

Lead Evaluation Plan for Occupied City-Owned Residential Properties
Prepared for the Milwaukee Common Council
July 1, 2018

Background

Under the provisions of State Statute, the City of Milwaukee acquires residential properties through property tax foreclosure. These properties are managed and marketed by the Dept. of City Development (DCD).

A number of these properties are occupied by households who lived in the property at the time of foreclosure. Some of these households choose to vacate the property at the time it comes into City ownership; others are required to vacate the property for a variety of reasons. The remaining households enter into leases with the City that are in force until the property is sold to a new owner. As of July 1, 2018, the City has leases with 51 households.

To “ensure long-term health and safety from the dangers of lead,” Common Council file 180119 directs DCD to present a plan to “conduct a comprehensive review, including paint, water, and soil, of lead hazards at all occupied City-owned residential properties, including occupied residential properties to be acquired through tax-foreclosure in the future.”

This plan was created by DCD staff, in consultation with staff from the Dept. of Neighborhood Services (DNS). The plan provides recommendations with respect to four questions:

- 1) What is the most appropriate strategy to evaluate lead hazards in occupied properties?
- 2) Which occupied properties should undergo evaluation?
- 3) How will the evaluation plan be implemented?
- 4) What resources are required to implement the plan?

Lead hazard evaluation strategy

Common Council file 180119 directed that hazards resulting from lead in paint, tap water and soil be evaluated for occupied City-owned properties. The resolution notes that “pregnant women and young children” are especially vulnerable to lead risk. This plan uses the following information from the Milwaukee Health Department to more specifically delineate the vulnerable tenant population:

Children under the age of 6 years old are especially vulnerable to lead poisoning because their growing bodies absorb more lead than adults, and their brains and nervous systems are more sensitive to the damaging effects of lead. Babies and young children can also be more highly exposed to lead because they often put their hands and other objects that have lead from dust or soil into their mouths.

Adults can also be exposed to lead. Lead exposure for pregnant women is a particular concern because it can result in exposure to her developing baby.

There are several standard approaches used to evaluate the presence of lead in a residential property. They are described below.

Strategy #1: Lead paint inspection

This strategy involves a surface-by-surface analysis of all interior and exterior painted surfaces, using an x-ray fluorescence instrument. Paint chips and samples of the soil surrounding the house are collected for laboratory testing. A certified lead risk inspector must be engaged to undertake the inspection and write the report. This strategy does not include testing of water in the property.

Strategy #2: Lead risk assessment

This strategy evaluates lead hazards by sampling paint at various areas of the property. Soil is sampled only if there is bare soil at the property. Samples are given to a laboratory for testing. This strategy does not include testing of water. A lead risk assessors must undertake the assessment and the results must be reported to the State of Wisconsin.

Strategy #3: Hazard-reduction approach

This strategy combines the identification of lead hazards with the creation of a list of actions to reduce the identified hazards.

The hazard-reduction approach assumes that lead paint is present at any property built before 1950. Thus, the inspector using this approach notes which painted surfaces are damaged (as evidenced by peeling, chipping, etc.), and recommends that these areas be stabilized using lead-safe renovation standards.

This approach further assumes that, because of aging plumbing and/or lead water service lines, lead is present in the water, and that a lead filter should be installed at the kitchen faucet to reduce any water-related risk. If there is bare soil at the property, the inspector assumes the presence of lead in the soil, and recommends that the bare soil be stabilized through sodding, seeding or mulching.

RECOMMENDATION:

Strategy #3 provides a concrete framework to address lead hazards. We recommend using the Hazard-Reduction Approach to evaluate the presence of lead at leased City-owned properties in which the household includes a pregnant woman and/or children under the age of six who live in the home or are brought to the home on a regular basis for day care, coupled with a program of repairs.

Occupied properties appropriate for evaluation

DCD becomes responsible for the management and marketing of tax-foreclosed properties immediately after the Circuit Court awards properties to the City to satisfy the City's liens against them. Upon receiving notification that the City has acquired properties, DCD institutes the following protocol:

- 1) Real estate staff drive past every newly-acquired property, taking photos of the property and noting whether the property appears to be occupied. Depending on the number of properties acquired, this process requires two to four weeks following acquisition.
- 2) Boarding is ordered for properties that are clearly vacant.

- 3) DCD sends letters addressed to “occupant” to any property that *appears* to be occupied, informing the occupants that the City now owns the property and that rent should no longer be paid to the former owner. The letter offers the occupant a license to occupy the property until property managers can visit with the occupant and determine whether to enter into a lease.
- 4) DCD real estate staff and DNS inspection staff jointly visit each occupied property. During the visit, the property is inspected to determine whether it is safe for continued occupancy, and the occupant is interviewed to determine whether the City will enter into a lease with the occupant. During this interview, occupants are asked whether the household includes pregnant women and young children.
- 5) There are several circumstances that would cause DCD staff to require occupants to vacate the property, rather than entering into a lease. These circumstances include:
 - a. A determination that the property is not safe to occupy.
 - b. Failure of the occupant to cooperate with requests to inspect the property.
 - c. Milwaukee Police Department records indicate that the property is a nuisance property.
 In any of these circumstances, when the occupants leave, whether voluntarily or through eviction, the properties become vacant and remain so until they are sold or demolished.

In summary, “occupied” properties fall into four categories:

- 1) Properties at which the City has entered into a lease, and the leasing household includes a pregnant woman and/or children under the age of six who live in the home or are brought to the home for day care on a regular basis. As of July 1, 2018, the City’s property inventory included approximately 6 occupied properties in this category.
- 2) Properties at which the City has entered into a lease, and the leasing household includes no pregnant women nor any children under the age of six who live in the home or are brought to the home for day care on a regular basis. As of July 1, 2018, the City’s property inventory included approximately 45 properties in this category.
- 3) Properties at which occupancy is confirmed, but the occupants have been issued a notice to vacate. As of May 1, 2018, the City’s property inventory included approximately 44 properties in this category.
- 4) Newly acquired properties at which occupancy has not been confirmed. Upon confirmation of occupancy, inspection, and a visit with a DCD property manager, each of these properties will move into categories #1, #2 or #3.

Between August 1 and December 31, 2018, DCD expects to acquire several hundred additional properties as a result of 2018 foreclosure filings. The number of properties in all categories will fluctuate significantly as properties are acquired and the normal inspection protocol is implemented.

RECOMMENDATION:

The risk of lead exposure is greatest for households that have entered into a lease with the City of Milwaukee and include children under the age of six and/or pregnant women. The tenancy of these households is most likely to be significantly longer than those who are required to vacate. We recommend that evaluation of lead hazards and a program to stabilize lead hazards identified through evaluation be focused on that segment of occupied properties.

Combining the hazard-reduction approach with a repair program

DCD real estate staff and DNS inspection staff propose to work collaboratively to pair the hazard-reduction approach to property evaluation with a repair program.

Phase one: Initial visit and evaluation

As noted earlier, staff from DCD's real estate team and the DNS Neighborhood Improvement Project (NIP) inspection team make a joint visit to each property following acquisition. During that visit, DCD real estate staff interview the occupants and determine whether to enter into a lease. A DNS NIP inspector inspects the property to identify repairs that must be made by a future buyer of the property.

For properties at which DCD and the tenant decide to enter into a lease and the occupants include a pregnant woman and/or children under the age of six who live in the home or are brought to the home for day care on a regular basis, the NIP inspector will augment his/her regular inspection with a lead hazard report. The report will identify areas of damaged paint on both the interior and exterior of the property, noting the type of defect and measures required to stabilize defective surfaces. If the property has areas of bare soil, and the inspector will indicate measures required to stabilize the bare soil. If the kitchen faucet is not equipped with a lead filter, the NIP inspector will indicate the necessity of installing such a filter. Staff will take photographs of areas requiring work; the photos will be added to the property record.

Phase two: Repairs

The NIP inspector will provide the lead hazard report to DCD real estate staff. DCD will contact the tenant to inform the tenant that repair work must be undertaken. DCD's real estate construction manager will issue work orders to qualified contractors who have the necessary certifications, licenses and experience to do the work, using lead-safe renovation practices. Depending on the degree of repair work required, tenants may need to move out temporarily while repair work is underway.

Phase three: Confirmation of repairs

Following completion of work by the contractor, the construction manager will visit the property to visually confirm that all defective painted surfaces have been stabilized, that a lead filter has been installed at the kitchen faucet, and that bare soil has been seeded, sodded or mulched. The construction manager will document his/her visit in the property record.

What resources are required for implementation?

The level of resources required for implementation of the recommended approach depends on two factors: the number of occupied properties that house pregnant women and children under the age of six, and the degree of repair required for those properties. At the time this plan was written, six houses in the current inventory were subject to the provisions of this plan. Hundreds more houses will be foreclosed upon between August and December 2018; until these properties are acquired and inspected, there is no way to estimate how many will require the evaluation and repairs recommended by the plan. The availability of contractors is another factor that will significantly influence the budget for this activity.

Both DCD and DNS believe that, at least initially, staff responsibilities and priorities can be adjusted to allow existing staff to absorb the work required to prepare the lead hazard report and manage repair work. After the acquisition and evaluation of properties in the 2018 foreclosure filings we will be able to determine both staff and budgetary resources required to implement this plan on an ongoing basis.

RECOMMENDATION:

To provide initial implementation funding, we recommend re-purposing unspent capital funds that were allocated to DCD to renovate vacant City-owned properties as a rental portfolio. This source will provide about \$500,000. Allocation of additional funds will be required once this source is exhausted.

Timetable

This plan will apply to two groups of properties that house a pregnant woman and/or children under six who live in the home or are brought to the home on a regular basis for day care.

- 1) Occupied properties that are leased to tenants at the time the plan is implemented. Because these properties are marketed on an ongoing basis, it is likely that some will be sold to new owners before they are evaluated for lead hazards.
- 2) Occupied properties acquired and leased after August 1, 2018.

For all properties acquired or after the August 2018 foreclosure filing, the standard tenant interview and inspection processes will be modified for leased properties to identify vulnerable tenants and lead hazards in houses occupied by households. Inspections of the properties in group 1 that house vulnerable populations will be scheduled as DNS inspectors are available.