

Lead Paint Hazard Enforcement



Environment & Climate Commission

May 24, 2023

Outline

- Background
- Current Status
- Next Steps



Background

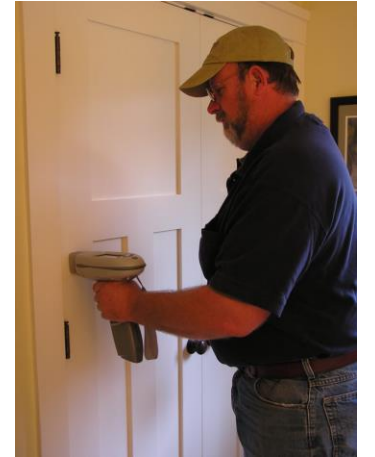
CEAC recommendation (2018-2019) → Council Action (2019)

- Continue current work
- Identify resources to expand enforcement
- Leverage help of Alameda County Healthy Homes



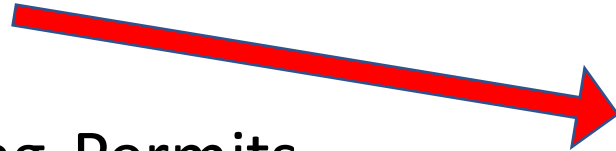
Background: Responding Staff

- Neighborhood Services (City Managers Office 311)
- Hazardous Materials Inspectors (Planning Toxics Division)
- Building Inspectors (Planning Building and Safety Division)
- Housing Inspectors (Planning Building and Safety Division)
- Environmental Health Inspectors (HHCS Environmental Health Division)

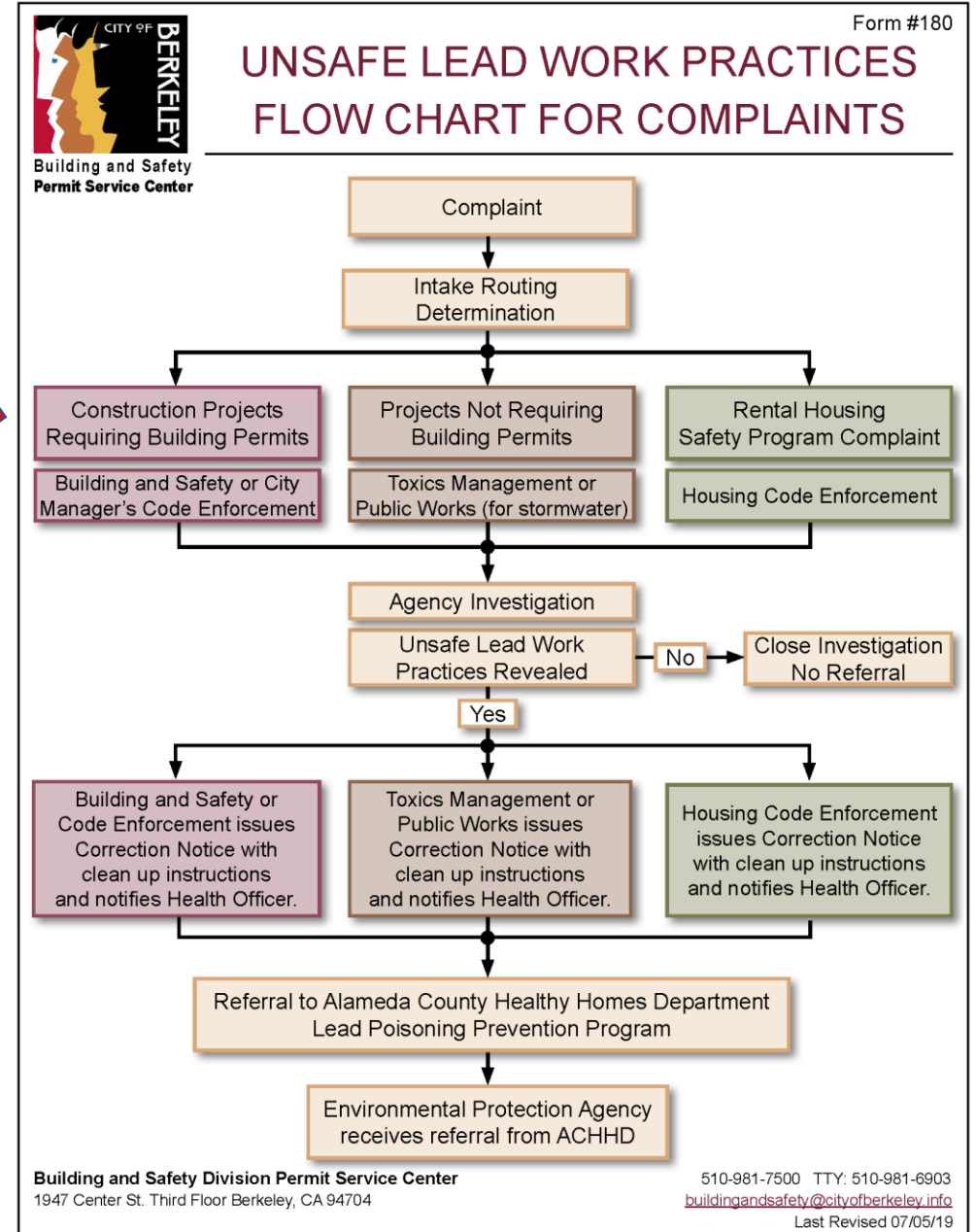


Background: Process

Complaint Routing

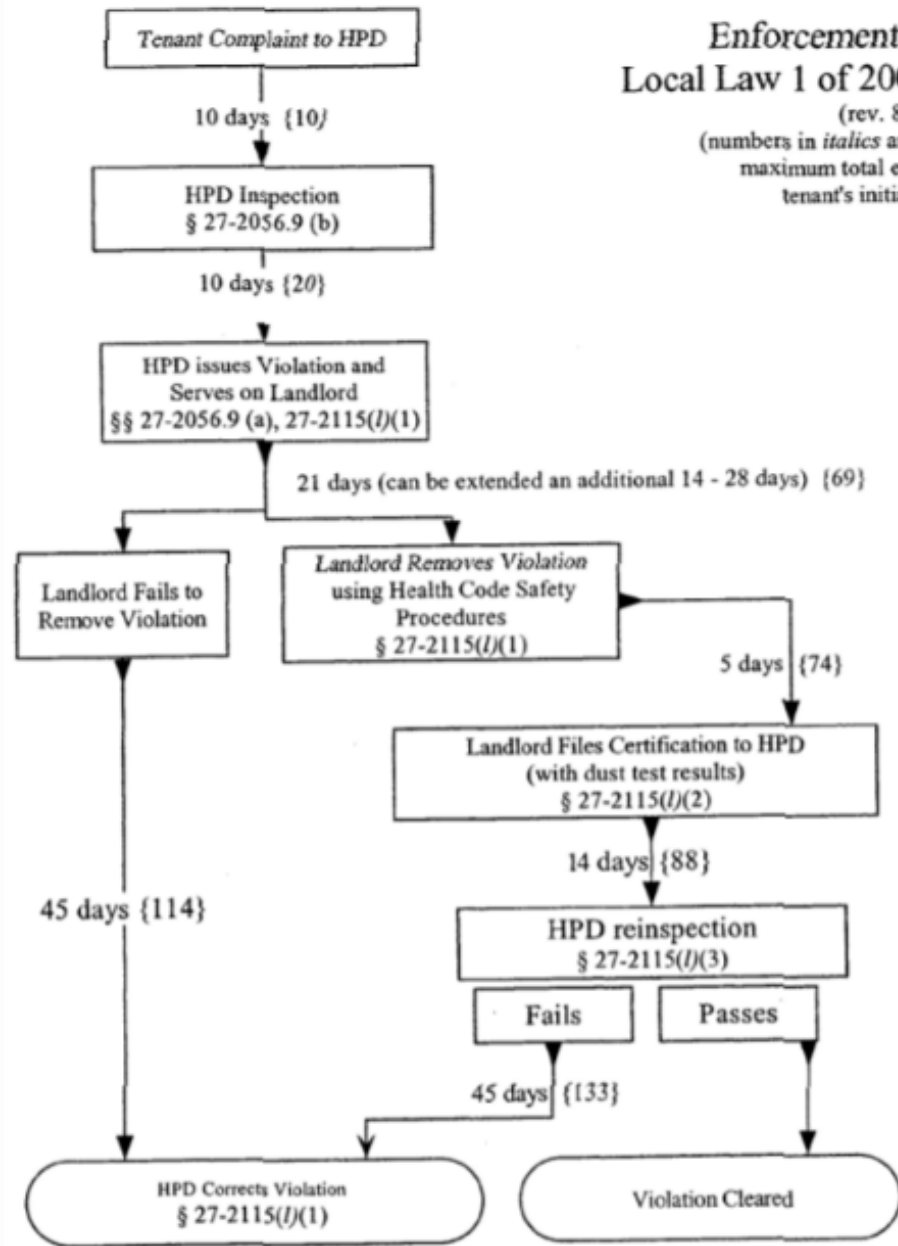


1. Projects with Building Permits
Demo, New Construction, Renovations
2. Projects with NO Building Permits
Interior/Exterior Painting
3. Rental Housing
Complaint-based Inspections
Proactive Inspections



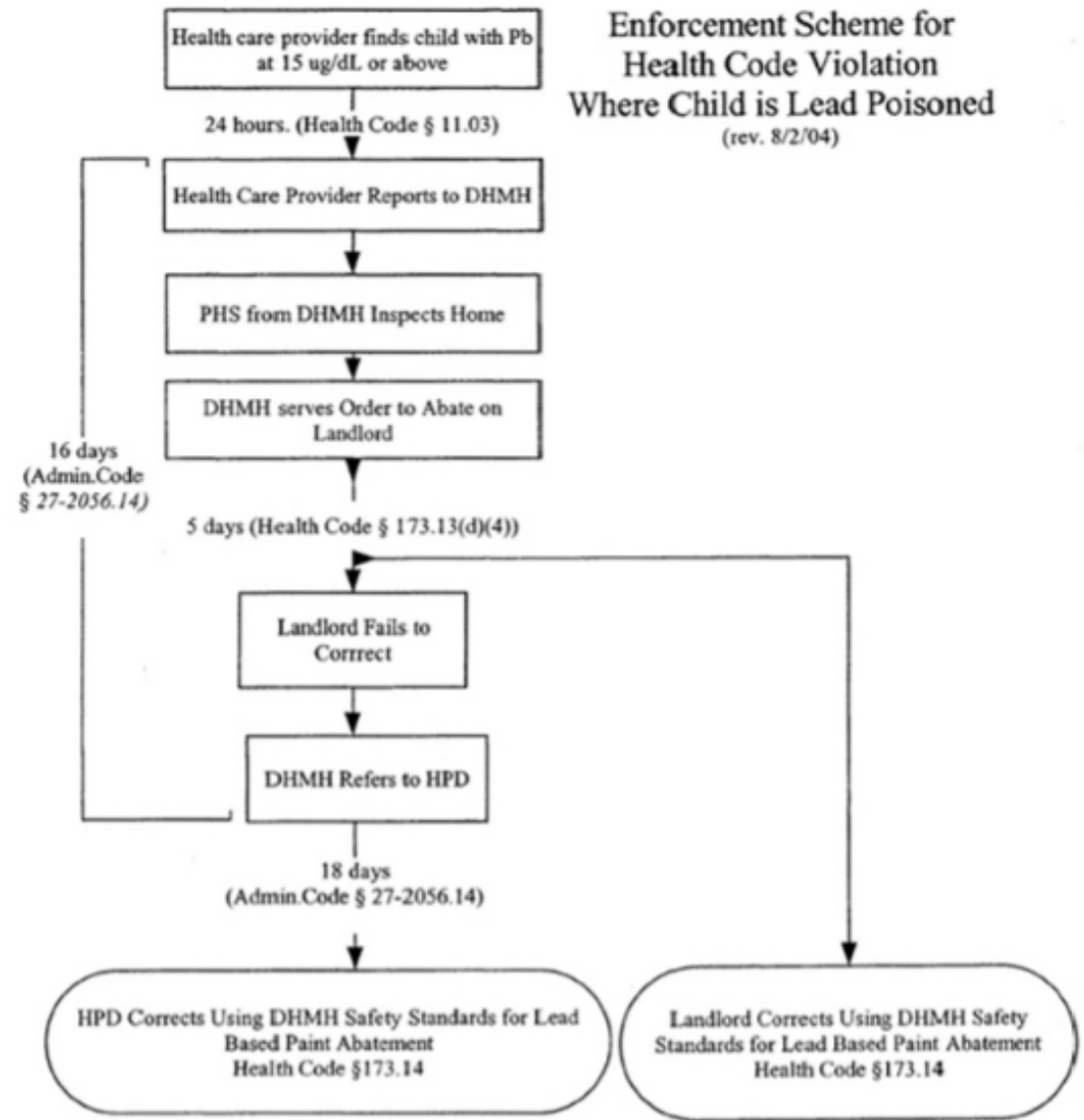
Enforcement Scheme For Local Law 1 of 2004 Lead Violations

(rev. 8/2/04)
(numbers in *italics* and braces {} indicate
maximum total elapsed time from
tenant's initial complaint)



Enforcement Scheme for Health Code Violation Where Child is Lead Poisoned

(rev. 8/2/04)



Abbreviations:

DHMH - Department of Health and Mental Hygiene

HPD - Department of Housing Preservation and Development

PHS - Public Health Sanitarian

ug/dL - micrograms of lead per deciliter of blood

Pb - lead

Background – Federal

EPA regulates lead-based paint hazards thru various codes and acts.

Lead Renovation, Repair and Painting (RRP) Program
Lead Abatement Program
Lead Disclosure Program

EPA researches and enforces violations

~100 cases per year



**Protect
Your
Family
From
Lead in
Your
Home**



Background: State



LEAD PAINT HAZARDS IN HOMES: A GUIDE FOR CODE ENFORCEMENT

KEY CONCEPTS AND DEFINITIONS

- California State Housing Law identifies lead hazards (including “*deteriorated lead-based paint*”) as a condition of substandard housing. State Housing Law requires local enforcement agencies (e.g., building departments, code enforcement, etc.) to order the abatement of identified substandard housing conditions.
- “*Deteriorated lead-based paint*” means lead-based paint or presumed lead-based paint that is cracking, chalking, flaking, chipping, peeling, non-intact, failed, or otherwise separating from a component.
- “*Presumed lead-based paint*” means paint or surface coating affixed to a component in or on a structure constructed prior to January 1, 1978.
- Creating a lead hazard (e.g., by remodeling a pre-1978 home without using “lead safe” work practices) is a violation of CA Health and Safety Code section 105256. Contractors, remodelers and painters are required to use “lead-safe” work practices (such as using plastic tarps to catch paint chips and debris) pursuant to Title 17, CA Code of Regulations, section 36050.

CA Health and Safety Code sections 17920.10

Lead hazards are identified as a condition of substandard housing.

Example: Deteriorated paint in housing built before January 1, 1978. (Defined as “*presumed lead-based paint*,” Title 17, California Code of Regulations, section 35043).

CA Health and Safety Code sections 105256

Authority to issue an “Order to Abate” or a “Cease and Desist” for any condition or activity that is creating or has created a lead hazard.

Example: *Creating a lead hazard by remodeling in a pre-1978 building without using plastic tarps to catch paint chips and dust.*


Background: Local

- **BMC 17.20.030:** No matter other than **stormwater** may be discharged into the storm drain system. If peeling paint is found in the “Storm Drain System” as defined by BMC 17.20.020(F) - those facilities within the City by which stormwater may be conveyed to waters of the San Francisco Bay, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, humanmade channels, storm drains and natural watercourses.
- **BMC 1.26.010:** Certain violations of City ordinances declared public nuisances--Abatement by injunction.
- **BMC 19.40:** Orders from the building official.
- **BMC 11.36.020.(E):** The keeping of any building, or any part of a building, which on account of its dilapidated condition or of its occupancy by any person or persons afflicted with communicable diseases, or by filthy tenants, may endanger the life or health of residents therein or in the vicinity thereof;
Relies on designation of a health and safety hazard.
- **BMC 13.79.060.C.7:** Fail to perform any repairs in a timely and professional manner that minimizes inconvenience to the Tenant; or fail to exercise due diligence in completing repairs and maintenance once undertaken; or fail to follow appropriate industry standards to or protocols designed to minimize exposure to noise, dust, lead paint, asbestos, other building materials with potentially harmful health impacts.

Current Status

- Projects needing Building Permits

Form #110



PERMIT DECLARATIONS

Project Address:

Permit Number:

LICENSED CONTRACTOR'S DECLARATION AND INFORMATION

I hereby affirm under penalty of perjury that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

Company Name:

License Number: Class: Exp. Date:

OWNER BUILDER DECLARATION

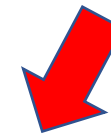
I hereby affirm under penalty of perjury that I am exempt from the Contractors' State License Law for the reason(s) indicated below by the checkmark(s) I have placed next to the applicable item(s) (Section 7031.5, Business and Professions Code: Any city or county that requires a permit to construct, alter, improve, demolish, or repair any structure, sidewalk, or street prior to its issuance, also requires the applicant for the permit to file a signed statement that he or she is licensed pursuant to the provisions of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code) or that he or she is exempt from licensure and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars (\$500).

I, as the owner of the property, or my employees with wages as their sole compensation, will do all of or portions of the work, and the structure is not intended or offered for sale (Section 7044, Business and Professions Code: The Contractors' State License Law does not apply to an owner of property who, through employees' or personal effort, builds or improves the property, provided that the improvements are not intended or offered for sale. If, however, the building or improvement is sold within one year of completion, the Owner-Builder will have the burden of proving that it was not built or improved for the purpose of sale).

I, as the owner of the property, am exclusively contracting with licensed Contractors to construct the project (Section 7044, Business and Professions Code: The Contractors' State License Law does not apply to an owner of property who builds or improves thereon, and who contracts for the projects with a licensed Contractor pursuant to the Contractors' State License Law.) **Completion of the contractor's information above is required.**

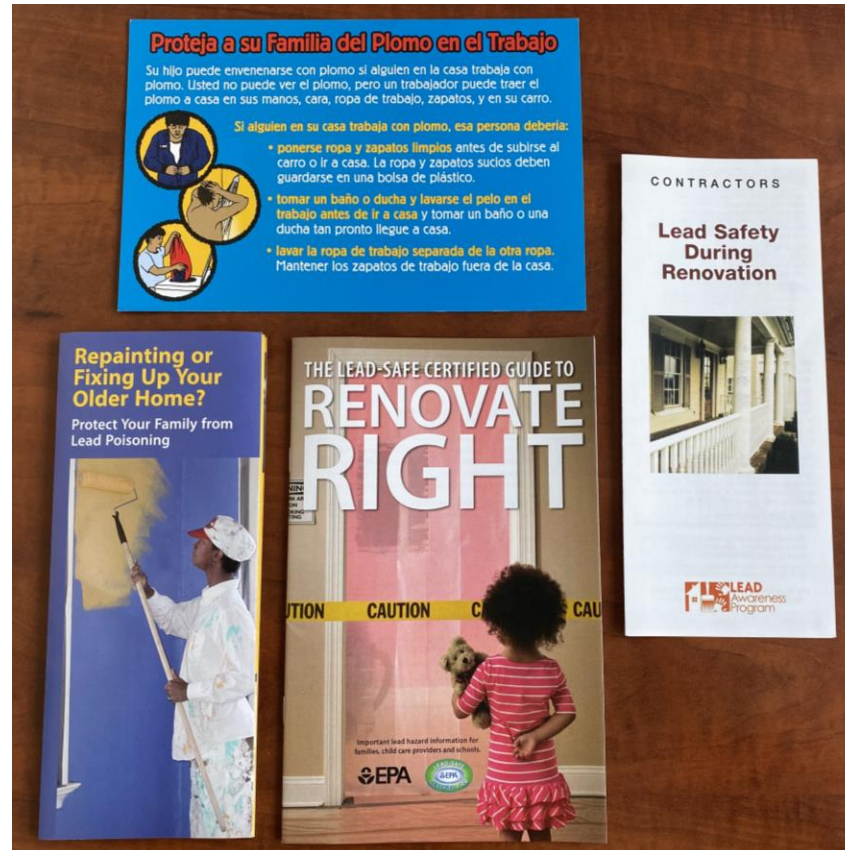
LEAD HAZARD DECLARATION

I am aware of my responsibilities to implement lead-safe work practices as required by the State of California Health and Safety Code Sections 17920.10 and 105256 when conducting renovation, repair, or painting work in pre-1978 residences, childcare facilities, or schools. I will ensure that any paint disturbing work will be done by or supervised by RRP certified individual(s). Failure to follow this rule may result in enforcement action by the EPA.



Current Status

- Projects NOT needing Building Permits
 - Spring/Summer
 - Neighbor Reporting
- Rental Housing
 - Inspections
 - Tenant Complaints
- Children Present?



Current Status

- Healthy Homes
 - MOU created JPA in 1991
 - \$10 per unit built before 1978
 - Money directed towards education and outreach
 - Used to leverage HUD grants
 - MANY resources on website
 - Free trainings (staff and residents)
 - Grants for repairs
 - Lead Safety Consultations

FREE LEAD SAFETY TRAINING

Sign up at:

Leadtraining@acgov.org

Free one-day EPA Renovation, Repair and Painting Lead Safety

Training is available for **owners and property managers of pre-1978 residential properties in the cities of Alameda, Berkeley, Emeryville and Oakland**



Successful completion of this course provides EPA RRP certification good for five years.

This course provides information that property owners need about lead safety and is for:

- Property owners to learn how to work lead safely on their pre-1978 properties
- Property owners and property managers who need to understand the lead safe work practices and regulations their contractors and maintenance staff need to follow.

The Healthy Homes Department also plans to provide Introduction to **Lead-safe Painting and Renovation webinars** which will provide an overview of lead safety requirements and practices. **If you own or manage a pre-1978 residential property in one of these four cities, e-mail Leadtraining@acgov.org with your name, e-mail or phone number, and the address of the qualifying property to find out about upcoming training opportunities.**

For more information about training and for a list of training providers, visit www.achhd.org/classes/leadtrain.htm



<https://www.achhd.org/leadpoisoning/leadp.htm>

Next Monthly Meeting of the JPA Board: [May 25, 2023](#)

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Current Status

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Public Health

Find programs and resources to support the health and well-being of you and your family.

Access health services provided directly by Berkeley Public Health, including the Women, Infants, and Children (WIC) program, and services for Berkeley High School and Berkeley Tech students. Find services to help you prevent illness, such as low-cost health and dental check-ups, nutrition assistance, lead poisoning prevention, and more. Health care providers can find ways to collaborate and communicate with Berkeley Public Health.



DISEASE PREVENTION AND HEALTH PROMOTION

Programs and services to help you and your family stay healthy



WIC

The Women, Infants, and Children (WIC) Program provides support with nutrition and breastfeeding



PROVIDER RESOURCES

Resources for health care providers

Safety & Health

[COVID-19](#)[Disaster Preparedness](#)[Fire](#)

♦ Public Health

[Direct Services](#)[West Berkeley Family Wellness Center](#)[Disease Prevention and Health Promotion](#)[Women, Infants, and Children \(WIC\) Program](#)[HIPAA Notice](#)[Provider Resources](#)[Public Health Reports](#)[Public Health Alerts and Advisories](#)[Police](#)[Police Accountability](#)[Mental Health](#)[Homeless Services](#)[Animal Bites](#)

Next Steps – Short Term

- Update the COB Flow Chart
 - New pathways / Code Sections / Turn Around Times / Contacts
- Establish Enforcement Pathway & Responsible Parties
 - Leverage State Housing Law
 - Additional staff resources
 - Additional staff training
- Improve Delivery of City Information
 - Web page
 - Include information in COB mailers (e.g. RHSP annual fee)



Next Steps – Long Term

- Continue to work with Healthy Homes to enhance COB-specific offerings
- Research effective programs / Best practices
 - [New York City](#)
 - [Long Beach, CA](#)
 - [Philadelphia, PA](#)
 - [Baltimore, MD](#)
- Hire dedicated staff to operate a program



Questions

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