



6. The local law does not require basic training in lead safety for workers performing paint repair and does not prescribe safe work practices. Moreover, by labeling what clearly is lead abatement work as “interim repair work,” the local law appears to be designed to allow owners to escape the requirements of the federal Environmental Protection Agency (“EPA”) regarding lead paint removal. Those federal regulations outline safe work practices and specifically require training and certification of workers who engage in such work.

7. Federal Occupational Safety and Health Administration (“OSHA”) standards are designed to protect the health of workers on the job, not to protect the health of residents in apartments where lead abatement work is being performed. Consequently, workers, supervisors and contractors responsible for removal of lead paint should receive special training and supervision in safety measures, similar to that required by the Asbestos Control Law.

8. The local law also allows landlords 21 days after receiving a lead paint hazard violation from the City during which they can ignore the existing City Health Code standards for lead paint abatement. These regulations set clean-up standards for controlling toxic lead dust and chips while removing peeling paint. If these Health Code standards are ignored, children are likely to become lead-poisoned and workers are likely to be exposed to hazardous levels of lead dust.

9. The local law’s work protocols for this 21-day period are less protective than those required by the EPA for exactly the same circumstances, and no public policy reason justifies protecting workers and children in New York City less stringently than those who live in the rest of the country. Specifically, the work protocols contained in the local law are too lax for the following reasons, among others:

9. The local law requires that plastic be laid on the floor, but does not require that the plastic be taped down with waterproof tape. It also does not specify the thickness of the plastic to be used. The likely consequence of these omissions is that dust generated by the paint removal work will get underneath the plastic and remain after the plastic is removed.

10. Similarly, the local law does not require that the plastic covering furniture be taped down with waterproof tape. The likely consequence of this omission is that dust generated by the paint removal work will get underneath the plastic and on the furniture.

11. Also, the local law does not follow EPA requirements for post-abatement cleanup (40 C.F.R. 745.227[a][3]), which mandate HEPA-vacuuming, followed by wet washing with special cleaning agents and rinsing, followed by a final pass with the HEPA vacuum, as specified in HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (Title X, Section 1017, Chapter 14, June 1995).

12. Finally, failure to include clearance testing for lead dust upon completion of abatement work is an unjustifiable omission. For work on walls and ceilings, the local law requires only visual inspection upon completion of the job. This is not adequate and will fail to protect children from exposure to toxic lead dust. While it requires a dust wipe sample for doors and molding (two more for work on or near windows), it does not state that the landlord must submit that sample to HPD to demonstrate compliance with a health standard *before the residents are allowed to re-enter the area*. A sampling requirement cannot be considered a “dust clearance test” unless it includes clearance procedures to protect the family from improper work.

13. The necessary components of safe lead paint removal include worker training, stringent work protocols and clearance requirements, strong and timely enforcement, and full disclosure and reporting. Unfortunately, none of these components are included in Local Law 38.

Respectfully submitted,

/s/ David Newman  
DAVID NEWMAN, M.A., M.S.

Subscribed and sworn before me  
this 22<sup>nd</sup> of September, 1999.

/s/ Robert P. Kelly  
NOTARY PUBLIC  
Robert P. Kelly  
Notary Public of New York  
#5039199  
Qualified in Nassau County  
My Commission Expires February 13, 2001