

Lead Certification Training for Landlords and Rehabbers

By Bradley S. Dornish, Esq.

As I write this article, we are less than a week away from the imposition by the EPA of its new requirements to minimize lead exposure during remodeling and renovation of pre 1978 housing units. Since last month, I have attended along with over 20 other ACRE members and some of their contractors the first of a series of certification classes being offered, have passed my test, and am awaiting my official certification as a “Certified Renovator” in lead safe renovation practices under the EPA’s Renovation Repair and Painting Program.

After April 22. I need this certification to perform repairs involving either replacement of windows or disturbance of six square feet or more of painted surfaces per room in my pre-1978 rental housing. I also have to fill out an application and pay \$300 to the EPA to register my “firm” as a certified firm. The definition of firm includes sole proprietors, and any type of entity, so don’t think you can avoid that part. After the class, it also appears I need the certification if I want to perform such repairs, renovation or painting in any pre-1978 housing which will be subsequently occupied by residents, such as work on flips or rehabs of vacant properties to become rentals. We had a good discussion on this issue, and I could not persuade the instructor that any exception applied to vacant, residential units.

The reason is because I will never reside there, so I can’t use the exception for my own home, and I do expect to receive compensation for my work when someone buys or rents the home I have renovated. The instructor also advised us that environmental groups are trying to eliminate the current opt-out provisions in the rule which allow an owner occupant to waive the requirements for work in his or her own home if neither children nor pregnant women are present. It appears the elimination of the opt-out is coming, so I don’t want to bet that I didn’t need to follow the rule for a flip, and find out later, after a hefty fine, that I was wrong. To follow the rule, I need to keep the records of my certification at the time I do the work, records of the work I performed, the lead safe practices I followed, and the

cleaning verification procedure I followed “before interior space is reoccupied.”

The eight hour class was much better than I expected. It included about three quarters classroom instruction beginning with the history of lead, health effects of lead exposure, and discussing practices prohibited in working with lead containing surfaces. The instructor then went through the requirements for notice and education, determining the presence or absence of lead in surfaces to be disturbed, how to set up a job site to follow the rules, how to protect workers, minimize dust, specific required procedures to clean the job area daily and on completion of the job. When I thought the lecture was done, it continued with how to collect, bag or seal and dispose of waste, and how to perform cleaning verification procedures. We reviewed all of the recordkeeping requirements under the rule, and then got to the hands on part of the class. We practiced the chemical spot testing certified renovators are authorized to use to determine the presence of lead, and once we found lead present, posted required signs, put up cones and caution tape. We used a lot of plastic sheeting and duct tape to cover the floor inside, ground outside and furniture, sealed windows and doors, and created double layered entry and exit points from the work area. We dressed some participants head to toe in disposable paper coveralls, latex gloves, respirators and protective eyewear, and paper shoe covers. We used Hepa vacuums to remove dust, wiped walls and surfaces in the prescribed manner, removed and disposed of the plastic and paper properly, and then practiced cleaning verification procedures.

We talked about how we as certified renovators must train all non-certified renovators working with us, how we must be on the site to perform chemical spot testing during site setup and job commencement, how we must be available during the rest of the job, and must return to the site for cleanup and cleaning verification. After all of that, we had to take a 25 question test on everything we learned, and pass to get certified.

I feel confident I now know what to do when renovating surfaces containing lead, and what records to create and keep. I am concerned that many landlords, flippers and contractors won't complete the certification training and application process on time. There are only 133 certified training providers in the country. With so few trainers and so many to train, the odds are against full compliance. Beyond that, the use of so much extra plastic doesn't seem environmentally friendly. Asking workers to attach hepa vacuums to drills, saws and sanders, and wear paper clothing and

respirators are all activities which will add time to jobs, and increase costs for real estate investors. If we look at mold remediation or asbestos abatement, the costs of those activities multiplied several times when suits and boots and certification were required, and those costs never came back down.

For contractors, there is a lot of extra work and documentation, and the fear of huge fines if bosses leave workers alone and they don't follow the procedures. But I can't imagine working without air conditioning behind closed windows on a hot summer day inside a plastic cocoon, wearing a paper suit and a respirator, and not wanting to shed the suit and get some air circulation as soon as the boss left the site.

Who knows, maybe my certification will open up new opportunities as a lawyer defending contractors, landlords and flippers in actions fighting their fines. For now, get certified, use certified contractors, try to do it right, and keep out of trouble. Does anyone have any rental housing built after 1978 for sale at a good price?

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