

An Update on New York City Lead Laws

Despite opposition from real estate industry groups and Housing Preservation and Development (HPD), Intro 6-A, passed by the New York City Council, became law this month. There are many unknowns as to how this law will actually impact owners as it requires additional rules to implement. These rules will be drafted over the next several months. RSA will be closely monitoring them and will keep you updated.

Under this legislation, additional lead-based remediation mandates require owners to do the turnover requirements of Local Law 1 immediately, meaning owners will be required to engage in the lead abatement work while residents are still in the unit if a child under six resides in there. This includes remediation of lead-based paint hazards and abating lead-based paint on friction surfaces including doors and windows. This may mean owners will have to pay for tenant accommodations for an indefinite period of time while the work is being undertaken. An important caveat in the rule, however, specifies tenants will be able to opt-out.

Work is required to be done by July 1, 2027, for all units in which a child of applicable age resides as of January 1, 2025, or within three years after the date a child of applicable age begins to reside in any occupied dwelling unit. If a tenant refuses to relocate, the owner will be exempt from performing the work until the unit is turned over to a new occupant. The law provides no clarity on what type of documentation will be required to secure an exemption, nor the actual triggering age of the legislation. Future rules will spell this out.

As you may already know, turnover requirements pursuant to Local Law 1 of 2004 mandate that owners of buildings built before 1960 are required to complete lead-based paint abatement when a dwelling unit changes tenancies, commonly referred to as “turnover.” Currently, owners are required to 1. Abate all lead-based paint on friction surfaces on all door frames. 2. Abate all lead-based paint on friction surfaces on all windows and install replacement on sliders. 3. Make all bare floors, window seals and wells smooth and cleanable. 4. Remove all encapsulate lead-based paint on chewable surfaces with evidence of teeth marks. 5. Remediate any lead-based hazards with underlying defects. 6.

Conduct dust wipe clearance testing, if required by law. This work must be done irrespective of tenants age.

This law presents a number of concerning issues. For children under six, lead-abatement compliance would extend to not only the child’s home but any place where the child spends 10 or more hours a week- for example, a care-givers apartment or a grandparent’s. In addition, there is also a need to address relocation should an owner need to provide accommodations for tenants- a very real obstacle given the limited availability in hotels.

This misguided City Council led effort brings more problems than it does solutions, misdirecting already limited resources, and, of course, your already restricted income. The proposed dates to complete work present another gray area. For example, if a child came to reside in a unit at age five this work would have to be completed despite the fact the child turned six before work needed to be done? The mandated XRF five-year testing period, under Local Law 31 of 2020 allows testing to be completed before August 9, 2025, but XRF tests must be submitted after August 1, 2025. This law also does not address whether those with current exemptions would be affected.

Complying with the city’s changing lead laws is an example of the mandated costs that building owners must account for that are not included in the Rent Guidelines Board (RGB) Price Index of Operating Costs (PIOC), a large focus our discussions with the board. These expenses, for some reason, although they should be, are not treated the same as insurance costs or energy. Property management companies, contractors, condo/co-op boards, owners- everyone- continues to oppose this new policy because they know the reality of what it means. We are looking at long-term relocation of tenants, increased expenses for all involved and likely a disruption in education for young children with school districting worries to consider. In the midst of a migrant, housing, and affordability crisis we hope the administration adopts a common-sense approach and recognizes the disruption to the city and all families involved. We will continue to keep you apprised of any new developments. ■