



Question of the Month: When should I address my lead-based paint issues? NOW is the time to do so! - by Lee Wasserman

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Should I rely on a crystal ball or 26 years of expertise and experience? Either way, my conclusion seems to be the same. Lead-based paint is not going away magically and most recent changes have created the potential for a highly litigious lead litigation climate. Whereby, government agencies, insurance carriers, and lenders will begin to require lead-based paint risk assessments and inspections prior to coverage or financing, and for those who are not the most diligent of operators, a regularly scheduled lead compliance and risk management audit may become a part of your future.

My suggestion would be to find out where you have a lead risk as soon as possible, i.e., lead in paint, lead in dust, lead in soil and lead in water. Then, create a plan to honestly and consistently address these risks of units as they become vacant and certainly prior to family residency. Eventually, this soon to be more litigious environmental poison, lead, will no longer be a risk and eventually become a cost savings on several annual expenses, not to mention a marketing advantage.

Most recently HUD amended their federal regulation, 24 CFR Part 35, whereby realigning the definition of an “elevated blood lead level” to the Center for Disease and Control (CDC) Reference Value of 2012. In early 2017, CDC five year advisory panel is now suggesting to lower the Reference Value to 3.5ug/dl. According to CDC based on a reference value of 5ug/dl, and a child population of 26 million children under seven years of age, one in 53 children in the United States will be at or above the current 5ug/dl reference value! HUD’s most recent alignment with CDC for its federally subsidized programs, becomes the standard-of-care, for the real estate community.

So, if you don’t know, or you think you might, or you know about your properties lead-based paint and lead hazards, in my opinion, strongly suggest you begin to formulate a manageable and achievable program to address your lead-based paint risk. If you don’t, my prediction, is others will begin to mandate, regulate or litigate that you do! I also want to remind my readers, that it is always better to address things on “your” terms, versus those of insurance carriers, monetary lenders, government entities, and litigators.

Flint, Michigan, as was expressed to me by an insider, the beltway was the silver lining in the gray cloud of attracting national attention to this national problem. Even more recently while attending a national conference it was shared, that secretary/doctor Ben Carson understands the neurology/science and toxicity of lead poisoning and more so, looks at lead poisoning as a potential “legacy” concern for our country. Since Flint, both sides of the isle are supportive and a mere change in governance is not capable of retracting 20 plus years of lead hazard history and detriment.

If there was ever a time to truly address your potential lead-based paint and lead hazards, and you want to address on your terms, I strongly suggest you consult with a professional and take action now. As mentioned above, 1:53 children nationally are considered to currently have a 5ug/dl of lead in their blood. What is now considered by many and most recently regulated as “elevated” or “poisoned” by HUD could be residing at your property already. Your best defense is a great offense, which means, know what you are dealing with. Do I, or don’t I have lead hazards and where? If you do, have a lead hazard control and O&M plan prepared with clear accountability of responsibilities. Devote the resources, time, and most importantly the commitment to addressing. If you don’t, in my, opinion, eventually others will make you.

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