



PAULA HICKS-HUDSON
MAYOR

Via email and U.S. Mail

May 5, 2017

Toledo Members of the General Assembly
The Ohio House of Representatives
77 South High Street
14th Floor
Columbus, OH 43215

Dear Members of the General Assembly:

I write to you to ask to strike Representative Derrick Merrin's self-serving amendment from the budget bill that purports to stop Toledo from protecting its children. Thousands of Toledo's children are being poisoned from deteriorated lead paint in rental properties. The children affected are disproportionately minorities and from low-income families.

Existing state law treats children as human lead detectors. State law only requires certain actions to be performed to address deteriorated lead paint *after* a child has been discovered to be poisoned. Toledo has taken an evidence-based, constitutional and proactive approach to *stop* children from becoming poisoned in the first place. A full summary of the law is included in the attached memorandum.

I have been working with the community on this issue for four years. I began working with members of the community and health professionals when I was district council and then President of City Council. There have been numerous committee hearings, private meetings and public meetings. Toledo City Council debated the issue at length and recently passed an amended version of the law to reduce the burden on property owners.

Toledo's law does not require full lead abatement. Rather, the law will ensure that rental properties are "lead-safe" through inspections overseen by the local Health Department. It is unfortunate that some property owners allow Toledo's housing stock to deteriorate to the point where it is unsafe. Nevertheless, the reasonable plan Toledo has put into place will help to protect our children from lead hazards.

The City would, of course, support a state-wide proactive approach to prevent lead poisoning. But Representative Merrin's legislation does not do that as all it does is attempt to protect property owners who provide substandard and dangerous rental units.

The Toledo Blade recently editorialized on this issue and I include a copy of that opinion for your consideration. If you have any questions about this issue, please contact me. I look forward to continuing to work with you to build a better future for all of Toledo's children.

Sincerely,

Paula Hicks-Hudson
Mayor

CITY OF TOLEDO

DEPARTMENT OF LAW

April 24, 2017

TO: Mayor Paula Hicks-Hudson

THROUGH: Adam W. Loukx, Director of Law

FROM: Joe McNamara, Senior Attorney, (X1088)

SUBJECT: Summary of the Lead-Safe Law

This memorandum provides a brief summary of what is presumed to be the final version of the lead law ("Law"), which was passed by Council on April 18 and signed by the Mayor on April 24, 2017 (Ord. 167-17).

The Law requires that rental properties, which contain four units or less (this requirement includes single-family homes that are being rented) as well as Type A and Type B child care homes to obtain a Lead-Safe Certificate from the Toledo-Lucas County Health Department. The fine for noncompliance is fifty dollars per day (\$50) up to ten-thousand dollars (\$10,000).

To obtain a certificate, a rental property must pass a local lead inspection. A local lead inspector will visually inspect the paint on the interior and exterior of the house and then examine the soil within the dripline. If the paint is not chipped and the soil is covered, the inspector will then take dust-wipe samples from the interior of the home to test for unsafe levels of lead dust.

If the dust wipes pass the analysis, the local lead inspector will issue a "Lead Safe Report," which the property owner will file with an application and a forty-five (\$45) fee to the Health Department. The application does not require tenant information to be provided. Assuming everything is in order, the Health Department will issue a six-year or a three-year certificate, depending on if the property passed the first time, or required a re-inspection. A twenty-year certificate is also available for properties that have been fully abated or prove that there is no lead in the paint or soil. Failed inspection reports are to be submitted to the Health Department no later than thirty (30) days after the failed report is issued.

Properties that are part of the Housing Choice Voucher Program (aka Section 8) do not need to pay an application fee or be inspected by a local lead inspector so long as they meet HUD standards.

The deadline for compliance is phased in over three years. All of the census tracts in Toledo were ranked in order of the greatest danger of lead exposure to children and grouped into three tiers. The top tier of the most dangerous census tracts must comply with the law by June 30, 2018. The second tier must comply with the law by June 30, 2019. All remaining census tracts must comply with the law by June 30, 2020.

There is a one-year deferral program for owners who have more than 10 properties and also a hardship extension program where an owner can apply for additional time to bring their properties into compliance.

State Rep. Derek Merrin (R., Monclova Township) owns residential rental properties in Toledo and elsewhere in the region. Good for him. He has every right.

But Mr. Merrin tried to quietly add a provision to the Ohio budget bill moving through the state House that would undermine the city's authority to enforce lead ordinances. His amendment would instead leave all lead-related health regulations to the Ohio Department of Health, which doesn't have lead-safe measures like Toledo's.

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Toledo's ordinance — which doesn't require lead abatement and has even been revised to make it even more palatable to landlords — requires rental buildings built before 1978 with up to four units, or a day care center, to be certified "lead-safe" in order to rent to tenants. Property owners who don't comply can be fined \$50 a day, up to \$10,000.

Mr. Merrin, who didn't join any of the discussion about the ordinance when it was being debated locally, responded to criticism of his budget amendment with a written statement in which he called Toledo's ordinance unconstitutional and discriminatory. The ordinance is neither of those things. It *is* necessary to begin to protect children who can be permanently impaired by lead poisoning from the paint in many of Toledo's older homes.

City council members, property owners, local health officials, and advocates for tenants and low-income residents worked hard over many months to draft and revise Toledo's ordinance so it would be effective and fair. Slipping an amendment into a budget bill to nullify that is an insult to their good-faith efforts, not to mention a violation of home rule.

Mr. Merrin also argued that lead-related regulations should be managed by the state health department so they can be uniform across the state. He is onto something there. Toledo's modest ordinance is the only one of its kind in the state right now. The ODH should use it as a model and seek to put it in place statewide.

Meanwhile, the Ohio House should strike Mr. Merrin's self-serving amendment from the budget bill and stop trying to negate Toledo's right to protect vulnerable children.