

**City of Cleveland Lead Safe Advisory Board
Minutes**

9/14/2023

Board Members Present:

Councilwoman Rebecca Maurer – Co-Chair

Scott Kroehle – Co-Chair

Lead Safe Auditor Rob Fischer

Wyonette Cheairs, LSCC

Carol Smith

Diana Shulsky

Board Members Not Present:

Sonia Matis

Staff Members Present:

Cleveland Building Director Sally Martin

Program Manager of City Lead Program Karen Dettmer

Guests:

Councilman Richard Starr

Michael Henderson

Joe Liberati

Zak Burkons

Adam Bemun

V. Santillo – virtual

Joe Andre – virtual

Cleveland Documents – virtual

Bobbi – virtual

AP – virtual

Welcome and Approval of Minutes

City Councilwoman Rebecca Maurer convened the meeting and asked to approve the minutes from the June meeting. Diana Shulsky motioned to approve, Rob Fischer seconded, and all voted yes.

Public Comments

Joe Liberti introduced himself as a lead risk assessor and landlord. He said he feels the ordinance is very well intentioned but is looking for improvements to the ordinance that may include reducing the frequency of testing. Mr. Liberti suggested testing once for a home built after 1960 and then wait ten years to test again, this would allow the city to save resources. He further suggested for all houses that pass two consecutive cycles to be able to skip a few cycles especially if components have been replaced with synthetic materials like vinyl windows. He suggested the city should not treat a house built in 1977 the same as you would treat a 1917 house for lead paint risk.

Zak Burkons introduced himself as a clearance examiner that has many issues with the processes in place, but wanted to bring to the advisory board's attention one that is creating greater hardship for landlords. Mr. Burkons shared an example of what it is like in the field to replace one bad window in an east side double. He stated that the 90-day limit from date of inspection to the submittal of a passing inspection is not enough time. He illustrated that on day 0 you test, by day 6 you mail the test to the lab, by day 16 the test is returned and if remediation is needed, by day 30 the RRP contractor receives the work order, then you need to add 30-60 days to complete the work. At that point, the areas of concern have to be retested. If the 90-day time limit is missed, then the landlord has to start the entire process and pay the cost for a new inspection again.

Councilwoman Maurer thanked the guests for our first formal public comments at a lead advisory meeting. Scott Kroehle stated that invited guests of the board are participatory members for the meeting. Scott suggested the public comments should be taken into consideration to integrate into our agenda right after they are given. Scott offered that per Mr. Liberti, component replacement may be a path to a 20-year clearance certificate. Per Mr. Burkons, Scott felt that a cure time should be allowed if deficient items are replaced with RRP-followed guidelines which incentivize landlords to permanently eliminate deficiencies.

Councilwoman Maurer addressed the distinction of re-testing after taking care of items (a cure) from a prior failed application vs retesting after work is done within the 90-day period. She stated this is not subject to the same timeframe if Building & Housing says a re-test is needed. Mr. Burkons stated he has documentation from the city in an email that does not give distinction to these situations. Scott Kroehle commented that there is a strange connection between the two situations because we have been using clearance testing for retesting limited components. Scott continued to say that he sees room for an administrative process to refine this. Councilwoman Maurer said the city has required another clearance

test after construction is complete. Scott stated that the process could be linking the wrong test at the end.

Auditor Report

Rob Fischer began summary of the report for April - June 2023 by stating that overall 13% of properties and 28% of rental units have received certification, which accounts for approximately 23,000 units. Three hundred properties that had been previously certified have reached their two-year re-certification requirement. Of those, 19% (58 properties) have made an effort to renew. This then reduces the overall compliance from just looking at first time certifications, and ongoing compliance will be a new metric to follow.

Rob Fischer continued that there were 490 applications for the past quarter, which was down 24% from the first quarter of 2023. The number of applications coming in quarterly is on a downward trend (third consecutive quarter of decline) and we are going in the wrong direction. The original benchmark of 2,500 applications per quarter (assuming a full renewal rate) across registered and unregistered rentals is no longer an accurate goal.

For applications received, 87% were approved and 11% were denied. The first three zones of the zip code rollout still show the highest compliance. Even though pending/to be reviewed applications have improved 77% (from 224 to 50), the denied applications are up 53% from last quarter (728 vs 475), so this indicates a breakdown in the process as we need to have a much stronger application approval rate.

Rob Fischer mentioned that Mike Henderson can compile more detail as to cumulative compliance; it initially looks as though higher ongoing compliance is associated with registered rentals. For breakdown by unit size, the 3-5 family, doubles and single houses have the lowest compliance.

In summary, rental applications are down 24% for the second quarter of 2023 to 490, continuing a concerning fourth quarter decline from 1,000 per quarter in the middle of 2022. Of applications received, approvals remain high but denials are way up. Processing times have been cut substantially with lower application volume, but nearly 3,500 rental units are associated with applications in the denial status.

Furthermore, renewals are not being sought by 81% of the previously certified properties, suggesting ambivalence and jeopardizing overall objectives.

Auditor Conclusions and Board Comments

Rob Fischer stated that we must leverage the efforts of the willing to get them through the process. Now that the compliant property owners are being asked to renew there appears to be an ambivalence

to keep the certification intact. Despite this disappointing trend, we are still in line with the trends of earlier cities like Rochester, but it is still not good enough. With seven years to get to the goal of all rentals being compliant, we would only be at 40% compliance minus the non-renewing properties.

Scott Kroehle pointed out that Rochester used publicly-hired inspectors. Now we are seeing that the private process is petering out. This indicates a poorly thought out program to begin with. Even though bringing on public employees could require a longer training and implementation period at first, the results of that effort could be steadier than what we have seen with a privately hired workforce. Rob Fischer added that incentives are not realized by the landlords, a view that is supported by response time to get funds from the coalition and public comments on the portal.

Councilwoman Maurer said the sub-committee that met this summer with Dir. Martin and Ayonna Blue-Donald of Enterprise Community Partners emphasized that there is a profound indication the numbers are not going in the right direction. New efforts that are underway such as Home Fund 2.0 and the need to do things differently on the coalition side, along with city efforts such as issuing civil nuisance tickets (which Dir. Martin added will be starting soon) may not be enough to right the entire process. Councilwoman Maurer continued to say that based on where the benchmarks are, we need to be ringing the alarm bells now, it is the role of our board. Scott Kroehle added it is no secret he has been trying to express concern about the following issues: 1. The clearance exam process; 2. Leaning heavily on private vs publicly hired operatives; 3. The number of people that made the decision to adopt the processes we use; 4. Not being invested in the landlord perception of process to get desired outcomes needed; and 5. Revisiting the legal processes (ie: doing the same thing and expecting different results).

Director Martin stated there is a new legislative package in front of council, the city will be prosecuting on lead hazard control orders next. More than civil penalties can occur with this new legislative package. The rental registry will be ramped up beyond just collecting an annual registration fee. The annual correspondence could contain the information for window and door programs and consolidate lead safe compliance requirements. Director Martin continued that we could have a risk assessor enter a property first, and would not start with a dust test. Karen Dettmer stated that having an assessor make suggestions for window and doors early on is the way to go. Director Martin continued by saying that she thinks the ordinance needs to change, council needs to change it and the legislative package and council can allow us to try something else. Karen Dettmer stated that even with compliant properties, it is a great fear to have a child test positive in a certified-safe home.

Scott Kroehle suggested that a functional approach is not just a harm reduction approach. He said that no matter what path is needed to bring the bottom of compliance up to an acceptable level of compliance is worth it and that it is better to engage with the thousands of real properties that we need to reach rather than skimming the least vulnerable. Scott emphasized that these are operational issues, not building issues.

Marketing update on LSCC work

Wyonette Cheairs introduced the latest marketing update from the coalition. The efforts to support Building & Housing and make capital improvements to attract compliance are underway. There is a shift to use a risk assessor but it can add cost. There is already ways suggested through the coalition (through the updated website, etc.) to have risk assessments done before a clearance examiner arrives. Also from having shifted to a digital application and an influx of incentives available to property owners, there has been better flow of information to the landlords.

Wyonette Cheairs continued to say that per the survey done earlier this year to gather property owner feedback, there has been awareness of increased grants and loans. There are radio ads to attract lead safe workers to help add to the pool of workers. The revamped website and increase in social media since July have been great improvements at raising awareness as well.

Open Discussion

Councilwoman Maurer asked Wyonette Cheairs what is the feeling inside the coalition at this time, on the executive committee and steering committee levels? Director Martin further asked what do those committees think about the extended award period? Wyonette Cheairs answered that the process is taking about 90 days to receive awards. Comments came out from guests that the process is taking somewhat longer. Scott Kroehle asked to understand what are the mechanical steps between the timing of the clearance exam to getting funds? Scott suggested a smaller incentive received in weeks vs a larger incentive that is delayed by months may be more incentivizing to landlords.

Wyonette Cheairs continued that a portion of a delay with an award is from due diligence that the coalition goes through. One example of due diligence is determining if an applicant for an incentive is an LLC that may also be requesting funds in the name of an individual owner. Carol Smith asked why couldn't we help owners look at their own properties with a better eye prior to clearance exams? Carol went on to say that she has created a document for her assessments and offers to go to houses to point out the problem areas. It can be a missed piece of information that landlords can use. Wyonette replied that the coalition still conducts classes and offers many opportunities for owners to learn how to do their own assessment through website links, etc.

Councilwoman Maurer asked Director Martin about the connection back to the coalition – what is the timeline to seeing improvements? Director Martin replied as soon as possible, with the rental registry improvements, retooling of code enforcement and training as many inspectors at no cost as possible, it may be possible to see improvements in our numbers by December.

Scott Kroehle suggested an iterative approach, if we see effective results, rather than tweaking things willy-nilly, we will understand what is working by assessing in real time how we are succeeding. Scott used an example of running an ad for a specific duration and measuring results in the months following

to have better information on what works best. Councilwoman Maurer asked when this round of iterations is going to make a difference since we are hearing of a lot of isolated efforts. Rob Fischer stated that information from the market indicates that the process of receiving a rebate after a landlord goes out of pocket for an expenditure is a problem if the timeframe is extended to be reimbursed. Rob further mentioned that for a clearance examiner like Zak Burkons who is now handling 10% of all inspections, why couldn't those fees be used more purposefully to get back into the hands of the landlords? The need for a vetted group of city paid lead assessors exists. We have heard a lot of suggestions for changes, there has to be something larger to focus on. Rob firmly stated that we need more willingness up front from the large number of non-compliant property owners, as there are far too many to prosecute.

Scott Kroehle mentioned that mitigating costs for low income properties helps lubricate the process. Rob Fischer inserted that CHN is a good example of helping a constituent get certified, "soup to nuts". Wyonette Cheairs said the CDC's will get more training through ARPA money and other funds, leading to more inspections being done with the CDC involvement. Councilwoman Maurer clarified that if we wait another six months for the things we are working towards, on top of what is already baked into our processes, it will be dire, and Rob Fischer agreed that we will bottom out.

Scott Kroehle suggested we find and speak to people that won't consider renewing by asking what was your cost benefit the first time, and what is it that you are no longer concerned with? Carol Smith added that the cost of renewals is too high, and Diana Shulsky added that the asset valuation improvement is not obvious to the landlords in two years' time.

Scott finished by saying that because we built our program around a private market system we have been stuck with the supply and demand fluctuating dynamic (with limited demand and limited supply of affordable clearance techs). Scott went on to state that the only way to improve is through vertical integration of the CDC's, the private sector and the city to hire publicly paid examiners.

Councilwoman Maurer stated that in response to Rob Fischer's clarion call we need to document a list of items of implementation which we are not going to be able to decide today. Councilwoman Maurer suggested we vote for a sub-committee to convene prior to the December meeting for additional actions. Karen Dettmer motioned and Carol Smith seconded, and all voted yes to approve the formation of the sub-committee. Councilwoman Maurer, Scott Kroehle, and Wyonette Cheairs offered to be the sub-committee members. Rob Fischer motioned to name those individuals, Carol seconded and all voted yes to approve. Councilwoman Maurer stated our commitment is solid and no other city has ever done this easily, adding that the Lead Safe Auditor role is the best thing that was put into the ordinance.

Rob Fischer said the steering committee should meet with the advisory board, and Councilwoman Maurer said she will get a letter of invitation to the steering committee to that effect. Wyonette Cheairs suggested attendance at the Sep. 28 convening as a possibility and Rob Fischer said it may be preferable to be invited to a steering committee meeting.

Other Key Items of Discussion

Councilwoman Maurer asked if there are any other items for discussion in the remaining time. Diana Shulsky asked about the upcoming additional changes expected to the EPA level of lead being necessary to follow for the lead safe rental housing certification levels. Diana stated that it is not realistic to strive to those levels. Scott Kroehle commented that this increasingly difficult level to achieve is in place by EPA for the specific purpose of construction completion and puts more downward pressure on our downward trend. We need a legislative decoupling of the level from EPA and the level we assert on landlords in order to support a harm reduction level that can be achieved for children.

Councilman Starr asked the question, how do we get this \$100M that the coalition controls out to the landlords? The councilman said he would like to continue to listen in and learn how this is affecting the neighborhoods. Councilwoman Maurer said what the actual plan should be is everything we have been talking about. Councilman Starr related ongoing experiences in neighborhoods that have some federal exemptions to lead compliance and Karen Dettmer added that in the example of CMHA, they had to be compliant in the 80's but now they do need testing and offered to find out how it is that they are still exempt. Director Martin stated the enforcement of CMHA buildings is different, our department will need to collaborate more aggressively without encroaching on the federal distinction that they have.

Councilwoman Maurer moved to adjourn, Scott Kroehle seconded. All voted yes. Meeting adjourned.

Conclusion of Minutes 9/14/23