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Philadelphia Enacts ‘Right to Counsel in Evictions’ Law

On November 14, 2019, the Philadelphia City Council passed a bill titled “Legal Representation in Landlord Tenant Court” (the “Ordinance”), providing a right to free legal representation for low-income residents facing eviction proceedings. The Ordinance passed unanimously, is expected to be signed into law by Mayor Jim Kenney, and will take effect immediately thereafter.

Philadelphia joins a growing number of major cities around the country passing this type of legislation following New York City’s adoption in 2017. San Francisco and Newark (NJ) have followed suit, while similar legislation is pending in Denver, Detroit, Los Angeles, and Cleveland. Historically in Philadelphia, approximately 80% of landlords have been represented by counsel, while tenant representation has been estimated between five and 11%, depending on the methodology used by the survey. A study publicized by the ordinance sponsors estimated that evictions lead to more than \$45 million annually in costs, including expenditures on homeless shelters, job loss, and medical and social services.

Counsel will be provided not just for evictions or other tenancy terminations, but also for any proceeding that is the functional equivalent of eviction, or any first-time appeal of such a proceeding (as determined by the organization providing counsel). Given the broad definition, the government-funded right-to-counsel will extend to representation in administrative proceedings before the Philadelphia Housing Authority and the Fair Housing Commission.

The Ordinance provides legal representation through Philadelphia's nonprofit legal providers. The first-year budget allocates \$2.1 million for that purpose, but the legislation's sponsors have stated their expectation that funding will increase as the need grows. As awareness of the Ordinance and available representation spreads, significant growth is anticipated.

To qualify for representation under the Ordinance, a Philadelphia tenant must have an annual gross income under 200% of the federal poverty guidelines established by the U.S. Department of Health and Human Services. Initially, that would be an annual gross income under \$24,900 for a single person or \$51,500 for a family of four. Representation under the Ordinance covers residents regardless of whether the landlord is a private landlord or the Philadelphia Housing Authority.

This Ordinance passed in response to what housing advocates claim is a nationwide eviction epidemic. Housing advocates estimate that 2016 saw 2.3 million evictions notices filed across the country – about four each minute. Those advocates further argue that the staggering amount of evictions contribute to joblessness and medical problems. The stated goals of the Ordinance are not to stop eviction proceedings; rather, by providing representation, the Ordinance will enable tenants to negotiate time and payment agreements, navigate the court process, address housing conditions, and leave under better circumstances.

Authors

This GT Alert was prepared by **Robert D. Lane Jr.**, **Laura Bottaro Galier**, and **Kevin Greenberg**. Questions about this information can be directed to:

- **Robert D. Lane Jr.** | +1 215.988.7866 | LaneRD@gtlaw.com
- **Laura Bottaro Galier** | +1 215.972.5911 | BottaroL@gtlaw.com
- **Kevin Greenberg** | +1 215.988.7818 | GreenbergK@gtlaw.com
- Or your **Greenberg Traurig** attorney

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