



## environmental/green buildings

# The HPD has allowed for use of XRF machines for testing to determine presence of lead in paint

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Since the new lead paint law, Local Law 1 of 2004 (LL1), was enacted a year ago, landlords have faced the expensive and time-consuming burden of compliance. All landlords with properties built before 1960, with three or more apartment units and where a child under seven years old resides, are subject to the law. This represents a vast percentage of the buildings in the

five boroughs of New York City.

The most burdensome requirements of the law include:

- Finding out if a child under seven lives in any apartment in buildings covered by the law.

- Visually inspecting those apartments for lead paint hazards annually and upon tenant request.

- Using safe work practices and trained workers for any work that disturbs lead paint in applicable apartments and common areas, including required repairs of peeling paint.

- Making apartments "lead safe" on turnover.

- Cleaning-up work areas thoroughly.

- Having "clearance dust wipe tests" performed when work is fin-

ished to make sure cleanup is complete.

- Keeping records of all notices, inspections, and repair of lead paint hazards, and other matters related to the law.

As most property owners have seen over the past year, complying with these regulations is expensive and time-consuming. The increased costs associated with following the above requirements for an average NYC apartment can easily surpass \$3,000/unit – not withstanding the time it takes to complete the work which can lead to additional loss in rent. And, keep in mind, some of this work will need to be done every time the apartment turns over. Oftentimes, property owners are under the impression that having

substantially renovated and/or "gut rehabbed" their building exempts them from complying with LL1. This is not the case. Even with documentation of the work done, compliance is still required.

Many landlords have called upon the expertise of lead inspection firms, such as my own, for getting specific properties exempt from the law in hopes of alleviating some of the long-term financial burden associated with compliance. It is possible to obtain exemptions from LL1.

Exemptions from LL1 are given when a property is determined to be lead based paint free. The Department of Housing Preservation and Development (HPD) has al-

lowed for the use of approved XRF machines for testing building surfaces and components to determine the presence of lead in paint. These specialized machines are extremely expensive to own and operate. XRF machines contain radioactive isotopes which are regulated by the federal, state and local governments. The individual operators of these machines may also require licensure from the manufacturer or other local jurisdiction.

Under the law, landlords can choose to have individual apartments or entire buildings tested with an XRF machine to determine if lead based paint is present. As long as specific testing protocols are followed, a unit or building can obtain an exemption if it is found to be lead based paint free. In other words, having an XRF test done once today can save you countless dollars and endless time in the future.

XRF testing can cost as much as several hundred dollars per unit depending upon the size of the apartment. Each unit usually takes under an hour to test and then an extensive report should include: a detailed list of all surfaces inspected and a summary of any components found to contain lead based paint. The report should also make the property owner aware of their obligations under LL1 and the Federal Lead Based Paint regulations.

Doing an XRF test may seem easy – however, doing it in compliance with the law and preparing a regulation report that withstands the HPD audit and potential EPA audit takes expertise and hard work. Owners should look for experienced inspection firms with a minimum of three years of lead testing experience, EPA licensure, professional errors and omissions insurance, and a quality control plan. Further, owners should check references to determine the inspection firms' records. Many owners have sought out my firm to correct mistakes of newer firms who lack the expertise, knowledge and understanding of the regulations to complete a proper report that can hold up under scrutiny. If your goal is to comply with LL1 while saving money and time, your best bet would be to have your properties XRF tested by a reputable firm, certify them as lead based paint free, obtain an exemption from the law, and go on with business as usual.



**ALC Environmental is a full service environmental company and is currently providing informational seminars, education and awareness training - on the new lead based paint regulation - to building owners, general contractors, specialty contractors, architects, engineers and real estate agents throughout New York City.**

### ALC's services include:

- LEAD PAINT SERVICES: XRF TESTING, CLEARANCE TESTING, RISK ASSESSMENTS, PROJECT MANAGEMENT, & PROJECT DESIGN
- ASBESTOS SERVICES: INSPECTION-ACP-5'S, AIR MONITORING, PROJECT DESIGN & PROJECT MANAGEMENT
- INDOOR AIR QUALITY ASSESSMENTS
- MOLD INVESTIGATIONS
- ENVIRONMENTAL SITE ASSESSMENTS (PHASE 1'S, PHASE 2'S)
- ENVIRONMENTAL TRAINING
- LEAD ABATEMENT
- ASBESTOS ABATEMENT
- INSULATION
- ENVIRONMENTAL CLEAN-UPS
- MOLD AND MILDEW REMEDIATION
- PROGRAM MANAGEMENT SERVICES FOR ENVIRONMENTAL AND CONSTRUCTION RELATED SERVICES

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