

## CONTESTATION FOR TURNOVER VIOLATIONS – Presumed Lead-Based Paint (Order 621)

Owners should use this form to contest a violation issued for failure to conduct turnover work related to lead-based paint. To submit, you must complete all of the following:

- properly complete the form, including selecting one reason for your contestation, properly sign the form, and have it notarized
- attach the Notice of Violation
- include required documents relevant to the reason for your contestation
- submit no later than the date set for correction, which is printed on the front of the Notice of Violation, to: Department of Housing Preservation and Development, 345 Adams Street 10th Floor Brooklyn, NY 11201 ATTN: CONTESTATION UNIT

Building address: \_\_\_\_\_

Name of individual submitting the contestation: \_\_\_\_\_

Violation #(s) for contestation: \_\_\_\_\_

I am the: (check only one)

- Currently registered owner of the property
- Currently registered Officer or Director of the Corporation that owns the property
- Currently registered Managing Agent of the property
- Otherwise registered as responsible for the property
- Owner or shareholder of record for a condo or cooperative unit that is tenant-occupied
- Owner of a 1-2 family dwelling where I or my immediate family reside

I am contesting the issuance of the violation for the following reason (check only one reason):

1. Contestation based upon the length of tenancy

The tenant moved in prior to August 2, 2004. I have attached Documentation verifying this initial lease date for the current leaseholder.

2. Contestation based upon the building age

The building was built in or after 1960 and I have no knowledge of lead-based paint in the building and have been issued no previous tested lead-based paint hazard violations which would have provided me with knowledge of lead-based paint. I have attached a copy of the Certificate of Occupancy showing a constructed date in or after 1960.

3. Contestation based upon Existing HPD Exemption

There is an active HPD Lead Free Exemption for this unit.

4. Contestation based upon content of lead in paint – for surfaces presumed to be lead-based paint

a. XRF testing indicates there is no lead-based paint as defined by Local Law 1 of 2004 in the unit.

**OR**

\_\_\_\_\_ b. XRF testing indicated there is no lead-based paint as defined by Local Law 1 of 2004 on window and door friction surfaces, but there were other surfaces that tested positive or there were untested surfaces in the unit. However, there was no peeling paint on those surfaces that tested positive or on untested surfaces at the time of turnover AND floors were smooth and cleanable at the time of turnover.

*If I have selected either number 3a or 3b above, I have attached all of the following documents:*

- A copy of the inspection report prepared by an EPA-certified Inspector or Risk Assessor;
- A copy of the EPA certification of the Inspector or Risk Assessor valid for the inspection date; and
- A notarized Affidavit by the Inspector or Risk Assessor who conducted the XRF testing (Affidavit sample enclosed with this Notice of Violation).

**OR**

\_\_\_\_\_ c. XRF testing indicated one or more inconclusive results. The paint chip sampling performed on those inconclusive surfaces combined with the XRF results has confirmed that there is no lead-based paint as defined by Local Law 1 of 2004 in the unit.

*If I have selected number 3c above, I have attached all of the following documents:*

- A copy of the inspection report prepared by an EPA-certified Inspector or Risk Assessor;
- A copy of the paint chip sampling report prepared by an EPA-certified Inspector or Risk Assessor;
- A copy of the EPA certification of the Inspector or Risk Assessor valid for the inspection date;
- A notarized Affidavit by the Inspector or Risk Assessor who conducted the XRF testing and paint chip sampling (Affidavit sample enclosed with this Notice of Violation); and
- A copy of the State-certified laboratory analysis of the paint chip sample.

I understand that HPD will inform both me and the occupant of the unit of the results of this contestation in writing.

\_\_\_\_\_  
**Authorized Signature**

State of New York, County of \_\_\_\_\_

*Stamp*

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
(Notary Signature)

**AFFIDAVIT BY CERTIFIED INDIVIDUAL  
WHO PERFORMED LEAD-BASED PAINT TESTING**

(Submit only where required by this Notice of Violation)

I, \_\_\_\_\_ (print name), performed the inspection and testing and/or sampling for lead-based paint at the premises located at \_\_\_\_\_ (street), \_\_\_\_\_ (city), \_\_\_\_\_ (state), \_\_\_\_\_ (zip), \_\_\_\_\_ (unit number, if applicable) on \_\_\_\_\_ (date).

I am certified to perform such inspections and testing and/or sampling under Part 745 of Title 40 of the Code of Federal Regulations subparts L and Q. I performed the inspection, and testing and/or sampling in accordance Title 40 CFR § 745.227, and Chapter 7 of the U.S. Department of Housing and Urban Development's Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, 2<sup>nd</sup> Edition (July 2012).

I am (check one):

\_\_\_\_\_ Self employed

\_\_\_\_\_ Employed by an EPA Certified Firm (name): \_\_\_\_\_ and have attached a copy of that firm's EPA certification.

In addition, I have attached a copy of my EPA certification to this affidavit. My EPA certification number is \_\_\_\_\_ and it expires on \_\_\_\_\_.

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature)

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State of New York, County of \_\_\_\_\_

Notary Stamp

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
(Notary Print Name)

\_\_\_\_\_  
(Notary Signature)