



VERMONT ATTORNEY GENERAL'S OFFICE

REPORT: LANDLORD RESTORATION PROGRAM

RESULTS AND RECOMMENDATIONS

A flyer for the Landlord Restoration Program. The background is dark with a subtle pattern of yellow chevrons. The title 'Landlord Restoration' is in large, bold, yellow font. Below it, the tagline 'GOOD FOR KIDS, GOOD FOR FAMILIES, GOOD FOR LANDLORDS' is in smaller white font. A list of three bullet points in yellow font follows: 'EDUCATION: INFORMATION AND REFERRAL', 'AWARENESS: COMMUNITY OUTREACH', and 'COMPLIANCE: 90 DAYS GRACE'. At the bottom, contact information is provided in white: 'FOR MORE INFORMATION: EMAIL AGO.CAP@VERMONT.GOV CALL 800-649-2424'. The Vermont logo and 'OFFICE OF THE ATTORNEY GENERAL' are at the bottom left.

Landlord Restoration
GOOD FOR KIDS, GOOD FOR FAMILIES,
GOOD FOR LANDLORDS

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VERMONT OFFICE OF THE
ATTORNEY GENERAL

JUNE 2019

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Introduction / Background

Vermont's lead safety laws have been on the books for more than two decades. The goal of our laws is to ensure the health and safety of occupants, in particular, young children who live in rental housing and may be at increased risk of exposure to lead paint. The law is designed to help reduce lead paint exposure and prevent childhood lead poisoning.

We know that education and outreach on this issue works. In 2008-2009, there was an intensive "Get the Lead Out of Vermont" initiative sponsored by state agencies and stakeholders. Following the publicity and outreach associated with that effort, lead compliance statements filed with the state increased. And, with that initiative the Department of Health and Attorney General's Office began working closely together and with landlords to enforce our lead-safety laws and increase compliance.

Unfortunately, we know that many landlords and tenants are unaware of best practices to keep Vermont's housing stock lead safe. In recent years, many landlords have reported that they did not know about the lead law. Of Vermont's 30,000 estimated rental properties with lead paint, only ~7,000 are in the VDH system for lead paint compliance -- a 25% compliance rate.

We can do better.

The Landlord Restoration Program: A Compelling Rationale

Vermont's laws and the actions of housing providers and others have helped to reduce the incidence of lead poisoning in children. In 2008, for example, around 1 in 5 Vermont children tested at elevated levels known to cause brain damage and behavior problems. In 2018, that number is down to around **1 in 20 children**. But, there is more we can do to protect at-risk children. There are no safe levels of lead in the human body. So, while statistics show improvement, there is no reason that children can't be 100% free of lead exposure: lead poisoning is entirely preventable.

This report summarizes a pilot program, the Landlord Restoration Program ("the Program" or "LRP") that was jointly carried out by the Vermont Attorney General's Office and the Department of Health ("the Department" or "VDH"). The Program ran for one year, from September 2017 through September 2018.

The Program is designed to help at landlords by raising awareness of Vermont's lead paint law in rental housing and assist with compliance. Every year, landlords must perform "Essential Maintenance Practices" aka "EMPs" – which are practices to stabilize and eliminate deteriorated paint (repainting cracked surfaces, removing paint chips, installing window well inserts, specialized cleaning at tenant vacancies, etc.). Only an EMP-certified person can complete them, but landlords can become certified themselves for free (sponsored by the State). Upon completing EMPs, landlords must file—annually—a compliance statement certifying the accurate performance of EMPs. The Landlord Restoration Program sought to help landlords perform their EMPs and file their EMP statements. Success was measured by increasing the number of EMP filings.

Given the low number of properties in the VDH system, it is apparent that something is needed to promote awareness and improve compliance rates.

The LRP was created to focus on prevention and help create a culture of compliance rather than waiting for enforcement actions. The program does this by: (1) raising awareness of Vermont's lead-safety laws; and (2) providing resources and assistance for landlords to bring their properties into compliance.

Program Design and Implementation

The Program is designed to be a community event focused on high priority areas. VDH identified 5 Vermont towns that have some of the highest levels of childhood lead poisoning: **Barre, Bennington, Rutland, Windsor/Bellows Falls, and St. Albans.**

VDH and AGO held a community meeting lasting around 60-90 minutes in each town. Advance notice was crucial. We first provided direct notice via mailings to potential landlords, based on each town's Grand List. We also coordinated with the Vermont Apartment Owner's Association who notified its members. Finally, a news release was issued prior to each event to publicize and promote each meeting.

At the community event, we presented a detailed overview of the lead law in rental housing, followed by open discussion and Q&A. The meeting ended with distribution of key written materials: contact information, lead compliance forms, list of paint contractors, applications for financial assistance, etc.

The Vermont Housing Conservation Board ("VHCB") was a critical partner. VHCB provides financial assistance in the form of loans and grants to property owners of low and middle income rental units. VHCB also provides free EMP training classes for landlords to become certified to perform their own lead paint inspections. **We worked with VHCB to schedule a free training course in the area after each meeting**, so that all landlords who participated could easily become certified to inspect and perform EMPs on their own properties, just as the law is designed to do.

The Program was intended to be "one-stop shopping": landlords who attended were given everything they needed to perform their lead paint inspections and paperwork.

In exchange for participation in the Program, landlords were given:

(1) access to materials and support: this was the information and printed resources provided at the meetings.

(2) waiver of past liability for failure to perform and file EMP statement: regardless of how long a property had been out of compliance (e.g., for years), there would be no enforcement by the State if the landlord followed the Program (*this did not waive private claims of tenants).

(3) extension of time: typically, landlords who have a noncompliant property are expected to comply within 30 days of being notified. The LRP provided an automatic 90 days, and additional time could be requested based on justification.

Results



The Program overall resulted in substantially increased EMP filings from the previous year.

Town	# of mailings	# of meeting attendees	# of pre-LRP EMP filings (2016-17)	# of post-LRP EMP filings (2017-18)	increase in EMP filing
Rutland	399	25-28	979	1205	23%
Bennington	99	5	568	670	18%
Bellows Falls	275	30-32	242	269	11%
Barre [^]	500	55-60	285	339	19%
St. Albans [^]	346	15	191	195	2%

[^] The time range varied between Barre and St. Albans and the variations in filing rates reflect partial year data.

First, as to the **outreach and attendance**: almost a 10% attendance rate based on the mailing and outreach. This is positive, as most responses to direct mailings are around 1%. Bennington was an exception. Our mailing to Bennington was a variation of the letter we ultimately adopted that may not have adequately indicated the risks and liabilities of non-compliance. And, we also did not have as robust a media presence in advance of the event (while a press release was issued there was inadequate additional follow-up with local media on radio, for example, which is something we did to promote awareness of the event in other locations). We suspect that many landlords either did not understand the letter, did not think it was relevant or important to them, or did not

have enough advance notice of the meeting. We later revised the letter to strike the right balance of offering assistance while ensuring landlords understand that lead-safety compliance is mandatory and must be addressed.

Barre's exceptionally high attendance and enrollment may also be the result of seasonal timing: that meeting was held in June, at the start of the construction season (after the Lead Law's May 31 trigger date for exterior painting kicks in).

Second, as to **enrollment**, around 10-20% of the meeting attendees officially signed up using the enrollment form. However, this is not the measure of success. Enrollment forms were helpful for tracking (who needed the 90-day extension and liability waiver), but it was not necessary to comply with the lead law. Many landlords skipped the enrollment form, but still filed their EMP statements.

Third, as to **improved EMP filings**, there was measurable success. The average annual increase of all EMP filings in Vermont is around 7%.

After the Program, all LRP towns saw between 2-23% increase in filings. For all LRP towns combined (with known data), the overall average increase in EMP filings from the previous year was **14%** (all other towns saw an increase of 10% in filings).

In sum, there is no doubt that the LRP had a measurable impact in increasing filings in those towns. Even for those who did not attend a meeting, the reminder letter likely helped spur activity.

Survey: we also created an anonymous survey designed to capture why landlords had not filed EMP statements. Were they completely unaware of the lead law, or did they know about it but just think it was unnecessary, cumbersome, confusing, etc.

We received **18 responses**. The predominant answer was that while some landlords knew something about the lead law generally, many did not know about specific requirements, especially annual filing (or they thought they'd be reminded and prompted).

- 10 didn't know about annual filing requirements
- 5 said the paperwork was too cumbersome/confusing
- Only 3 said they did not have the money/resources to perform EMPs
- Only 1 said they were completely unaware of the lead law

Many of the comments illuminated confusion, and a belief that annual filing is both burdensome and unnecessary.

Confusion:

- *I received lead law certification as if I were a contractor and I thought it would certify me for EMP. I didn't know there was a difference.*
- *the classes never teach or show you how to fill out the paper work.*
- *form is way too cumbersome.*

Time constraints:

- *We followed EMPs on the exterior and community spaces routinely and on apartments when they turned over, but did not do the paperwork. My husband and I both work full time, so it is difficult to find the time to get access to the apartments when tenants work, too, and do the paperwork annually.*
- *Not being a full time landlord, it seems to fall on the back burner in lieu of my full time work and family obligations.*
- *Got to get all of this electronic! The 4 hour training course makes no sense not to have online. Get it done!*

Too burdensome / unnecessary:

- *The every year filing requirement seems onerous, though. Perhaps every three years or when tenants turnover would be more realistic? Just a thought.*
- *If a problem arises with a property, then filing should be required for five years. We don't put someone in jail before a crime is committed.*
- *I perform these EMPs, but they're the epitome of nonsensical government involvement in private business. I reliably shell out \$50 a year to have a guy with a license look at the undisturbed walls and send me a piece of paper that I give to the state. Literally nothing changes year over year, so why do I do this? Why not just send a statement to the state if the lead paint is disturbed, or if the tenants change?*

Financial constraints:

- *We currently file but in the past we did inspections but didn't file as there wasn't the financial resource to resolve some of the issues.*
- *Due to financial constraints in the past we had always ensured that the property interiors were fully compliant and met all EMP standards, as interior spaces are where tenants spend most of their time. Due to financial constraints there were periods of time where exterior spaces were not fully compliant with EMP standards.*

Key Lessons

First, most participants knew something about the lead law generally. However, we can do more to promote the annual filing requirements (including publicity, outreach, and reminders about annual filing).

Next, we saw a real benefit from face-to-face conversation and explaining that government was trying to improve compliance, not out to trap landlords. Landlords were wary about the filing requirements, but explaining that compliance is the goal seemed to help. Continuing that message seems worthwhile.

We learned that expense of repairs is a concern, and therefore funding is important. It did not seem that finances were the only obstacle but an important one.

VHCB provides funding for painting and lead abatement, though it has restrictions: tenants' income cannot exceed 80% of median income in the area, and owner must rent to income-eligible tenants for at least 3 years.

Fourth, the extent to which landlords were worried about liability for stepping forward is unclear. While we heard that some might be afraid of coming forward to file now because they failed to do so in the past, potential liability was not an answer in the survey for why those landlords had not filed.

Overall, we can improve lead safety compliance by: providing reminders along with the EMP forms (and detailed instructions) coupled with a message that filing is an important step for compliance to protect landlords from liability.¹

Conclusion / Recommendations

After a year of implementation, outreach to hundreds of landlords, five different community meetings and involvement from key stakeholders and agencies, the Landlord Restoration Program demonstrated a measurable impact through a significant increase in EMP filings. We recommend an annual series of outreach meetings to educate landlords about Vermont's lead safety laws and the importance of compliance.

To that end, we suggest:

1. Community Engagement: VDH's staff and/or CAP staff set LRP meetings and presentations in 4-5 towns annually.
2. Timing: Set all 4-5 meetings in the beginning of the construction season, in an eight-week period May-June.
3. Education and Outreach: continue to send mailings to landlords in the 4-5 towns selected and engage local media (newspapers and radio) before each meeting.

There is substantial value in building relationships, offering to help, and ultimately reducing the harm from lead poisoning. In-person meetings, presenting the EMP requirements, and providing hand-outs of resources all can help. These efforts can be done at any time without the formality of an intake "program." And, landlords probably prefer not to have more forms to fill out. Instead, what they want is a system that is faster and easier to understand and access. By providing information and resources up front we can help landlords accomplish their goal of providing lead-safe housing in compliance with Vermont law, and we can help more Vermont kids live healthy lives free from lead poisoning.

¹ We also learned that many landlords still rely on paper filing (not electronic/online). VDH is trying to move to online filing exclusively but some landlords still prefer using paper forms or are older persons with less access/familiarity of computers.