

EVICTION PREVENTION AND DIVERSION
in Cuyahoga County
A Proposal from Northeast Ohio Community-Based Agencies

October 12, 2021

To: Municipal Court Leadership in Cuyahoga County

From: Northeast Ohio Community-Based Agencies

We, the undersigned partners focused on housing issues, encourage the community to implement an **Eviction Prevention and Diversion** effort for tenants facing housing instability and landlords in need of rent assistance.

COVID -19 has exacerbated a housing crisis, impacting many renters who are behind on rent. As the public health crisis continues, and eviction moratoria ends, eviction filings are likely to overwhelm courts. There are various intervention methods that can be taken to maintain housing stability for many households, while also protecting landlords' rights. Eviction prevention and/or diversion efforts can help households avoid the disruption, trauma, and damage that evictions can cause.

An Eviction Prevention and Diversion program should:

- **Partner with community organizations and legal services providers:** A partnership between community-based organizations, landlord community, the courts and legal services providers would maximize the chance for successful diversion.
- **Include a multisectoral coalition** of:
 - Supportive services, social work, and/or or non-legal advocacy.
 - Legal services, landlords' legal representatives, and/or mediation.
 - Organizations administering rental assistance programs; and
 - Government agencies and courts.
- **Adopt policies to allow for pending evictions to access rental assistance.** There are currently many pending evictions that should be postponed to allow tenants and landlords to access available rental assistance. Courts can impose administrative orders to slow down the process, connect tenants to available legal assistance and rental assistance.
- **Require mediation in pending evictions cases.**

We'd like to work together to create an eviction diversion effort that works for people in need in Northeast Ohio and be a national model for other cities. We understand these efforts take court resources, but these efforts will take less court resources now than in the future as eviction filings climb. And, our team of partners are willing to work with the County and courts to find support for such an eviction diversion effort which long term benefits the entire community.

Goals:

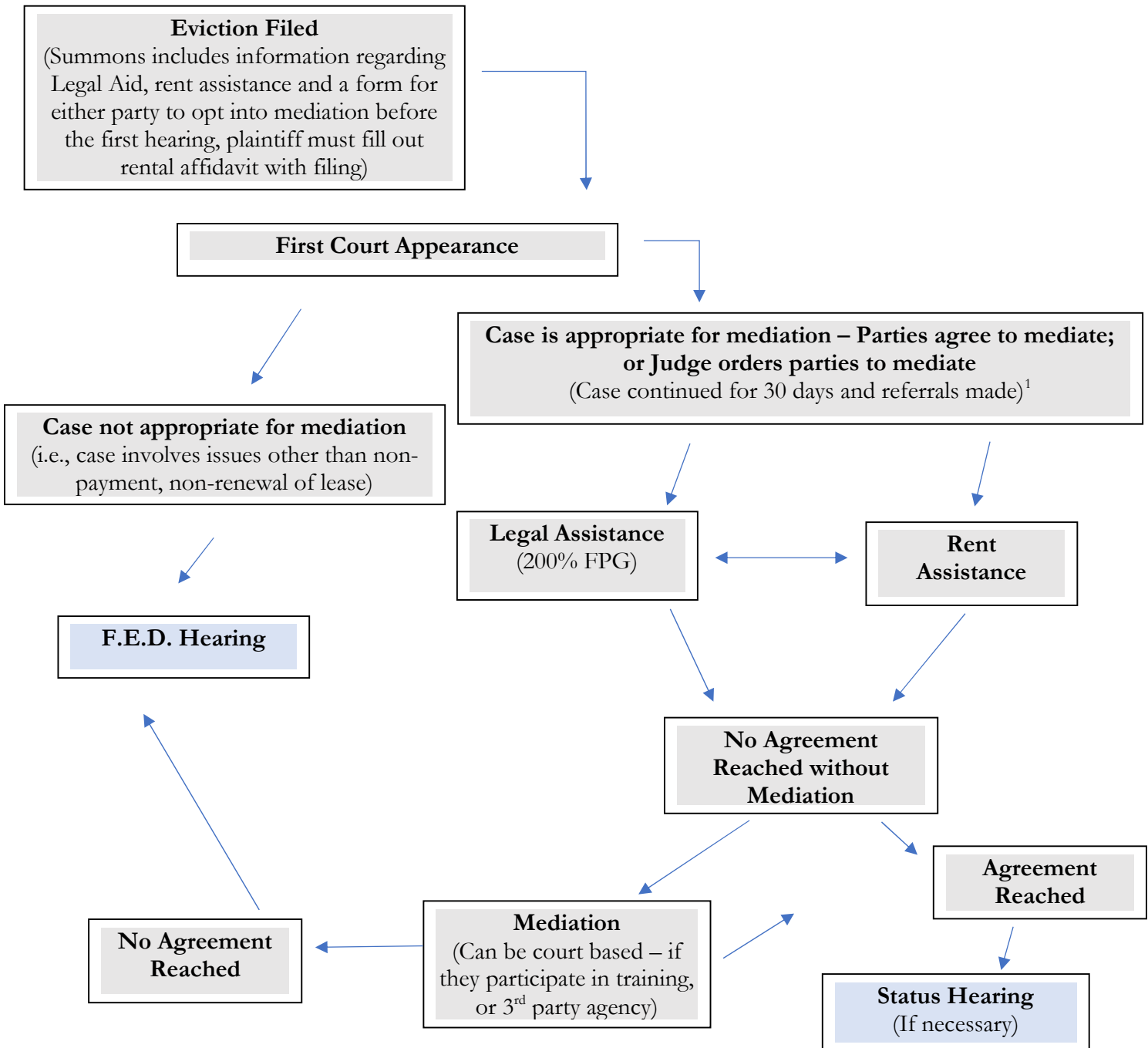
1. Ensure access to counsel to prevent evictions
2. Ensure rent assistance is used in Cuyahoga County
3. Prevent property tax revenue loss, and the downstream effects of that

Outcomes:

1. People stay housed
2. No rent assistance escheats to federal government
3. Downstream: Cuyahoga County collects property taxes, there is no spike in shelter use/homeless services, school districts don't lose important

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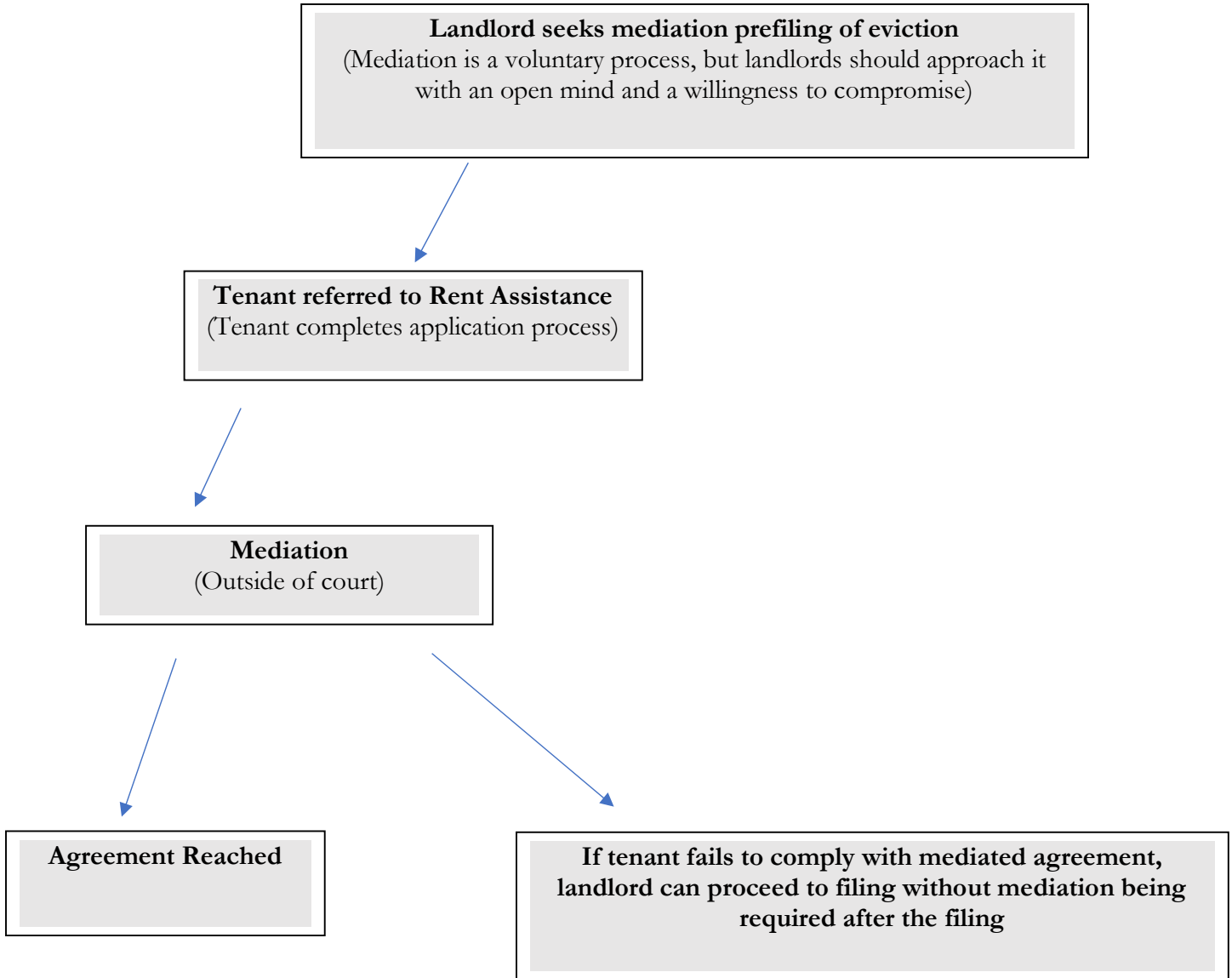
Proposed Eviction Diversion Program – Cuyahoga County – Post Eviction Filing



¹ Court’s inherent power to manage the docket allows for extended continuance in these instances. Courts have authority to grant continuances under their general supervisory power over their docket. “Independent of statute, as an incident to their authority to hear and determine cases, courts have power to grant continuances.” *State ex rel. Buck v. McCabe*, 140 Ohio St. 535, 537, 45 N.E.2d 763 (1942). Accord *Kidd v. Cincinnati Transit Co.*, 24 Ohio App.2d 101, 102, 265 N.E.2d 297 (1st Dist. 1970). This authority to grant continuances of the trial date is generally applicable to an eviction action. See *See v. Sabau*, No. 62047, 1992 WL 30951, at *2-4 (Ohio App., 8th Dist., Feb. 20, 1992); *Swartz v. Schutte*, No. 14717, 1991 WL 2022, at *2 (Ohio App., 9th Dist., Jan. 9, 1991); *Bar Hotel Co. v. Lloyd MacKeown Buick Co.*, 104 Ohio App. 69, 74, 146 N.E.2d 879 (3rd Dist. 1957). The only eviction actions in which the court may not continue the trial date are drug-related eviction actions that have been filed under R.C. 1923.02(A)(6)(a). See R.C. 1923.051(C).

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• **Types of cases that should be referred to mediation:**

- a. Where the parties want to mediate
- b. Where the landlord is seeking to evict because of nonpayment of rent
- c. Where the landlord is seeking to evict non-renewal of the lease
- d. Where the tenant alleges defective conditions at the premises
- e. Where the landlord refuses to accept rent
- f. Where the Court determines that mediation is appropriate
- g. Where the tenant wants to maintain the tenancy.
- h. Where the tenant has the rent.
- i. Where the tenant can afford the rent going forward.

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Additional Comments from Collaborating Agencies:

- **CHN Housing Partners:** To date, CHN has deployed over \$45MM in rental payment assistance County-wide. CHN has no excess funds remaining and met the Treasury requirement that 65% of ERA1 funding be spent or obligated by 9/30/21. CHN continues to work with the City of Cleveland, Cuyahoga County, and Step Forward to ensure all funds allocated locally are used to the fullest extent. The proposed program is predicated on there being a pandemic related need to divert evictions at scale and there being pandemic-related assistance available, limited to those otherwise eligible due to a COVID-related hardship.

- **Cleveland Mediation Center:** Courts within court mediation programs will have access to mediation training.

- **Lutheran Metropolitan Ministry:** Consider that landlords have not been paid and help has not been received by those that need it. The diversion/mediation process should occur in the timeliest manner possible. Perhaps the filing of an eviction action by the landlord can automatically launch an application for rental assistance on behalf of the defendant in the action. In actions filed for reasons in addition to nonpayment of rent, immediate rental assistance may well facilitate the mediation of all other nonfinancial issues.

- **Northeast Ohio Coalition for the Homeless (NEOCH):** Build a process pre-filing that would incentivize the use of the rent assistance process for non-payment cases. As such, people would not get an eviction on their record.

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On behalf of vulnerable community members,
thank you for considering this proposal,

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Kevin Nowak, CHN Housing Partners

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Susanna H. Krey, Sisters of Charity Foundation of Cleveland

Doug Bennett, Step Forward

Augie Napoli, United Way

