbox"/> Mailed to Tenant Constable/Sheriff _____ Served on Party: _____	
(1) Tenant _____ (2) Tenant _____ (3) Tenant _____ (4) Tenant _____ Address _____ City _____ State _____ Zip _____			
FAILURE TO PAY RENT - LANDLORD'S COMPLAINT FOR REPOSSESSION OF RENTED PROPERTY REAL PROPERTY §8-401			
1. The property is described as: _____, Maryland.			
2. Is the Landlord required by law to be licensed/registered in order to operate this premises as a rental property? <input type="checkbox"/> Yes <input type="checkbox"/> No. If so, is the Landlord currently licensed/registered <input type="checkbox"/> Yes <input type="checkbox"/> No. License/Registration number if applicable: _____			
3. The property: <input type="checkbox"/> is affected property under §6-801, Environment Article, its registration with the MDE is current and its registration has been renewed as required, and its MDE inspection certificate numbered _____, is valid for the current tenancy; or <input type="checkbox"/> owner is unable to state Certificate No. because <input type="checkbox"/> property is exempt <input type="checkbox"/> tenant refused access or to relocate/vacate during remedial work. <input type="checkbox"/> The property is not affected.			
4. The Tenant rents from the Landlord who asks for possession of the property and a judgment for the amount determined to be due.			
5. This <input type="checkbox"/> is <input type="checkbox"/> is not a government subsidized tenancy. Tenant is responsible to pay the following amount of rent: \$ _____ due on the _____ of the <input type="checkbox"/> week <input type="checkbox"/> month, which has not been paid or reduced to judgment. As of today, rent is due for the <input type="checkbox"/> weeks <input type="checkbox"/> months of _____ in the total amount of \$ _____ \$ _____ less Tenant payments of \$ (_____) for utility bills, fees, and security deposits under PU §7-309 \$ _____ Net Rent Late charges accruing in or prior to the month in which the complaint was filed for the <input type="checkbox"/> weeks <input type="checkbox"/> months of _____ are due in the amount of \$ _____ 6. _____ SUBTOTAL \$ _____ 7. <input type="checkbox"/> The Landlord requests rent becoming due after the date of filing, but due by the date of trial in the amount of \$ _____ 8. _____ TOTAL \$ _____			
9. The Landlord requests the Tenant's right of redemption be foreclosed due to prior judgments. List the case numbers and judgment dates within the past 12 months: _____ <input type="checkbox"/> All the Tenants on the lease are listed above. <input type="checkbox"/> At least one Tenant is in the military service. <input type="checkbox"/> No Tenant is in the military service and the facts supporting this statement are: _____ <input type="checkbox"/> I am unable to determine whether or not any Tenant is in the military service. <input type="checkbox"/> Verified through DOD at: https://www.dmdc.osd.mil/appj/scra/ .			
10. <input type="checkbox"/> The Tenant is deceased, intestate (not having made a legal will), and without next of kin. I do solemnly affirm under the penalty of perjury that the matters and facts set forth above are true to the best of my knowledge, information, and belief.			
Print Name of Signer (Landlord/Attorney/Agent) _____ Address _____ Fax _____ Continued to _____		Signature of Landlord/Attorney/Agent _____ Attorney Bar #/ Party # _____ Date _____ Telephone _____ E-mail _____ Request of _____ Reason _____	
DISPOSITION The following parties appeared on final trial date: <input type="checkbox"/> Landlord <input type="checkbox"/> Landlord's Agent/Attorney <input type="checkbox"/> Tenant 1 <input type="checkbox"/> Tenant 2 <input type="checkbox"/> Tenant 3 <input type="checkbox"/> Tenant 4 <input type="checkbox"/> Tenant's Attorney <input type="checkbox"/> Judgment in favor of Landlord for possession of the premises and costs Rent due and unpaid: \$ _____; minus utility credits of \$ _____ under PU §7-309 Net due and unpaid: \$ _____ by: <input type="checkbox"/> Default <input type="checkbox"/> Trial <input type="checkbox"/> Consent <input type="checkbox"/> Without the right of redemption <input type="checkbox"/> Money judgment for \$ _____ plus costs against Tenant #1 <input type="checkbox"/> #2 <input type="checkbox"/> #3 <input type="checkbox"/> #4 <input type="checkbox"/> <input type="checkbox"/> Voluntary dismissal by: <input type="checkbox"/> Landlord <input type="checkbox"/> Stipulation of parties <input type="checkbox"/> Case dismissed <input type="checkbox"/> Landlord FTA <input type="checkbox"/> No party appeared <input type="checkbox"/> Other: _____ <input type="checkbox"/> Judgment for Tenant If applicable: <input type="checkbox"/> Landlord has violated Real Prop., §8-216(b) <input type="checkbox"/> Recovery of Possession of the Property <input type="checkbox"/> Actual Damages of \$ _____ <input type="checkbox"/> Reasonable Attorney's Fees of \$ _____ and costs Execution stayed until _____ Execution stayed by filing an approved appeal bond in the amount of \$ _____		SUMMONS TO the Sheriff of this County/Constable of this Court: You are ordered to notify the tenant, assignee, or subtenant, or their known or authorized agent, by personal service, if such service is requested by the landlord, to appear in the District Court at the trial of this matter to show cause why the demand of the landlord should not be granted. Personal service is to be performed at the property subject to this complaint or at any other known address. If personal service is not requested, or if no person to be served is found on the property or at another known address, you shall affix an attested copy of the summons and complaint conspicuously on the property that is the subject of this suit and mail a copy of the summons and complaint to the tenant, assignee, or subtenant by first class mail to the address specified by the landlord. In the case of a deceased tenant, you are ordered to notify the occupant or next of kin of the deceased tenant by the same procedure, if known.	
Judge _____ ID Number _____ Date _____ DC-CV-082 (Rev. 7/2014)		Judge/Clerk _____ Date _____	

DISPOSITION: Court must adequately preserve record of each case on the Failure to Pay Rent complaint form.

10. All parts of the Failure to Pay Rent Complaint form must be completed and the form must be signed before court can enter possession or money judgment. RP § 8-401(b)(1)



MARYLAND
LEGAL AID

Advancing
Human Rights and
Justice for All

500 E. Lexington Street Baltimore, Maryland 21202
(410) 951-7777 | www.mdlab.org

All rights reserved. The contents of this publication may be freely used and copied for educational purposes and other non-commercial purposes, provided that any such reproduction is accompanied by an acknowledgment of Maryland Legal Aid as the source.