

SUPREME COURT OF PENNSYLVANIA

21 EM 2020

**IN RE: FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
– PHILADELPHIA MUNICIPAL COURT’S REQUEST
PURSUANT TO PA.R.J.A. 1952(B)(2)(S) TO AUTHORIZE
THE CONTINUATION OF THE *PHILADELPHIA
MUNICIPAL COURT LANDLORD-TENANT DIVERSION
PROGRAM***

**RESPONSE OF THE PENNSYLVANIA OFFICE OF ATTORNEY
GENERAL IN SUPPORT OF PHILADELPHIA MUNICIPAL COURT’S
REQUEST TO CONTINUE THE LANDLORD-TENANT DIVERSION
PROGRAM**

Pursuant to this Court’s order of October 28, 2021, the Pennsylvania Office of Attorney General (OAG) hereby files this Response in support of the Philadelphia Municipal Court’s Request to Extend the Philadelphia Municipal Court Landlord-Tenant Diversion Program (filed Oct. 20, 2021, and granted in part on Oct. 28, 2021).

For the reasons stated in the attached letter (Exhibit A), OAG respectfully asks the Court to extend authorization for the program beyond its current expiration on November 30, 2021. The Diversion Program has proven to be a great success, benefiting tenants and landlords alike, and is rightly heralded as a model for other programs across the country. Indeed, the success of Philadelphia’s program has

spurred interest in creating similar programs across the Commonwealth. OAG encourages the Court to authorize similar programs in other counties.

Respectfully submitted,

Dated: November 8, 2021

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EXHIBIT A



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JOSH SHAPIRO
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October 22, 2021

The Honorable Max Baer
Chief Justice, Supreme Court of Pennsylvania
Pennsylvania Judicial Center
601 Commonwealth Avenue
Suite 1500
Harrisburg, PA 17106

Dear Chief Justice Baer:

I am writing regarding the Philadelphia Municipal Court Landlord-Tenant Diversion Program. I am grateful for the support you and your colleagues have shown for this important program, and I respectfully ask the Court to grant the request submitted by President Judge Patrick F. Dugan to extend authorization for the program beyond its current expiration on October 31, 2021. The Diversion Program has proven to be a great success, benefiting tenants and landlords alike, and is rightly heralded as a model for other programs across the country. Indeed, the success of Philadelphia's program has spurred interest in creating similar programs across the Commonwealth and I encourage the Court to authorize similar programs in other counties.

As we are all aware, the COVID-19 pandemic has placed enormous burdens on our communities and our public institutions, including our courts. An unprecedented number of families in Philadelphia and throughout the Commonwealth have struggled to pay their rent during this crisis. Meeting this emergency has required encouraging the use of mutually beneficial, non-litigation dispute resolution programs. In that spirit, the Diversion Program has been a resounding success: to date, more than ninety percent of mediations conducted under the program have avoided eviction. With the support of the Diversion Program, Philadelphia has helped more than 33,000 households access more than \$200 million in rental assistance funds. Moreover, because records of eviction cases cannot be expunged, regardless of outcome, the Program's pre-filing requirement allows tenants who are able to reach agreement with their landlord to avoid being permanently marked as having been the target of an eviction proceeding.

Prior to the COVID-19 pandemic and the implementation of the Diversion Program, the Philadelphia Municipal Court received around 20,000 eviction complaints every year, impacting one in 14 Philadelphia renter households.¹ Historically, nearly two-thirds of these complaints were based exclusively on non-payment of rent.² For landlords, non-payment can result in an inability to pay a mortgage and potential loss of the property.³ For tenants, non-payment can result from an inability to pay, but can also result from a lawful withholding in response to poor housing conditions that threaten habitability.⁴

Without the Diversion Program, eviction cases often suffer from a power and knowledge imbalance between the parties that can make achieving fair outcomes difficult. Only 10% of tenants in eviction proceedings pre-pandemic reported having access to legal counsel, compared to 82% of landlords.⁵ In 74% of eviction cases pre-pandemic, only the landlord was represented by counsel.⁶ Such an imbalance in access to representation between tenants and landlords benefits neither the Philadelphia Municipal Court nor the interests of justice. And an eviction for non-payment of rent benefits neither party: the tenant risks homelessness and must quickly secure other housing and move all of their belongings, while the landlord must quickly find a new tenant or lose money on a vacant property.

Against this backdrop, the Diversion Program encourages fair, efficient, and mutually beneficial outcomes that reduce the burden on the Philadelphia Municipal Court. Each tenant is assigned a City-funded housing counselor who helps tenants understand their rights and communicate productively with the landlord. Counselors also assist tenants in assessing available financial resources, including applying for programs such as rental assistance or unemployment benefits. The mediation date typically occurs within a month, creating the opportunity for a resolution in less time than an eviction would normally require.⁷ Mediations are facilitated by

¹ Community Legal Services, *Breaking the Record: Dismantling the Barriers Eviction Records Place on Housing Opportunities*, at 7 (Nov. 2020), https://clsphila.org/wp-content/uploads/2020/12/Breaking-the-Record-Report_Nov2020.pdf (hereinafter “CLS Report 2020”).

² Mayor’s Taskforce on Eviction Prevention and Response, *Report and Recommendations*, at 10 (June 2018), <https://www.phila.gov/hhs/PDF/Mayors%20Task%20Force%20on%20Eviction%20Prevention%20and%20Response-Report.pdf> (hereinafter “City Report 2018”).

³ *Id.*

⁴ *Id.*

⁵ CLS Report 2020, *supra* note 1, at 7.

⁶ City Report 2018, *supra* note 2, at 11.

⁷ *Id.* at 15-17 (eviction process can take six to 12 weeks, assuming no backlog).

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trained mediators with the goal of reaching an agreement that works for everyone—the tenant remains in the home and the landlord receives regular payments of rent.

The City has committed to fund and staff the Diversion Program through the end of 2024, and a majority of City Councilmembers are dedicated to supporting the program beyond that date as well. In addition, the City recently received an additional \$35 million in federal rent assistance and expects to receive further federal funding in the coming months. President Judge Dugan and his colleagues are likewise committed to the program, having seen firsthand the benefits it produces for tenants, landlords, and the judicial system. I respectfully ask the Court to authorize the continued authorization of the Landlord-Tenant Diversion Program in Philadelphia and to support the development of similar programs across the Commonwealth.

All the best,



JOSH SHAPIRO

cc: Justices of the Supreme Court
Geoff Moulton, Court Administrator of Pennsylvania