

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE                   §  
PETITION OF DELAWARE               § No. 221, 2007  
STATE HOUSING AUTHORITY       §  
FOR A WRIT OF PROHIBITION       §

Submitted: May 18, 2007

Decided: May 25, 2007

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices

**ORDER**

This 25<sup>th</sup> day of May 2007, it appears to the Court that:

(1) Petitioner Delaware State Housing Authority (“DSHA”) has filed a petition in this Court requesting the issuance of a writ of prohibition,<sup>1</sup> which would prohibit the Superior Court from requiring DSHA to provide one of its tenants, Luciel Howell, with a DSHA rental unit in Kent County pending the Superior Court’s decision on her petition for a writ of certiorari. DSHA also has requested a stay of the Superior Court’s order pending this Court’s decision on the petition for a writ of prohibition.<sup>2</sup> Howell has filed a response in opposition to DSHA’s petition for a writ of prohibition and a response in opposition to DSHA’s motion for a stay.<sup>3</sup> We conclude that a writ of prohibition is inappropriate under the

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<sup>1</sup> Supr. Ct. R. 43.

<sup>2</sup> By order dated May 9, 2007, the Superior Court denied DSHA’s motion for a stay.

<sup>3</sup> On May 21, 2007, the Justice of the Peace Court of the State of Delaware filed a motion to intervene.

circumstances of this case. Accordingly, the petition for a writ of prohibition is DISMISSED and the motion for a stay is DENIED as moot.

(2) The record reflects that, in October 2006, DSHA instituted summary possession proceedings in the Justice of the Peace Court (the “J.P. Court”) on the ground that Howell, a tenant at the Clark’s Corner public housing complex in Harrington, Delaware, had violated her lease. In February 2007, the J.P. Court determined that Howell’s lease should be terminated. On appeal, a three-judge panel of the J.P. Court affirmed the decision to terminate and awarded possession of the unit to DSHA. A writ of possession issued on February 22, 2007. The J.P. Court denied Howell’s subsequent motions to stay and for reargument. Her appeal to the Court of Common Pleas was dismissed for lack of jurisdiction. In the interim, DSHA placed a new family in the unit.

(3) Howell filed a petition for a writ of certiorari in the Superior Court alleging irregularities in the J.P. Court proceedings that resulted in the termination of her lease. The Superior Court granted the J.P. Court an extension of time in which to transcribe the tapes of the hearings and issued a briefing schedule on the petition, with the reply brief due on or before June 8, 2007. In its April 25, 2007 order requiring DSHA to provide Howell with housing pending its decision on her petition for a writ of certiorari, the Superior Court stated its intention to decide this matter “as efficiently as possible,” indicating that, barring any unforeseen

circumstances, it will render its decision no later than mid-June. In response, DSHA filed a petition for a writ of prohibition and a motion for a stay in this Court. DSHA argues that the Superior Court's order unfairly requires DSHA to violate federal law by placing Howell in a rental unit that already has been assigned to another family and exceeds the proper jurisdiction of the Superior Court.

(4) A writ of prohibition is the legal equivalent of the equitable remedy of injunction and may be issued to prevent a trial court from exceeding the limits of its jurisdiction.<sup>4</sup> Because prohibition is an extraordinary remedy, this Court is reluctant to grant such a writ unless the trial court's lack of jurisdiction is "manifestly apparent" on the record.<sup>5</sup> Like a writ of mandamus, a writ of prohibition will not issue if the petitioner has another adequate remedy at law.<sup>6</sup>

(5) DSHA's petition fails to invoke this Court's original jurisdiction to issue an extraordinary writ. We do not find the Superior Court's alleged lack of jurisdiction to require DSHA to provide Howell with housing pending its decision on her petition for a writ of certiorari to be "clear and unmistakable."<sup>7</sup> The Superior Court has jurisdiction to decide the petition for a writ of certiorari. It also possesses the inherent authority, albeit limited, to position the parties before it to

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<sup>4</sup> *In re Hovey*, 545 A.2d 626, 628 (Del. 1988).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 629.

minimize prejudice to them prior to a decision on the merits. Finally, we do not find it persuasive, on the record before us, that DSHA has no option but to violate federal law by obeying the Superior Court's order.

NOW, THEREFORE, IT IS ORDERED that DSHA's petition for a writ of prohibition is DISMISSED and its motion for a stay is DENIED as moot.<sup>8</sup>

BY THE COURT:

/s/Henry duPont Ridgely  
Justice

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<sup>8</sup> The Justice of the Peace Court's motion to intervene also is denied as moot.