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Lead Safe Advisory Board

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Agency: [Lead Safe Advisory Board](#)

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Summary

- Cleveland is highly unlikely to achieve full compliance with its lead safety ordinance by 2028. Applications to the program are declining, and every quarter the city misses its benchmarks it creates a trail of applications that would need to be processed later to achieve its goals.
- Comparing the success of lead safety programs between cities is complicated because many cities do not attempt to measure the number of unregistered rental units containing lead hazards, officials said.
- Cleveland is exploring ways to increase enforcement of the lead safety ordinance through civil fines in addition to criminal misdemeanor charges.

Follow-Up Questions

- Is there any current way to know which neighborhoods have the highest rate of lead in their housing stock, and which have the highest rate of applications?
- What are City Council and the mayor's attitudes toward the Residents First bill and the increased focus on fines as enforcement?


Notes

The meeting began at 1:01 p.m. on Dec. 14, 2023 without a roll call, though most if not all members of the board appeared present. It opened with a presentation by the Department of Building and Housing, reviewing applications for lead safe housing certifications in the City of Cleveland. The department's director, Sally Martin O'Toole, attended the meeting although the presentation was led by another city employee.

Under Cleveland's 2019 Lead Safe Ordinance ([Ordinance 747-2019](#)), owners of rental properties built before 1978 are required to have their properties certified as lead safe by March 1, 2023. This law was [matched](#) by \$111 million in funding to assist landlords with achieving lead safety. But as of Sept. 30, 2023, the city had received 7,342 first-time

applications. The vast majority of these were approved; only about 750 were rejected, with another hundred or so pending. The city estimates this represents about 13 percent of properties and 28 percent of rental units in the city (one landlord may own several properties, and one property may contain several units).

Data through September 30, 2023

- Cumulative First-Time Applications
 - Submitted: 7,342 applications (33,148 units)
 - Approved: 6,481 applications (29,030 units)
 - Unapproved: 861 applications (4,118 units)
 - Renewal Applications
 - 1,094 properties certified in first 3 quarters of rollout (1/1/21-9/30/21) subject to renewal
 - As of 9/30/2023: 627 of these (57%) have renewed and 467 have expired
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Approx 13% of
properties and
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units in City

However, the rate of applications has slowed over the last year. In fact, between the second and third quarters of 2023, applications dropped by thirty-five percent—marking five consecutive quarters of decline in the number of applications.

Lead Safe Applications Count by Quarter



- 355 applications in quarter; down 35% from Q2'23 (550)
- 5th consecutive quarter of decline

Lead Safe Applications Count by Zone

- Overall, 88% of applications approved and 12% denied or pending
- Early zones showed highest compliance
- Zones each comprise approx 6000-7,000 rental properties

Zone	Apps	Units	Approved	Units	Never Approved	Units
1	1,424	4,377	1,294	4,135	130	242
2	1,313	4,359	1,185	3,573	128	786
3	1,077	3,989	938	3,456	139	533
4	795	4,794	699	4,414	96	380
5	889	2,364	795	2,093	94	271
6	374	4,411	288	3,422	86	989
7	879	7,668	777	6,741	102	927
8	572	1,276	478	1,116	94	160
Total	7,342	33,148	6,481	29,030	861	4,118

Scot Kroehle, a landlord who serves on the board, asked about the number of properties that had not engaged with the certification process at all. The city had presented the number who applied and successfully made it through the lead safe certification process, but Kroehle was interested in the number of properties that would need to engage for the city to reach its target numbers for lead-safe housing. The city and the board agreed

that “by either metric,” the numbers are declining.

According to the city’s estimate, to reach full compliance by 2028, it would need 2,600 new applications per quarter—far above the 355 it received in the third quarter of 2023, and the number of quarterly applications is trending downward.

Other noteworthy statistics from the attached slides include that, of the properties initially certified and up for renewal, 627 have been renewed but 467 have been allowed to expire, “suggesting owner ambivalence to continued compliance.” However, previously registered rentals are still three times as likely to be certified than previously unregistered rentals, and large properties (six or more units) are two to four times as likely to be certified compared to smaller ones.

These trends pose challenges to meeting the city’s lead safety goals by 2028. The number of non-renewals is a setback, threatening overall progress, and if the number of certified units in each quarter continues to drop, the larger the number that needs to be certified in later quarters to make up for nonrenewals and shortfalls in new certifications.

Quarterly Metrics (through 9/30/23)



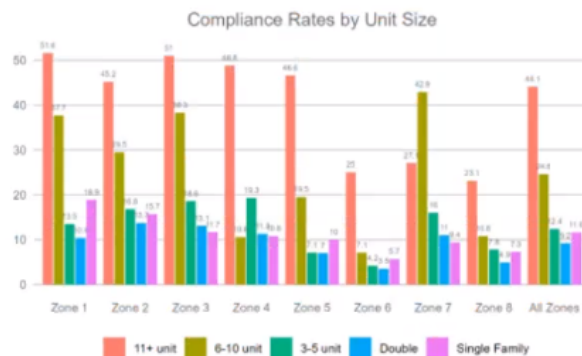
Lead Safe Certification	Property Count	Units Involved
Initial Certifications submitted	7,342	33,148
Initial Certifications approved	6,481	29,030
Initial Certifications unapproved	861	4,118
Renewal Certifications approved	627	940
Initial Certifications expired	467	701
Properties receiving 20-year LSC	141	3,880

Compliance by Rental Status and Property Size



Previously registered rentals 3x more likely to be certified compared to unregistered

Larger properties (6 or more units) much 2-4x more likely to be certified



Primary Conclusions

Lead safe applications declined in 3rd Quarter 2023 to 355, continuing a concerning five-quarter decline (down from 1,000/qtr in mid 2022)

Application approval rates remain high (88%) but unapproved and denied applications involve over 4,000 units of housing

Renewals among previously certified properties have improved to 57% but 467 certificates have expired suggesting owner ambivalence to continued compliance; continued nonrenewal jeopardizes overall objectives

Overall property compliance trend in line with peer cities, especially among registered rentals, but well below level required to reach full compliance by 2018 (approx. 2,600 new applications per quarter)

Despite pessimistic trends in the data, the city emphasized that it believed its lead safety program is on pace to outperform peer cities like Rochester, NY, or Detroit. This is in part because those cities only studied registered rental units, not all rental units (a larger denominator); this means there are potentially many unregistered, unsafe properties not captured by the data. Cleveland has attempted to study these unregistered properties.

An official said the city believes that “If any of these cities had been as transparent as [Cleveland] has chosen to be, [the City] would be able to do a much better comparison” of its efforts compared to its peers. O’Toole said that the “doom and gloom” around Cleveland’s progress did not reflect this comparison, and was harmful to staff morale.

Compliance Trend



To reach a 7-year goal of compliance (by 2028), the volume of LSC applications would need to reach approximately 2,600 per quarter

For each quarter that achieves less than 2,500, the quarterly number needed increases

Without high compliance on two-year renewals, overall success is at risk

The board continued to discuss how to reach property owners who were not engaging in the certification process at all. It seemed likely, some said, that many of the least safe properties were unlikely to be on the registry. “To ignore this [would be] to decline to address the problem,” as one participant put it. They suggested gathering data about previous children who lived in various properties or aggregating data at the census tract level to better estimate where these dangerous, unregistered properties might be.

Kroehle suggested the city might target these census tracts for better marketing and communication about the lead safe certification process—especially because, at present, landlords in higher-income neighborhoods may be better able to navigate the bureaucracy and achieve certification, even if those neighborhoods are not the most affected by lead. Kroehle expressed concern that this could turn the program into a “subsidy” for higher-income neighborhoods. O’Toole said that the city had to be careful about inserting bias into the process. Kroehle said that this wouldn’t be a biased approach, but a rational one aimed at reducing the greatest amount of harm with the most efficient use of resources.

Lead Safe Comment Portal – July 2023 to present

9/23/2023	Property manager	I have applied to the CHN program for lead safe repair work. It took 6 month for CHN to review the submission and they have yet to schedule a lead assessor to test the property. I know for a fact that there is a lack a RRP certified contractors as I have personally received multiple RFP's. My question is what is the landlord status with the city's proposed laws and potential liability after applying for the program. My experience is 6 months and counting.
11/15/2023	Lead Risk Assessor	City ordinance 365.04.A.1 states that the 90 day limit starts when the residence has obtained clearance. The Building Department has interpreted this incorrectly. They say the 90 day limit starts when the clearance process begins. All dates are based on the lab certificate dates. There is no time limit to obtain a clearance in any HUD rule or ODH ordinance. This is slowing down the process of obtaining a lead safe certificate.
11/16/2023	Lead Risk Assessor	Am I allowed to attend the meeting on December 14.?

The city also presented three examples of comments or inquiries they received from stakeholders in the lead certification process. They said that communication failures indicated by these comments have been addressed and that the turnaround time for communication with landlords has improved.

The board then moved to discussion of enforcing the lead ordinance. The low rate of applications to the program and the growing challenge of non-renewals mean that many landlords are out of compliance with the law and continuing to rent unsafe properties, including to families with young children. This sometimes pushes families into homelessness if they are evicted or forced to vacate [without](#) an adequate housing safety net.

As a result, the city has begun [fining landlords](#) for failure to comply. It issued 150 misdemeanor tickets and is hiring two prosecutors dedicated solely to lead enforcement. However, O'Toole explained that because criminal charges move slowly, they hope that the [Residents First Bill](#) will pass in January and allow the city to issue civil fines, which are easier to administer. Council Member Rebecca Maurer, who is a member of the Lead Safe Advisory Board, said she supports Residents First and hopes the rest of City Council will do the same.

Another member of the board asked what happens if a blighted property accumulates so many tickets that the landlord simply decides to walk away from it instead of obtaining lead safe certification. O'Toole responded that there is an "off-ramp" for civil fines and that new legislation would allow the department to create an appeals board that can work "hand in glove" with landlords to bring them into compliance. She said that "even if [they] don't see it until [they pay their] property tax, it should 'smoke people out' that we don't usually get to."

It was also noted that the cap on how much money landlords can receive for lead safety renovations is capped, and is often lower than the total cost of repairs. This deters some landlords from registering, but fines may provide an extra financial incentive to participate.

Wyonette Cheairs, who sits on the [Lead Safe Cleveland Coalition](#) and the board, provided a readout of the coalition's most recent meetings. One of the coalition's subcommittees discussed ways to highlight the program as an opportunity for landlords. Board member Diana Shulsky attended that meeting and said they could better highlight the increased market value of lead safe homes as an incentive. Maurer said that in the legislative subcommittee, she learned that people do not necessarily know how to provide comments to the department or if anyone will follow up with them. The Steering Committee of the coalition is likely to meet in February.

Another attendee at the meeting raised a workforce shortage as another challenge to meeting the board's goals. He said there were too few private lead inspectors and that confusion over state lead safety rules and other issues was driving people out of the profession. Kroehle commented that the supply of inspectors and demand for inspections influence each other; if there are too few inspectors, the process becomes frustrating for landlords, who are less likely to engage in it. This lowers demand for inspections, meaning even fewer individuals offer those services on the market. The board noted that property owners often complain about the difficulty of finding inspectors and that the "user interface" offered by the city is often unhelpful, and that this might be an area where they could improve the process.

The meeting adjourned at 2:30 p.m.

