

Sub. House Bill 49.

Written Testimony Outline Of Attorney Mark Davis

We all agree that lead poisoning is bad and we all hope to cooperate to solve the problem. Toledo's ill-conceived lead law is a prime example as to why the State should preempt the field and create a universal solution.

A. Lack of Lead Causation

Quite simply, lead poisoning can arise from many different sources. Lead pencils, lead in the soil and air (we are breathing lead right now), lead in toys, lead pipes, and lead paint. On May 11, 2017, the Toledo Blade reported that over 30,000 water lines in Toledo are made with lead. While a house can certainly be made safer, there is no evidence to show that a landlord's actions are any different than any other home owner yet the Toledo ordinance punishes small landlords in structures with four units or less.

B. Who are these Landlords?

Toledo, like many cities, have dilapidated houses too great for the City to care for, regulate, or tear down. Most are in such poor condition that the bank does not want them and they cannot be sold. In this vacuum, private citizen entrepreneurs have stepped in to purchase, with their own funds, these run down homes, and spend their extra time and weekends repairing them. For example, I bought a house at foreclosure that had a fire. I repaired the electric, the water, the fire damage – all on my own dime. That house no longer brings down the neighborhood but instead pays taxes for schools.

C. What does the Toledo Ordinance do?

The Toledo Ordinance imposes impossible burdens on these entrepreneurs that are trying to upgrade our communities. It is, in fact, so unworkable that for over a year since the law has been enacted, it has not been implemented. Not only that, but the law is unconstitutional upon several grounds. A similar law has been found unconstitutional as a warrantless search (Baker v. City of Portsmouth)

D. What is the effect of the Toledo Lead Law?

Let's compare the Toledo law to the law it was based on Rochester NY. First, the lead problem has not been eliminated. After an initial drop of lead cases down to approximately 250 after two years after enacting the law, the latest data shows lead poisoning has almost doubled, back to 500. According to Steve Orr, in an article dated February 5, 2016 entitled Lead Poisoning Still an Issue in Rochester, lead in the pipes is a primary source of the problem.

The high cost of landlord compliance, however, has dramatically increased rents harming the very poor that the law was meant to protect. The amount of vacant homes has increased. Blight has increased.

E. State intervention is required

If regulated by the State, instead of piecemeal by the inept Toledo's of the world, a uniform approach that makes sense socially and economically would better serve Ohio. As such, I urge the passage of HB49 relating to state wide enforcement of the lead law.