

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

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

ORDER

PER CURIAM

AND NOW, this 28th day of October, 2021, the Request “to Authorize the Continuation of the Philadelphia Municipal Court Landlord-Tenant Diversion Program” is GRANTED, IN PART. The President Judge of the Municipal Court is granted the requested authority through November 30, 2021, subject to continued, adequate funding in the Emergency Rental Assistance Program.

Any individual or entity who desires to file a response in support or opposition to the continuation of the Philadelphia Municipal Court Landlord-Tenant Diversion Program may do so by filing such response with this Court’s prothonotary at the above docket number. The deadline for responses is **November 8, 2021**.

Justices Donohue and Mundy dissent.

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), for 120 days, and represents as follows:

1. By order dated August 16, 2021, Your Honorable Court authorized the continuation, through October 31, 2021, of the *Philadelphia Municipal Court Landlord-Tenant Diversion Program* (“*Diversion Program*”).
2. The *Diversion Program* was implemented with the input and cooperation of various stakeholders which culminated in the adoption of the *Emergency Housing Protection Act*¹ by the Council of the City of Philadelphia and enables landlords and tenants to arrive at an agreement that works for both parties, thereby eliminating the necessity of filing an appeal with the Court of Common Pleas when either the tenant or the landlord is dissatisfied with the decision issued by the Philadelphia Municipal Court.
3. The central feature of the Diversion Program, and the only aspect that implicates rule 1952(B), is the requirement that a landlord first file an application for rental assistance, and participate in good faith, with the *Emergency Rental Assistance Program* through <https://phlrentassist.org> and then wait 45 days before filing a Landlord-Tenant Complaint seeking possession based on non-payment of rent.
4. The Diversion Program as authorized by Your Honorable Court has been the most important factor in managing the docket of the Philadelphia Municipal Court, Civil Division, Landlord-Tenant Court (LLT Court) through the Pandemic. In essence, the anticipated “tidal wave” of evictions has been successfully redirected to alternative dispute resolution utilizing federal funds and most of the cases have been resolved there. More specifically,
 - a. Prior to the Pandemic, the LLT Court handled roughly 1,500 cases per month.
 - b. Since April 1, 2021, over 60,000 people filed for rental assistance. If those applicants had otherwise turned into defendants, the court would not have had the resources to handle such a volume, particularly where social distancing has reduced the number of cases the court is able to handle in a day.
 - c. Around 90 percent of assistance applications result in a resolution between landlord and tenant. This provides remarkable relief to the court.

¹ See Philadelphia Code, Section 9-809.

- d. The pre-filing requirement of the Diversion Program not only frees up the LLT Court resources but also helps reduce the stress on the affordable housing crisis in Philadelphia. The mere filing of an eviction lawsuit against a tenant is a factor that prospective landlords consider before agreeing to let a unit. Many residents of the City of Philadelphia stopped paying rent solely due to losing work as a result of the Pandemic. By facilitating this pre-filing resolution of these disputes, the program allows such tenants to avoid being stigmatized also allowing their landlords to receive federal funds. Stigmatized tenants are more likely to seek substandard housing which leads to more litigation in the court.
 - e. The Diversion Program's pre-trial mediation component has been highly successful, helping tenants avoid an eviction while also helping landlords avoid vacancies and unit turnover costs.
5. The *Diversion Program* has been successful and has facilitated judicial management of landlord tenant cases due to the tremendous success of Philadelphia's *Emergency Rental Assistance Program*. Detailed Program information is available, and is regularly updated, on its dashboard at <https://phlrentassist.org/dashboard/>.
- a. Rental assistance applications have been filed with the City of Philadelphia, through the *Emergency Rental Assistance Program*, in Phases, beginning in May 2020. Since then, and through the week ending on October 15, 2021, a total of \$199,761,853.89 has been disbursed.
 - b. Phase 4 opened on April 1, 2021. Between April 1, 2021 and the week ending on October 15, 2021, the *Emergency Rental Assistance Program* received a total of 66,957 applications and disbursed \$134,133,087.89.
 - c. The City of Philadelphia has received additional funding for the *Emergency Rental Assistance Program*: \$35 million of ERAP 2 Federal Funds; and \$14.9 million state funds.
 - d. The most recent filing data clearly demonstrate the continued need for the Diversion Program. During the last week (October 8 through October 15), the *Emergency Rental Assistance Program* received 1,717 new applications, assisted 407 new households, and disbursed \$3,636,037.43. More than \$39 million in funding remains to assist eligible tenants and landlords especially if this Court's Diversion Program can be extended through February 28, 2022, or until funding is exhausted. Funding may go unused if the program is not extended.
6. The existing diversion has allowed the court to manage the substantial backlog of writs and Alias writs. As of this writing, there are only 383 outstanding Alias Writs of Possession. The pretrial resolution of cases through diversion has allowed the backlog to be addressed without adding a substantial number of new Writs.
7. 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. At the time of the last request for extension of the pretrial diversion program, the Court was close to achieving compliance with the 30-

day filing to trial requirement. Due to volume and space limitations that is increasing somewhat at this time.

8. The number of cases the LLT Court hears is expected to increase after January 1, 2022, with larger numbers of people coming to court. Handling that volume of cases with the Diversion Program in place, while meeting the 30-day requirement will be a challenge but one we can meet. Without the pre-filing component of the Diversion Program, the promised “tsunami” of eviction filings will simply overwhelm us. That is why we are requesting authorization to continue this Program until February 28, 2022.
9. In light of the extension authorized by Your Honorable Court on August 16, 2021, the Philadelphia Municipal Court has been able to appropriately manage not only the existing inventory but also the newly filed cases. 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.
10. Finally, this Court is requesting this authorization but is mindful that funding may not be available in the future. If at any point during this authorization period, if funding for the program should cease or be suspended, it is the intention of the Court to suspend or cease the pre-filing diversion requirement.

Therefore, the undersigned respectfully request that this Court authorize the Philadelphia Municipal Court to require that a landlord first file an application for rental assistance, and participate in good faith, with the *Emergency Rental Assistance 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 February 28, 2022, subject to the foregoing funding concerns, unless otherwise limited or extended by Your Honorable Court.

Date: October 20, 2021

/s/ **Patrick Dugan**

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