No. 399885

(Spokane County Superior Court No. 22-2-02393-32)

WASHINGTON COURT OF APPEALS
DIVISION III

WASHINGTON BUSINESS PROPERTIES ASSOCIATION,

Appellant

vs.

WASHINGTON STATE

Respondent

PETITION FOR REVIEW BY THE SUPREME COURT

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I. IDENTITY OF PETITIONER:

Appellant, Washington Business Property Associations ("WBPA") represents people in Washington who own property, including landlords. Appellant requests this Court to accept review of the Court of Appeals decision described in section II.

II. DECISION:

Appellate court opinion 39988-5-III entered October 3, 2024. Appellant would like reviewed the substantive issues of the underlying case, Spokane County Superior Court No. 22-2-02393-32. That case challenged the Constitutionality of a statute. The appellate opinion decided the matter was moot and did not address whether the statute violated Washington's Constitution.

III. ISSUES FOR REVIEW

A. First Issue: Does RCW 59.16.660 unconstitutionally restrict people's access to court rights?

Washington's Constitution "amply and expressly" protects the people's access to courts. *Gonzales v. Inslee*, 2 Wn.3d. 280, 298, 535 P.3d 864, 874 (2023). The *Gonzales* Court did not address the appropriate test for when a person is denied the right to access courts. *Id.* This case presents the Court with an opportunity to address that matter.

RCW 59.16.660 blocks landlords from accessing courts until a third-party contractor has certified the landlord's participation in the eviction resolution pilot program. The first issue involves whether this violates the people's right to access courts. Appellant proposes the following test for the access to court rights:

> A person's right to access courts is presumed. The right may only be limited to protect the significant and fundamental rights of others. The burden of persuasion is on the party opposing the right to prove that access to courts must be restricted in order to prevent a substantial threat to another's significant and fundamental rights.

B. Second Issue: Does RCW 59.16.660 violate the non-delegation doctrine?

RCW 59.16.660 creates an eviction resolution program to be implemented by dispute resolution centers ("DRCs") and mandates that landlords participate in it. However, RCW 59.16.660 is silent on the mechanics of the program and leaves it up to the Administration of Courts to establish rules and requirements. This violates the prohibition on delegation of legislative powers.

RCW 59.16.660 also gives the DRCs authority to decide if/when a landlord receives a certification and thus can go to court. The Legislature may not delegate to third parties "the power to make individualized, quasi-judicial decisions" without providing for a review and/or appeal process. *United Chiropractors of Wash., Inc. v. State,* 90 Wn.2d 1, 5, 578 P.2d 38 (1978); *see also Hetherington v. McHale,* 458 Pa. 479, 484 329 A.2d 250 (1974) ("The power to select those who make public decisions is too vital a part of our scheme of government to be delegated to private groups.").

C. Third Issue: Did RCW 59.16.660 unconstitutionally limit the power of superior courts to hear "all cases which involve title or possession of real property"?

RCW 59.16.660 restricts the superior court's ability to hear eviction cases until a third party issues a "certification." Const. art. IV § 1 grants all judicial power to the courts. This power is universal and covers the whole domain of judicial power. *In re Cloherty*, 2 Wash 137, 139, 27 P. 1064, 1065 (1891). Const. art. IV §6 grants superior courts original jurisdiction in all cases which involve the title or possession of real property.

While "[t]he legislature has the power (within constitutional limits) to limit, alter, or even completely eliminate unlawful detainer actions," unlawful detainer actions are decisions on property possession rights. *See Gonzales,* 2 Wn.3d. at 298; *See Christensen v. Ellsworth*, 162 Wn.2d 365, 370–71, 173 P.3d 228, 231 (2007). Did limiting the superior court's jurisdiction to unlawful detainer cases "certified" by a

non-judicial dispute resolution center invade the superior courts' constitutionally delegated powers?

D. Fourth Issue: Did local court rules implementing an eviction resolution pilot program violate the separation of powers doctrine?

In support of the Eviction Resolution Pilot Program ("ERPP") in RCW 59.16.660, each superior court issued standing orders of general applicability. These orders require landlords to do activities before the courts have jurisdiction over the person or controversy.

Issuing court rules that impose duties on parties before they are litigants raises the issue of whether the courts have exceeded their Const. Art. IV power. Did the superior court orders violate the separation of powers doctrine?

IV. STATEMENT OF THE CASE

A. Substantive Facts

In exchange for rent, a landlord gives a tenant a possessory interest in property. If the rent goes unpaid, a

landlord cannot evict the tenant without a court order. RCW 59.18.290(1).

A nonpaying residential tenant becomes liable to a landlord if the tenant continues in possession of the property for over 14 days after being served with a proper pay or vacate notice. RCW 59.12.030(3). The legislature created an expedited procedure for the landlord to regain their property when the tenant is liable for unlawful detainer. *Christensen v. Ellsworth*, 162 Wn.2d 365, 370–71, 173 P.3d 228, 231 (2007). Because unlawful detainer cases involve questions of possession related to real property, the superior has original jurisdiction conferred by Const. art. IV §6.

On April 22, 2021, the legislature decided to "establish an eviction resolution pilot program to address nonpayment of rent eviction cases before any court filing." Laws of 2021, Chpt. 115 §2, lines 16-7 (Codified in RCW 59.18.660). The statute mandated that landlords use the program before the landlord files an unlawful detainer action in court. RCW

59.18.660(2). The program also required a landlord to obtain a certification that they participated in the program before the court could hear the action. RCW 59.18.660(5). The certification could only be issued by an approved dispute resolution center. *Id.*

On July 28, 2021, the administrative office of the courts contracted with the company Resolution Washington to have it manage the eviction resolution program. CP 288-296. The contract specifically disclaims Resolution Washington from having any relationship outside the contract with the administrative office of the courts. CP 291. The contract gave Resolution Washington the power to subcontract with dispute resolution centers to decide if and when to issue ERPP certifications under RCW 59.18.660(5). CP 289.
RCW 59.18.660 does not define the eviction resolution program or define participation. The only clear mandate is that landlords send tenants a notice providing information about ERPP. However, the court's administrative offices have issued a

flow chart outlining participation and when certification should be issued. CP 332.

All 36 superior courts have also issued standing orders governing ERPP, CP 132. These orders attempt to fill the gaps in ERPP and contain various pre-filing obligations.

ERPP prohibits landlords from accessing courts. In numerous exemplary cases, dispute resolution centers have refused to issue certifications for months thereby depriving the landlord with any process to be heard. CP 122-132.

B. Procedural History

This case commenced on July 21, 2022 with a request for declaratory and injunctive relief. CP 3. The parties did cross motions, with the State doing a CR 12(c) and the WBPA moving for summary judgment. CP 36; CP 95. The WBPA supported their motion with evidence regarding how the ERPP was being implemented and its impact. CP 122-306. The trial court heard oral argument on October 28, 2022.

The trial court originally stated the ruling would be issued soon. RP 59. On January 13, 2023 the trial court issued a ruling denying the WBPA's summary judgment, and granting the State's CR 12(c) motion. CP 443-445.

The WBPA sought direct review with this Court. The WBPA's opening brief was submitted on August 9, 2023. That opening brief addressed the right to access courts, and especially the Constitutional basis for such a right. After that brief was submitted, this Court decided the case of *Gonzales v. Inslee*, 2 Wn.3d. 280, 535 P.3d 864 (2023). This Court then denied direct review and submitted the matter back to the Court of Appeals.

The State's response brief was submitted on October 9, 2023 and had the opportunity to address the test regarding when the access to court right was violated.

The WBPA's reply brief was submitted on December 15, 2023. The brief addressed the *Gunwall* factors on Washington's constitutional right to access courts, and the First

Amendment federal access to court right. The brief also addressed the correct test regarding when the access to courts was violated under Art. I §10.

The Court of Appeals decided this matter without oral argument. On October 3, 2024 it issued an unpublished order finding this matter moot. In particular the Court of Appeals found that the statute and ERPP were the result of a crisis caused by COVID, which likely would no recur again. Based on that premise the Court of Appeals decided the issues involved in this matter were moot. *Washington Bus. Properties Ass'n v. State*, 39988-5-III, 2024 WL 4380658, at *2 (Wash. Ct. App. Oct. 3, 2024)

The WBPA now petitions to this Court to decide these matters, since they are of ongoing public importance.

V. ARGUMENT

This matter presents (A) several significant questions of law regarding the Washington Constitution and (B) issues of substantial public interest that the Supreme Court should

determine. The Court of Appeals decision also diverges from the Supreme Court decision in *Gonzales v. Inslee* on a standard for when a case is moot but presents a significant issue that should be decided. In accordance with RAP 13.4(b)(3) and (4), these are substantial reasons for the Supreme Court to accept review.

A. This case involves significant questions of law under the Constitution of Washington (RAP 13.4(b)(3)).

All four issues are of constitutional importance. While these are significant enough issues to trigger review, the most pressing is the right to access courts. All will be addressed, but the Court is asked to give special attention to the access to court issue. This case provides an opportunity for the Court to define the test for when the right to access courts is violated. That issue alone makes this matter worthy of review.

1. The issue of whether RCW 59.16.660 blocks access to courts is front and center in this matter as a significant question of law under the Washington Constitution; the test for whether ERPP violates the Washington Constitution has been briefed using *Gunwall*

While this Court previously held Washington's Constitution "amply and expressly" protects people's right to access courts, it has not defined the appropriate test to determine if a person has been deprived of this right. *Gonzales*, 2 Wn.3d at 298-299. The appropriate test and the level of protection afforded by this right were not briefed in *Gonzales*. *Id.*

This matter affords the Court a fresh opportunity to address the appropriate test to determine when people are deprived of their right to access courts. The Appellant initially requested direct review from the Supreme Court while *Gonzales* was pending. After Gonzales, this case was sent back to the Court of Appeals. This allowed the parties to brief the test to the Court of Appeals.

The Appellant's reply brief performed a *Gunwall* analysis of the state constitutional right to access courts in Art. I §10 compared to the federal access to courts right through the First Amendment. *Reply brief p. 21-30.* This included the text

of our constitution, the state's history that went into Art. I §10, and review of state and common law jurisprudence showing how vital the right to access courts is to our state. *Id.* This briefing provides a basis to define the level of protection our state constitution should afford the right to access courts.

The Appellant's reply also provides an appropriate test of the following:

> A person's right to access courts is presumed. The right may only be limited to protect the significant and fundamental rights of others. The burden of persuasion is on the party opposing the right to prove that access to courts must be restricted in order to prevent a substantial threat to another's significant and fundamental rights.[1] – *Reply brief p. 32.*

This test was created by analyzing the *Gunwall* factors, the need for the government's involvement in access to courts versus the government's lack of involvement in other rights,

[1] The test has been modified to make its words more precise, but is substantially the same as briefed since it is supported by reasoning and case law.

and the interpretation of Art. I §10 around open courts. *Reply brief p. 32-34.*

RCW 59.16.660 prevents some people from accessing courts unless they first get approval from a nongovernment contractor. The parties have briefed whether this violates the right to access courts and the tests that they believe should resolve the question. The issue is ripe and well-briefed for the Court. Further briefs are allowed under the rules, and Amici makes this an essential constitutional issue for the Court to hear.

2. The issues of whether RCW 59.16.660 a) improperly limits the superior court's jurisdiction, and b) violated the non-delegation doctrine are significant issues of law under the Washington Constitution.

As implemented, RCW 59.16.660 gave DRCs the power to decide if a landlord had followed ERPP and deserved certification. Without this certification, a superior court lacked the authority to "hear" the matter. *Id.* The DRCs' certification decisions are made in a "black box" of secrecy. CP 106. There

is also no ability to appeal these decisions to any government agency or the courts. CP 122-132.

This triggers important issues of law around the superior court's jurisdiction, non-governmental contractors exercising judicial power, and the legislature's delegation of its power to others.

It is axiomatic that constitutionally vested judicial power in courts by the constitution cannot be abrogated by statute. *James v. Cnty. of Kitsap*, 154 Wn.2d 574, 588, 115 P.3d 286, 293 (2005). The legislature can set procedural requirements that require substantial compliance. *Id.* However, the legislature cannot make the court's power depend upon the function of another official. *Blanchard v. Golden Age Brewing Co.*, 188 Wash. 396, 420, 63 P.2d 397, 407 (1936). As said by this Court over 80 years ago:

> One whose rights are invaded and who is faced with an irreparable injury is not required to seek the grace, or to await the pleasure and consequent delay of public officers. He is not required to argue his case or to address his importunities to a policeman, nor is such

> officer to be expected to determine the civil rights of a litigant. The proper forum for such matters is the court. - *Id.*

The legislature cannot also abdicate or transfer its legislative functions to others. *Associated Gen. Contractors of Washington v. State*, 200 Wn.2d 396, 404, 518 P.3d 639, 643 (2022). In contrast, the legislature can give some power to determine facts or the state of things for the application of law to depend, which must come with guidelines and protections. *Id.* Delegation to private organizations raises more concerns given that private organizations are not elected by the people. *Id.* at 405-406; *United Chiropractors of Washington, Inc. v. State*, 90 Wn.2d 1, 5, 578 P.2d 38, 40 (1978).

Whether the legislature may empower DRCs to decide who can go to court and who cannot presents a significant issue of constitutional law. The legislature currently believes it is a valid constitutional scheme to give non-government contractors the power to decide what should trigger certification and when/if to issue a certification for a person to go to court.

Given the paramount importance of the access to court right, this presents an issue that begs for review.

3. When a superior court local rule becomes a legislative action is a significant issue under Washington's constitution.

Neither the Supreme Court nor the superior courts are authorized to promulgate court rules that impose duties on nonlitigants before a lawsuit commences. *Carroll v. Akebono Brake Corp.*, 22 Wn. App. 2d 845, 865, 514 P.3d 720, 736 (2022). Our government is divided into three branches with the legislative branch writing the law and the judiciary saying what the law is. *Colvin v. Inslee*, 195 Wn.2d 879, 892, 467 P.3d 953, 961 (2020). The fundamental functions of each branch are inviolate, and the judicial branch cannot exercise the powers of another branch. *Id.* "It has by many been deemed a maxim of vital importance, that [the executive, legislative, and judicial] powers should forever be kept separate and distinct." 2 J. Story, *Commentaries of on the Constitution of the United States* §519, p. 602 (1833).

The superior courts' standing orders implementing ERPP violate their fundamental function in developing Washington law. Our courts' role in developing the law is dependent on controversies rising through the trial court, up to the appellate court, and eventually to the Supreme Court. Debra Stephens, *The Once and Future Promise of Access to Justice in Washington's Article i, Section 10*, 91 Wash. L. Rev. Online 41, 54 (2016); See *Matter of Arnold*, 190 Wn.2d 136, 152, 410 P.3d 1133, 1140 (2018) (Horizontal stare decisis is rejected because rigorous debate at lower court levels helps develop better law). Allowing superior courts to impose rules before the court has taken up the controversy significantly changes the courts' constitutional role. Such a change presents significant question of law regarding Washington's constitution.

B. The Issues Involved in This Appeal Are of Substantial Public Interest That Should Be Determined By the Supreme Court (RAP 13.4(b)(4))

Open access to courts is the most substantial public interest the Supreme Court could address. The history of

humanity, as sampled in Jewish, Roman, and Anglo-American traditions, sets forth that a society's success or failure will be judged by the justice it provides.[2] The United States Supreme Court has noted that open courts and the provision of justice are the litmus test of whether we are a functioning society or in societal breakdown. *The Amy Warwick*, 67 U.S. 635, 667-668 (1862).

RCW 59.16.660 and the ERPP superior court orders were adopted because of a perceived "eviction crisis." The purported "crisis" was that landlords were recovering possession of property they owned by court order after following a process dictated by law. There was no showing that the courts were unfair, that tenants were not getting due process or able to raise defenses, or that tenants were otherwise being deprived of rights protected by law. Instead, valid judicial outcomes were themselves declared a "crisis."

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[2] See Exodus 23:6; Leviticus 19:15-18; Micah 6:8; Cicero: In Verrem 1; Magna Carta Chapter 29 (1297 published)

It is critical for this Court to address when the legislature can declare judicial outcomes a "crisis" and close access to courts.

Given how vital access to courts and justice is in our Constitution, the questions of if, when, why, and how the legislature can empower a private contractor to determine who gets that access is of utmost public concern. Given how necessary the provision of justice is to our societal foundations and the basic human condition, such questions are not just substantial to the public interest, but go to the very meaning of who we are as a society. This matter begs for the Supreme Court's review.

C. The Appellate Court's Decision About Mootness Is Wrong

In *Gonzales v. Inslee*, this Court addressed an eviction moratorium issued by the Governor even though it had expired. *Gonzales*, 2 Wn.3d at 289-290. The court rejected claims that the issues were moot because the governor's power in

emergency status is a matter of public concern, and our state will undoubtedly face such crises again. *Id.*

Despite *Gonzales,* the appellate court declared this matter moot because "[t]he 2021 legislature adopted a novel approach to reduce the severity of housing insecurity caused by a once-in-a-century pandemic." *Washington Bus. Properties Ass'n v. State*, 39988-5-III, 2024 WL 4380658, at *2 (Wash. Ct. App. Oct. 3, 2024). The court of appeals stated that because a pandemic is not likely to happen again, the legislature's unique approach is not likely to be used again. *Id.* This is the wrong analysis.

Novel actions, plans, and ideas open the door to becoming normal. This is especially true when at least one court, here the superior court, has approved such an idea. We can look back over our history and realize many plans that started as "novel" are now expected. Novel actions are the basis of American genius, whether it is something like the Internet in present day or the separation of powers elucidated by Madison

at the dawn of our country.[3] As pointed out by Justice Holmes, the "felt necessities of the time" significantly impact the law. Oliver Wendell Holmes, Jr., *The Common Law,* p. 1 (1881).

The legislature's choice to use a "novel" scheme of blocking court access to address a problem is a crucial reason for the Supreme Court to review this case. It is an essential judicial function to decide what acts violate the constitution, even when the decision is difficult. *Colvin v. Inslee*, 195 Wn.2d 879, 903, 467 P.3d 953, 966 (2020), J. Gonzalez dissent. It is imperative for this Court to give guidance on whether the legislature can close access to courts as a scheme to address what the legislature has determined is a "crisis."

V. CONCLUSION

This case presents significant questions of Washington constitutional law. Chief among these is what the test should be to determine when the right to access courts has been violated by the legislature. The extent to which the legislature

[3] See Federalist No. 51 (1788)

may limit judicial power or delegate its authority and judicial authority to private entities is also triggered by this case and the ERPP statute. ERPP also triggers a critical question, not answered before, about superior court's ability to promulgate legislative "standing orders" that mandate action before the courts obtain jurisdiction.

The issues involved in this case are too important to leave unattended. They matter to society and to our system's constitutional integrity. Letting them go unaddressed will mean they will arise again. The issues are well briefed, and the record details the practical impact and risks of a statute that makes a private contractor the courthouse gatekeeper. The WBPA requests this court to accept certification for the benefit of Washington.

Respectfully submitted this 1st day of November, 2024.

I certify the number of words contained in this document, exclusive of words contained in the appendices, the title sheet, the table of contents, the table of authorities, the certificate of compliance, the certificate of service, signature blocks, and pictorial images (e.g., photographs, maps, diagrams, and exhibits) is 3,636.

SWEETSER LAW OFFICE, PLLC

Marshall Casey (Oct 31, 2024 22:24 PDT)

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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury under the laws of the State of Washington that on the 1st day of November, 2024, I caused the foregoing to be electronically filed in the Washington State Court of Appeals, Division III and electronically served according to the Court's protocols for electronic filing and service upon all parties.

s/ Marshall W. Casey
Marshall W. Casey

APPENDIX A

10-3-24 Court of Appeals Unpublished Opinion Case# 39988-5-III

FILED
OCTOBER 3, 2024
In the Office of the Clerk of Court
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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

WASHINGTON BUSINESS PROPERTIES ASSOCIATION, a Washington Nonprofit Corporation, Appellant, v. STATE OF WASHINGTON, Respondent.	)	No. 39988-5-III UNPUBLISHED OPINION

LAWRENCE-BERREY, C.J. — Washington Business Properties Association (WBPA) appeals the trial court's order granting judgment on the pleadings, thereby dismissing WBPA's challenge to the constitutionality of RCW 59.18.660, the "Eviction Resolution Pilot Program" (ERPP). By its terms, the statute expired on July 1, 2023.

We decline to review WBPA's challenge because the expiration of the statute renders this controversy moot, and because the factors for reviewing moot controversies do not weigh in WBPA's favor.

FACTS

In 2021, the legislature enacted Engrossed Second Substitute Senate Bill 5160 in response to a growing eviction crisis. The legislature described why it enacted the legislation:

> [T]he COVID-19 pandemic is causing a sustained global economic slowdown, and an economic downturn throughout Washington [S]tate with unprecedented numbers of layoffs and reduced work hours for a significant percentage of our workforce. Many of the [S]tate's workforce has been impacted by these layoffs and substantially reduced work hours and have suffered economic hardship, disproportionately affecting low and moderate-income workers resulting in lost wages and the inability to pay for basic household expenses, including rent. Hundred of thousands of tenants in Washington are unable to consistently pay their rent, reflecting the continued financial precariousness of many renters in the state. . . . Because the COVID-19 pandemic has led to an inability for tenants to consistently pay rent, the likelihood of evictions has increased, as well as life, health, and safety risks to a significant percentage of the [S]tate's tenants.

Engrossed Second Substitute S.B. 5160, 67th Leg., Reg. Sess. (Wash. 2021), *enacted as* LAWS OF 2021, ch. 115, § 1.

The enactment, codified under RCW 59.18.660, was known as the Eviction Resolution Pilot Program (ERPP). The ERPP required landlords to participate in an

"eviction resolution program" before filing an unlawful detainer action for nonpayment of rent. RCW 59.18.660(2). The legislature charged dispute resolution centers, situated in each county, with administering the program. RCW 59.18.660(1). Until such a center certified a plaintiff-landlord's participation in the program, the statute prevented any trial court from hearing that landlord's unlawful detainer action for nonpayment of rent. RCW 59.18.660(5). Following the legislature's enactment, every superior court in Washington promulgated standing orders effectuating the statute. By its terms, RCW 59.18.660 expired July 1, 2023. RCW 59.18.660(9).

In 2022, WBPA petitioned in Spokane County Superior Court to declare RCW 59.18.660 unconstitutional. WBPA argued the statute (1) interfered with trial courts' original jurisdiction over real property disputes, (2) violated the separation of powers doctrine, (3) impermissibly interfered with landlords' access to courts, (4) violated landlords' due process and equal protection rights, and (5) violated the nondelegation doctrine.

The State answered WBPA's complaint, and successfully moved for a judgment of dismissal on the pleadings under CR 12(c).

WBPA timely appeals.

ANALYSIS

MOOTNESS

The State argues that WBPA's appeal is moot and should be dismissed. An appeal is moot where the court hearing the appeal "can no longer provide effective relief." *Orwick v. City of Seattle*, 103 Wn.2d 249, 253, 692 P.2d 793 (1984). The parties do not dispute that the appeal is moot.

Notwithstanding mootness, a court may hear an appeal where the case presents a question of "continuing and substantial public interest." *Sorenson v. City of Bellingham*, 80 Wn.2d 547, 558, 496 P.2d 512 (1972). Under this standard, the WBPA urges us to review its constitutional arguments. We decline to do so.

When determining whether an otherwise moot case presents a question of continuing and substantial public interest, courts consider (1) the public relevance of the question, (2) the benefit of a judicial determination for policymaking purposes, and (3) the likelihood of the question recurring. *Randy Reynolds & Assocs., Inc. v. Harmon*, 193 Wn.2d 143, 152, 437 P.3d 677 (2019).

The 2021 legislature adopted a novel approach to reduce the severity of housing insecurity caused by a once-in-a-century pandemic. This is the only time in our State's 135-year history that unlawful detainer actions have been conditioned upon a landlord's participation in mediation. Given the unlikelihood that the circumstances precipitating

this measure will recur in our lifetimes, the first and third factors noted above outweigh any benefit a judicial determination could provide policymakers, and we dismiss the appeal as moot.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

Lawrence-Berrey, C.J.

WE CONCUR:

Fearing, J.

Pennell, J.

APPENDIX B

RCW 59.18.660

West's Revised Code of Washington Annotated
Title 59. Landlord and Tenant (Refs & Annos)
Chapter 59.18. Residential Landlord-Tenant Act (Refs & Annos)

This section has been updated. Click here for the updated version.

West's RCWA 59.18.660

59.18.660. Eviction resolution pilot program *(Expires July 1, 2023)*

Effective: April 22, 2021 to June 30, 2023

(1) Subject to the availability of amounts appropriated for this specific purpose, the administrative office of the courts shall contract with dispute resolution centers as described under chapter 7.75 RCW within or serving each county to establish a court-based eviction resolution pilot program operated in accordance with Washington supreme court order no. 25700-B-639 and any standing judicial order of the individual superior court.

(2) The eviction resolution pilot program must be used to facilitate the resolution of nonpayment of rent cases between a landlord and tenant before the landlord files an unlawful detainer action.

(3) Prior to filing an unlawful detainer action for nonpayment of rent, the landlord must provide a notice as required under RCW 59.12.030(3) and an additional notice to the tenant informing them of the eviction resolution pilot program. The landlord must retain proof of service or mailing of the additional notice. The additional notice to the tenant must provide at least the following information regarding the eviction resolution pilot program:

(a) Contact information for the local dispute resolution center;

(b) Contact information for the county's housing justice project or, if none, a statewide organization providing housing advocacy services for low-income residents;

(c) The following statement: "The Washington state office of the attorney general has this notice in multiple languages on its website. You will also find information there on how to find a lawyer or advocate at low or no cost and any available resources to help you pay your rent. Alternatively, you may find additional information to help you at http://www.washingtonlawhelp.org";

(d) The name and contact information of the landlord, the landlord's attorney, if any, and the tenant; and

(e) The following statement: "Failure to respond to this notice within 14 days may result in the filing of a summons and complaint for an unlawful detainer action with the court."

(4) At the time of service or mailing of the pay or vacate notice and additional notice to the tenant, a landlord must also send copies of these notices to the local dispute resolution center serving the area where the property is located.

(5) A landlord must secure a certification of participation with the eviction resolution program by the appropriate dispute resolution center before an unlawful detainer action for nonpayment of rent may be heard by the court.

(6) The administrative office of the courts may also establish and produce any other notice forms and requirements as necessary to implement the eviction resolution pilot program.

(7) Any superior court, in collaboration with the dispute resolution center that is located within or serving the same county, participating in the eviction resolution pilot program must report annually to the administrative office of the courts beginning January 1, 2022, until January 1, 2023, on the following:

(a) The number of unlawful detainer actions for nonpayment of rent that were subject to program requirements;

(b) The number of referrals made to dispute resolution centers;

(c) The number of nonpayment of rent cases resolved by the program;

(d) How many instances the tenant had legal representation either at the conciliation stage or formal mediation stage;

(e) The number of certifications issued by dispute resolution centers and filed by landlords with the court; and

(f) Any other information that relates to the efficacy of the pilot program.

(8) By July 1, 2022, until July 1, 2023, the administrative office of the courts must provide a report to the legislature summarizing the report data shared by the superior courts and dispute resolution centers under subsection (7) of this section.

(9) This section expires July 1, 2023.

Credits
[2021 c 115 § 7, eff. April 22, 2021.]

OFFICIAL NOTES

Finding--Intent--Application--Effective date--2021 c 115: See notes following RCW 59.18.620.

West's RCWA 59.18.660, WA ST 59.18.660
Current with all legislation from the 2024 Regular Session of the Washington Legislature.

End of Document

APPENDIX C

Washington Constitutional Provisions

ARTICLE I:

SECTION 10 ADMINISTRATION OF JUSTICE. Justice in all cases shall be administered openly, and without unnecessary delay.

ARTICLE IV:

SECTION 1 JUDICIAL POWER, WHERE VESTED. The judicial power of the state shall be vested in a supreme court, superior courts, justices of the peace, and such inferior courts as the legislature may provide.

SECTION 6 JURISDICTION OF SUPERIOR COURTS. Superior courts and district courts have concurrent jurisdiction in cases in equity. The superior court shall have original jurisdiction in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand or the value of the property in controversy amounts to three thousand dollars or as otherwise determined by law, or a lesser sum in excess of the jurisdiction granted to justices of the peace and other inferior courts, and in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for by law; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of pro bate, of divorce, and for annulment of marriage; and for such special cases and proceedings as are not otherwise provided for. The superior court shall also have original jurisdiction in all cases and of all proceedings in which jurisdiction shall not have been by law vested exclusively in some other court; and said court shall have the power of naturalization and to issue papers therefor. They shall have such appellate jurisdiction in cases arising in justices' and other inferior courts in their respective counties as may be prescribed by law. They shall always be open, except on nonjudicial days, and their process shall extend to all parts of the state. Said courts and their judges shall have power to issue writs of mandamus, quo warranto, review, certiorari, prohibition, and writs of habeas corpus, on petition by or on behalf of any person in actual custody in their respective counties. Injunctions and writs of prohibition and of habeas corpus may be issued and served on legal holidays and nonjudicial days.

10-31-24 Petition for Review and Apendices

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Appellate Court Case Title:	WA Business Properties Association v. State of Washington
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