

## **Requirements Concerning Lead-Based Paint and the Fair Housing Act**

This document clarifies the interaction between lead-based paint hazard control activities and the requirements of the Fair Housing Act.

Children under the age of six are particularly vulnerable to lead poisoning, both because they are more likely to ingest lead in housing situations and because ingested lead can adversely affect the development of children's brains, central nervous systems, and other organ systems. The importance of this issue has raised questions concerning lead-based paint and the requirements of the Fair Housing Act.

**Question: May a housing provider affirmatively market units where lead-based paint hazards have been controlled to families with children?**

Answer: Yes. Affirmatively marketing units where lead-based paint hazards have been controlled to families with children is consistent with fair housing laws and with the need to protect the public welfare. A housing provider may verbally or through advertisements advise the public or potential applicants for housing that such units are available, or that families with children are welcomed for such units. In addition, a housing provider may recommend a unit where lead-based paint hazards have been controlled to families with children under the age of six, or inform the family of the availability of a waiting list for units where lead-based paint hazards have been controlled.

**Question: May a housing provider exclude families with children from units where lead-based paint hazards have not been controlled?**

Answer: If a unit which has not undergone lead hazard control treatments is available and the family chooses to live in the unit, the housing provider must advise the family of the condition of the unit<sup>1</sup>, but may not decline to allow the family to occupy the unit because the family has children. Similarly, it would violate the Fair Housing Act for a housing provider to seek to terminate the tenancy of a family residing in a unit where lead-based paint hazards have not been controlled against the family's wishes because of the presence of minor children in the household. The housing provider may offer transfers, with or without incentives, to a family residing in a unit where lead-based paint hazards have not been controlled to enable the family to move to a unit where lead-based paint hazards have been controlled, including for the purpose of addressing hazards in the family's current unit.

**Question: If resources allow lead-based paint hazards in only a few units to be controlled at a time, may these units be reserved for families with young children?**

Answer: Housing providers may hold open vacant units where lead-based paint hazards have been controlled for families with young children and may offer such families a preference. However, as noted above, if units where lead-based paint hazards have not been controlled are available, a housing provider cannot refuse to allow a family with young children to live in such units. A housing provider must provide a family with young children information about the hazards of lead poisoning. If only a few units where lead-based paint hazards have been controlled are available at any given time, we recommend that such units be scattered throughout a site rather than segregated in one area.

**Question: May housing providers give priority to addressing lead-based paint hazards in units occupied by families with small children?**

Answer: Yes. As noted above, however, families cannot be required to vacate units in order to address lead-based paint hazards. (Families can of course be required to temporarily relocate to another dwelling unit so that the lead hazard control work may be done safely.) Nothing in this memo affects the separate obligation of a housing provider to make reasonable accommodations to people with disabilities.

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<sup>1</sup>Section 1018 of the Residential Lead-Based Paint Hazard Redaction Act of 1992 (42 U.S.C. 4852d).