



THE CITY OF NEW YORK
DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT
OFFICE OF ENFORCEMENT AND NEIGHBORHOOD SERVICES

“Get Ahead of Lead” January 2021 Briefing

Dear Property Owners,

Furthering our commitment to providing property owners information on their obligations under the law, the Department of Housing Preservation and Development (HPD) will be publishing a series of quarterly bulletins online and via email. Each bulletin will highlight one aspect of the law and is not meant to comprehensively cover all laws and rules that apply. Visit the [HPD website](#) to read this bulletin and past bulletins in other languages.

This publication is intended for informational purposes only and is not intended as legal advice. This information is not a complete or final statement of all the duties of owners and tenants regarding laws and rules relating to housing in New York City.

In 2020, HPD issued over 700 violations for failure to complete the annual notice and annual investigation and over 700 violations for failure to maintain lead-based paint records to property owners. These violations may result in building-wide inspections for lead-based paint hazards and turnover violations, and may create liability for your building if lead-based paint hazards remain uncorrected. If you do not complete remediation timely and properly, you are subject to additional civil penalties and/or emergency repair charges.

For detailed information and assistance with understanding compliance, visit the [HPD website](#) to view webinars, read lead-based paint bulletins in addition to reviewing the below information.

ANNUAL NOTICE AND INVESTIGATION

Local Law 1 of 2004 (Local Law 1) requires that owners conduct activities related to lead-based paint. Owners must also retain the records of these activities for at least 10 years and, starting in May 2020, certify compliance with these activities as a part of the annual property registration. **Penalties may be significant for failure to conduct these activities and maintain these records.**

Between **January 1 and January 16**, owners of multiple dwelling built before 1960 (or between 1960 and 1978 if the owner has knowledge there is lead-based paint) are required to deliver an Annual Notice (in English and in Spanish) to each tenant and to collect that completed notice from the tenant by February 15th.

What is the notice?

- The Annual Notice asks the tenant to disclose if a child under the age of six resides (including children who live or routinely spend 10 or more hours a week) in the dwelling unit.
- There are two versions of the Annual Notice that owners can use. You only need to provide one. One combines the Lead-Based Paint Hazards notice with Window Guards notice and the second is a stand-alone Lead-Based Paint hazards notice:
 - [Protect Your Child from Lead Poisoning and Window Falls Annual Notice \(Proteja a su Niño del Envenenamiento por Plomo y de las Caídas por las Ventanas Notificación Annual\)](#)
 - [Annual Notice for Prevention of Lead-Based Paint Hazards – Inquiry Regarding Child \(Aviso Annual Para Medidas de Precaución con los Peligros de Plomo en la Pintura-Encuesta Respecto al Niño\)](#)
- The notice must be provided to the tenant in at least English and Spanish and in duplicate (two copies of each) so the tenant can retain a copy and return a copy to the owner.
- Keep evidence that this notice was delivered, make sure your tenants know where to return this notice, and retain the completed notice received back from the tenant.

What if the tenant does not respond?

- If the tenant does not return the completed notice by February 15th, the owner must conduct follow-up inspections between **February 16 and March 1** to attempt to determine if a child under six lives or routinely spends more than 10 hours per week in the dwelling unit. An owner must keep records of the attempts made to contact the tenant to perform the investigation.
- If the owner does NOT receive the completed notice from the tenant and cannot determine based on these follow-up investigations whether there is a child under six, the owner must also notify the [Department of Health and Mental Hygiene](#) (DOHMH) in writing that no notice has been received back from the tenant. The owner's notification to DOHMH should be mailed to:

Department of Health and Mental Hygiene — Healthy Homes
125 Worth Street, Sixth Floor, CN58
New York, NY 10013

Why does an owner need to collect this information?

- This notice is important because it determines where the owner must do other necessary activities required under Local Law 1, such as performing the annual investigation and following safe work practices. All the dwelling units where a child is determined to reside as defined above are required to be inspected for lead-based paint hazards.
- See the December 2019 [briefing](#) posted on the HPD website for more information about the required annual investigation for lead-based paint hazards in units and buildings where a child under the age of six resides and safe work practices.

How can an owner track everything?

- HPD has created forms to assist an owner with documenting that the notice was sent, received back, or any follow-up inspections done if the notice was not returned by the tenant: see the [Sample Forms for Delivery of Annual Notice Compliance](#).
 - HPD has also created a form to assist the owner with documenting the annual investigations: see the [Sample Forms for Annual Investigation Compliance](#).
-

Auditing Owners' Records

HPD identifies multiple dwelling buildings built prior to 1960 for audits (in the categories identified in the law) and issues a Record Production Order to at least 200 buildings annually based on HPD records and additionally to multiple dwellings where DOHMH identifies a lead-based paint hazard in an apartment when responding to a child with an elevated blood lead level.

The Record Production Order requires property owners to submit the following documentation for their property within 45 days of the request:

- Copies of records for the Annual Notice distribution and collection
- Copies of records for the completed annual investigations
- Copies of records for work performed to correct open and uncertified lead-based paint hazard violations including documentation of work practices used
- Copies of records for all non-violation work that disturbed lead-based paint or paint of unknown lead content in a dwelling unit where a child under six years of age resides or in the common area of the building, including documentation of the work practices used
- Copies of records for all work performed at turnover of any unit that was the subject of a new tenancy including documentation of work practices used and lead-contaminated dust clearance test results
- Copies of records for the investigation for the presence of lead-based paint required to be completed in a dwelling unit by August 9, 2025 or within a year if a child under the age of six comes to reside in the unit (whichever is sooner)

The Record Production Order will also be issued with a series of affidavits to be completed. A property owner who does not respond to the Record Production Order will be issued an immediately hazardous Class "C" violation and may be subject to additional violations. Property owners will be liable for a civil penalty of no less than \$1,000 and not more than \$5,000 for this violation. A property owner is also subject to civil penalties specifically for failure to conduct the annual notification and inspection and for failure to perform required activities upon turnover.
