

Legal Ease

Lead Paint - Are you At Risk?

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Lead paint poisoning continues to be a major concern for landlords throughout New England. As evidence grows that even small amounts of lead can cause children to suffer learning disabilities and other disorders, the Center for Disease Control has continued to lower the standard for the amount of lead in the blood at which children are considered to be at risk. More tenants are alleging that their children have been poisoned, and judgments and settlements from one hundred thousand to one million dollars or more are becoming more common.

HUD has estimated that 74% of the private housing stock in the United States (over 57 million units) contains lead paint. It is believed that over one million of these units are in Massachusetts alone. Many of these apartments or private houses have paint that is peeling or otherwise deteriorating, making them particularly dangerous to small children.

Massachusetts has a very strict lead paint statute and detailed regulations to accompany it. There has been much recent litigation, with many of the cases focusing upon who may be liable for the lead paint poisoning. The Massachusetts Supreme Judicial Court has decided that in addition to owners of property, the parents of the child who was poisoned may be held partially responsible if there was not adequate supervision of the child in the apartment.

Many cases have been

brought in the Boston Housing Court. That Court has ruled that property management companies may be liable for lead paint poisoning, and also that the City of Boston may be held responsible in certain instances. In a case decided in February, 1993,



the Housing Court held that the Commonwealth of Massachusetts may be liable for its failure to detect dangerous levels of lead during annual re-inspection of federally subsidized apartments. The Court stated that the Commonwealth may have violated its duty under state and federal regulations to provide decent, safe and sanitary housing.

If there is any chance that small children may at any time reside in an apartment, a landlord should delead. This can be expensive, costing three to four thousand dollars per apartment, or more. If a landlord is going to delead, a certified deleading contractor must always do the work.

If the tenants do not have a relative to stay with during the deleading process, the landlord may have to pay for them to stay elsewhere. There have been a number of cases where landlords have refused to do this, but have been subsequently ordered to do so by a judge.