

IN THE SUPREME COURT OF PENNSYLVANIA

Docket No. 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

Patrick F. Dugan, President Judge of the Philadelphia Municipal Court, hereby requests the Supreme Court to authorize the continued extension of the *Philadelphia Municipal Court Landlord-Tenant Diversion Program*, pursuant to Pa.R.J.A. 1952(B)(2)(s), and represents as follows:

1. By order dated July 2, 2021¹, Your Honorable Court authorized the continuation, through August 31, 2021, of the *Philadelphia Municipal Court Landlord-Tenant Diversion Program* ("*Diversion Program*") which had been implemented by an order issued by the undersigned on April 1, 2021².
2. The order which adopts the *Diversion Program* provides, in relevant part, as follows:

... no landlord may file a Landlord Tenant Complaint seeking possession based on non-payment of rent owed prior to the date of filing until 45 days after they have first completed an application with the PHL Rent Assist Program [*"Rent Assist Program"*] through www.phlrentassist.org. Upon completing the application, the landlord will be automatically enrolled in the Eviction Diversion Program as well...
3. The *Diversion Program* was implemented with the input and cooperation of various stakeholders which culminated in the adoption of the *Emergency Housing Protection Act*³ by the Council of the City of Philadelphia, and enables landlords and tenants to arrive at an agreement that works for both parties, without having to go to Court.
4. Among the benefits of the pre-filing *Diversion Program* and mediation component include helping tenants avoid an eviction, while also helping landlords avoid vacancies and unit turnover costs.
 - a. This pre-filing *Diversion Program* has been successful and has facilitated judicial management of landlord tenant cases due to the success of the *Rent Assist Program*.
 - b. The City of Philadelphia has received a total 77,339 rental assistance applications through the *Rent Assist Program*, of which 42,041 were received between April 1, 2021 and August 6, 2021 ("Phase 4"). Total assistance paid to date exceeds \$128,145,278 and the remaining funds available through the *Rent*

¹ The July 2, 2021 Order is attached.

² The Administrative Order (Amended No. 15 of 2021) is attached.


³ See Philadelphia Code, Section 9-809; Ordinance No. 200616 is attached.

Assist Program totals \$65,024,457. In addition, the City of Philadelphia anticipates additional funding for the *Rent Assist Program*, and discloses its success through a regularly updated dashboard at <https://phlrentassist.org/dashboard/>.

5. There are currently more than a thousand *Alias Writs of Possession* (lockouts/evictions) issued by the Court in pending cases and hundreds of *Alias Writs of Possession* (lockouts/evictions) which are imminently to be served upon cessation of any applicable moratoria.
6. At the height of the pandemic, due to the scheduling impact of social distancing reducing the volume of cases that could be heard in any single day, the Philadelphia Municipal Court was not able to schedule landlord tenant cases in accordance with the law requiring them to be scheduled within 30 days of filing. At points they were scheduled more than 90 days out. Currently, based on the success of this Diversion Program, we are close to achieving compliance with the 30 day filing to trial requirement. The prefiling diversion requirement has been essential for court management.
7. In light of the extension authorized by Your Honorable Court on July 2, 2021, the Philadelphia Municipal Court has been able to appropriately manage not only the existing inventory but also the newly filed cases. Nonetheless, the Philadelphia Municipal Court reasonably anticipates that the danger to the tenants and the public at large posed by the evictions will increase in light of the substantial and high rates of community transmission levels in Philadelphia County. Moreover, the uncertain validity and limited time-frame of the recent order issued by the Centers for Disease Control will undoubtedly increase our caseload to unmanageable levels. The continuation of the Philadelphia Municipal Court Diversion Program will enable the Court to manage the backlog of evictions and the anticipated filing of claims for possession based on non-payment of rent while both landlords and tenants seek to utilize the available conciliation, mediation services and funding as noted above.

Therefore, the undersigned respectfully request that this Court authorize the Philadelphia Municipal Court to require that a landlord first file an application with the PHL Rent Assist Program through www.phlrentassist.org and then wait 45 days before filing a Landlord-Tenant Complaint seeking possession based on non-payment of rent. Moreover, the undersigned respectfully requests that such authorization and extension of the *Philadelphia Municipal Court Landlord-Tenant Diversion Program* continue through December 31, 2021 unless otherwise limited or extended by Your Honorable Court.

Date: August 10, 2021



Honorable Patrick F. Dugan
President Judge, Philadelphia Municipal Court
First Judicial District of Pennsylvania

**IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT**

IN RE: FIRST JUDICIAL DISTRICT OF PENNSYLVANIA	: : :	No. 21 EM 2020
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ORDER

PER CURIAM

AND NOW, this 2nd day of July, 2021, the Request “to Temporarily Authorize Continuation of the Philadelphia Municipal Court Landlord Tenant Diversion Program” is GRANTED, insofar as the Request asks that this Court confer authority on the President Judge of the Municipal Court “to require that a landlord first file an application with the PHL Rent Assist Program through www.phlrentassist.org and then wait 45 days before filing a Landlord-Tenant Complaint seeking possession based on non-payment of rent.” Request at 2. The President Judge of the Municipal Court has such authority through August 31, 2021.

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
PHILADELPHIA MUNICIPAL COURT
President Judge Administrative Order**

Amended No. 15 of 2021

**In re: Residential Eviction Moratorium and Exceptions. Service of Writs and
Alias Writs of Possession**

AMENDED ORDER

AND NOW, this 1st day of April, 2021, the within Order is amended to read as follows:

upon consideration of:

- (a) the continuing global pandemic affecting the gathering of people, requiring social distancing, and preventing the listing of Landlord/Tenant cases in large numbers;
- (b) the Order dated March 28, 2021 issued by Rochelle P. Walensky, Director of the Centers for Disease Control and Prevention extending the eviction moratorium through June 30, 2021;
- (c) the Eviction Diversion Program being conducted by the City of Philadelphia which has saved the court's resources, prevented negative consequences of eviction during a pandemic, and benefited landlords and tenants in coming to agreements in lieu of lawsuits;
- (d) the continuing declaration of Judicial Emergency in the First Judicial District, and the emergency powers provided under Pa.R.J.A. 1952(B) to order the diversion of cases through alternative dispute resolution programs for health and safety reasons accomplished both by reducing the congregation of litigants in the courthouse as well as by avoiding evictions through agreements facilitated by such eviction diversion programs;
- (e) the approximate one hundred million dollars (~\$100,000,000.00) in rental assistance funds that have been made available to the City of Philadelphia which may be accessed through the eviction diversion program; and
- (e) the Landlord Tenant Act which requires cases to be heard within 21 days, but as of the date of this order, due to the global pandemic, Landlord/Tenant trials are now being scheduled over ninety (90) days out, then,

it is hereby ORDERED and DECREED that:

- (1) As of April 1, 2021, no landlord may file a Landlord Tenant Complaint seeking possession based on non-payment of rent owed prior to the date of filing until 45 days after they have first completed an application with the PHL Rent Assist Program through www.phlrentassist.org. Upon completing the application, the landlord will be automatically enrolled in the Eviction Diversion Program as well. The PHL Rent Assist Hotline is (215) 320-7880. It will be a dispositive affirmative defense for any tenant to show that the landlord did not pursue either rental assistance or eviction diversion through the City of Philadelphia Program timely or in good faith.
- (2) As of the date of this order, Plaintiff Landlords may only request the Landlord Tenant Officer to serve outstanding *writs of possession* that have not yet been served, other than those provided in Section (5) below. Provided, however, that the Landlord Tenant Officer shall insert “May 16, 2021” as the date the Named Defendant, Tenants and Occupants are to vacate the premises (“ You are hereby to vacate premises ... no later than ____.”) on the writ of possession Cover Sheet. The intent of this order is to permit the service of the first of the two writs required for a Plaintiff Landlord to seek possession, in anticipation of the resumption of lockouts after June 30, 2021 or at some other point in the future when conditions permit.
- (3) No *alias writs of possession* issued by the Philadelphia Municipal Court shall be served in any residential case (i.e., no residential evictions) until after May 16, 2021, except upon order of court previously entered or upon good cause shown as provided in this order.
- (4) In residential cases, Plaintiff Landlords who have not already obtained an exemption who have obtained a judgement of possession may seek leave of court to be exempted from the eviction moratorium by filing a petition, supported by exhibit(s) and sworn affidavits or declarations subject to the penalty of perjury, establishing good cause to serve a writ of possession or an alias writ of possession, pursuant to any of the following bases:
 - (a) Good faith belief based on first-hand knowledge that the tenant has already vacated the unit/property.
 - (b) Breach of the lease terms, such as alleged criminal conduct or damage to the property, served as the basis for the Judgement of Possession. Habitual non-payment, late payment of rent or non-payment of utilities shall not be good cause under this order. Plaintiff Landlords should demonstrate a material breach in support of their petition.
 - (c) Landlords owning no more than five (5) rental units, either individually or through separate entities, who are in severe financial distress, supported by filed documentary evidence (i.e., not solely testimonial evidence) of such distress.

- (d) Other compelling basis not specifically enumerated above, which shall be strictly scrutinized to ensure that the negative effects of a residential eviction during the pandemic are mitigated to the satisfaction of the Court.
- (5) Notwithstanding the relief available as provided in Section (4) above, Plaintiff Landlords are not entitled to request leave of court for permission to serve writs of possession or alias writs of possession if the eviction is otherwise prohibited by law, such as provided in the September 1, 2020 Order issued by the Centers for Disease Control and Prevention, as extended through June 30, 2021.
- (6) Calculation of the six-month period set forth in Rule 126(e) (“[a]n alias writ of possession may not be issued after six months from the date of the judgment for possession without leave of court”) and the 180-day period for serving alias writs of possession (the practice of the Philadelphia Municipal Court is to serve the alias writ of possession within 180 days from the entry of a judgment for possession), shall exclude the time from March 16, 2020 through and including May 16, 2021, from the computation of those time periods. Landlords may file petitions to extend this 180 day period.
- (7) The Court will be closely monitoring the implementation and impact of the provisions of this order and the conditions surrounding the pandemic to determine the necessity of continuing, modifying or terminating any or all of the terms of this order.
- (8) This Order supersedes conflicting provisions contained in any prior Administrative Order.

BY THE COURT:

/s/ Patrick F. Dugan

**Patrick F. Dugan, President Judge
Philadelphia Municipal Court**

City of Philadelphia



(Bill No. 200616)

AN ORDINANCE

Amending Chapter 9-800 of The Philadelphia Code, entitled “Landlord and Tenant,” to address matters related to the landlord and tenant relationship during the novel coronavirus of 2019 pandemic, including but not limited to periods of applicability of various provisions, such as the applicable period of the eviction diversion program, and time frames applicable to qualification for certain provisions, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 9-800 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 9-800. LANDLORD AND TENANT

* * *

§ 9-809. COVID-19 Emergency Housing Protections.

* * *

(1) Definitions. The following definitions apply to this Section 9-809 only:

* * *

(b) COVID-19 emergency period. The period beginning on the date the ordinance adding Section 9-809 to the Code becomes law and ending August 31, 2020.

(b.1) COVID-19 inclusive emergency period. The period beginning March 1, 2020 and ending December 31, 2020.

(c) COVID-19 financial hardship. A tenant's or tenant's household member's loss of income due to any one or more of the following during the [COVID-19 emergency period or the retroactive emergency period] *COVID-19 inclusive emergency period*:

* * *

(5) Eviction Diversion Program

(a) The Commission, or such other City department or office as the Mayor may designate, is authorized to establish a residential eviction diversion program to

City of Philadelphia

BILL NO. 200616 continued

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facilitate dispute resolution between landlords and tenants, which may include one or more of the following: [consisting of the following:]

(.1) A conciliation conference between a landlord and tenant that has experienced a COVID-19 financial hardship to mediate an agreement for asserted residential lease violations.

(.2) A designated mediator and housing counselor that participates in the conciliation conference.

(.3) A designated housing counselor that engages with the tenant prior to the conciliation conference to educate and discuss available resources.

(.4) *Any other dispute resolution methods established by the residential eviction diversion program.*

(b) [Provided that this subsection (5)(b) expires on December 31, 2020, if] [the residential eviction diversion program authorized by this subsection, “Eviction Diversion Program,” is implemented, from the date of such implementation] *Beginning September 1, 2020, so long as the City is running a eviction diversion program consistent with this Section 9-809(5), no landlord shall take steps in furtherance of recovering possession of a residential property occupied by a tenant who has suffered a COVID-19 financial hardship other than providing a notice required under this Section 9-809 without first completing the eviction diversion program, [without first participating in a conciliation conference, including any requirements set forth in an applicable regulation,] unless one of the following requirements are met:*

(.1) Eviction is necessary to cease or prevent an imminent threat of harm by the person being evicted, including physical harm or harassment; or

(.2) The landlord has provided the affected tenants notice of such tenants' rights under this Section 9-809, and how to exercise such rights; [and] *the landlord has registered with the eviction diversion program; and thirty (30) days has passed both from the date the landlord provided the required notice of tenants’ rights and the landlord properly registered with the eviction diversion program; provided that such landlord shall thereafter continue to participate in the eviction diversion program.* [has contacted the eviction diversion program to schedule a conciliation conference but the program is unable to offer a date for a conciliation conference within thirty (30) days of the landlord's initial request to schedule; provided that such landlord shall thereafter participate in a conciliation conference when it becomes available, if prior to an eviction judgment being issued.]

(.3) *This subsection (5)(b) expires on March 31, 2021.*

* * *

City of Philadelphia

BILL NO. 200616 continued

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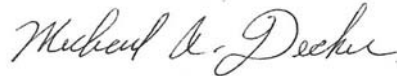
SECTION 2. This Ordinance shall be effective immediately.

City of Philadelphia

BILL NO. 200616 continued

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on December 10, 2020. The Bill was Signed by the Mayor on January 20, 2021.

A handwritten signature in cursive script, reading "Michael A. Decker".

Michael A. Decker
Chief Clerk of the City Council