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First Year Finds Lead-Paint Law Not as Costly as Predicted

SUMMARY

IN JANUARY 2004 THE CITY COUNCIL PASSED, after overriding the Mayor's veto, Local Law 1 of 2004, which stiffened city rules for inspecting and addressing lead-paint hazards. Among the Bloomberg Administration's objections to the bill were the projected costs of the new rules and concerns that it would divert housing inspectors' attention from other building code violations.

With the law now in effect for one year, IBO has reviewed the Department of Housing Preservation and Development's actual spending on the new rules in fiscal year 2005, and looked at changes in the number of complaints the housing department received, violations it issued, and emergency repairs it performed. Among our findings:

- In fiscal year 2005, the housing department spent \$24.6 million on lead-based paint education, inspections, and remediation. This is more than double the spending on lead paint-related activities in 2004, but significantly less than was originally anticipated by the Bloomberg Administration.
- The number of lead-based paint violations and related emergency repairs increased dramatically in 2005, while the percentage of violations certified as corrected by owners fell.
- Even without the activity linked to lead paint inspections, the number of violations issued increased by approximately 50 percent and emergency repairs by more than 9 percent.
- Overall, the housing department was able to maintain—and even expand—its code enforcement program, despite the new mandates imposed by Local Law 1. This growth is a result of the new inspectors hired under Local Law 1 and improvements made in the operation of the housing department's inspection unit.

Rates of lead poisoning have been declining steadily over the last decade. There is no evidence yet that Local Law 1 has increased the rate of decline. Further experience will be required to know whether the additional spending dedicated to reducing lead-paint hazards under the tighter rules of Local Law 1 is having an effect on the problem of childhood lead poisoning.

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INTRODUCTION

In January 2004 the City Council passed Local Law 1 of 2004, the “New York City Childhood Lead Poisoning Prevention Act of 2003.” Local Law 1, which went into effect in August of 2004, is more stringent than the previous law regulating lead-based paint hazards in New York City—it requires both private landlords and the city to do more extensive work to remediate lead hazards, and to carry out the work more quickly. Local Law 1 also mandates that Department of Housing Preservation and Development (HPD) inspectors perform a room-by-room visual inspection for lead-paint hazards whenever they enter an apartment in which a child under the age of 7 lives.

The Bloomberg Administration opposed Local Law 1, which was passed over the Mayor’s veto. Many of the Mayor’s objections to the bill were related to the projected cost of the legislation. According to the 2005 Executive Budget’s Message of the Mayor, the cost of Local Law 1, “and the law’s operational complexity, may limit HPD’s ability to carry out other essential housing functions in the city.” The Bloomberg Administration pointed out that lead poisoning cases had been declining steadily under the old law, and argued that Local Law 1 would make it harder for HPD to target resources to high-risk neighborhoods. In addition, according to the Bloomberg Administration, by increasing owner costs and making it harder to get financing and insurance, Local Law 1 could have the unintended consequence of reducing the supply of affordable housing.

While it is too soon to assess many of these concerns, IBO was able to look at the impact Local Law 1 had on HPD’s budget and code enforcement output. The Bloomberg Administration also cited concerns about costs related to child care centers, playgrounds, and other facilities, but the largest share of the new expenditures under Local Law 1 was expected to be shouldered by HPD. This report does not examine expenditures in these other areas.

In fiscal year 2005, HPD spent \$24.6 million on lead-based paint education, inspections, and remediation. This is more than double the spending on lead paint-related activities in 2004, but significantly less than what had been budgeted for 2005. Furthermore, despite the fact that the inspectors devoted to lead are required to do more extensive inspections, productivity improvements by non-lead

HPD Expense Budget Spending on Lead-Based Paint Programs

Dollars in millions

	2002	2003	2004	2005
Spending on LBP Programs	\$13.5	\$9.6	\$11.7	\$24.6
Spending on Other Code Enforcement	\$21.0	\$20.0	\$20.5	\$21.1
Total LBP Headcount	111	141	364	413
Dedicated LBP Inspectors	0	0	123	127
Total Housing Inspectors (Inc. LBP)	299	285	400	392

SOURCE: IBO.

NOTE: Headcount as of June 30. Lead Based Paint spending includes education and other initiatives, as well as code enforcement.

inspectors have allowed HPD to maintain the overall efficiency of its code enforcement program. These productivity enhancements, in conjunction with new inspectors hired under Local Law 1, have led to a significant increase in the output of the HPD code enforcement program.

SPENDING

The Bloomberg Administration included \$74.6 million in the adopted fiscal year 2005 Expense Budget for a range of lead paint-related programs at HPD. Because it was unclear which expenses associated with Local Law 1 were eligible for capital funding or federal Community Development Block Grant (CDBG) dollars, the Bloomberg Administration originally included tax-levy money in the Expense Budget for the entire anticipated cost of the law. Ultimately about 85 percent of Expense Budget spending was funded with CDBG, and about \$30 million was spent in the Capital Budget. Actual Expense Budget spending on code enforcement and other programs relating to lead-based paint was \$24.6 million.

As of early December 2005, HPD had spent \$10.2 million on lead-based paint related programs in fiscal year 2006, roughly equal to spending in the same period last year.

The bulk of the increased spending was used to increase the number of staff working on lead-based paint programs. The hiring took place at the end of fiscal year 2004, just before Local Law 1 officially went into effect. The total number of personnel working on lead-based paint nearly tripled, to over 400 full-time staff, including about 100 new inspectors. The number of non-lead housing inspectors has remained roughly constant over this period.

HPD created a centralized lead inspection unit, and the new inspectors hired under Local Law 1 work out of this unit. They are sent out only in response to lead complaints,

although they also write violations for other conditions they observe while performing lead-based paint inspections.

In 2005, HPD spent \$47 million less on nonpersonnel costs for lead-based paint programs than was allocated in the 2005 Adopted Budget, and \$13 million less than was included in the final modified budget. This is due in part to lower-than-expected costs for emergency lead repairs done by HPD. In developing the 2005 Adopted Budget, the Mayor's office assumed an average repair cost of almost \$4,500. As reported in the Mayor's Management Report, the actual average cost of an emergency lead repair was \$1,934. The average repair cost for the prior four years was \$1,585—while repairs in 2005 were 20 percent more expensive due to the new rules such as the requirement that workers be certified by the Environmental Protection Agency, this increase is nowhere near the level originally anticipated.

HPD Report to the Council. In its report to the City Council on the first year of Local Law 1 implementation, HPD reported \$60.7 million in operating and capital expenses for lead-based paint programs in 2005. The Expense Budget subtotal—\$29.6 million—is \$5 million higher than IBO's estimate, but includes some contractual obligations that will largely be paid in fiscal year 2006 and are not reflected in city spending figures for 2005.

HPD's spending total also includes \$31.1 million in capital commitments related to lead-based paint. Almost all of the capital commitments are for work done in city-owned housing and rehabilitation loans to private owners. HPD

spent about \$315 million in capital funds on privatization of the city-owned housing stock and loans to private owners in 2005. The lead-based paint related spending therefore accounts for about 9 percent of these capital commitments. These expenditures are a reflection of higher costs associated with stricter safety requirements and, in some cases, broader scopes of rehabilitation work. In most cases, Local Law 1 increased costs by changing both the scope and costs of rehabilitation projects that would have occurred anyway. However, it did not create capital needs that did not previously exist.

HPD CODE ENFORCEMENT

Before Local Law 1 went into effect, HPD was concerned that enforcing the law would swamp the agency's code enforcement program. There has in fact been a dramatic increase in the number of lead-based paint violations and subsequent emergency repairs. The number of lead-based paint violations issued in 2005 increased 277 percent relative to 2004, to 35,729. At the same time, the percent of violations certified as corrected by landlords fell from 28 percent to 14 percent. The number of lead-related emergency repairs increased 83 percent, to 1,854.

A portion of the apparent increase in violations is due to a change in HPD tracking. Prior to 2005, if a lead-based paint violation was downgraded (because, for example, the paint was found after testing not to contain lead), it was eliminated from the total. Under Local Law 1, these downgraded violations remain in the total count of lead-based paint violations. (However, because the dedicated lead-based paint inspectors are now testing prior to writing violations, they are likely catching some of these cases before writing the lead violation.) In addition, the 311 system has increased the number of complaints received by many agencies, including at HPD, where it has been leading to more inspections and the detection of more violations.

Nevertheless, it is clear that Local Law 1 did increase HPD's workload. The agency received significantly more lead-related complaints in 2005, which is likely attributable in part to Local Law 1. The increase in complaints contributed to the growth in violations and repairs. In addition, Local Law 1 expanded the

HPD Code Enforcement: Numbers of Complaints, Violations, and Repairs					
	2002	2003	2004	2005	% Change 2004-2005
Complaints					
Lead-Based Paint	9,330	10,205	12,782	41,776	227%
Non-Lead Emergency	203,698	258,591	324,917	373,071	15%
Emergency Subtotal	213,028	268,796	337,699	414,847	23%
Non-Emergency	83,393	102,185	131,612	167,720	27%
Violations					
Lead-Based Paint	7,424	8,940	9,465	35,729	277%
Non-Lead Emergency	52,663	59,068	60,026	48,313	-20%
Emergency Subtotal	60,087	68,008	69,491	84,042	21%
Non-Emergency	257,784	244,627	240,914	398,632	65%
Emergency Repairs					
Lead-Based Paint	1,432	1,062	1,013	1,854	83%
Non-Lead	9,213	8,730	10,334	11,299	9%
Total	10,645	9,792	11,347	13,153	16%

SOURCES: IBO, Mayor's Management Reports, Department of Housing Preservation and Development.

Housing Code Violations by Category					
	2002	2003	2004	2005	% Change 2004-2005
Maintenance, Service, and Utilities	190,061	187,046	185,615	223,635	20.5%
Painting	21,216	19,772	20,352	75,008	268.6%
Lead-Based Paint Extermination and Rodent Eradication	7,424	8,940	9,465	35,729	277.5%
Carbon Monoxide Detecting Devices	19,331	19,568	21,352	26,537	24.3%
Smoke Detecting Devices	-	-	-	25,566	n.a.
Heat and Hot Water	15,184	14,074	14,007	16,857	20.3%
Cleaning	13,371	14,445	14,517	12,873	-11.3%
Water Supply	4,436	4,127	3,955	12,300	211.0%
Miscellaneous Services and Facilities	11,656	11,795	11,535	11,878	3.0%
Sewers and Drainage	3,796	1,700	1,358	11,366	737.0%
All Other	11,698	10,727	9,939	10,681	7.5%
TOTAL	317,871	312,635	310,405	482,674	55.5%

SOURCES: IBO; Department of Housing Preservation and Development.

universe of potential violations, for example, by raising the age of children covered by the law from up to 6 to up to 7.

While HPD greatly increased its lead-based paint activity, it also issued more non-lead violations and did more non-lead repairs. The increase in non-lead violations and repairs can be attributed to at least three factors.

First, some of the increase in non-lead violations is directly attributable to Local Law 1. The number of violations issued for painting-related maintenance failures, such as plaster in need of repair and painting, or simply peeling paint, increased from about 61,000 in 2004 to almost 146,000 in 2005 (some of these violations are classified as “painting,” others as “maintenance, service, and utilities”). Many of these violations probably started as lead-based paint complaints. However, 86 percent of the tests done in response to such complaints were negative for lead paint. Inspectors therefore issued violations for the lesser painting-related maintenance failures.

Second, Local Law 1 may also have contributed indirectly to the increase in violations. The law requires inspectors to do a “room-by-room” inspection whenever they enter an apartment occupied by a child under the age of 7 for any reason. The purpose of these inspections is to detect lead-based paint violations throughout the unit, but inspectors also

write violations for other maintenance deficiencies they observe. The more extensive inspections have likely contributed to the increase in violations.

Finally, new laws unrelated to lead-based paint expanded the scope of HPD’s responsibilities, and increased the number of violations. In 2005, HPD issued more than 25,000 violations for problems with carbon monoxide detectors based on new requirements that went into effect in November 2004.

The only major emergency violation category to fall in 2005 was heat and hot water, which dropped 11 percent from 2004 to 2005. According to HPD, the agency increased its outreach to landlords, and in many cases the building owners fixed the problems before a

violation was issued.

Rise in Many Types of Emergency Repairs. Like violations generally, the number of emergency repairs HPD performed—work done when a landlord fails to correct an emergency violation within statutorily defined time limits—increased overall. In addition to the jump in the number of lead-based paint repairs, the number of window-guard repairs increased 83 percent, from 2004 to 2005. HPD did 487 mold repairs in 2005 (previously lumped into other repair categories), and 134 additional fire escape repairs, an

HPD Emergency Repairs by Category					
	2002	2003	2004	2005	% Change 2004-2005
Window Guards	1,671	1,211	1,193	2,185	83%
Lead-Based Paint	1,432	1,062	1,013	1,854	83%
Plumbing - Leaks	1,143	1,390	1,602	1,681	5%
Plaster	911	899	1,124	1,333	19%
Boiler/Burner	634	687	957	969	1%
Fuel	806	1,099	1,202	918	-24%
Windows	608	486	501	578	15%
Stairs	573	379	429	553	29%
Fire Escapes	319	231	405	539	33%
Floors	490	458	488	522	7%
Mold	-	-	-	487	n.a.
Roofing	265	251	324	329	2%
Electrical	141	144	213	226	6%
All Other	1,652	1,495	1,896	979	-48%
TOTAL	10,645	9,792	11,347	13,153	16%

SOURCES: IBO; Department of Housing Preservation and Development.

increase of 33 percent. Commensurate with the drop in heat and hot water violations, HPD made fewer emergency fuel purchases in 2005.

The increase in the number of lead-based paint emergency repairs is in part a reflection of the drop in landlord compliance. Prior to the implementation of Local Law 1, about 28 percent of violations were cleared by the building owner. Under Local Law 1, the compliance rate has fallen to about 14 percent because of the shorter time for repair and the requirement included in Local Law 1 that workers be certified by the federal Environmental Protection Agency. In some cases, landlords are doing the work to repair the violation, but cannot certify the correction because they did not use EPA-certified workers. In this situation, HPD will test for the presence of lead dust. If the test is negative, the agency does no further repair work, although the violation remains in place.

Efficiency. One of HPD’s major arguments against Local Law 1 was that the law would significantly reduce the efficiency of the agency’s code enforcement program. According to HPD, inspections in apartments occupied by a child now take up to an hour and a half, and as a result, each inspector does fewer inspections.

The principal measure of inspection efficiency—inspections per team per day—held roughly constant in 2005, at about 9. But this aggregate indicator masks significantly different productivity for lead-based paint inspections teams compared to other housing inspections.

The inspection teams dedicated to lead-based paint are required to do extensive inspections and testing for lead paint, which is time-consuming. As a result, these teams do an average of three inspections per day. On the other hand, in 2005 HPD implemented a number of productivity initiatives for other inspectors that significantly improved efficiency. In particular, the agency has improved inspector routing—the agency now groups complaints in specific apartments and buildings. About 60 percent of the inspector teams now travel in cars, rather than on public transportation, and HPD is rolling out the use of laptops for inspectors that significantly reduce paperwork burdens. As a result, the non-lead-based paint inspectors are able to do more inspections, and the agency has maintained its overall rate of about nine

Indicators of HPD Efficiency for Code Enforcement

	2002	2003	2004	2005
Total Inspections	NA	490,737	521,086	576,042
Violations per 100 inspections	NA	64	60	84
Overall Inspection Visits/Team/Day	9.0	9.3	8.9	9.2
LBP Inspection Visits/Team/Day	NA	NA	NA	3
Other Inspection Visits/Team/Day	NA	NA	NA	12
Hours to Respond to Emergency Complaints (Average)	2.5	3.4	14.3	10.9

SOURCES: IBO, Mayor’s Management Reports, Department of Housing Preservation and Development.

inspections per team per day.

One area in which efficiency appears to have declined is “hours to respond to an emergency complaint,” which reflects the time between the receipt of a complaint and the initial phone call from HPD to the landlord. In 2004, HPD had fewer staff people making these follow-up phone calls. As a result, the 2004 response time was more than four times as long as the 2003 average. The response time fell to 10.9 hours in 2005, which is still well above the average in previous years. In 2006, the agency is using per diem clerical employees during the winter to handle the seasonal increase in workload associated with heat and hot water complaints.

CONCLUSION

The Mayor opposed Local Law 1 on the grounds that it was poorly targeted and would not direct resources to the communities and tenants with the most urgent housing maintenance needs. The Bloomberg Administration also feared that the legislation would squeeze HPD’s other programs by redirecting money and personnel to lead-based paint programs and reducing productivity by requiring prohibitively long and complicated inspections.

As a result of the new law, HPD more than doubled its spending on lead-related programs relative to 2004. Actual spending, however, was well below what was originally anticipated. There are of course opportunity costs associated with the legislation. Some or all of the personnel and dollars now devoted to lead poisoning prevention and remediation could be allocated to other programs in the absence of Local Law 1. Rates of lead poisoning have been declining steadily over the last decade, and there is no evidence to date that Local Law 1 has increased the rate of decline.

Whether or not the resources devoted to Local Law 1 could have been better used elsewhere is beyond the scope of this analysis. Yet despite the new mandates imposed by Local Law

1, HPD now issues more violations and makes more emergency repairs for a wide range of housing maintenance problems. The agency simultaneously increased the resources devoted to lead-based paint, and made better use of existing resources targeted to non-lead code enforcement. As a result,

HPD's total code enforcement output has grown significantly. Together, the new inspectors hired under Local Law 1 and productivity enhancements led to a particularly strong year for HPD's code enforcement initiatives.

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