



REINVESTMENT  
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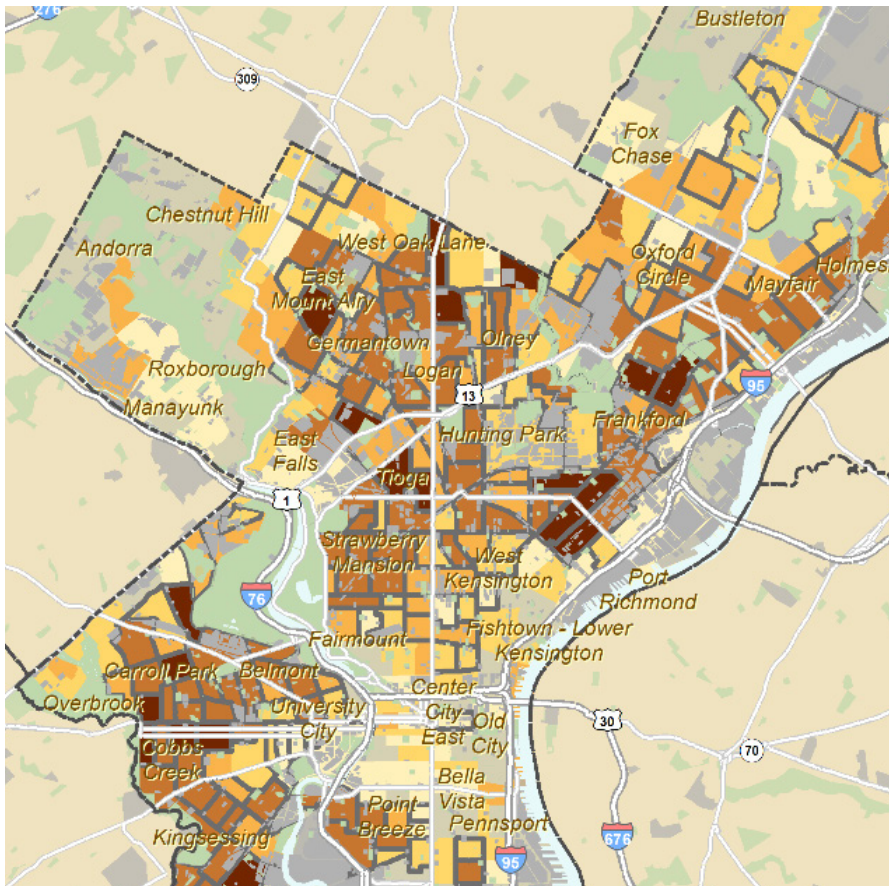


## Policy Brief

# Words from the Field: Practitioner Perspectives on Eviction Process Improvements in Philadelphia

Prepared by **REINVESTMENT FUND**

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## Acknowledgements

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### **About the Oak Foundation**

Oak Foundation commits its resources to address issues of global, social, and environmental concern, particularly those that have a major impact on the lives of the disadvantaged. Through our grant-making, we support others to make the world a safer, fairer, and more sustainable place to live. With offices in Europe, India, and North America, we make grants to organizations in approximately 40 countries worldwide.

### **About the William Penn Foundation**

The William Penn Foundation, founded in 1945 by Otto and Phoebe Haas, is dedicated to improving the quality of life in the Greater Philadelphia region through efforts that increase educational opportunities for children from low-income families, ensure a substantiable environment, foster creativity that enhances civic life, and advance philanthropy in the Philadelphia region. In 2021, the Foundation will grant more than \$117 million to support vital efforts in the region.

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*The opinions expressed in this report do not necessarily reflect the views of the Oak Foundation or the William Penn Foundation.*

## Introduction

*“People know they have rights. They may not know the technical language, but they know they have rights. We make it too difficult for people to enforce their rights.” (Legal Aid Attorney)*

The publication of Matthew Desmond’s critically acclaimed study *Evicted: Poverty and profit in the American city* drew attention to the challenges America’s renters face obtaining and sustaining decent housing.<sup>1</sup> Desmond’s work was a call to action for tenants, policymakers, attorneys, housing providers, legislators, and academics to understand and address the issue and its many causes and consequences. A critical piece of the eviction process centers on “the day in court”: the dynamics between tenants and providers of rental housing around Landlord-Tenant Court proceedings, as both parties seek to avail themselves of the rights and obligations they possess.

The growing recognition of eviction as a pervasive social problem has contributed to policy and programmatic changes concerned with promoting housing stability and providing legal protections for tenants.<sup>2</sup> In particular, the issue of legal representation for tenants facing eviction has gained increasing attention in cities across the US. In 2017, New York City was the first to pass “Right to Counsel” legislation, where low-income tenants are guaranteed access to a lawyer for their eviction hearing. Since then, San Francisco, CA; Cleveland, OH; Newark, NJ; Seattle, WA; and Philadelphia, PA, among others, have passed forms of Right to Counsel legislation. Research on these programs, including previous work by Reinvestment Fund, shows overwhelmingly that tenants with representation experience better outcomes, whether it be avoiding an eviction, receiving a workable payment plan offer, or benefiting from more time to find a new place to live.<sup>3</sup>

However, the COVID-19 pandemic has delayed the roll-out of Philadelphia’s Right to Counsel program.<sup>4</sup> Even when funded, only tenants earning up to 200% of the federal poverty line will be eligible for Right to Counsel representation. When the federal eviction moratorium ends on July 31<sup>st</sup>, 2021, many tenants outside of this income bracket will also be facing eviction, and many landlords will need to recoup months of lost income and expenses. This brief highlights the ways in which both legal representation and other procedures and processes can improve court outcomes for tenants and landlords as Municipal Court fully opens and the moratorium ends.

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<sup>1</sup> See: Desmond, M. (2017). *Evicted: Poverty and profit in the American city*. Harlow: Penguin.

<sup>2</sup> Treskon, M., Greene, S., Fiol, O. and Juno, A. (2021). Eviction Prevention and Diversion Programs: Early Lessons from the Pandemic. Urban Institute Housing Crisis Research Collaborative. Retrieved from: <https://www.urban.org/research/publication/eviction-prevention-and-diversion-programs-early-lessons-pandemic>

<sup>3</sup> New York City Office of Civil Justice (2020). *Universal Access to Legal Services: A Report on Year Three of Implementation in New York City*. Retrieved from: [https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ\\_UA\\_Annual\\_Report\\_2020.pdf](https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_UA_Annual_Report_2020.pdf); Office of Supervisor Dean Preston (2020). “Supervisor Dean Preston Holds Hearing on Implementation for Right to Counsel Law.” Retrieved from: [http://civilrighttocounsel.org/uploaded\\_files/262/PRESS\\_RELEASE\\_-\\_Supervisor\\_Dean\\_Preston\\_Holds\\_Hearing\\_Monday\\_on\\_Implementation\\_for\\_Right\\_to\\_Counsel\\_Law.pdf](http://civilrighttocounsel.org/uploaded_files/262/PRESS_RELEASE_-_Supervisor_Dean_Preston_Holds_Hearing_Monday_on_Implementation_for_Right_to_Counsel_Law.pdf);

<https://www.lasclev.org/wp-content/uploads/January-2021-report-on-initial-6-months-of-Right-to-Counsel-Cleveland-high-res.pdf>; Cookson, T., Diddams, M., Maykovich X., Witter, E. (2018). *Losing Home: The Human Cost of Eviction in Seattle*. Retrieved from: <https://www.kcba.org/Portals/0/pbs/pdf/Losing%20Home%202018.pdf>; Reinvestment Fund (2020). *Resolving Landlord-Tenant Disputes: An Analysis of Judgments by Agreement in Philadelphia’s Eviction Process*. Reinvestment Fund. Retrieved from: [https://www.reinvestment.com/wp-content/uploads/2020/05/ReinvestmentFund\\_Report-2020\\_PHL-Evictions-Judgments-by-Agreement-Landlord-Court.pdf](https://www.reinvestment.com/wp-content/uploads/2020/05/ReinvestmentFund_Report-2020_PHL-Evictions-Judgments-by-Agreement-Landlord-Court.pdf); Steinkamp, N. (2018). *Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants*. Stout Risius Ross, New York, NY. Retrieved from: <https://www.philadelphiabar.org/WebObjects/PBA.woa/Contents/WebServerResources/CMSResources/PhiladelphiaEvictionsReport.pdf>

<sup>4</sup> Right to Counsel has been passed in legislation, and a pilot program is anticipated to run in the second half of the fiscal year. Specific funding details for Right to Counsel in the 2022 Budget have not yet been announced.

## Towards Increased Representation for Tenants in Philadelphia

In 2017, Mayor Kenney's Eviction Task Force first offered recommendations for procedural changes in Landlord-Tenant Court and the eviction process such as: ensuring tenants receive notice of their court date and available resources; improving accessibility for those unfamiliar with the Landlord-Tenant Court process; and implementing pre-filing mediation.<sup>5</sup> The Task Force also recommended increasing legal representation for tenants.

The City began making significant progress on advancing several of these recommendations. In 2018, the City-funded Philadelphia Eviction Prevention Project (PEPP) was launched to provide supportive services for tenants facing eviction, including a courtroom navigator to guide tenants through the court process, a Lawyer of the Day program for a limited number of income-eligible tenants, tenant education and a tenant hotline.<sup>6</sup> Building on these resources, Right to Counsel legislation was passed unanimously by City Council in November 2019, guaranteeing all low-income renters access to legal counsel in Landlord-Tenant Court.<sup>7,8</sup> It was envisioned that the program would be phased in over several years.<sup>9</sup> That fall, the City also piloted a pre-filing mediation program from September through November. By February 2020, Philadelphia's Housing Security Working Group was working with the City to draft regulations for the first phase of Right to Counsel's implementation.<sup>10</sup>

Progress on some of these issues came to a halt when the pandemic hit in March 2020. The City instituted an eviction moratorium and closed the courts, which reopened on a limited basis in July 2020. In August 2020, the City's Division of Housing and Community Development launched an Eviction Diversion Program, a mandatory pre-filing mediation program between landlords and tenants with a COVID-19 hardship. The City also offered several phases of emergency rental assistance<sup>11</sup> and required landlords to allow tenants to enter into repayment agreements for outstanding rent. Currently, landlords cannot file an eviction for nonpayment unless they first apply for rental assistance and participate in the Eviction Diversion Program. The Center for Disease Control (CDC)'s moratorium on evictions was extended a final time to July 31, 2021; this is intended to be the final extension.

In the meantime, Right to Counsel's implementation has been delayed, and beyond dealing with the immediacy of the pandemic, little progress has been made on other key issues that directly affect tenants' access to an equitable court experience. Since the pandemic began, other research in Philadelphia has highlighted these issues and recommended further procedural changes to the Municipal Court process (which includes Landlord-Tenant Court). A report published by the Sheller Center for Social Justice at Temple University in 2020 examined the comprehensibility of Landlord-

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<sup>5</sup>City of Philadelphia (2017) *Mayor's Taskforce on Eviction Prevention and Response: Report and Recommendations*. Retrieved from: <https://www.phila.gov/hhs/PDF/Mayors%20Task%20Force%20on%20Eviction%20Prevention%20and%20Response-Report.pdf>

<sup>6</sup>City of Philadelphia (2018) "Mayor Kenney Announces Philadelphia Eviction Prevention Project." Retrieved from: <https://www.phila.gov/2018-01-30-mayor-kenney-announces-philadelphia-eviction-prevention-project/>

<sup>7</sup>City of Philadelphia Bill No. 190386 was passed by Philadelphia City Council in November of 2019 and signed by the Mayor of Philadelphia in December 4, 2019.

<sup>8</sup>Defined as incomes below 200% of the federal poverty guidelines.

<sup>9</sup>D'Onofrio, M. (2019) "City Council passes bill right to counsel bill for low-income tenants." *Philadelphia Tribune*. Retrieved from: [https://www.phillytrib.com/news/local\\_news/city-council-passes-bill-right-to-counsel-bill-for-low/article\\_2399399e-6d67-5e5d-a328-28127ed0dbd8.html](https://www.phillytrib.com/news/local_news/city-council-passes-bill-right-to-counsel-bill-for-low/article_2399399e-6d67-5e5d-a328-28127ed0dbd8.html)

<sup>10</sup>City of Philadelphia Housing Security Working Group (2021) *Staying Home: Eviction Prevention and Response*. Retrieved from: <https://www.phila.gov/media/20210324152559/EvictionPreventionReport-March2020.pdf>

<sup>11</sup>Phase 1 of Philadelphia's rental assistance was funded by: a direct allocation of federal CDBG-CV dollars (the CARES Act); by the Philadelphia Housing Trust Fund; and by philanthropic contributions. Phase 2 was funded by CDBG-CV through the State of Pennsylvania. In 2021, funding has come from U.S. Treasury ERA (both a direct allocation and through dollars passed through the state), and from philanthropic donations.



Tenant Court documents and access to the courtroom; it provided policy recommendations for improving accessibility.<sup>12</sup> The Pew Charitable Trusts has also released research that critiques various aspects of Municipal Court accessibility and procedures and offers advice on addressing issues uncovered through its research.<sup>13</sup> This research brief builds on both the City's previous efforts and this more recent body of work.

### Supporting Parties in Post-Pandemic Landlord-Tenant Court

Now is a critically important time to address decisions around court process and resources. For the past year, the COVID-19 pandemic has drastically reduced activity in Landlord-Tenant Court and the eviction moratorium has kept many Philadelphians in their homes. However, the health and economic crises have had an outsized impact on the same groups of people who were already more likely to face an eviction filing. Many tenants struggled to pay rent before COVID-19 brought local economic activity to a halt: from 2015-2019 a total of 54.3% of renters were cost burdened; 31.3% of renters were severely cost burdened. Based on the high rate of unemployment filings in Philadelphia (9.5% as of April 2021, down from a pandemic peak of 19.5% in July 2020 but still substantially above the pre-pandemic norm of 5%-6%), and despite the City's recent efforts to provide a fourth phase of emergency rent relief, with close to \$100 million available, there will be many households at risk of eviction for accumulated unpaid rent and who will continue to be at risk due to entrenched cost burdens.<sup>14</sup>

When the eviction moratorium expires and Landlord-Tenant Court fully reopens, there will be a backlog of cases to process and the amount of pressure under which at least some tenants (and landlords) will be operating will be heightened. It is critical that Landlord-Tenant Court afford all parties to an eviction an opportunity to avail themselves of all the rights that the law affords them. Because tenants more typically face this litigation without representation than landlords, it follows that additional supportive services on the tenant side would be needed to achieve a just result.

By interviewing tenants, attorneys who represent tenants, and attorneys that represent landlords, we sought to consider in more depth the ways in which the court experience can be improved for both tenants and landlords. In our interviews, we found that while tenant attorneys help improve outcomes for their clients, they also provide important support, guidance, and instruction throughout the court process – a function landlord attorneys also report finding valuable in terms of making court proceedings run smoothly.

For tenants, the eviction process – from receiving the initial court summons to the intake and negotiation or hearing – can be challenging to navigate alone. Though legal representation helps mitigate those challenges, interviewees also cited additional supports that could help prepare tenants to navigate their own cases, with or without legal counsel. Procedural changes, some of which are now underway, like simplifying the language of court documents, making the courtroom more accessible to pro se tenants and landlords, and providing for pre-filing mediation, for instance, would go a long way to improving tenant outcomes.

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<sup>12</sup> Sheller Center for Social Justice (2020) *Reducing Default Judgments in Philadelphia's Landlord-Tenant Court*. Temple University Beasley School of Law. Retrieved from: <https://scholarshare.temple.edu/bitstream/handle/20.500.12613/492/EisenhardElmerKulesza-Report-2020.pdf?sequence=1&isAllowed=y>

<sup>13</sup> Pew Research and Policy Initiative (2021) "How Philadelphia Municipal Court's Civil Division Works." Available at: <https://www.pewtrusts.org/en/research-and-analysis/reports/2021/02/how-philadelphia-municipal-courts-civil-division-works>

<sup>14</sup> See: <https://phlrentassist.org/about-phase-4/>

The totality of qualitative and quantitative data contained in this brief affirms the importance of legal representation, but it also highlights other procedural improvements that can support parties in Landlord-Tenant Court. We recognize that these interventions require, in some cases, funding, coordination between the City and Court, and/or changes in process that may be difficult to secure. However, these recommendations are intended to help manage the increased caseload following the COVID-19 eviction moratorium and ensure that the process is fair and accessible as Philadelphia moves forward from the pandemic.

## Methodology

Reinvestment Fund completed a series of interviews with tenants, attorneys who represent tenants, staff at legal aid providers, and attorneys who represent landlords in order to explore their perspectives and experiences with the court process as it existed pre-COVID-19. “Legal aid” attorneys were defined as both salaried attorneys of free or low-cost legal services organizations, as well as those attorneys who offer their services through Philly VIP, an organization that facilitates pro bono representation. The purpose was twofold: to understand more precisely how legal counsel benefits tenants, and to explore policy and practice changes that would ensure Landlord-Tenant Court offers all parties to an eviction case a more equitable experience, regardless of representation, as it opens back up to full capacity.

This brief draws on semi-structured interviews with eight tenants who had no-cost legal representation in court, ten attorneys and staff that worked for legal service providers or that volunteered their services pro-bono, and four attorneys whose client base is the city’s landlords.<sup>15</sup> Interviews were supplemented with a review of the literature as well as court procedures used in other jurisdictions.<sup>16</sup>

## Filing for an Eviction in Philadelphia

An eviction case can be filed against a tenant for one or more of three reasons: nonpayment of rent, breach of lease, or termination of the lease term. Most common among our interviewees was nonpayment of rent, which our research shows is the leading reason selected across all filings: between 2018-2019, 90.3% of eviction cases cited nonpayment of rent as one of the bases for eviction.<sup>17</sup> Landlord attorneys agreed that most of their clients’ cases “have something to do with dollars and cents and very little else.” Tenants described the struggles of paying rent and utilities, supporting their families and juggling other debts while holding a full-time job. This challenge is particularly acute for single parent households and has been exacerbated by the pandemic.<sup>18</sup>

In advance of a court eviction filing, a landlord is required to provide their tenant with a “notice to quit.” This notice advises the tenant that they have ten days from receipt of the notice to either pay rent or vacate the premises; otherwise, the landlord can proceed with an eviction filing in Municipal Court.<sup>19</sup> If the landlord proceeds with the filing, a court document, the Landlord-Tenant Complaint, must then be personally served on the tenant or to an adult on the premises by a process server. If this is not possible,

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<sup>15</sup> A total of four attorneys who generally represent landlords were interviewed in March 2020; they (or their firms) represented landlords on 57.2% of residential, private cases with a represented landlord in 2017-2018.

<sup>16</sup> See Appendix for interview protocols

<sup>17</sup> There were 40,597 filings between 2018 and 2019. 36,652 (90.3%) were filed for nonpayment.

<sup>18</sup> Center for Translational Neuroscience (2020). *Home Alone: The Pandemic Is Overloading Single-parent Families*. Medium. Retrieved from: <https://medium.com/rapid-ec-project/home-alone-the-pandemic-is-overloading-single-parent-families-c13d48d86f9e>

<sup>19</sup> For nonpayment, it is 10 days’ notice; for breach of lease, it is 15 days for lease terms of one year or less, and 30 days for leases of one year or more.

the individual serving the Complaint must post it clearly on the property. The Complaint informs the tenant of the eviction and their court date and time.

### Landlord-Tenant Complaint

In interviews, tenant attorneys observed that for a reader unfamiliar with the court system or legal processes, the Complaint that is served to the tenant can be a difficult document to comprehend, particularly for those without recourse to legal counsel, with lower reading levels, or who do not speak English as a first language (see Appendix A).<sup>20</sup> The title, “Landlord and Tenant Complaint,” does not make it immediately clear that the document is a summons to court and that the landlord is suing the tenant, and the language of the document tends toward legal jargon. Research suggests that the reader may not understand the implications for their future tenant screening reports and ability to find housing if they do not attend their court hearing.<sup>21</sup>

Tenant attorneys noted that critical information for the tenant is presented at the bottom of the document, where, as other research indicates, it can easily be missed.<sup>22</sup> This includes tenants’ right to present a defense in court, the tenants’ scheduled court date and time, and that failure to appear in court may result in a judgment against the tenant and eviction. The document does not set out the options that a tenant has for negotiation, like mediation or the Judgment by Agreement process. According to some tenant attorneys, without this information some tenants may feel discouraged from attending their hearing at all.<sup>23</sup>

Outside of Philadelphia, other government entities have begun to emphasize the concept of “plain language” documents that are more accessible to their intended audience.<sup>24</sup> The Plain Writing Act (2010), for instance, requires federal agencies to use clear communication that the public can understand;<sup>25</sup> there are protocols and resources available for using language effectively and reducing “legalese” in documents. Common guidelines include placing the most important information for readers at the beginning, using the active instead of passive voice, using straightforward words instead of legal and technical terms, and providing useful headings and explanations where needed. Formatting must be clear and easy to read. These techniques have been used in other legal contexts, including Landlord-Tenant Court in other states.<sup>26</sup> For instance, eviction summonses in states like Illinois, Oregon, and New York feature large, clear headings and easy-to-read formatting (Appendix B, C, D). These documents anticipate the immediate questions that tenants would have upon receipt and highlight important deadlines, dates, and resources at the beginning of the summons – making the initial filing process more easily navigable for tenants.

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<sup>20</sup> Reinvestment Fund analysis of the 2015-2019 American Community Survey for Philadelphia reveals that 12.6% of renters who are heads of their household have less than a high school degree.

<sup>21</sup> Sheller Center for Social Justice (2020).

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> Plain Language.gov (no date). “What is plain language?” Retrieved from: <https://www.plainlanguage.gov/about/definitions/>

<sup>25</sup> See: Public Law 111 - 274 - Plain Writing Act of 2010. Retrieved from: <https://www.govinfo.gov/app/details/PLAW-111publ274>

<sup>26</sup> See: Michigan Advocacy Program (2021). “Build a Better \_\_\_\_\_: strategies for user-informed legal design. Graphic Advocacy Project. Retrieved from: <https://www.lsnatp.org.printpdf>; Bernal, D. (2018) “Eviction and the Promise of Self-Help Technologies”. Stanford Lawyer 99. Retrieved from:

<https://law.stanford.edu/stanford-lawyer/articles/eviction-and-the-promise-of-self-help-technologies/>; ongoing research by Stanford School of Law’s Eviction Innovations project also suggests that visual design standards and clear language should be used for all notices, summons, and complaints to ensure they are comprehensible to tenants: <https://evictioninnovation.org/innovations/>

## Accessing Legal Counsel

Figure 1 shows the count of eviction filings in Philadelphia; areas where the average income is less than the City average are delineated in gray. 74.1% of eviction filings are located in those tracts with median household income below the City median.<sup>27</sup> There were 40,597 total filings between 2018-2019, with concentrations in North, Northeast, and West Philadelphia where household incomes are less than the City's average.

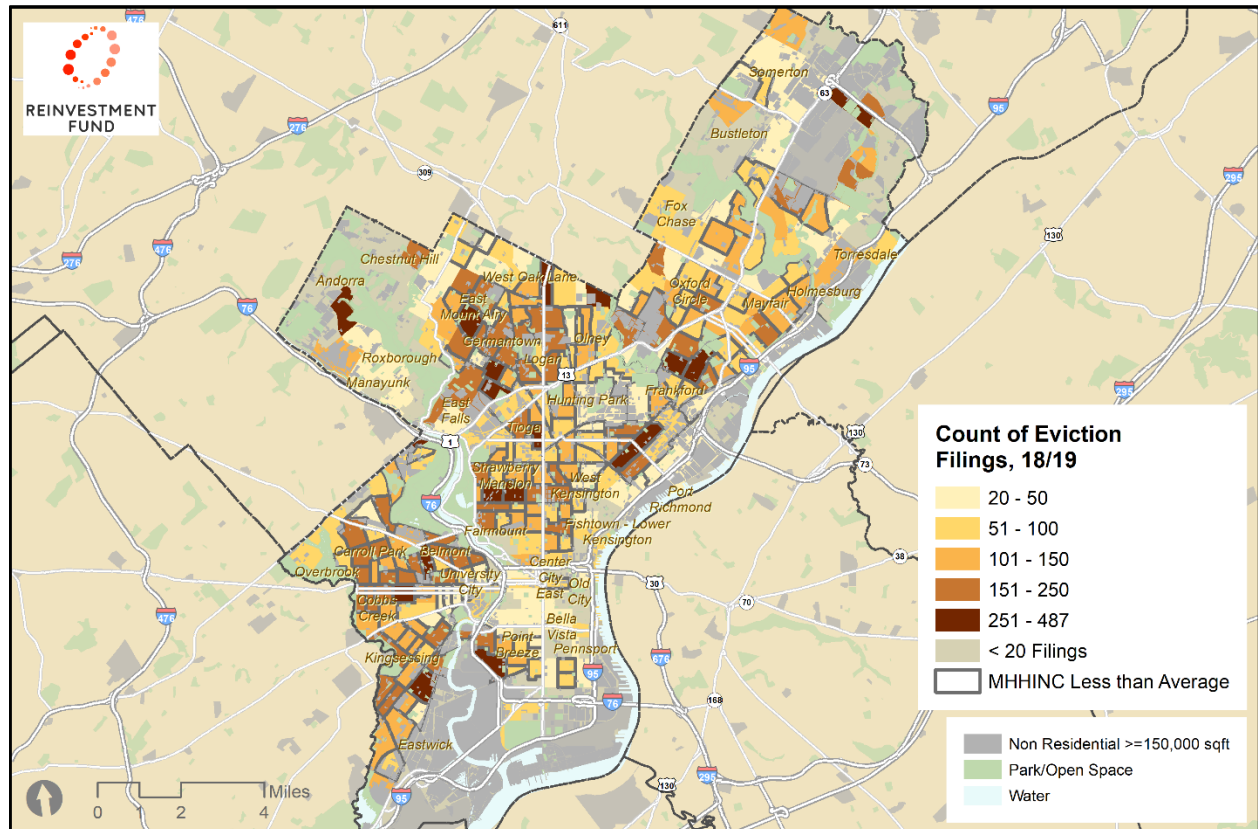


Figure 1. Count of Eviction Filings, 2018-2019 (income levels marked).

Across all Philadelphia Census tracts, the likelihood that a tenant facing eviction will be represented varies but is generally low. From 2018-2019, a tenant was represented in 12.6% of filings. About 6.5% of all filings had a legal aid attorney, comprising 51.4% of all cases with a represented tenant.

Figure 2 shows the number of represented tenants in eviction filings across Philadelphia. We observe higher volumes of representation in several parts of Philadelphia, such as the old “river wards” on the east side of the city, as well as parts of West, Northwest, and Southwest Philadelphia. Relatively low volumes of represented tenants are observed in the far Northeast section of Philadelphia along with parts of Northwest (e.g., Roxborough, Manayunk, Mt. Airy and Chestnut Hill), and Center City – areas generally with higher income residents.)

<sup>27</sup> This figure is based on counting each household with an eviction once per year. The total figure of filings (40,597) also includes multiple filings per household per year.



While the percentage of represented tenants (legal aid or otherwise) is low across the city, Figure 3 shows access to legal aid representation spread across the city. As expected, a greater volume of households facing eviction have legal aid representation in the city's lower income areas. But that is not exclusively the case; it appears that income-eligible (or otherwise eligible tenants, such as those whose age or disability qualify them for legal aid representation) in non-low-income areas are able to access legal aid representation, albeit in relatively low volume. It is important to restate the point that as evidenced in Figure 1, although there are represented tenants and tenants with legal aid representation in most of Philadelphia's neighborhoods, it is far from "universal" and more than 8 out of 10 tenants face eviction without legal assistance.

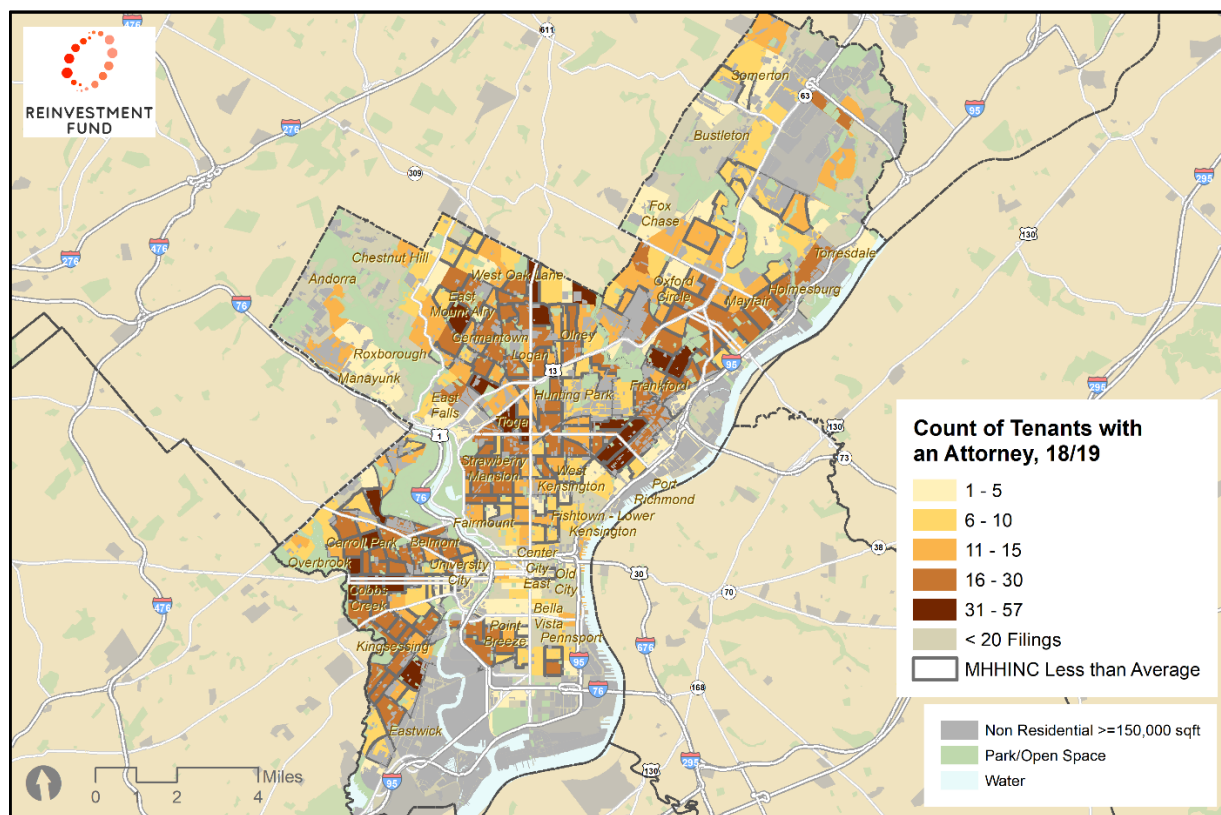


Figure 2. Count of tenants with an attorney, 2018-2019 (income levels marked)

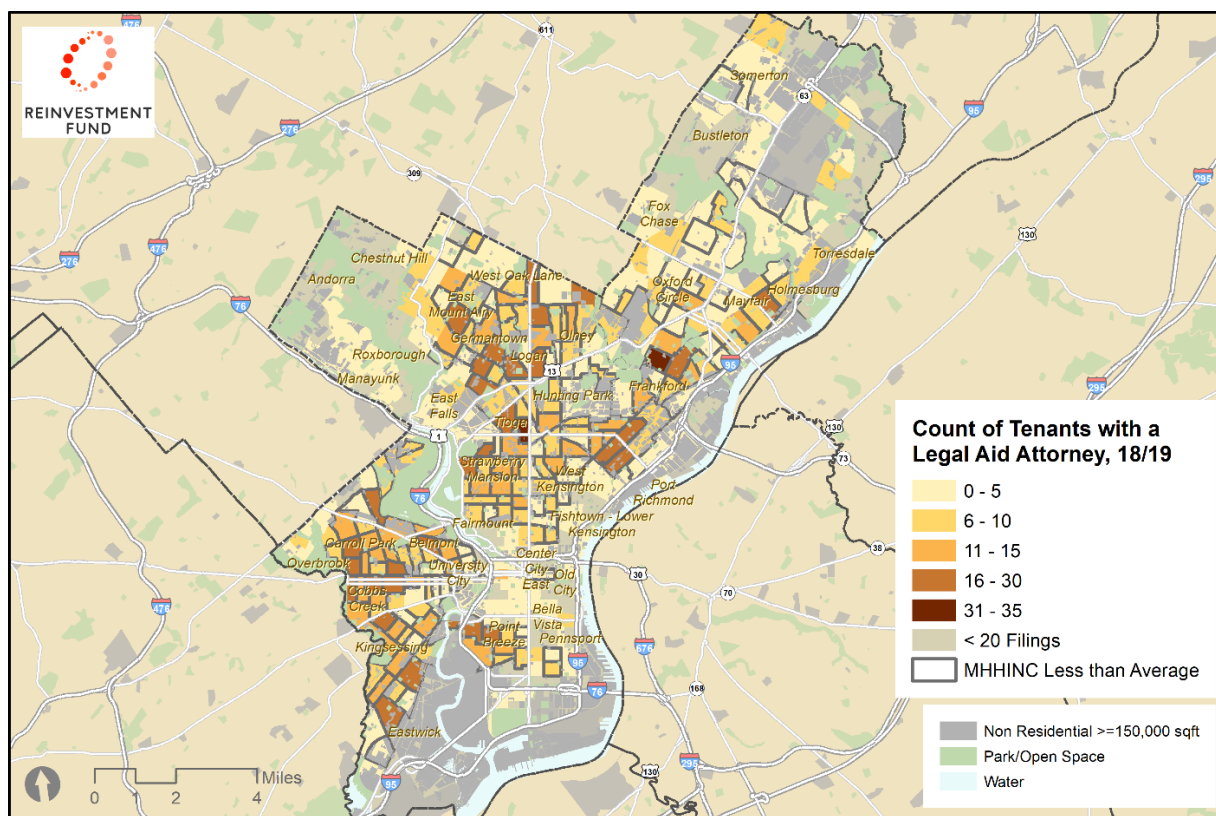


Figure 3. Count of tenants with a legal aid attorney, 2018-2019 (income levels marked)

When asked why they initially sought legal aid, several tenants interviewed said that it was their first time being evicted, they did not understand the process, and knew they needed assistance. Others expressed having nowhere else to go, or that they could not afford the cost of a move, and some were unable to establish communication with their landlord. Some interviewees had attended eviction court previously and knew from experience that they needed support in the courtroom – as one tenant stated, “I just felt like I couldn’t do it by myself anymore.” A staff member at a Philadelphia legal aid organization related the sense of relief tenants express after securing representation:

“One of my favorite parts of the job [when we connect a tenant to an attorney] is [their] sigh of relief...the law is scary, [there are] so many bills, writing, and legal jargon that is very confusing if you haven’t had much exposure to it. That is the [most important] thing for tenants is having someone who knows the lay of the land, having someone who is able to represent them, and support them through the process.”

Low-income tenants and tenants with specific needs or challenges can find free or low-cost legal counsel through several different avenues. All Complaint filings include an informational flyer that points tenants to legal aid providers, including Community Legal Services (CLS), SENIORLaw, AIDS Law Clinic and Legal Clinic for the Disabled. Philly VIP receives case referrals from partner legal aid organizations. In interviews, some tenants mentioned that they were referred to legal aid providers by counselors or

other supportive services that they already accessed. There are generally income limits to legal aid eligibility, like 80% AMI or 200% of the federal poverty line.<sup>28</sup>

Landlord-Tenant cases are often scheduled with as little as two weeks' notice, and because of the tight timeline between filing and court, tenant attorneys are sometimes only able to meet with their client once (if at all) before the court date. Attorneys explained that this meeting involves establishing with the tenant what documentation they need related to the case, like bills, receipts, photographs, and text messages, that can inform the defense.<sup>29</sup> Ideally, tenants gather these materials and make them available to the attorney in advance of their hearing.

### Court Accessibility Can Present Challenges for Tenants

Regardless of whether they have legal representation, according to tenants and tenant attorneys, there are several logistical hurdles to attending a Landlord-Tenant court hearing. Tenants are required to arrive at the Municipal Court in Center City Philadelphia by exactly 9:00 am or risk a default judgment on their case. A default judgment can include an amount of money owed to the landlord or require the tenant to vacate the premises. Previous Reinvestment Fund research found that in 2017-2018, a default judgment was entered in 36.2% of all filings and in a typical year, more than 99% of default judgments were concluded in favor of the plaintiff (the landlord). Tenants who do not appear in court, who are late for court, or who do not know about the filing risk a default judgment against them.

However, tenant attorneys expressed that for clients who live outside Center City, the journey to Municipal Court can be long, logistically challenging, and/or require multiple forms of public transportation. Some tenants may be late for their hearing as a result, and the distance may discourage others from attending at all. The typically quick turnaround of cases may mean inadequate time for tenants to make needed arrangements; other research has found that some tenants have failed to attend their hearing because they could not find childcare or could not take time off from work.<sup>30</sup> One tenant attorney observed that some tenants opt to go to work rather than their hearing, with the idea that, "I can't get evicted and lose my job so I'm not going to take the day off work and go downtown if I'm going to get evicted anyway." They may not be aware of the implications of a default judgment for their tenant screening report and future housing.

If tenants do make it to Center City, finding and navigating the Municipal Court building itself can also prove difficult, as our observations, interviews and other research suggest. Tenant attorneys noted that the court is unmarked and easy to miss for someone who has never before been. The first result of an online search for "Municipal Court Philadelphia" directs to the Criminal Court on nearby Filbert Street, rather than the Municipal Court, which is located in the Widener Building on Chestnut Street. The Widener Building itself is a large office building with Municipal Court occupying several floors. It is surrounded by restaurants and shops and there is only one small sign on the outside of the building to make the court's presence known to passersby. Some attorneys that represented tenants said they arrange to meet their client beforehand not only to go over the case but to ensure they can find the

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<sup>28</sup> Tenants who are not income eligible can find attorneys through channels like the Philadelphia Bar Association, which has a lawyer referral service.

<sup>29</sup> Philly VIP (2021). *Landlord Training Guide: The Nuts & Bolts of Representing a Tenant in Municipal Court: Introduction to Landlord Tenant Law*. Retrieved from: <https://www.phillyvip.org/wp-content/uploads/2021/03/Landlord-Tenant-Training-Manual.pdf>

<sup>30</sup> Pew Research and Policy Initiative (2021).

correct building; indeed, one tenant related that in a previous case without an attorney, they were late to court because they had been outside the building without realizing it.

When the Municipal Court building closed during the pandemic, the court began offering hearings on the Zoom remote meeting platform. Many tenant attorneys we interviewed noticed an improvement in tenant availability and accessibility as a result. Tenants do not have to travel into Center City or contend with other logistical challenges. And as one tenant attorney put it:

“Zoom hearings have a little more certainty. Before [at court], you would just sit in a room for three hours and hope someone would call you. Even as an attorney you would just sit in a room. You weren’t allowed to have a phone for three hours. For my clients that time is valuable. The Zoom hearings can help recognize that and treat everyone’s time as valuable, as it should be.”

With Zoom, negotiations between tenant and landlord attorneys have also shifted. Previously, tenant attorneys reported having little opportunity to speak with the landlord or their opposing counsel prior to the hearing date; some said that the latter typically do not respond to email in advance and parties do not meet until the hearing. In a fully remote context, tenant attorneys say that landlord attorneys are more likely to negotiate before a Zoom hearing. This can save time for all parties involved because rather than going through the physical intake process and negotiation, both attorneys can connect beforehand to work out an agreement. However, there are some technical challenges reported with Zoom hearings. For instance, tenants who log in to their Zoom hearing by phone are then unable to use their phone to contact their attorney privately. Reliable internet access and ability to use the Zoom interface pose other potential hurdles for tenants.<sup>31</sup>

### Representation and Guidance Help Tenants Navigate the Court Hearing

Previous Reinvestment Fund research has described the typical pre-pandemic Landlord-Tenant Court’s proceedings, including the busy and sometimes chaotic atmosphere as court staff read aloud information about the proceedings.<sup>32</sup> In interviews, landlord attorneys, tenants, and tenant attorneys alike observed that Landlord-Tenant Court is not user-friendly. One tenant attorney related that most lawyers do not understand the atmosphere until they experience it: “most [new] lawyers that show up there are baffled and appalled at the way it runs. It feels like absolute chaos...I always say to the tenant that we have to be prepared for whatever comes our way.” A landlord attorney agreed that the process could be chaotic and noted that they were unsure of the efficacy of the “big group approach” to reading out the proceedings and names, as compared to reading or receiving court information in a private setting, since “for most first-timers, they’re nervous and overwhelmed being there.” Indeed, recollecting their previous court experience, one tenant related a sense of “starting off on the back foot...you just sit there and wait for your name to be called.”

According to another tenant, the court lacks a sense of dignity. Discussing a prior case when they were not represented by an attorney, they stated:

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<sup>31</sup> According to the American Community Survey 5-Year 2019 for Philadelphia, almost 24% of Philadelphia households do not have a broadband subscription in their home; 13% do not have a computer.

<sup>32</sup> Reinvestment Fund (2020); Reinvestment Fund (2019).

“It’s embarrassing to be in a room with everybody and they’re talking about your court case...you’re sitting there waiting, case by case by case goes by, you as a person never get to speak on your own behalf. I felt like I should have had a chance to say this is why I didn’t pay and this is a legitimate reason...

I’m sitting there all nervous, my hands are sweating – is this the end of me living here today, where am I going to go?”

As one tenant attorney put it, “It all just happens to [the tenant], all at once, and they have to react. And without an attorney or legal background how can you immediately react and express yourself and win a case?” A landlord attorney also noted that the process was “highly emotional – it’s someone’s home.” This situation is not singularly unique to Philadelphia. Desmond and Kimbro (2015) write that dealing with the court system is traumatic for many people; it is difficult to give a straightforward narrative when the issue is something so personal and emotional.<sup>33</sup>

For many tenants, the eviction process is highly stressful and can have mental or physical health impacts, particularly for those who already have significant medical needs or disabilities. Tenants cited the emotional support attorneys provided as helpful, stating, “it felt good to have someone on my side [as] moral support” and that “[my attorney] helped me keep myself together.” Another tenant remarked that the best part of having legal counsel was the feeling of empowerment:

“We feel powerless with the system the way it is. When you have someone speaking on your behalf, you feel empowerment. I didn’t feel alone, I didn’t feel threatened, I didn’t feel like I was going to lose.”

Some tenant attorneys suggested that having a trained professional other than a lawyer to support tenants could be as effective in offering certain types of guidance. One attorney stated that, “any representation is so much better than no representation...It’s not obvious to me that that representation needs to be lawyers.” As part of the Philadelphia Eviction Prevention Program, Landlord-Tenant Court had instituted a “courtroom navigator” program before the pandemic as a relatively low-cost, low-barrier model for guiding parties through the day in court. In this program, trained professionals (who may or may not have a legal background) are available to explain the process and answer basic questions on the day of a tenant’s hearing. Other research has shown that navigator programs can enhance the effectiveness of the courts and improve outcomes for unrepresented tenants

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<sup>33</sup> Desmond, M. and Kimbro, R. (2015). *Eviction’s Fallout: Housing, Hardship, and Health*. University of North Carolina Press. Available at: [https://scholar.harvard.edu/files/mdesmond/files/desmondkimbro.evictions.fallout.sf2015\\_2.pdf](https://scholar.harvard.edu/files/mdesmond/files/desmondkimbro.evictions.fallout.sf2015_2.pdf)

Also see: Tsai, J., Jones, N., Szymkowiak, D. et al. (2020) “Longitudinal study of the housing and mental health outcomes of tenants appearing in eviction court.” *Social Psychiatry and Psychiatric Epidemiology*.



through the court process.<sup>34</sup> Housing counselors have also helped landlords and tenants to navigate laws and protections in their eviction cases.<sup>35</sup>

### Representation Improves Court Outcomes for Tenants

One attorney described the difference between tenants with and without representation as “night and day,” citing an attorney’s help in “getting the tenant through procedural hurdles, the bare minimum of the case, coherently structuring the client’s arguments and giving them the basic rights they deserve.” Several tenant attorneys stated that tenants know they have rights, but they don’t know what those rights are, or if a landlord has breached them. Attorneys that represent tenants are equipped to identify possible breaches of law that can invalidate a filing or claim for some or all of the rent that a landlord is seeking, like requirements that landlords have a Certificate of Rental Suitability, a lead-safe or lead-free certification for the property, no outstanding Department of Licenses & Inspections (L&I) violations, and a rental license for the period for which a landlord seeks to collect rent.<sup>36</sup> Tenants agreed that “knowing what was acceptable and what wasn’t in the eyes of the law for landlord tenant relationships” was helpful – and that “[attorneys] have a knowledge of civil procedures that the common person isn’t going to know.”

Attorneys are also able to support tenants with habitability issues in court; this was a common issue among tenant interviewees. Many stated that their landlord stopped maintaining the property – resulting in holes in the walls, leaking roofs, rodent problems, mold and/or broken windows. Though tenant attorneys noted that habitability issues were common, many stated that tenants often do not contact the City’s L&I or file a legal claim when there are code violations because they may not be aware that they have a right to take legal action.<sup>37</sup> An attorney can invoke an “implied warranty of habitability” – that a landlord is obliged to provide a safe, sanitary dwelling – using proof of a landlord’s neglect to get some portion of the rent waived or more time for the tenant to move out of the property.

Sometimes, these types of cases end in withdrawals in Landlord-Tenant Court, when the landlord withdraws the claim because, for example, they lack compliance with local statutes. From interviews, tenant attorneys related that their ability to craft a defense, highlight legal issues with the landlord’s case, or make a deal with the landlord’s attorney often helps increase the chances of a withdrawal. Indeed, many tenant attorneys specifically work towards withdrawals because they want to prevent the negative long-term consequences of a judgment for the tenant.

Other cases end in a JBA. JBAs are a type of eviction judgment in favor of the plaintiff (landlord) and a written settlement of issues between the parties – for instance, the tenant and landlord may agree on a

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<sup>34</sup> McClymont, M. (2019) *Nonlawyer Navigators in State Courts: An Emerging Consensus*. Justice Lab at Georgetown Law. Available at: <https://napco4courtleaders.org/wp-content/uploads/2019/08/Nonlawyer-Navigators-in-State-Courts.pdf>; Sandefur, R. and Clarke, T. (2016) *Roles Beyond Lawyers: Summary, Recommendations and Research Report of an Evaluation of the New York City Court Navigators Program and its Three Pilot Projects*. Retrieved from: [http://www.americanbarfoundation.org/uploads/cms/documents/new\\_york\\_city\\_court\\_navigators\\_report\\_final\\_with\\_final\\_links\\_december\\_2016.pdf](http://www.americanbarfoundation.org/uploads/cms/documents/new_york_city_court_navigators_report_final_with_final_links_december_2016.pdf); Fisher, F. (2018) “Navigating the New York Courts with the Assistance of a Non-Lawyer”. *Dickinson Law Review Symposium Issue: Access to Justice: Innovations and Challenges in Providing Assistance to Pro Se Litigants* 122:3, pp. 825-846. Retrieved from: <https://ideas.dickinsonlaw.psu.edu/cgi/viewcontent.cgi?article=1041&context=dlr>

<sup>35</sup> Allen, T. (2020) “It’s a conversation: Philly’s alternative to landlord-tenant court is preventing eviction. PlanPhilly. Retrieved from: <https://whyy.org/articles/its-a-conversation-phillys-alternative-to-landlord-tenant-court-is-preventing-eviction/>

<sup>36</sup> In recent years City Council began requiring landlords to have a rental license and a Certificate of Rental Suitability to file on a tenant but universal enforcement was not immediate. Tenant attorney attention to these legal breaches helped strengthen tenant rights by encouraging enforcement by the Court.

<sup>37</sup> Steinkamp, N. (2018).

payment plan, or that the landlord regains possession of the property on a certain date.<sup>38</sup> For tenants that just need extra time to move out of the property or a payment plan to pay the back rent, JBAs can be a beneficial option. As one tenant attorney said, “the JBA is not perfect, but sometimes it’s the best compromise you can make.” Attorneys that represented landlords all reported that it is generally preferable to negotiate a JBA with an experienced tenant attorney rather than with a tenant directly, because in those cases they tend to reach an agreement more quickly and for what they view as more reasonable terms, i.e., that incorporate the tenant’s ability to follow through with a payment plan. In their view, the efficacy of tenant attorneys depended on their level of experience and understanding of the specific Landlord-Tenant Court laws and process.

Some tenant attorneys expressed frustration that JBAs are used with such frequency in the courtroom – even by other tenant attorneys. They observed that the advantage of JBAs is most significant for landlords, their attorneys, and judges who do not have to hear as many cases: “for the landlord [the JBA is] advantageous in every way: they get a payment scheduled, they get a judgment, they can set terms as needed.” Meanwhile, tenant and landlord attorneys both agreed that tenants do not always understand the consequences of a JBA as a legal judgment on their record. As one tenant attorney stated, “this is [an issue] specific to Philadelphia, even when you come to [a JBA], there’s a judgment against you. And that’s the scarlet E, it makes it incredibly hard to find new housing.”

Judgments, whether reached by default, JBAs, or a hearing in front of a judge, can be for possession-only (the tenant must vacate the unit), money only, or for possession and money.<sup>39</sup> Legal representation can make a difference in the general type of judgment and in its details. Previous Reinvestment Fund research found that in a random sample of JBAs, 19% were possession-only judgments. However, among represented tenants, 63% had a possession-only judgment. Tenants with attorneys were more likely to have longer than the standard four weeks to move out (67% compared to 60% of the random sample).<sup>40</sup> This suggests that represented tenants are more likely to avoid a judgment with financial obligations and more likely to gain more time to find new housing before the landlord regains their property. Interviews with tenant attorneys revealed that many specifically work to limit their client’s monetary obligations, instead pushing for possession-only judgments where possible.

Representation also seems to make a difference in money judgment outcomes: according to prior Reinvestment Fund research, represented tenants who had judgments that could be satisfied were more likely to end up with a payment plan than a lump sum payment (81% of those JBAs compared to 70% of a similar group among a random sample of JBAs inclusive of represented and unrepresented tenants).<sup>41</sup> Payment plans tend to be more practical for tenants. To avoid or lessen the financial burden of a money judgment, some tenant attorneys use the tenant’s security deposit as leverage to cover back rent. However, other attorneys consider this option a last resort since the funds from a security deposit are often an important resource for tenants to fund new housing and moving costs.

Statements from tenant interviews indicate how significant arrangements made by attorneys have been. For instance, workable payment plans helped them catch up on rent, or they were given more time to move out of the property and find a new place: “The [attorney] told me what my rights were. And they were a go between – there was a process...they made it doable for me – what can you afford, what are your parameters for payments and helping me instead of me having to speak for myself.”

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<sup>38</sup> Reinvestment Fund (2020).

<sup>39</sup> Between 2018 and 2019, of the 40,597 cases filed, 656 cases had judgment in favor of the defendant.

<sup>40</sup> Reinvestment Fund (2020).

<sup>41</sup> Ibid.

## The Promise of Pre-Filing Mediation

With the majority of cases on hold in Landlord-Tenant Court, the attorneys that were interviewed generally did not yet have experience with the City's Eviction Diversion Program at the time of the interviews. Several attorneys who have volunteered their services through VIP in the past had taken on fewer pro-bono cases during the pandemic, and the tenants we interviewed had faced an eviction filing before the Diversion Program was created.

Prior to the pandemic, the City of Philadelphia had initiated a pilot pre-filing mediation program, where tenants and landlords, on a voluntary basis, could engage with a trained, independent mediator *before* the landlord filed for eviction. Mediators would guide the discussion, clarify questions around tenants' and landlords' rights and responsibilities, and suggest options for both parties to consider. However, engaging landlords in the pilot program was challenging. Tenant attorneys noted that for this type of mediation to be successful, participation should be mandatory for landlords: "if the landlord refuses to mediate, there's no penalty. There has to be some teeth to it to get landlords involved." On the other hand, an attorney that represents landlords noted that by the time that landlords are seeking to file for eviction, their relationship with a tenant has often broken down. For their clients, pre-filing mediation also lacks "teeth" in terms of motivating tenants to follow through with payment, and agreements can feel "unenforceable." It is worth noting no rental assistance was paired with the pilot program, giving landlords less incentive to participate.

During the pandemic, the City built on lessons learned from this initial pilot in their Eviction Diversion Program. The program requires landlords to apply for emergency rental assistance and participate in mediation prior to filing an eviction case in Municipal Court.<sup>42</sup> No landlord may file a Landlord-Tenant Complaint seeking possession based on nonpayment of rent until 45 days after they have first completed an application with the rental assistance program; upon completing the application, the landlord is automatically enrolled in the Eviction Diversion Program.<sup>43</sup> The landlord and their tenant are then scheduled for mediation within 30 days. Each tenant is paired with a housing counselor, who guides the tenant through options like payment agreements or rental assistance. Mediation sessions take place on the phone with a trained volunteer mediator, the landlord, tenant, and housing counselor.<sup>44</sup> If an agreement is reached, it is sent to both parties; if not, a follow-up mediation may be scheduled.<sup>45</sup> The program is intended to allow tenants and landlords to find common ground on payment plans, voluntary exit from the property, repair and maintenance issues, and other considerations outside of Landlord-Tenant Court.

As of July 2021, there were 1,756 total mediations where both parties participated; 82.3% of parties reached an agreement or agreed to continue to negotiate outside of the diversion program.<sup>46</sup> A court

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<sup>42</sup> The City's COVID-19 Emergency Rental Assistance program has rolled out four phases of funding. Both tenants and landlords can apply for emergency rental assistance; tenants must have a household income at or below 80% AMI and demonstrate both financial hardship due to COVID and a risk of experiencing housing instability or homelessness.

<sup>43</sup> President Judge Administrative Order No. 15 (Amended) of 2021. Residential Eviction Moratorium and Exceptions. Service of Writs and Alias Writs of Possession. First Judicial District of Pennsylvania, Philadelphia Municipal Court. Retrieved from: <https://www.courts.phila.gov/pdf/regs/2021/15-of-2021-PJ-ORDER.pdf>

<sup>44</sup> Philadelphia Legal Assistance, Community Legal Services, Good Shepherd Mediation Program and city-funded housing counseling agencies are involved in the mediation process. See: <https://www.phila.gov/2020-08-31-philadelphia-launches-eviction-diversion-program/>

<sup>45</sup> Allen, T. (2020); Legal Design Lab at Stanford Law School (2020). "PHL Eviction Diversion Program in Philadelphia." Eviction Innovations. Retrieved from: <https://evictioninnovation.org/2020/10/16/philadelphias-eviction-diversion-through-mediation-program/>

<sup>46</sup> DHCD/PHDC Eviction Diversion Dashboard, July 21, 2021.

order has extended the pre-filing eviction diversion requirement until August 31<sup>st</sup>, recognizing the success of the program and the continued availability of federal rental assistance funds.

Though the roll-out of the Eviction Diversion Program was specifically in response to the pandemic, many tenants and tenant attorneys viewed pre-filing mediation as a promising strategy moving forward. One staff member at a legal aid organization stated:

“I like the idea that it’s not judges but more community-based and someone who can see both sides of issue. [It’s] less of a trial and more of a conversation. At the end of the day, both sides, I hope, want a fair outcome...[Mediation] has more of that mindset and a less punitive mindset than court can take with Landlord-Tenant law.”

Tenant attorneys noted that mandatory pre-filing mediation could help reduce court caseloads and help support tenants without legal counsel by creating a space for tenants to engage on a more even playing field. Some suggested that increasing the chances of a workable settlement and reducing the number of cases in court could be a win for both tenants and landlords. However, it is uncertain whether mandatory mediation after the pandemic wanes and federal rental assistance is no longer available.<sup>47</sup>

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<sup>47</sup> Supreme Court of Pennsylvania Docket No. 21 EM 2020. Retrieved from: <https://www.courts.phila.gov/pdf/notices/2021/FJD-Request-to-Supreme-Court-Pursuant-to-Rule-1952.pdf>; Bond, M. (2021). “Before filing for eviction, Philly landlords must continue to attend mediation until Aug. 31.” Philadelphia Inquirer. Retrieved from: <https://www.inquirer.com/real-estate/housing/rental-assistance-eviction-diversion-philadelphia-court-20210701.html>

## Recommendations

*“We’re supposed to have these structures and institutions in place that allow tenants to assert their rights easily, and they don’t work.” (Legal Aid Attorney)*

Because attorneys are not required, and even under the recently enacted Right to Counsel legislation, not all tenants will have access to attorneys, parties should be able to navigate cases in Landlord-Tenants without legal counsel.<sup>48</sup> By building on initiatives like the courtroom navigator program and pre-filing mediation, the City can continue to work towards institutional procedures and programs that make Landlord-Tenant Court more equitable. Other Reinvestment Fund research has highlighted procedural changes that can ensure accessibility for individuals unfamiliar with the court process (including a post-filing mediation opportunity), regardless of whether parties are able to access formal legal representation.

Drawing upon Reinvestment Fund’s previous research briefs, the research of others and the interviews reported and summarized herein, we offer a set of recommendations that address the issues that have emerged through this body of work. We note that some of these recommendations – or variations on these recommendations – were made in other reports, or to a degree, are already underway. In those instances, the data and interview results help to both support and refine any recommended interventions.

### Implementing Right to Counsel

The totality of research contained in this brief suggests that, notwithstanding other important procedural changes, legal representation provides critical support to tenants and often improves the outcome of the eviction action filed against them. **As Philadelphia emerges from the pandemic and eviction filings resume, allocating funding to support the roll-out of Right to Counsel for those income-eligible tenants should be prioritized.**

### Making Landlord-Tenant Court More Accessible to Tenants

#### *Plain Language for Court Documents*

Other jurisdictions and states have begun composing court documents, including the summons to Landlord-Tenant Court, in “plain language” rather than “legalese.” In these documents, information for the tenant is placed at the beginning, with clear instructions for what the tenant needs to do to prepare for court; what happens if they do not go to court; and their rights in court as well as available legal resources. During the pandemic, COVID-19 led to a need for more outreach to impacted tenants. The City sent direct mailings with “plain language” notices on procedural changes.<sup>49</sup> Building on this approach, plain language could be integrated into other materials as well. **Philadelphia’s Landlord-Tenant Complaint could be revised with “plain language” to address the immediate questions that tenants would have upon receipt and to highlight important deadlines, dates, and resources in a more user-friendly way.**

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<sup>48</sup> This is not only the recommendation of interviewees, the court itself says: “The First Filing Unit is the initial contact for litigants filing a civil case in the Philadelphia Municipal Court. The Municipal Court prides itself on being extremely accessible for every individual whether represented by legal counsel or no, and this ideal remains constant within this unit.” See: <https://www.courts.phila.gov/municipal/civil/>

<sup>49</sup> City of Philadelphia Housing Security Working Group (2021).



### *Improving Courtroom Navigability*

The Municipal Court building can be difficult for first-time visitors to find, and it is also reported (and observed) that the intake process can be confusing. Adding clear directions, including public transit routes, to the materials included in the initial Complaint would give tenants a better opportunity to arrive on time.

Research has shown that minor adjustments, like improving signage, translate into improved navigability and benefit for litigants. For instance, the Center for Court Innovation (CCI) conducted a 2015 study of a neighborhood courthouse in Brooklyn. Like the Philadelphia Municipal Court, the court was situated within a complex that housed other organizations, and visitors had trouble finding it. The courthouse embarked on a renovation to make the building more user-friendly and found that improved signage, maps and directional arrows greatly improved navigability – users were five times more likely to find their destination.<sup>50</sup> A dedicated and clearly labelled “help desk” was added for court users. The same process is occurring in other jurisdictions.<sup>51</sup>

A similar undertaking in Municipal Court would ease the experience of attending court post-pandemic and would help tenants better understand key procedures. **Improved signage that clearly guides visitors to their destination, a central information point for court users, and better directions to the building would improve the accessibility of Landlord-Tenant Court and would help tenants better understand key procedures. An intake program at Landlord-Tenant Court could also be operated by a team of trained individuals**, who could check parties in, explain rights, obligations, and key legal concepts one-on-one, as well as what to expect during the court session, including the JBA process.

### *Ensuring that Hearings are Accessible Post-Pandemic*

Multiple tenant attorneys noted that ideally, Landlord-Tenant Court would have options to mitigate the issue of default judgments for those who struggle to travel to the Municipal Court location; as one stated, “when there are so many hurdles to this process....what if they couldn’t find parking, or the signage isn’t great and they’re in the wrong place – to have a process [like an automatic default] seems wrong.” **Given the difficulties in accessing Landlord-Tenant Court for some, interviews suggested that more flexible hours could make court more accessible and reduce the number of default judgments.**

According to interviews with tenant attorneys, the flexibility of Zoom hearings has also improved access to court for many; prior to the pandemic, Landlord-Tenant Court hearings were a significant stress point for tenants who would have to take off from work, find transportation to the courtroom, and/or find childcare. These attorneys suggested that having the option of **virtual hearings would be a useful practice even after the pandemic. They also suggested that this would streamline the process for cases that go through the Municipal Court.** The caveat that some tenants may not have access to a computer or WiFi means that improving physical Landlord-Tenant Court proceedings is still important.

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<sup>50</sup> Pope-Sussman, R. (2015). *Improving Courthouse Signage: Procedural Justice through Design*. Center for Court Innovation. Brooklyn. Retrieved from: [https://www.courtinnovation.org/sites/default/files/documents/Red%20Hook%20OctoberFinalProofed\\_REDUCED%20%281%29.pdf](https://www.courtinnovation.org/sites/default/files/documents/Red%20Hook%20OctoberFinalProofed_REDUCED%20%281%29.pdf)

<sup>51</sup> LaGratta, E, Garcia, A., Goodner, M. and Lochridge, H. (2019). *If Walls Could Talk: Can Better Court Signs Help Build Public Trust?* Center for Court Innovation and Texas Municipal Courts Education Center. Retrieved from: [https://www.courtinnovation.org/sites/default/files/media/documents/2019-08/if\\_walls\\_could\\_talk.pdf](https://www.courtinnovation.org/sites/default/files/media/documents/2019-08/if_walls_could_talk.pdf); Center for Court Innovation (2016). *Procedural Justice Site Assessment Report: Essex County, MA*. Retrieved from: <https://www.mass.gov/doc/procedural-justice-site-assessment-report-essex-county/download>

### Increasing Investment in Courtroom Navigators/Trained Professionals to Support Tenants

Investment in trained advocates, housing counselors, and courtroom navigators would also be a significant resource for tenants. Tenant attorneys suggested that while legal counsel was valuable, training a cadre of professionals to support tenants and help them navigate the court process would also be an effective model. Expanding the capacity of trained professionals would help support tenants on the front end, but also make the court process as a whole more efficient. **Further investment in supports like the courtroom navigator model or the trained housing counselors currently involved in the Eviction Diversion Program would constitute a relatively low-cost, low-barrier means of guiding parties through the day in court.**

### Increasing Investment in Pre-Filing Mediation Opportunities

In response to the pandemic, the City required participation in a pre-filing diversion program where the landlord and the tenant meet with an independent mediator to see if they can access rental assistance funds, work out a payment plan, or come to some other agreement before the landlord files for eviction. No landlord may file for possession based on nonpayment until 45 days after they have completed an application with the City's rental assistance program, where they are enrolled in the Eviction Diversion Program.<sup>52</sup> Though most tenants and tenant attorneys we interviewed felt that this program is valuable, landlords and landlord attorneys noted that mediation can be perceived to lack the "teeth" to incentivize tenants to follow through with payment if rental assistance is not available. Implementation could be improved through offering incentives like rental assistance for landlords to participate and investing in landlord outreach. **As Landlord-Tenant Court opens up to full capacity, continued support of "upstream" opportunities for landlords and tenants to engage on a level playing field would help mitigate the significant number of uninhabitability and nonpayment cases, lessen the caseload that the judges currently have, and minimize the burden on tenants to gather and present documentation.**

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<sup>52</sup> First Judicial District of Pennsylvania. Present Judge Administrative Order Amended No. 15 of 2021. (April) Philadelphia Municipal Court. Retrieved from: <https://www.courts.phila.gov/pdf/regs/2021/15-of-2021-PJ-ORDER.pdf>

Appendix A: Landlord-Tenant Complaint, Philadelphia.



**PHILADELPHIA MUNICIPAL COURT**  
**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA**  
 1339 Chestnut Street, 10th Floor, Philadelphia, PA 19107

Marsha H. Neifield, President Judge Patricia R. McDermott, Deputy Court Administrator

**LANDLORD AND TENANT COMPLAINT**

Date Filed <span style="background-color: black; color: black;">[REDACTED]</span> <span style="background-color: black; color: black;">[REDACTED]</span> <span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span> <span style="background-color: black; color: black;">[REDACTED]</span> <span style="background-color: black; color: black;">[REDACTED]</span>
<i>Plaintiff(s)</i>	<i>Defendant(s)</i>

- I. Plaintiff states that he/she/it owns the real property located at the following address [REDACTED]. Plaintiff further states that there is a lease between him/her/it and the above-referenced defendant(s). The lease is written, attached and began on [REDACTED] for the term of month to month. Additionally, plaintiff states that the lease is residential.
- II. Plaintiff states that he/she/it is in compliance with Section 102.1 of the Philadelphia Property Maintenance Code by having a valid housing inspection license at the time of filing. A copy of the license is attached.
- IV. Plaintiff states that the subject premises is fit for its intended purpose.
- Plaintiff states that he/she/it is unaware of any open notice issued by the Department of Licenses and Inspections ("Department") alleging that the property at issue is in violation of one or more provisions of the Philadelphia Code.
- VI. The defendant is in possession of the property and refuses to surrender possession of the property.
- VII. Plaintiff demands a judgment of possession and a money judgment in the amount itemized below based on Non Payment of amounts due under the lease.

The amount of unpaid rent below and late fees alleged due.				Summarized alleged amounts due:	
Month	Year	Rent	Late Fee		
APR.	2016	\$650	\$50	Rent	\$1,300.00
MAY	2016	\$650	\$50	Late Fees	\$100.00
				Gas	\$0.00
				Electric	\$0.00
				Water / Sewer	\$0.00
				Attorney's Fees	\$0.00
				Other	\$0.00
				<b>Subtotal</b>	\$1,400.00
				Court Costs	\$90.00
				<b>Total</b>	\$1,490.00

ONGOING RENT IN THE AMOUNT OF \$650.00 FROM THE DATE OF THE FILING OF THIS COMPLAINT TO THE DATE OF THE HEARING ON THE MERITS IN THIS MATTER.

Breach of a condition(s) of the lease other than nonpayment of rent. The conditions allegedly breached were: UNARTHORIZED OCCUPANTS

<b>Filing Party</b> <span style="background-color: black; color: black;">[REDACTED]</span>	<b>Phone Number:</b> <span style="background-color: black; color: black;">[REDACTED]</span>
I am a plaintiff in this landlord tenant action. I hereby verify that I am authorized to make this verification and that the facts set forth above are true and correct to the best of my knowledge, information and belief. I understand that this verification is made subject to the penalties set forth in 18 Pa. C.S. § 4904, which concerns the making of unsworn falsifications to authorities.  <span style="background-color: black; color: black;">[REDACTED]</span> Signature Plaintiff/Attorney	<b>SUMMONS TO THE DEFENDANT:</b> You are hereby ordered to appear at a hearing scheduled as follows: <b>LOCATION (SITO):</b> 1339 Chestnut Street 6th Floor Philadelphia, PA 19107 Hearing Room: 3  <b>DATE (FECHA):</b> <span style="background-color: black; color: black;">[REDACTED]</span> <b>TIME (HORA):</b> 08:45 AM
<b>NOTICE TO THE DEFENDANT: YOU HAVE BEEN SUED IN COURT. PLEASE SEE ATTACHED NOTICE.</b>	<b>NOTA IMPORTANTE PARA EL ACUSADO: USTED HA SIDO DEMANDO EN CORTE: POR FAVOR MIRA PAPELE ESCRITA.</b>

## ARE YOU THE DEFENDANT? SEE BELOW

### AN EVICTION CASE HAS BEEN FILED

The Plaintiff is trying to evict you. If you lose this case, you will have to move and possibly pay the Plaintiff money. Get to court on time. Only you or a lawyer can appear in court on your behalf. You may not send a friend or relative in your place. If you want to talk to a lawyer about your case, ask the judge for a continuance.

### IF YOU DO NOT GO TO COURT

The case will go ahead whether or not you go to court. If you are not in court, the judge will only hear the Plaintiff's side of the story and may order you to move within a very short period of time. If you do not move during that period, the sheriff can evict you and all other occupants from the property and you may lose your belongings. If you miss your court date and the judge orders you to move, you can file a motion explaining why you missed court and ask the judge for another chance to explain why you should not be evicted. Talk to a lawyer or visit [illinoislegalaid.org/](http://illinoislegalaid.org/) for more information.

### YOU HAVE RIGHTS

1. You may come to court and tell your side of the story. If you have any receipts, photographs, or other documents that support your side of the story, bring them to court. You can let the judge know that you have these documents when it is your turn to speak.
2. You have a right to demand a trial by jury. Jury trials are complicated, so you may want to consult with a lawyer before demanding a jury trial. A jury demand should be filed on or before the first date you have to come to court. If you have not done it by that date, the judge might not give you more time to file it.
3. You may have a lawyer represent you in court but the court will not appoint a lawyer for you. If you want a lawyer, you must get one right away. You may go to the court date and ask the judge for time to get a lawyer.
4. You may be required to pay a fee to file an appearance or a jury demand. If you cannot afford the fee, you may fill out and file an *Application for Waiver of Court Fees* found at: [illinoiscourts.gov/Forms/approved/](http://illinoiscourts.gov/Forms/approved/).
5. If you do not have a lawyer but can afford one, you can call one of the following Lawyer Referral Services and ask them to recommend a lawyer for you:
  - Chicago Bar Association Lawyer Referral Service: (312) 554-2001
  - Cook County Bar Association Lawyer Referral Service: (312) 630-1157
  - Illinois State Bar Association: (800) 922-8757
  - Other Lawyer Referral Services are available online.
6. If you cannot afford a lawyer, a legal aid organization may be able to help you for free or at a reduced rate.  
**If you live in Cook County**, call CARPLS: (312) 738-9200. CARPLS is a legal aid referral service that can connect you with one of Cook County's many legal aid organizations. You may also contact these organizations directly:
  - Cabrini Green Legal Aid (CGLA): (312) 738-2452
  - Lawyers' Committee for Better Housing (LCBH): (312) 347-7600
  - Legal Aid Chicago: (312) 341-1070



**NOTICE TO TENANTS:  
READ THESE PAPERS CAREFULLY!  
YOUR LANDLORD WANTS TO EVICT YOU**

ON \_\_\_\_\_ AT \_\_\_\_\_ A.M./P.M., you must come to court at the location below. You do not have to pay any fees to the court for this first hearing.

- If you **do not** appear in court and your landlord does, your landlord will win automatically and can have the sheriff physically remove you from the property.
- If you **do** appear in court and your landlord does not, the court will dismiss this case.
- If both of you appear in court:
  - The judge may ask you to try to reach an agreement with your landlord, but this is voluntary. Trained mediators may be available for free to help you resolve disputes.
  - If you and your landlord do not reach an agreement, the court will schedule a trial.
- If you are a veteran, help may be available from a county veterans' service officer or community action agency. Contact information is included below.

**IF YOU WANT A TRIAL, YOU MUST:**

- Be in court at the time scheduled above. Allow time to get through security;
- On the same day, file an **Answer** with the court giving a **legal** reason why you should not be evicted. The court can give you a form;
- Give a copy of the **Answer** to your landlord (or your landlord's agent or lawyer); **and**
- Pay a filing fee. The judge may defer payment if you are low-income. Go to [www.courts.oregon.gov](http://www.courts.oregon.gov) to see what the filing fee will be.



**Your landlord is suing you for nonpayment of rent.**

1. Your landlord has started an eviction nonpayment case against you for rent the landlord claims you owe. The landlord's reasons are given in the attached Petition.
2. Your landlord is asking this Court for:
  - a money judgment for \$\_\_\_\_\_, plus interest from \_\_\_\_\_, 20\_\_\_\_, and
  - permission to evict you from your home if you do not pay the money judgment.
3. You have a right to a trial. But first you must Answer the Petition by going to the landlord-tenant Clerk's Office at: \_\_\_\_\_, \_\_\_\_\_, New York. You must do this within **10 days** after the date these papers were given to you or a person who lives or works in your home, or were posted at your home at:

Address or description of the premises

**Warning!** If you don't Answer the Petition within 10 days, a judgment may be entered against you. If that happens, the landlord will have the right to evict you.

4. Your Answer should say the legal reasons that you don't owe all or part of the rent. The legal reasons are called defenses. You can also say any claims you have against the landlord. You will have to prove your defenses and claims in court. To Answer the Petition you must either:
  - Go to the landlord-tenant Clerk's Office and tell the Clerk your Answer, or
  - Give the landlord-tenant Clerk your Answer in writing (Form No. Civ-LT-91a).

Information to help you Answer the Petition (Form No. Civ-LT-92) is available at the landlord-tenant's Clerk's Office or online at [www.nycourts.gov/housingnyc](http://www.nycourts.gov/housingnyc).

**Important!** If you don't tell the Clerk about a defense in your Answer you might not be able to talk about it later in this case or any other case.

## Appendix E: Represented Tenant Interview Protocol

Reinvestment Fund is a non-profit organization based in Philadelphia. We are funded to engage in a body of research aimed at understanding the eviction process here. We've done work on where evictions are happening in the city, how the court process works, and now we're interested in hearing the perspective of tenants who have had legal representation during their eviction filing.

1. In just a few sentences, can you describe what events led up to your landlord filing for eviction?
2. How did you find out about the eviction? (landlord should have given notice to quit/court sends document after)
3. Did you seek help from a lawyer before your court date?
4. If yes, how did you find a lawyer to help?
  - a. Did you seek help from an organization that offers no-cost legal services?
    - i. If yes, how did you hear about them? (choices: word of mouth, internet search, advertisement or flyer, other)
    - ii. If yes, how did you first contact them? (phone/email/walk-in)
  - b. Did you seek help from a lawyer or law firm you had to pay for their services?
    - i. If yes, how did you hear about them? (choices: word of mouth, internet search, advertisement or flyer, other)
    - ii. If yes, how did you first contact them? (phone/email/walk-in)
5. Did you receive legal advice before your court date?
  - a. If yes, please describe
  - b. Did you get advice from more than one legal organization?
  - c. Did the same lawyer who gave you advice before court also represent you in court?
6. In just a few sentences, why did you decide to seek legal help?
7. How many times did you meet with or speak to your lawyer, including your court date?
  - a. How did you find the experience?
  - b. Did you experience any difficulties in meeting with your lawyer?
  - c. Did you experience any difficulties collecting the appropriate documents/forms for your lawyer?
8. Have you ever had a prior eviction case without a lawyer?
  - a. How did the experience differ from when you had a lawyer?
9. Did you go to court? (Virtual or in-person)
  - a. Was it easy to get to?
  - b. If yes, can you describe your experience in court?
  - c. What was most challenging about the experience?

- d. Was there anything that helped improve the process/make it less challenging?
  - e. What would you suggest to improve the process?
10. What did you find most helpful about having a lawyer?
11. What did you find least helpful about having a lawyer?
12. What was the outcome of your court case?
13. Do you think your outcome was improved by having a lawyer?
- a. If so, why?
14. Did you receive any other help or services between the eviction filing and the end of the case
- a. If yes, choose all that apply:
    - i. Counseling related to your personal finances or housing options
    - ii. Counseling related to your family situation
    - iii. Money from a government program
    - iv. Money from a community source (church, mutual aid fund, etc.)
    - v. Money from a friend or relative.
15. If your eviction stemmed from missing rent payments, what do you think would help you most with maintaining rent payments/avoiding eviction in the future?
- a. A Housing Choice Voucher (Section 8)
  - b. Emergency one time rental assistance related to a documented issue such as hospital stay (for example 1-3 month's rent)
  - c. Ongoing shallow rental assistance through a city program that isn't section HCV (for example, \$300 every month for up to 2 years)
16. More broadly – what might help?
- a. A lawyer
  - b. Mediation with your landlords
  - c. A housing/finance counselor
  - d. A law raising hourly wages
  - e. Affordable health insurance
  - f. Other

COVID: Now we're going to ask some questions about how the COVID-19 pandemic may have affected your life since March 2020:

1. Did the COVID-19 pandemic affect your employment?
- a. No, Employment remained the same
  - b. No, was already not working
  - c. Yes
  - d. If Yes, in which way (s)
    - i. Lost a full-time job
    - ii. Lost a part-time job

- iii. Lost hours or shifts at my job
    - iv. Took a pay cut at one or more jobs
  - e. If Yes, was this temporary or is it still ongoing?
  - f. If Yes did you receive unemployment benefits?
    - i. If so, was benefit amount more, less or the same amount you earned pre-COVID?
  - g. If Yes, did it impact your ability to pay monthly rent?
- 1. Did your landlord or property manager reach out to you regarding COVID and its effects?
  - a. Is your landlord offering any of the following: reduced or deferred rent; payment plans; waived late fees?
  - b. Has your landlord increased communication with you because of COVID?
  - c. If not, would additional communication be helpful to you?
  - d. Do you feel that proper property maintenance procedures are in place since the COVID outbreak?
  - e. Do you feel proper specific COVID risk reduction practices are in place (i.e. sanitizing of shared spaces)?
- 2. Has COVID impacted your ability to pay rent in anyway unrelated to your employment?
  - a. If so, please describe:
- 3. Do you anticipate being evicted because of COVID-related hardship?
- 4. Are you aware of resources that are available from the City and other organizations for COVID-related rental assistance?
  - a. If so, have you used or applied for any resources for rental assistance during this time?
  - b. If you applied, did you receive funds?
- 5. If so, are you aware of the national eviction moratorium for COVID hardship?
  - a. If so, have you submitted a Hardship Certification Form to your landlord?
- 6. The City has introduced a mandatory pre-filing diversion program, where the landlord and tenant meet with an independent mediator to work out a payment plan or other accommodation *before* the landlord files for eviction. What do you think about this sort of program?
- 7. Do you have a housing choice voucher?
  - a. Have you had to undergo income recertification?
- 8. Do you think having a lawyer would improve the outcome of an eviction court case due to COVID hardship?
  - o If yes, why (based on your own experiences)?

## Appendix F: Legal Aid Tenant Attorney Interview:

Reinvestment Fund is a non-profit organization based in Philadelphia. We are funded to engage in a body of research aimed at understanding the eviction process here. We've done work on where evictions are happening in the city, how the court process works, and now we're interested in hearing the perspective of attorneys who have represented tenants during their eviction filing.

1. What type of law do you typically practice outside of your pro-bono work (if applicable)?
2. How are tenants referred to your services?
3. Do you have a typical client?
4. In your experience, what are some of the most common reasons that a tenant faces eviction?
  - a. Are there circumstances that typically trigger that reason (i.e., nonpayment due to lost employment/medical expenses)?
5. When you work with clients, are you made aware of previous evictions on their records?
  - a. If so, does that process differ from clients without prior evictions?
6. Have you worked with tenants with housing choice vouchers?
  - a. If so, Does that process differ from other cases?
7. Do you meet with tenants before their court date?
  - a. If so, what does that communication look like?
  - b. How many times do you typically meet before a court case?
  - c. What information or documents do you typically have clients gather in advance of their court case?
  - d. Has meeting/interacting with clients changed as a result of COVID?
8. How well does the typical tenant seem to understand the court process? How does that impact your ability to resolve the case?
9. What do you see as the main challenges that tenants face in navigating the legal system?
10. Please describe your experience in Landlord-Tenant court
  - a. In what ways do you feel that having representation improves your clients' outcomes?
  - b. What are examples of typical outcomes of your cases?
  - c. What factors do you think contribute to more or less successful outcomes?
11. How do you decide to pursue settlement of a case with a Judgment by Agreement, Withdrawal or some other form of settlement/resolution? To what extent is the decision based on the client's circumstances or preferences?



- a. What do you see as the advantages and disadvantages of the JBA process?
12. In your experience, how do cases resolved in LL/T court compare to how cases are resolved in other courts/by other processes (i.e. based on type of law you typically practice)?
13. What are the most frequent challenges you face when representing tenants? Examples:
- a. Communication with tenants
  - b. Gathering tenant documents/information
  - c. LL/T court process
  - d. Court interaction with landlord/landlord attorney
14. Of the following, what do you think would help your clients most with maintaining rent payments/avoiding eviction?
- a. A Housing Choice Voucher (Section 8)
  - b. Emergency one time rental assistance related to a documented issue such as hospital stay (for example 1-3 month's rent)
  - c. Ongoing shallow rental assistance through a city program that isn't section HCV (for example, \$300 every month for up to 2 years)
15. From a broader perspective, what do you think would help your clients most with maintaining rent payments/avoiding eviction in the future?
- a. A lawyer
  - b. Mediation with landlords
  - c. A housing/finance counselor
  - d. A law raising hourly wages
  - e. Affordable health insurance
  - f. Other
16. Are there things about the Court process that could be changed to make it run more smoothly? Examples:
- a. Pre-trial mediation;
  - b. More tenant lawyers
  - c. More housing counselors in the courtroom, and financial counselors in particular
  - d. Augmented emergency rent availability
  - e. Better Court documents (e.g., a new JBA form, edited scripts, etc.).
17. Have you worked with clients that have been affected by the COVID-19 pandemic?
- a. Have clients lost employment?
  - b. Have clients received unemployment benefits?
18. Have you directed tenants to emergency rental assistance?
- a. Do you have experience with the process?
  - b. If so, did you experience any challenges with the process?

19. The City has introduced a mandatory pre-filing diversion program, where the landlord and tenant meet with an independent mediator to work out a payment plan or other accommodation *before* the landlord files for eviction. Do you think this would be a helpful way to help tenants stay in their homes? If yes, why?
20. Have you directed tenants to the eviction diversion program?
- a. Do you have experience with the process?
  - b. If so, how does it compare to or contrast with the usual LL/T court process?
  - c. If so, have you experienced any challenges with the program?
21. Do you think having a lawyer would improve the outcome of an eviction court case due to COVID hardship? If yes, why?

Reinvestment Fund has published a range of reports addressing critical public policy issues. The highlighted reports below represent recent housing research projects. For details, please visit our Policy Publications site:

[WWW.REINVESTMENT.COM/IMPACT/RESEARCH-PUBLICATIONS](http://WWW.REINVESTMENT.COM/IMPACT/RESEARCH-PUBLICATIONS)

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2016

### West Philadelphia Scattered Site Model: An Affordable Housing Impact Study



2017

### Evictions in Philadelphia



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### HEMAP's Enduring Impact in Pennsylvania



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