

Report to the City Council: The Department of Housing Preservation and Development's Implementation of Local Law #1 of 2004 in FY 2021 (July 1, 2020 – June 30, 2021)

The New York City Childhood Lead Poisoning Prevention Act, also known as Local Law 1 of 2004, as amended (Local Law 1), outlines the responsibilities of multiple dwelling property owners and New York City agencies in the prevention of and response to lead-based paint hazards in multiple dwelling housing. This report is submitted in compliance with the related reporting requirement of § 27-2056.12 of Local Law 1.

Local Law 1 requires that property owners of multiple dwellings erected prior to 1960, or multiple dwellings erected between 1960 and 1977 where the owner has actual knowledge of the presence of lead-based paint, take preventative measures related to lead-based paint. Such measures include providing an annual notice to tenants to determine if a child under six years old resides in the apartment, conducting annual inspections in those apartments where a child resides and the common areas of those buildings to look for lead-based paint hazards, hiring appropriately certified contractors to address these hazards, and performing specific lead-based paint hazard-reduction activities when an apartment turns over. Local Law 1 requires that the New York City Department of Housing Preservation and Development (HPD) respond to complaints describing peeling paint, or a deteriorated subsurface or underlying defect in the dwelling unit; conduct inspections where a child under six years old resides; issue violations where lead-based paint hazards are found; and repair lead-based paint hazards when the property owner does not comply. Local Law 1 also requires HPD to audit property owner compliance with all required activities.

HPD's work has protected thousands of children from lead-based paint hazards since the implementation of Local Law 1. The substantial reduction in the number of children with elevated blood lead levels at significantly lower thresholds is evidence of the progress that has been made. According to the Department of Health and Mental Hygiene's (DOHMH) most recent Childhood Blood Lead Level Surveillance Quarterly Report (<https://www1.nyc.gov/assets/doh/downloads/pdf/lead/lead-quarterly-report-2020.pdf>), the number of children with elevated blood lead levels in New York City are at a historic low.

- **Section 1** presents progress updates to HPD's role in the implementation of LeadFreeNYC.
- **Section 2** presents data on HPD's enforcement activities for FY20.
- **Section 3** presents data on HPD's audits of owners' records related to lead-based paint activities.
- **Section 4** presents other existing initiatives towards a LeadFreeNYC.
- **Section 5** looks to the future initiatives.

Section 1: A Lead-Free New York City

LeadFreeNYC (2019) laid out a bold vision for New York City to do more to eliminate childhood lead exposure. Below is an overview of the HPD-specific initiatives implemented during FY21 to address peeling lead-based paint, which is the most identified source of lead exposure in young children:

- HPD expanded its enforcement work through the implementation of Local Law 29 of 2020, which made Local Law 1 applicable to owners of one- and two-family rental properties.¹

¹ Local Law 29 of 2020 went into effect on February 11, 2021.

- HPD is requesting that property owners of residential buildings certify compliance with Local Law 1 on their annual Property Registration.
- Under an expanded definition of “resides” established under Local Law 64 of 2019, owners are required as of January 2020 to identify dwelling units where a child under six routinely spends ten or more hours a week, in addition to those units where such children live, by means of an annual notice to the tenant. After being notified of the presence of a child under six, the owner must perform the required annual inspection. HPD conducted outreach to owners and designed sample recordkeeping forms for this process to assist property owners, in addition to creating a webinar around these responsibilities (the first in a series of webinars regarding lead-based paint).
- With the assistance of DOHMH, HPD started auditing properties identified using the criteria established in Local Law 70 of 2019. The agencies developed the Building Lead Index (BLI), a methodology that includes both the required criteria for the selection of buildings as well as additional information from the DOHMH regarding the incidences of childhood lead exposure.
- HPD began responding to complaints describing peeling paint, or a deteriorated subsurface or underlying defect in a dwelling unit under the new definition of “resides,” expanding the agency’s enforcement.
- HPD, in partnership with LeadFreeNYC, launched the “Get Ahead of Lead” campaign in November 2019 for multiple dwelling properties and continued it in early 2020 with a particular focus on one- and two-family properties. This outreach and education campaign reminded property owners of their obligation under the law to proactively address lead-based paint hazards. The campaign ran in eight languages on bus shelters, subway ads, storefronts, newspapers, and social media in 19 zip codes with high rates of children with elevated blood lead levels.
- In FY20 and FY21, HPD continued to educate and inform building owners and community partners about ongoing and new lead-based paint rules and requirements using multiple channels:
 - Briefings with detailed information directly to building owners translated into multiple languages (See www.nyc.gov/lead-based-paint)
 - Webinars on the basics of lead-based paint compliance
 - Regular updates to the lead-based paint webpage with improved accessibility
 - Provision of sample recordkeeping documents
 - Clarification of the types of documentation that HPD expects will be maintained
- HPD and DOHMH are currently offering grants, supported by LeadFreeNYC, to eligible rental property owners to fix lead-based paint hazards in apartments, building common areas and fire escapes through their Lead Hazard Reduction and Healthy Homes Program. Owners are not required to pay back these grants.
- HPD and DOHMH have streamlined communication by creating an automated electronic data share process.

HPD Lead-Based Paint Activities Budget

	Head Count	Personnel	Other Than Personnel*		FY21 Lead Capital Commitments	TOTAL EXPENDITURES
			Lead Repair (Only)	(All Other)		
Lead Inspections and Repair	222	\$15,295,987	\$1,894,134	\$1,572,461		\$18,762,581
HPD/DOHMH Outreach Initiative	3	\$274,787	--	--		\$274,787
Lead Demonstration Grant	3	\$163,816	--	\$143,572		\$307,389
Rehabilitation					\$31,500	\$31,500
TOTAL	228	\$15,734,590	\$1,894,134	\$1,716,033	\$31,500	\$19,376,256

Section 2: Enforcement of Lead-Based Paint Hazard Requirements

2.1 Complaints

Complaints are received for lead-based paint under Local Law 1 in the same manner that all other complaints are received by HPD – through 311, which operates 24 hours a day, seven days a week. Most complaints are called in to 311 by tenants. 311 complaints require a caller to indicate whether there is a child under six residing (routinely spending at least 10 hours a week) in the apartment. Complaints where a child under age six resides in a dwelling unit and the occupant reports conditions related to painted surfaces (such as leaks or broken plaster) are counted as lead-based paint complaints and are inspected by the Lead-Based Paint Inspection Program (LBPIP), a specialized unit within the Division of Code Enforcement. LBPIP inspectors are equipped with X-Ray Fluorescence Analyzers (XRF) so that testing can be done during the initial inspection. Pursuant to the law, an inspection must be attempted within 10 days from the date of a lead-based paint complaint.

The law also requires HPD to proactively inspect for lead-based paint hazards on *all* inspections when a child under age six resides in the apartment. Given this, HPD also routes complaints where it was indicated during the 311 call that a child under six resides but with no reported conditions related to painted surfaces to the LBPIP for inspection. These complaints are not counted as lead-based paint complaints since there is no reported condition related to paint.

In both above complaint situations, after an attempt is made to contact the landlord to notify them of the complaint, the complaint is then forwarded to the LBPIP to schedule an inspection with the tenant. If the tenant is reached and indicates that the condition has not been corrected, an appointment is set. If the tenant cannot be reached, an inspection is attempted without an appointment.

Between July 1, 2020 and June 30, 2021 HPD implemented two legislatively-mandated changes which led to an increase in the number of lead-based paint complaints received:

- HPD began to enforce the new definition of “resides,” established under Local Law 64 of 2019, during inspections—proactively inspecting for lead-based paint hazards during all dwelling unit inspections in pre-1960 buildings where a child under six routinely spends 10 or more hours per week in the dwelling unit, which includes both a child who lives in the apartment and a child who just visits for at least that period of time. HPD received almost 8,000 complaints specific to this expanded enforcement in FY21.
- HPD began to enforce Local Law 1 requirements regarding lead-based paint hazards in one- and two-family homes pursuant to Local Law 29 of 2020. Over 800 additional lead-based paint complaints were received from tenants in these buildings.

Table 1: Lead-Based Paint Complaints

Complaints for Peeling Paint Conditions Where a Child Under Six Years of Age Resides²	FY19	FY20*	FY21
Lead-Based Paint Complaints in Privately-Owned Buildings	14,498	10,768	16,246
Non-Lead-Based Complaints in Privately-Owned Buildings Flagged on Intake with a Child Under 6 Residing Within	7,959	7,816	11,044

** During the final months of FY20—the first months of the COVID-19 pandemic—the overall number of both lead- and non-lead-based complaints decreased.*

2.2 Inspections

2.2.1 Complaint Lead-Based Paint Inspection Process

In response to an occupant’s 311 complaint where a child under six is indicated to reside in the dwelling unit and the building was built prior to 1960, an LBPIP inspection is triggered. This includes complaints where only these two conditions were met and complaints where the occupant also reported conditions related to painted surfaces. An LBPIP inspection consists of an inspector creating a sketch of the apartment to designate all rooms, checking all painted surfaces for the presence of peeling or deteriorated paint and gathering any additional information regarding the child(ren). Using an XRF, the inspector will test any peeling or deteriorated surfaces within the apartment. Results from the XRF are downloaded onto a laptop computer and if the test result indicates the presence of lead-based paint, a lead-based paint hazard violation will be issued.

2.2.2 Line of Sight Lead-Based Paint Inspection Process

The term “line of sight lead-based paint inspection” refers to inspections conducted by general Code Enforcement Housing inspectors not in the LBPIP when a child under six resides in the unit. This occurs when inspections are conducted in apartments where no 311 complaint was filed, such as to investigate an allegation of a building-wide condition such as heat; or where a filed complaint did not indicate the presence of a child; or inspections which are being conducted proactively related to an enhanced enforcement program; or inspections which are being reinspected to confirm the correction of an existing violation. If a Code Enforcement Housing inspector enters an apartment in a legal residential unit for any reason, the Housing inspector will ask the occupant if a child under six resides there. If the occupant

² This is a count of distinct complaints, not distinct apartments. The same apartment may file multiple complaints within a period.

indicates that there is a child under six who resides in the unit, or if the Housing inspector observes a child, the Housing inspector is then required under Local Law 1 to check all painted surfaces for the presence of peeling paint or deteriorated subsurfaces. The Housing inspector will note any peeling paint or deteriorated subsurface and the apartment will be referred to the LBPIP for an XRF inspection of these surfaces (conducted in the same manner as described above under the Complaint Lead-Based Paint Inspection Process). If there is no access to the unit when the LBPIP inspector attempts to inspect, a presumed lead-based paint violation is issued for the surfaces in each room where peeling paint was noted during the original inspection. Property owners may contest this presumption that the paint is lead-based paint by providing appropriate evidence to HPD.

At the time of a lead-based paint complaint inspection, both a child under six complaint inspection by LBPIP or a line of sight lead-based paint inspection, the inspectors conducting such inspections are required to give to the family a copy of the DOHMH information pamphlet about lead-based paint hazards. The pamphlet encourages blood testing for children to check for lead poisoning and advises the tenant of ways to help prevent lead-based paint hazards. If HPD finds lead-based paint after testing the peeling paint or deteriorated subsurface, HPD also encourages the family to speak with DOHMH about the dangers of lead-based paint and the steps they can take to ensure their child gets tested (if necessary) and/or stay safe. If the family agrees, the inspector will call DOHMH directly at the conclusion of the inspection and make that connection between the family and DOHMH. Between July 1, 2020 and June 30, 2021, HPD connected approximately 2,400 families to DOHMH staff.

Table 2: Inspections

HPD Inspections Pursuant to Local Law 1 Based on Complaints Received and Re-Inspections Conducted Within the Period	FY19	FY20	FY21
Total Inspections Attempted in Privately-Owned Buildings	45,407	39,247	48,916
Total Complaint Inspections Attempted	42,695	37,181	46,338
<ul style="list-style-type: none"> • Based on a Lead-Based Paint Complaint 	18,803	13,892	20,618
<ul style="list-style-type: none"> • Based on a Child Under 6 Non-Lead-Based Paint Complaint 	9,544	9,000	12,456
<ul style="list-style-type: none"> • Based on a Line of Sight Inspection 	12,443	12,490	13,264
<ul style="list-style-type: none"> • Based on a Line of Sight Referral to LBPIP for Testing 	1,905	1,799	1,264
Reinspection of Lead-Based Paint Violation	2,712	2,066	2,578

2.3 Violations

Once a lead-based paint hazard violation is issued, a Notice of Violation (NOV) is sent to the owner along with a copy of the HPD Guide to Local Law 1 Work Practices. A call to the registered managing agent/owner of the property is also attempted in order to advise them of the existence of the condition, the mailing of the NOV and the expectation that the condition will be corrected on a timely basis. If the owner/agent provided an email address as part of their property registration, they may also receive an email advising them about the issuance of the violations. A letter detailing the results of the HPD lead-based paint inspection where peeling paint was observed is sent to both the tenant and the owner. If the violation has not been certified as corrected by the owner by the end of the certification period (see below for information on certification), HPD's Emergency Repair and Environmental Hazards Unit (EREH) is required to attempt to inspect within 10 days and will create a scope of work if the repair has not been completed.

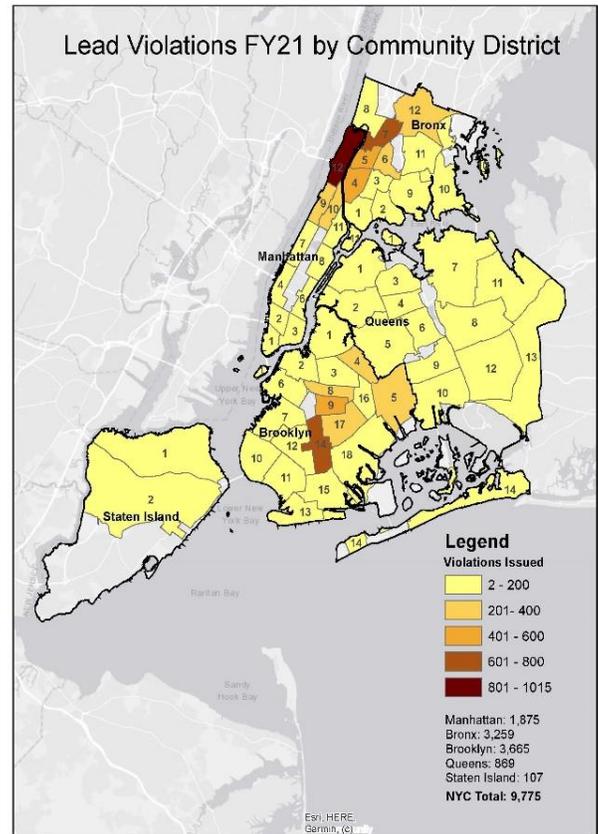


Table 3: Lead-Based Paint Hazard Violations

Violations Issued by HPD Pursuant to Local Law 1	FY19	FY20	FY21
Total Lead-Based Paint Hazard Violations Issued	13,771	9,619	9,489
- Violations Based on a Positive XRF Test for Lead	7,362	5,757	6,562
- Violations for which Lead is Presumed	6,409	3,862	2,927
Total Lead-Based Paint Turnover Violations Issued on Inspection	N/A	N/A	286
Status of Lead-Based Paint Hazard Violations Issued Pursuant to Local Law 1	FY19	FY20	FY21
Violations Downgraded (Presumed Lead-Based Paint Violations Issued Which Were Subsequently Tested and Found to Not Contain Lead-Based Paint)	5,018	2,952	2,032
Violation Certifications Submitted by Owner	3,445	2,674	2,203
Of Violations Issued in the Period, the Certified Violations that Remain Open	545	438	256
Certifications that Did Not Result in Removal of Violations (False Certifications) *	101	72	45
Violations Corrected by HPD	802	843	1,039

* FY19 data updated to include all lead violations reinspected within 70 days.

2.3.1 Certification of Correction

The lead-based paint hazard NOV sent to owners includes a date by which the owner must correct the violation and certify that it has been corrected. All corrective work must be performed by a US Environmental Protection Agency (EPA)-licensed firm that employs safe work practices. Only the owner, management agent, officer of the corporation that owns the property, or party otherwise responsible for

the property can certify the violation. To certify, an owner must submit completed certification of correction forms indicating the work was entirely performed utilizing proper safe work practices. They also must provide documentation to support that the work was performed by an EPA-licensed firm and provide copies of the clearance test results. If an owner experiences any serious difficulties when attempting to correct violations, they can request up to two postponements of the date of correction using forms included in the NOV. An owner can also contest presumed lead-based paint hazard violations (only if the building was built in or after 1960 or the paint has been tested and does not contain lead) using a contestation form provided by HPD.

2.4 Emergency Repairs

If the property owner does not certify the correction of the violation within the mandated timeframe for the issued lead-based paint hazard violation, EREH conducts an inspection to determine what work needs to be done.

If the owner has done work to correct the lead-based paint hazard violations but failed to file a dust wipe test and other required documentation, the dust wipe samples are instead taken by EREH staff and sent to a laboratory for analysis. If dust wipe test results are above the clearance level thresholds under Local Law 1, HPD cleans the affected area and performs another dust wipe test. If the dust wipe test shows that clearance levels have been achieved, the repair order is closed. In this case, the violation remains open on HPD’s violation record, unless and until the owner files required paperwork showing proper work practices. This is because the statute does not permit HPD to remove the violation if the owner does not submit documentation that the repair was performed using required safe work practices.

If work needs to be done and the violation issued was for presumed lead-based paint, EREH may test the peeling paint or deteriorated subsurface for which the violation was issued. If the area tests negative, the violation is downgraded to a peeling paint violation (non-lead) and re-issued to the property owner as a class A violation. If the surface tested by EREH is positive, was previously tested by the LPBIP, or is not tested by EREH after being presumed to be lead, EREH will issue a work order to one of its approved contractors. HPD currently maintains two contracts with EPA-certified lead abatement firms for remediation services, with maximum annualized award capacity of approximately \$1,625,000 for FY21. One additional contract with another EPA-certified lead abatement firm is maintained for lead dust cleanup and is valued at \$99,999. EREH monitors the contractor’s work. Clearance dust wipe samples are taken by HPD staff after the work is complete and sent to a properly licensed lab for analysis. If the samples are below clearance levels, the job is closed. If the sample fails, the area is re-cleaned and tested again. All violations corrected through EREH are closed after correction occurs and clearance is achieved.

Table 4: HPD Violation Correction

HPD Violation Corrections	FY19	FY20	FY21
Number of Distinct Apartments in Which Remediations Were Performed by HPD to Correct Violations in Privately-Owned Buildings	498	520	341

Dollars Spent Related to HPD Violation Remediation and Clearance³	FY19	FY20	FY21
Total Amount Spent by HPD Related to Lead-Based Paint Work Orders in Privately-Owned Buildings	\$974,063	\$1,119,834	\$1,624,889
Average Amount Spent by HPD Per Dwelling Unit (Contracted Abatement)	\$1,956	\$1,950	\$1,567

2.4.1 Billing for Costs

All work conducted by HPD is billed through the Department of Finance to the property. The charges become a lien against the property if not paid on time and may contribute to the property’s eligibility for the City’s tax enforcement proceedings.

2.4.2 Access Challenges

One of the main obstacles to HPD’s ability to correct lead hazard violations when an owner fails to do so is gaining access to the dwelling unit. HPD personnel must gain access on several occasions: to inspect, to XRF test and scope, to perform the work, and to perform dust clearance testing. The necessity of gaining access multiple times increases the likelihood that at some point access will be denied. To improve access, HPD also conducts inspections outside of normal work hours and on weekends. Performing the work, however, generally needs to occur during normal business hours.

Access problems also arise when either an owner or tenant affirmatively refuses access to HPD personnel or contractors, or when the tenant is uncooperative in providing access to the apartment. If the tenant affirmatively denies access to the dwelling unit, the work is cancelled. If, after two unsuccessful visit attempts, access has not been obtained, a letter is sent to the tenant asking them to contact HPD to schedule an appointment. If no response is received within eight days, the job is cancelled. If the tenant responds and access is still not gained after scheduling an appointment, the job is cancelled. Whenever the work is cancelled, the violation remains open.

2.4.3 Emergency Repair Pursuant to Department of Health and Mental Hygiene Referrals

HPD also receives referrals directly from DOHMH when a property owner fails to abate the lead-based paint hazardous condition in an apartment where a child was found to have an elevated blood lead level. EREH will respond with emergency repairs. HPD also receives referrals when property owners fail to submit clearance dust wipes after performing abatement work ordered by DOHMH. In response to these referrals, HPD completed 77 lead-based paint hazard abatement projects and 83 dust clearance projects in FY21.

2.5 Litigation

If the property owner or one of their employees denies access to the dwelling unit, the lead-based paint hazard violation is forwarded to the Housing Litigation Division (HLD) to seek a court order for access. HLD prosecutes access warrant cases to allow EREH to perform lead repairs. Housing Court judges are often reluctant to issue an access warrant without giving the owner several opportunities to do the work themselves, particularly when there is partial compliance, or evidence of difficulty in gaining sufficient

³ Remediations performed by HPD may not be paid for during the same fiscal year. Expenditure and average cost are related to work orders paid in the FY, not necessarily work completed in the FY.

access from the tenant to properly complete the violation, even though the statutory period to correct has passed. Most access warrant cases are concluded when a re-inspection finds that the owner has completed the work, often under consent orders issued as interlocutory relief during the Housing Court case.

HPD may also seek civil penalties when a property owner falsely certifies the correction of a condition.

Table 5: Litigation

Litigation Pursuant to Local Law 1	FY19	FY20	FY21*
Civil actions brought pursuant to false certification of violations (multiple violations may be grouped together for one civil action) *	87	36	2
Civil actions seeking a warrant for access for HPD to perform emergency repairs	60	32	37

* Throughout the end of FY20 and the entirety of FY21, Housing Court activities were limited due to the COVID-19 pandemic.

2.6 City-Owned Housing

As a property owner, HPD is also required to comply with the requirements of Local Law 1. HPD’s Office of Asset and Property Management conducts an annual notification process for tenants. Responses to the annual notification are monitored. Those responses reporting that a child under six resides in the dwelling unit are automatically forwarded to EREH to inspect, scope and perform all necessary work related to the correction of any lead-based paint hazards found in the unit. The reported information below reflects activity in Asset and Property Management, Tenant Interim Lease, Multifamily Preservation Loan Program, and the Affordable Neighborhood Cooperative Program.

Table 6: City-Owned Housing

City-Owned Housing	FY19⁴	FY20	FY21
Lead Complaints in City-owned buildings ⁵	283	128	150
Total inspections in City-owned buildings	217	120	175

2.7 Inspector Training

All new Code Enforcement inspectors and EREH field staff receive a three-day EPA lead-based paint inspector training with an approved EPA provider and are EPA-certified inspectors. During FY21, 149 employees attended classes associated with EPA lead inspector certifications. This includes 89 employees who were newly trained and 60 who attended mandatory refresher classes. During FY21, 75 total HPD Lead Unit inspectors were assigned to the Lead-Based Paint Inspection Unit to conduct inspections using XRF machines. This includes 63 Lead Unit inspectors and 12 Lead Unit supervising inspectors.

The inspectors are also trained in: (1) Local Law 1 requirements regarding the surfaces and the definitions of surface conditions that require issuance of a specific violation; (2) how to designate the surfaces in a uniform manner (e.g., size of surfaces, compass location of wall, compass location of room) to ensure that the proper area is identified and remediated by the owner or HPD; and (3) the violation order numbers.

⁴ The FY19 report incorrectly reported Calendar Year; this data has been updated to reflect FY19.

⁵ Apartments which responded to the Annual Notice as having a child under six are counted as complaints and sent to EREH for inspection.

Inspectors assigned to the LBPIP are additionally trained in the use of XRF machines and the use of laptop computers to enter XRF and violation data while in the field. Training and renewal of certifications are monitored by the supervisory staff.

Section 3: Audits of Records Related to Lead-Based Paint Recordkeeping Requirements

Broadly speaking, HPD made several changes to the audit process for landlord recordkeeping and proactive activities during FY20 and FY21:

- Issued audit requests (Record Production Orders) to properties based on the Building Lead Index.
- Updated the Record Production Order (RPO) document, which explains to an owner the requirements about the owner’s responsibility to provide records and more clearly outline documents that must be provided to satisfy the RPO.
- Provided sample documents for recordkeeping to property owners on the website as well as reviewed these documents in webinars, also available on HPD’s website.
- Issued violations (see data below) related to:
 - Failure to submit records
 - Failure to conduct annual notification and inspections (where warranted based upon the failure to submit records)
 - Failure to conduct turnover activities (where warranted, based upon the failure to submit records)
 - Lead-based paint hazard violations issued upon inspection
- In FY21, in accordance with new requirements under Local Law 31 of 2020 for all tenant-occupied rental units in pre-1960 buildings to XRF test for the presence of lead-based paint using an independent EPA-certified inspector or risk assessor, HPD added a requirement for XRF records to be provided to HPD during any Commissioner’s Order to Abate or Building Lead Index audit. The inspection must take place within five years of the effective date of the law (by August 9, 2025) or within one year if a child under the age of six comes to reside in the unit (whichever is sooner) and the property owner is required to maintain all records.

3.1 Audits Based on Department of Health and Mental Hygiene Commissioner’s Order to Abate (COTA) Elevated Blood Lead Level Referrals

Prior to June 2019, when a child was identified as having an elevated blood lead level (≥ 15 mcg/dL, < 18 yrs. of age), DOHMH conducted an environmental investigation to determine possible exposure to lead in paint and other products. Since June 2019, this process occurs for a child with a blood lead level of ≥ 5 mcg/dL and < 18 years of age. If that investigation determines that lead-based paint hazards are present in the child’s home or another residential unit, DOHMH will issue a Commissioner’s Order to Abate (COTA) and HPD will receive a referral from DOHMH. The referral triggers HPD to issue an RPO to the property owner if the building is a privately-owned multiple dwelling (3 or more units). The records being demanded include records related to annual notices, annual visual inspections, the XRF testing performed pursuant to Local Law 31 of 2020, and all repairs, remediations, and abatements related to lead-based paint that are required under Local Law 1, including those required at turnover. If the property owner

supplies the appropriate records, HPD will attempt to conduct inspections in all units the records identify a child under six resides in, and 20% of units identified to be without a child under six residing to verify the owner’s information. If the owner supplies no records or incomplete records, HPD will issue violations to enforce the record retention requirement under Local Law 1. HPD will also attempt to access every unit and will conduct Local Law 1 inspections where there a child under the age of six resides. In FY21, these inspections expanded to include the new definition of “reside.” Violations will be issued if there is peeling paint or a deteriorated subsurface and the paint tests positive for lead during these inspections. As indicated above in the section regarding litigation, HPD may seek compliance with this violation in Housing Court.

3.2 Audits Based on the Building Lead Index (BLI)

Local Law 70 of 2019 amended Local Law 1 and requires HPD to conduct audits of properties for records related to Local Law 1 compliance. HPD adopted amendments to its lead-based paint rules to implement the law. Using the Building Lead Index, built in collaboration with DOHMH, to identify a minimum of 200 buildings each year, HPD requests the lead-based paint related records from selected multiple dwelling property owners and follows up with building inspections. Half of the buildings are selected based on a representative sample of buildings which have received violations from HPD for lead-based paint hazards. A second category focuses on buildings which have been issued a violation for leaks, mold, or other underlying conditions which might disturb the subsurface. HPD also factors additional information from DOHMH regarding the incidences of childhood lead exposure into the building selection process. Additionally, under two other categories, there are buildings built prior to 1960 which are selected randomly. Property owners who produce insufficient records are issued violations for non-compliance as well as other violations for lead-based paint hazards found during the building inspection, and HPD may seek civil penalties. The first RPO issued under this requirement was generated in December 2019.

Table 7: HPD Audits

FY21 HPD-Initiated Audits	COTA	BLI⁶
Buildings Audited	412	298
Violations Issued for Failure to Provide Documents* (618, 620)	338	342
Violations Issued for Failure to Conduct Annual Notice and Inspection (619)	304	236
Apartments Issued Violation for Owners’ Failure to Conduct Turnover Work (614, 623)	2,635	1,415
Apartments Issued Violations for Lead-Based Paint Hazards Identified During Inspection	163	118

** Note that the violations issued are not a subset of buildings audited. Violations were issued in the period to buildings for which audit requests were sent out prior to the period and, due to delays caused by the COVID pandemic, violations for some buildings which received the request during the period will be issued in FY21.*

Table 8: Litigation Pursuant to Recordkeeping Requirements

⁶ Note that for FY20, 140 BLI Record Audit Demands were generated in response to the NYC Comptroller Audit (Detail).

Litigation Pursuant to Local Law 1 Recordkeeping Requirements	FY19	FY20	FY21
Civil Actions Brought Pursuant to Failure to Submit Lead-Based Paint Documents Pursuant to § 27-2056.7	14	52	35

* FY19 data updated to exclude withdrawn cases.

Section 4: Other Existing Initiatives Towards a LeadFreeNYC

4.1 Property Owner Training

HPD’s Neighborhood Education and Outreach Unit and the Office of Enforcement and Neighborhood Services (ENS) continue to provide courses in “Lead Awareness” and “Local Law 1 Compliance” and works to increase the awareness of the public about Local Law 1 through various community outreach events and marketing initiatives. In FY21, ENS hosted six live webinars for building owners, with over 1,000 attendees. After the live webinar, the webinar is posted on HPD’s website for viewing by owners and agents unable to attend the live event. The topics currently available are:

- [Private Dwellings: Understanding New Lead-Based Paint Requirements](#)
- [Learning about Lead-Based Paint: 12 Key Takeaways for Every Landlord](#)
- [Lead-Based Paint Annual Notice and Recordkeeping: An Owner's Guide to Compliance in NYC](#)
- [Owner's Responsibilities at Apartment Turnover](#)
- [Safe Work Practices in NYC: Knowing When and How to Use Certified Contractors when Working with Lead-Based Paint](#)
- [An Owner's Guide to the Lead-based Paint Exemption Requirements and Application Process](#)
- [HPD Lead-Based Paint Violations: Understanding the Basics of Lead Violations and How to Clear Them](#)
- [HPD Lead-Based Paint Violations: Understanding Work and Documentation Dates](#)

4.2 Healthy Homes Primary Prevention Program

The Lead Hazard Reduction and Healthy Homes – Primary Prevention Program (PPP) is funded primarily by federal Lead Hazard Reduction grants from the US Department of Housing and Urban Development (HUD). Buildings that qualify for the PPP funding are constructed prior to 1960, including small homes and multifamily apartment buildings of any size, located in any of the five boroughs of New York City. The building must have lead-based paint that is not intact as determined by lead risk assessments performed by the program inspectors. The building or home must be occupied by households with low- and very low-income levels, and at least one or more units must house a child less than six years of age or a pregnant woman, or be visited by a child less than six years of age on a regular basis.

In FY21, the Program completed lead remediation work in 8 housing units under its 2017 HUD Grant. Several factors continued to create delays in unit completion progress under the 2017 grant, including new procurement protocols imposed by HUD, and, more significantly, the COVID-19 pandemic. In FY21, the Program also applied for and was awarded by HUD a \$3.5M lead hazard reduction grant in the 2020 funding cycle; this grant commenced in January 2021 and will run for a 3.5-year period.

4.3 LeadFreeNYC Lead-Based Paint Preservation Initiative

This initiative “layers” lead-based paint remediation and abatement financing into Green Housing Preservation Project (GHPP) and Multifamily Housing Rehabilitation Project (HRP) moderate-rehabilitation loans. The program is currently identifying candidates for participation in the LeadFreeNYC initiative, with the goal of beginning to close on financing in the second half of FY22 and in FY23.

4.4 Exemptions

Under Local Law 1, property owners of multiple dwelling buildings built prior to 1960 may apply to HPD seeking an exemption from the presumption that the paint is lead-based paint. The exemption process requires that owners follow the inspection protocols outlined in federal regulations and guidelines, which describe the methodology to be used and the qualifications for testing. An owner may seek an exemption for an individual unit in a building through individual testing or for all apartments in a building or development using a sampling methodology established by HUD. An owner may also seek an exemption for the common areas of the building.

Effective December 9, 2019, HPD may grant two types of exemptions from the presumption of lead-based paint to residential properties built before 1960: **Lead Free or Lead Safe**. Building owners can now apply for one of the two different types of exemptions, depending on the underlying work that has been completed related to lead-based paint mitigation.

- A Lead Free exemption certifies that all surfaces tested negative for lead-based paint or have been fully abated and are permanently free of lead-based paint.
- A Lead Safe exemption certifies that any lead-based paint has been contained or encapsulated, requiring ongoing monitoring by the building owner.

Exemptions requested prior to December 9, 2019 were not issued an exemption with a Lead Free or Lead Safe status.

Table 9: HPD Exemptions

Exemptions	FY20	FY21
Total Units for which Exemptions Were Received	6,747	11,973
Total Units for which Exemptions Were Approved	7,660	12,075
• <i>Lead Free</i>	1,030	11,340
• <i>Lead Safe</i>	1	40
• <i>Approved Prior to Lead Safe/Lead Free Status</i>	6,629	695

Section 5: Looking Ahead

In FY22, HPD will:

- Implement the change in the definition of lead-based paint.⁷ Effective December 1, 2021, the definition will be changed from paint with a lead content measured at 1.0 mg/cm² or greater to paint with a lead content measured at 0.5 mg/cm² or greater. This means that a more protective standard will drive the issuance of an HPD-issued lead-based paint hazard violation, the requirement to correct lead-based paint hazards and abate window and door friction surfaces upon turnover of an apartment and the issuance of an HPD exemption.

⁷ See Local Law 66 of 2019

- Launch a centralized web portal where owners will be able to file for Local Law 1 exemptions online
- Enforce broader compliance with the turnover provisions of the law by implementing Local Law 28 of 2020:
 - Issue turnover violations upon inspection of a unit if there is a positive or presumed lead-based paint hazard on a window or door friction surface in a building built prior to 1960 and the tenant indicates they moved into the unit after August 2, 2004 (the effective date of Local Law 1)
 - Continue to issue turnover violations upon audit when an owner does not provide documentation substantiating compliance with turnover requirements whenever a tenant indicates that they moved in within the past 10 years.
- Continue to work closely on lead-based paint compliance matters with other city and state enforcement agencies, including the New York State Office of the Attorney General, the New York City Law Department, the Department of Health and Mental Hygiene and the Department of Buildings.

This continued activity reflects HPD’s commitment to advance the goals set forth in LeadFreeNYC: eliminate the risk of childhood lead exposure by increasing the enforcement and scope of Local Law 1 to address lead-based paint hazards in more apartments and at lower levels of lead.