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AN EVALUATION OF THE CITY OF ROCHESTER'S LEAD LAW

YEAR ONE REPORT

DECEMBER 2007

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SUMMARY

Children with lead poisoning face decreased IQ levels and a higher likelihood of learning disabilities, behavioral problems, juvenile delinquency and high school dropout rate. More than 400 tested children (5.6% of those tested) under age 6 in the City of Rochester between July 2006 and June 2007 had elevated blood lead levels (EBL), as compared with a national rate of 1.6% (CDC, 2005). The City of Rochester adopted a local "Lead Based Paint Poisoning Prevention" law, which took effect July 1, 2006, and requires inspections for lead paint hazards as part of the City's existing housing inspection process.

The main objectives of this evaluation of the new ordinance are to ensure that (1) City Council is well informed of the law's impact; (2) the number of children with lead poisoning is monitored in anticipation that it will continue to drop, and to look for any unintended consequences; and (3) any consequences for the city housing stock and property owners, including barriers to compliance among the property owners directly affected by the ordinance, are identified. The study included four primary components: analysis of the City's inspection data, analysis of the County's blood lead test data and environmental inspections of properties associated with children with elevated blood lead levels, analysis of selected housing data, and a survey of landlords who experienced an inspection during the first year of the ordinance.

Findings

Some highlights of the study's year one findings include the following:

- The City's year one report indicates that 10,548 properties were inspected, including a total of 16,449 total units (some properties contain multiple units).
- Ninety-four percent of inspected units passed the interior visual inspection, meaning they did not have any visible deteriorated paint on the interior surfaces.
- Nearly one-quarter of all inspected units (3,850) that passed the visual inspection were located in a high risk area (City NET area B or F) and therefore were referred for a dust wipe test under the ordinance.
- Eighty-five percent of units undergoing a wipe test passed, higher than expected compared to national data.
- Were it not for the dust wipe provisions of the ordinance, 430 units that failed the dust wipe test would not have been identified to have lead hazards in year one.
- The interiors of 506 homes in the City of Rochester were made lead safe as a direct result of the inspection and testing process under the ordinance in year one.
- Summing the homes made safe already, as well as those cited for interior lead hazards that will presumably be made safe soon, a total of 1,388 housing units, 8.4% of those inspected in year one, will be made lead-safe as a result of the ordinance.

Blood Lead Test Results

- The number of children with elevated blood lead levels has dropped from 604 (8.3% of tested children) in the 2004-2005 year to 403 (5.6%) during year one of the ordinance, part of an ongoing trend downward in children with elevated blood levels countywide.
- Children with EBLs were more likely to live in a rental property than in an owner-occupied property, including 82% of children with EBLs in 2006-2007 compared to 60% of children without EBLs in that year.

Positive Environmental Investigation Properties

- Of the county's positive environmental investigation properties (properties potentially associated with a child's EBL) from the year 2004-2005, 13 (11%) were found by the City to have lead violations during the first year of the ordinance—two years later, underscoring the importance of periodic inspection for lead hazards, and ongoing maintenance.

- The proportion of positive environmental investigation properties that were rentals ranged from 71% to 84% between July 2004 and June 2007—indicating that positive properties are more likely to be rentals than owner-occupied.

Housing Issues

- Only two families and four individuals required emergency DHS housing placement due to lead paint hazards in the year prior to the ordinance, and no families and three individuals required this service due to lead paint hazards in the first year of the ordinance. Further, length of stay in emergency housing did not increase.
- The total number of vacant homes in the city dropped by 2% between July 2006 and July 2007. The number of privately owned vacant homes, however, increased by 7%, or by 147. It will be important to continue to follow this trend.

Landlord Survey

- Twelve percent of respondents said they were cited for lead hazards, while a review of the City's inspection database shows that actually 29% were cited—indicating confusion over what constitutes a violation.
- One-third of all respondents said they did not spend any money on repairs in preparing for or responding to an inspection, while about one-third (37%) spent between $1 and $1,000, and the remaining 30% spent more than $1,000.
- Forty-four percent of respondents spending money on repairs replaced windows, with nearly half (48%) of those respondents replacing 10 or more windows. Seventy-seven percent of respondents spending money on repairs said they repaired or painted windows.
- Seventy-two percent of respondents spending money on repairs said they painted or repaired trim, 41% repaired or replaced porches, and 19% replaced exterior siding.
- Fifty-eight percent of respondents conducting repairs stated they did the lead hazard control work themselves.
- Seventy-two percent of respondents with repairs indicated that the person who completed the work had received lead safe work practices training (required by law if repairs conducted after the inspection, but not required if repairs conducted before).

- Eight percent of those with repairs used a grant to help finance the costs. One in three respondents stated they will cover increased costs by not making other improvements, 23% say they will sell the property, and 17% say they will increase the rent.
- Nearly one-third of respondents stated that they hope to sell the property in the next two years. Among them, the most prevalent reason given was the 'ordinance' or 'city policy.' Many said they will sell because of 'bad tenants.'
- Survey respondents were asked about their position on the law when enacted, and at the time of the survey. The proportion who were favorable increased from 41% to 46%.

Recommendations

The research team has a number of recommendations in response to analysis of evaluation data from the city inspections, county blood lead tests and positive investigations, housing data, and the landlord survey.

Landlord Issues

- With such a high proportion of property owners doing their own lead repair work, the city and county should ensure that sufficient training is available for them to learn to do the repairs safely.
- More than one quarter of those doing the work may not have received training—this is another reason to be sure training is available and that landlords are made aware of it.
- Since cost data from the landlord survey suggests a wide range of lead safety measures being used, and because interim controls are not long-term fixes, training and education regarding ongoing maintenance is critical.
- Increase education programs regarding the availability from the city of $100 grants to help cover the cost of dust wipe tests when private clearance must be achieved. A flyer with the grant information is currently included with the Notice and Order that notifies the owner of the need for a dust wipe test, but perhaps additional notification could occur.

Policy

- The City's expansion of dust wipe tests in year two of the ordinance is likely to improve the impact of the law, given

that 15% of dust wipes result in identification of a lead hazard that would otherwise have gone undetected.

- Given that a number of property owners delay scheduling dust wipe tests, and some with failed dust wipes are taking longer than expected to achieve clearance, the City should take advantage of its newly granted enforcement opportunity under an amendment to the lead paint ordinance passed by City Council in September 2007 that allows the City to cite owners with a lead violation if they do not complete dust wipe tests within 60 days.

- With so many landlords asking for financial relief to help with repair costs, we recommend that additional grant programs or tax credits be established for high-cost, effective repairs, such as window replacement. Further, access to existing grant programs should be facilitated.

- There is clearly an ongoing need for education of both property owners and residents. Local resources for outreach and education should be coordinated to make sure these messages are being delivered clearly, consistently, and effectively.

Operating Issues

- Given the lower than expected rates of lead hazard identification on both visual survey and dust wipe testing, we recommend that a risk assessment be conducted in a random sample of properties that passed city inspection to determine effectiveness of the visual survey and dust wipe test protocol. The assessment should occur as soon as possible following the inspection to reduce the chance of new surface disturbances.

- Develop and implement a "Rochester module" to be incorporated in lead safe work practices trainings that explains requirements under the lead law, describes resources available to property owners, and encourages use of standard treatments.

- We recommend that the MCDPH begin coding children's blood lead level tests by city versus suburbs to allow internal ongoing tracking of trends by this geographic

distinction, particularly with the City ordinance now in place. Tracking test results by tenure (rental/owner) status could be of use as well. This information would also be of interest to the City School District.

- We recommend the City consider altering its database to allow for easier monitoring of lead ordinance outcomes, such as dust wipe test lead level results, and dates of inspection and follow-up. The City has some information and data available only in paper format, such as landlord phone numbers and the reasons for housing vacate orders, that could be entered electronically when collected.

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INTRODUCTION

Children with lead poisoning face decreased IQ levels and a higher likelihood of learning disabilities, behavioral problems, juvenile delinquency and high school dropout rate (Meyer et al., 2003). These outcomes translate into higher costs for special education, health care, and juvenile justice systems, as well as lost wage-earning potential. (Grosse et al., 2002; Landrigan, 2002; Korfmacher, 2003). In July 2006 the City of Rochester's "Lead-Based Paint Poisoning Prevention" law (Municipal Code of the City of Rochester Ordinance 2006-37) went into effect. Rochester's ordinance is being carefully watched by other cities nationwide, as it is considered a breakthrough in legislative approaches to dealing with a significant health and housing problem in the nation's oldest cities (Korfmacher, 2006).

Four percent of all tested children under age 6 in Monroe County in the year 2006, and 5.6% of all children under 6 in the City of Rochester between July 2006 and June 2007 had elevated blood lead levels (EBL) of 10 ug/dL or higher, the Centers for Disease Control and Prevention's "level of concern," as compared with a national rate of 1.6% (CDC, 2005). This represented nearly 600 children countywide, most of whom lived in the City of Rochester. The number of children with lead poisoning has declined in recent years, but still hundreds of children in our community are newly poisoned each year, with devastating impacts on their health, behavior, and ability to learn.

The majority of this lead poisoning burden is attributed to lead in paint, dust, and soil. The distribution of lead poisoning in Rochester closely mirrors the location of high-risk housing—in general, low-value, rental housing built before 1950 (CGR, 2002). Thus, lead poisoning is a health problem with, in large part, a housing cause.

Recognizing that a housing solution was necessary to prevent lead poisoning, the City of Rochester's new law requires inspections for lead paint hazards as part of the City's existing housing inspection

process, including Certificate of Occupancy (C of O) inspections. It applies to most of the rental properties in the City of Rochester that were constructed prior to 1978. The Year One Implementation Plan encompasses 31 of the 39 census tracts identified as having concentrated numbers of children with EBLs in the city (City of Rochester, 2006).

The main objectives of this evaluation of the new ordinance are to ensure that (1) City Council is well informed of the law's impact; (2) the number of children with lead poisoning is monitored in anticipation that it will continue to drop, and to look for any unintended consequences; and (3) any consequences for the city housing stock and property owners, including barriers to compliance among the property owners directly affected by the ordinance, are identified.

Description of the City of Rochester Lead Ordinance

Under the new ordinance, inspectors visually inspect properties for deteriorated paint or bare soil. These inspections occur at the time of a City housing inspection triggered by a new or renewal C of O, a County Department of Human Services Quality Housing Inspection (QHI), a Neighborhood Empowerment Team (NET) survey, or a tenant or neighborhood group complaint. Housing units are exempt if (1) they are already required to be safe from lead paint hazards under federal law, or (2) an EPA-certified risk assessor deems the unit has no lead-based paint. A copy of the ordinance can be found in Appendix A.

All deteriorated paint in pre-1978 housing is assumed to contain lead, unless additional testing at the owner's expense proves otherwise. Deteriorated paint must be fixed using defined lead-safe work practices.

Properties in "high risk" NET areas that pass the visual inspection also undergo a dust wipe test, designed to find lead paint hazards unseen by the naked eye. A dust wipe test is also required to "clear" units in which lead hazard repairs have been completed. Although these procedures are informed by extensive local and national research as well as federal agencies' protocols, incorporation of these features into a local housing law is unique in the U.S. Therefore, it is essential to evaluate whether or not this policy is having the expected impacts on children's health.

Advisory Committee

The project team established an advisory committee to provide input over the course of the project. A list of members can be found in Appendix B. The committee met in May 2007 to review study objectives, study design, and the landlord survey design. The committee met again in October 2007 to discuss year one results prior to issuance of this report, and the committee will meet again in September 2008 to discuss year two findings.

YEAR ONE FINDINGS

This report presents findings from four key components of year one of the evaluation: 1) City inspection data analysis, 2) County blood lead data and environmental investigations, 3) housing issues, and 4) a landlord survey. Year one of the ordinance is defined as July 1, 2006 to June 30, 2007.

City Inspection Data Analysis

The table below summarizes the units inspected in the first year. The City's year one report indicates that 10,548 properties were inspected, including a total of 16,449 total units (some properties contain multiple units) (Table 1).

Of the units inspected in year one, half were conducted under a C of O process, 34% were conducted under the QHI process, 9% were due to a complaint (from a tenant or other person), and the remaining 7% were due to some other reason.

Overall, 94% of inspected units passed the visual interior inspection, meaning they did not have any visible deteriorated

Table 1: Units Inspected in Year One, By Case Type: Visual Inspection Outcome

	Case Type									
	C of O		Quality Housing Inspections		Tenant Complaint		Other		TOTAL	
	#	%	#	%	#	%	#	%	#	%
Total Units Inspected	8,264	100%	5,537	100%	1,481	100%	1,167	100%	16,449	100%
Failed Visual: Deteriorated Paint Violations Found	609	7%	152	3%	160	11%	37	3%	958	6%
Passed Visual	7,655	93%	5,385	97%	1,321	89%	1,130	97%	15,491	94%
High Risk Area (B & F), Referred for Dust Wipe	1,554	19%	1,860	34%	195	13%	241	21%	3,850	23%

Source: CGR Calculations based on City of Rochester Year One Report.

paint on the interior surfaces of the property. Prior to passage of the lead law, a community-based direct action project called "Get the Lead Out" hired an EPA certified risk assessor to look for lead hazards in 67 homes of young children in Northwest Rochester (O'Fallon, 2004). Sixty-five (97%) of these homes had visibly deteriorated lead based paint, on the interior or exterior of the property. Although these inspections were different in that they include interior *or* exterior deteriorated paint, they were conducted in some of the highest lead risk homes in Rochester, and landlords did not have advance notice of the inspections, it is nonetheless surprising that the citywide rate of passing visual inspections was 94% (Korfmacher, 2005).

The pass/fail rate varied somewhat among the different case types, though failure rates were no higher than 11% among any group. For example, 11% of inspections generated by tenant complaint resulted in a failed visual inspection, compared to 7% under C of O, and 3% under QHI. Owners of units that fail the visual inspection must contract for clearance testing services.

Among the 958 units that failed the interior visual inspection at some point during year one, 255 had cleared the violations by the end of year one (27%). It must be noted that some of these visual fails occurred near the end of year one, and therefore have simply not had time yet to make the repairs.

Nearly one-quarter of all inspected units (3,850) were located in a high risk area, NET area B or F, and although they passed the visual inspection, they were referred for a dust wipe test under the ordinance. Of those, 2,850 (74%) had received a lead dust wipe test by the end of year one. The remaining 1,000 were either scheduled but not yet completed, were vacant units that had not been scheduled, or had owners or tenants who were non-compliant with the process. The City is looking into options to increase enforcement for those who do not comply with the dust wipe test in a timely manner.

Units referred for a wipe test may or may not pass on a first attempt. If they do not pass on the first try, and either (1) more than 50% of wipes are positive or (2) any one wipe has a lead level greater than twice the EPA accepted standard, then they are immediately given a lead dust hazard violation. If the initial dust

wipe does not pass but the lead levels are below the above thresholds, the property owner may schedule a second dust wipe test, preferably within one week for the areas that failed. In year one, eighty-five percent of total units undergoing a wipe test passed on either the first or second try (11% were granted a second test) (Table 2). The City of Rochester database does not collect the actual lead levels found in the dust wipe tests.

Table 2: Lead Dust Wipe Test Results, Vacant and Occupied Units

	Total	Vacant	Occupied
Lead Dust Wipe Test	2,850	1,326	1,524
2nd Test	323	156	167
Passed	2,420	1,103	1,317
% passed	85%	83%	86%
Failed	430	223	207
% failed	15%	17%	14%

Source: City of Rochester Year One Report.

The rate of passing dust wipes in homes with no visual hazards is surprisingly high in Rochester. A nationally representative sample of 831 housing units evaluated for lead hazards under the National Survey of Lead and Allergens in Housing found that 33% of the homes with interior lead-based paint in good condition had interior dust hazards (Jacobs, 2002). Given that not all of the Rochester homes tested for dust hazards were known to have lead-based paint, we might expect a slightly lower failure rate; however, finding that only 15% had lead hazards suggests that either Rochester houses are in fact less likely to have dust hazards when leaded paint is intact or that the City's dust wipe inspection protocol is less effective in finding lead hazards than that used in the National Survey. In year two the research team will ask the City for data on dust wipe test results by case type. Those inspections done as a result of a complaint would be a more accurate comparison to the national data described here, since in complaint cases the landlord does not typically have advance notice of the inspection; rather, the inspector is often allowed in the house by the tenant making the complaint. In this case, the landlord therefore does not have the opportunity to make necessary repairs and take other actions to reduce lead hazards.

Dust wipe test passing rates in Rochester were slightly higher among occupied units compared to vacant units. Owners of units that fail the dust wipe test are cited for a lead dust hazard and must eliminate the hazard and contract for clearance testing services. Among the 430 units that failed the dust wipe test, 251 had received clearance for the violation by the end of year one (58%). Although this represents a small percentage of units tested,

it is important that even in the first year, were it not for the dust wipe provisions of the ordinance, these 430 units would not have been identified to have lead hazards.

Summing the 255 units that cleared the interior deteriorated paint violations and the 251 that cleared after testing for lead dust, a total of 506 living units in the City of Rochester had lead-safe interiors as a direct result of the inspection and testing process under the ordinance in year one. If one includes the other units cited and expected to be made lead safe through the implementation and enforcement processes, this total is 430 plus 958, or 1,388 total units, 8.4% of the units inspected.

Exterior inspections apply to an entire building or structure, rather than to individual units. Of the 10,548 properties inspected in year one, 1,960, or 19% were found to have exterior deteriorated paint or bare soil upon visual inspection. By the end of year one, 730 (37%) of these had been cleared by the City, while the remaining 1,230 had not yet been cleared.

Table 3: Time From Citation to Clearance, In Days, Among Those Cleared By June 30, 2007

	Violations Cleared	%
Total Violations	1,698	100%
<=30 days	412	24%
31 to 60 days	358	21%
61 to 90 days	196	12%
91 to 120 days	171	10%
121 to 180 days	209	12%
181 or more	352	21%

Source: CGR analysis of City of Rochester Violation data.

Some units described above had multiple violations with interior and/or exterior causes. Among the 506 units described above that were cleared for lead-safe interiors, and the 730 properties that cleared exterior violations, the city's violation database indicates that a total of nearly 1,700 actual lead *violations* were cleared during year one. Among those that were cleared, one quarter were cleared within a month of the citation, and over half (57%) were cleared within three months, as shown in Table 3.

Blood Lead Data

A key contribution of this evaluation project is to link the City's housing inspection data with the County's data on EBLs. The project team partnered with the MCDPH to conduct an analysis of new lead poisoning cases and identify links to housing units that have been inspected by the City.

The MCDPH provided CGR and NCHH with data for three years: July 1, 2004-June 30, 2005; July 1, 2005-June 30, 2006; and July 1, 2006-June 30, 2007 for all finger-stick and venous blood

lead tests of children under six with a zip code wholly or partly in the City of Rochester. CGR geo-coded the addresses and assigned each test result a 'city' or 'suburban' status. A small number of observations were left out because they had no address, or only a PO box (less than 10 observations in each year had addresses that could not be matched).

NCHH then identified a single test result for each child in the database. Venous test results were given preference over finger-sticks when available.

Table 4 shows that the number of children with elevated blood lead levels has dropped from 604 in the 2004-2005 year to 403 during year one of the ordinance, part of an ongoing downward

Table 4: Blood Lead Results, City of Rochester, July 2004 - June 2007

	Children Screened	Children >= 10 ug/dL	% of Children >=10 ug/dL
July 2004-June 2005	7,256	604	8.3%
July 2005-June 2006	7,420	490	6.6%
July 2006-June 2007	7,146	403	5.6%

Source: NCHH and CGR analysis of MCHD blood lead data tests.

trend in children with elevated blood levels countywide.

About three-quarters of children with elevated blood lead levels over the last three years had levels between 10 and 14 ug/dL (Table 5). However about 10% each year had levels over 20 ug/dL, considered a seriously dangerous level. This included between 38 and 56 children in each of the last three years.

Table 5: Elevated Blood Lead Results, City of Rochester July 2004 - June 2007

	July 2004-June 2005		July 2005-June 2006		July 2006-June 2007	
	#	%	#	%	#	%
Total Children	604	100%	490	100%	403	100%
10-14 ug/dL	451	75%	371	76%	288	71%
15-19 ug/dL	97	16%	71	14%	77	19%
20+ ug/dL	56	9%	48	10%	38	9%
Mean ug/dL	13.7		13.7		13.6	
Max ug/dL	52		51		43	

Source: NCHH and CGR analysis of MCHD blood lead data tests.

Of the 403 children with elevated blood lead levels in 2006-2007 in the City of Rochester, 110 had as a home address a property that was inspected under year one of the lead ordinance (27%). One third of those, 37 properties, were found to have lead violations—15 had interior violations, 18 had exterior violations, and 4 had both. Further investigation would be required to examine the timing of the City inspections and the date of diagnosis of EBL for the 37 children in this group. In addition, the source of lead poisoning for a child is not necessarily the home address, particularly if the family has moved recently or if the child spends a substantial amount of time at another address.

To examine the relationship of owner/renter status (tenure) and blood lead levels, CGR took a random sample of 50 children with EBLs and 50 children without EBLs from each of the three years of data analysis (300 total). CGR then looked up each of the 300 addresses on the City's online property information database to determine whether the property was owner-occupied or a rental as of September 2007.

Figure 1: Percentage of Children With and Without EBL in Investor-Owned (Rental) Properties, By Year

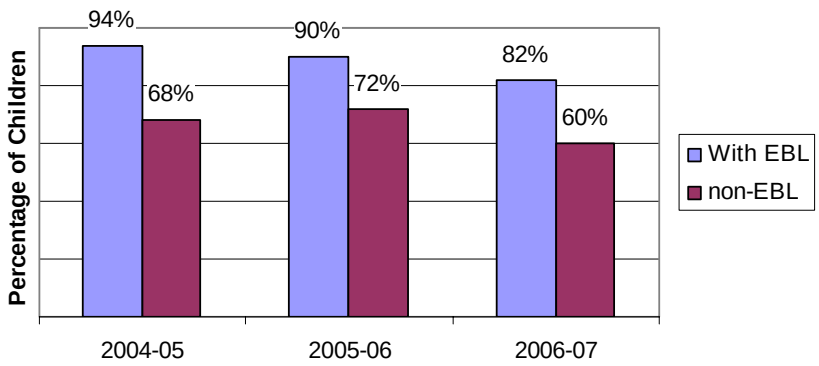


Figure 1 shows that for all three years, children with EBLs were more likely to live in a rental property than in an owner-occupied property, including 82% of children with EBLs in 2006-2007 compared to 60% of children without EBLs in that year (chi-square test statistically significant, $p<.05$).

Children with EBL by NET area

During the last three years children with EBLs have been concentrated in NET areas B, C, and particularly F (Table 6). While the proportion of children with EBLs in sector F has declined somewhat over the last three years, nearly one-third of children with EBLs live in this neighborhood, which is composed of planning sectors 9 and 10, directly north of downtown. Examination of these data shows that the selection by the City of NET areas B and F for the initial rollout of the dust wipe component was wise, though the most current data show that F and C are now the two sectors with the most children with EBLs. Copies of the NET area and Planning Sector maps have been included in Appendix C. For year two of the ordinance the City has added approximately half of NET areas C and E to the dust wipe protocol, and added high-risk portions of NET areas A and D starting October 1, 2007 as a result of anticipated additional NYSDOH grant funding. These additions will continue to target resources to the neighborhood where children appear to be most at risk of lead poisoning.

Table 6: Children With Elevated Blood Lead Levels (10 ug/dL +) by NET Sector and Year

	2004-2005		2005-2006		2006-2007	
	Children	%	Children	%	Children	%
Total	597	100%	480	100%	399	100%
A	43	7%	45	9%	38	10%
B	122	20%	82	17%	76	19%
C	96	16%	96	20%	89	22%
D	28	5%	34	7%	17	4%
E	94	16%	58	12%	60	15%
F	214	36%	165	34%	119	30%

County Positive Inspections

When a child in Monroe County is found to have a confirmed (venous) blood lead level of 15 ug/dL or higher, the County conducts an environmental investigation of the child's home, as well as any other address where the child spends significant amounts of time, such as another relative's home or a day care provider's home, as it is nearly impossible to definitively link a particular source of lead with the child's elevated level. The inspector uses an x-ray fluorescence (XRF) Lead Paint Analyzer to determine first whether paint in the home is leaded, and visually note whether the paint is intact. If there is no lead found through the XRF test, or if lead is found but the paint is intact, the house is considered lead-safe and not a source of the lead poisoning. However if lead is found with the XRF and the paint is not intact, the property is considered a "positive property" for a lead hazard. The County presents the owner with a "Notice and Demand to Abate Lead Poisoning Condition" and also notifies the City. The

City then presents a Notice and Order of its own, but the County remains the priority agency until the matter is resolved.

The MCDPH provided CGR with a list of properties that tested positive for a lead hazard as a result of an environmental investigation over the two year period prior to the ordinance, and for the one year period following the start of the ordinance. CGR compared this list to properties inspected by the City in the first year of the ordinance.

Coordination of City and County Inspections

As shown in Table 7, between 89 and 132 housing units were found to be "positive properties" each year. About one-third of those units were inspected by the City during the first year of the lead ordinance. Of the positive properties from the year 2004-2005, 13 (11%) were found to have lead violations during the first year of the ordinance—two years later. Properties found to have lead hazards in 2004-2005 were presumably corrected and made lead-safe at the time. Nonetheless, two years later they were found to have hazards once again—nine had interior violations and seven had exterior violations. This underscores the importance of periodic inspection for lead hazards. Since much lead work undertaken involves repairing and maintaining deteriorated paint, rather than removal of lead paint, over time deterioration or surface damage can cause an interior or exterior surface to become hazardous once again, if not properly maintained.

Table 7: MCHD "Positive Properties" in City of Rochester, and Outcome of Subsequent City Inspection Under Ordinance Year One

	Pre-Ordinance				Ordinance, Year One	
	July 2004-June 2005		July 2005-June 2006		July 2006-June 2007	
	Properties	%	Properties	%	Properties	%
County "Positive Properties" located in City of Rochester	114	100%	89	100%	132	100%
Inspected in Year One of City Ordinance (7/06 to 6/07)	38	33%	29	33%	41	31%
Lead Violations Found	13	11%	1	1%	12*	9%
Interior Violations Only	5	4%	1	1%	6	5%
Exterior Violations Only	5	4%	0	0%	4	3%
Interior & Exterior Violations	3	3%	0	0%	2	2%

Source: CGR analysis of Monroe County Health Department data and City of Rochester Inspection data.
*In five cases, the city inspection was conducted prior to the county 'positive property' investigation.

Among the 132 positive properties found during the 2006-2007 year, 41 were also inspected by the city under the ordinance, and 12 were found to have lead violations. In five of the 12 cases the city's inspection was conducted prior to the county's inspection, while in the remaining seven cases the city's inspection was conducted after the county's. Among the latter seven, in four cases the city inspection occurred because of a "referral," likely from the county, and in two cases it was due to a C of O. The last case is still open under a County investigation.

In 29 cases in 2006-2007 the City did *not* find a lead violation, and the county *did* find lead hazards during the same 2006-2007 time period. Of those, in 10 cases the City's inspection preceded the County's. This raises the question of why the City did not find a lead hazard, when the county subsequently found lead hazards. The answer could be that the county found a dust hazard in a property where the City earlier found intact paint, in a neighborhood where dust wipes are not required. Or it could be that surfaces were disturbed by damage between the inspections, which in fact happened in at least some of these cases, according to a city representative. Another possibility is that city inspectors mistakenly overlooked lead hazards. Although this is a small absolute number, it is of concern that these account for nearly 8% (10/132) of the positive properties associated with an EBL child.

Positive Properties by Owner/Renter Status

Census data show that 60% of occupied housing units in the City of Rochester were rented in 2000, and that proportion decreased slightly to 56% by 2006 (Census Bureau, 2000; American Community Survey, 2006). An examination of the renter/owner status of "positive properties" over the last three years shows a different distribution. The proportion of positive properties occupied by a renter, or "investor-owned" ranged from 71% to 84% between July 2004 and June 2007 as shown in Table 8. While the owner/investor status is as of September 2007, and could have changed during the three year period, it is still apparent that positive properties are disproportionately rentals. Since occupant care of a property plays a role in the prevalence of lead hazards, this finding could be due to a lack of tenant care of properties (e.g., causing damage to treated surfaces), or it could be due to a lack of property care by the investor-owner, or lack of funds on the part of the investor-owner to replace windows, porches, and

other hazardous surfaces. Whatever the reason, the disproportionate results again underscore the importance of the ordinance in ensuring regular inspection of rental properties through the C of O and other processes.

Table 8: MCDPH "Positive Properties" in City of Rochester, by Owner Occupied/Investor Status

	July 2004-June 2005		July 2005-June 2006		July 2006-June 2007	
	Properties	%	Properties	%	Properties	%
County "Positive Properties" located in City of Rochester	114		89		132	
Owner/Investor Status Determined as of Sept 2007	108	100%	88	100%	129	100%
Owner-Occupied	23	21%	25	28%	21	16%
Investor-Owned	85	79%	63	71%	108	84%

Source: CGR analysis of Monroe County Dept of Public Health data and City of Rochester online property information data.

Analysis of Selected Housing Issues

The evaluation team met with the Department of Human Services (DHS) to discuss the impact of the lead ordinance on the number and duration of emergency housing placements in the past year. A DHS representative stated that while they anticipated a potential increase in the need for emergency housing, or perhaps increased lengths of stay, that does not appear to have been the case, based on available data. Anecdotally, DHS does not sense any reluctance by landlords to accept DHS clients, which was another potential unintended consequence of the ordinance. DHS feels that landlords appear to have been well prepared in anticipation of the ordinance.

When a client is in need of emergency housing assistance, DHS first determines whether alternatives to emergency care are available, such as staying with a neighbor, friend, or family member. If no such alternative is available, the person or family is then placed in a shelter, or if a shelter option is not available, then in a hotel. Some leased housing is available for emergency placement of large families. Clients are then provided with a short list of five to ten addresses by a case worker, and are given ten days to locate housing (time can be extended). If the client does

not attempt to find permanent housing, they can be denied further assistance.

The County's QHI program was begun in an attempt to decrease the frequency with which clients were moving from one poor housing situation to another. Landlords receive rent directly if they allow their properties to be inspected. DHS contracts with the City to conduct the QHI inspections.

DHS Emergency Placements

CGR requested emergency placement data from DHS for the one-year period immediately before the ordinance went into effect and for the one-year period following. Nearly half (48%) of emergency placements for families, both pre- and post-ordinance, were due to eviction by the primary tenant (family or friend/roommate evicted them) (Table 9). Other primary reasons for emergency placement for families were domestic violence, and eviction by landlord.

Table 9: Monroe County DHS Emergency Placements, Pre- and Post-Ordinance

	Individuals		Families	
Reason	7/01/05 to 6/30/06	7/01/06 to 6/30/07	7/01/05 to 6/30/06	7/01/06 to 6/30/07
Eviction by primary tenant	4,414	4,058	1,257	1,113
Released from institution	1,806	1,556	38	43
Domestic violence	555	491	459	305
Eviction by landlord	412	369	479	450
Out of county	302	356	177	179
Sweep (to locate those needing emergency placement)	52	25	0	0
Fire	38	67	80	73
Vacate order (property deemed unsafe)	31	24	73	52
Bldg or utility problem (furnace malfunction, etc.)	10	21	40	66
SSI check problem	5	2	0	0
Lead paint	4	3	2	0
Total	**7,629**	**6,972**	**2,605**	**2,281**

Source: Monroe County Department of Human Services, compiled August 2007

According to the MCDHS, the average length of stay in emergency placement for families and for individuals was nearly unchanged in the year prior to the ordinance and the year following the ordinance. For families the length of stay increased from 9.0 to 9.1 days, and for individuals it decreased from 7.1 to 6.8 days.

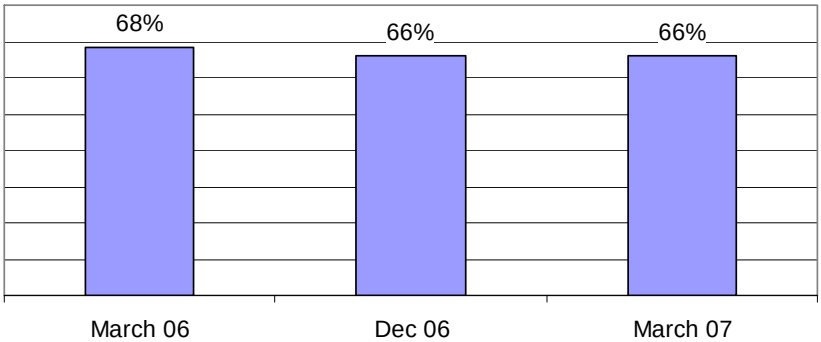
Only two families required emergency placement due to lead paint prior to the ordinance, and no families required this service due to lead paint after the ordinance went into effect. Lead paint was cited as the placement reason for *individuals* in four instances pre-ordinance and in three cases post-ordinance.

Based on these data as well as conversations with MCDHS staff, the lead ordinance does not appear to have affected the number of emergency placements of families and individuals, nor the length of stay in emergency housing. However, it is important to note that DHS emergency placements reveal only a partial picture of how the lead law may affect families' ability to find lead safe housing. Further research may be needed to evaluate the impact of the law on tenants.

Rent Vouchers

The County provides rent vouchers for clients receiving Safety Net or Family Assistance. A concern at the time of the ordinance was that landlords might be less willing to accept tenants using DHS vouchers. MCDHS provided data to CGR on the number of rent voucher cases, as well as total caseload, for three points in time. DHS indicated that the number of rent voucher cases tends to correlate with total caseload, so the adjoining chart shows the proportion of the caseload receiving rent vouchers. The proportion dropped between March and December of 2006, during which time the ordinance went into place. These data will be examined further in year two of the evaluation.

Figure 2: Percentage of Total DHS Caseload Receiving Rent Vouchers, Monroe County



City of Rochester Vacate Orders and Vacant Housing

Table 10: Vacant Houses, City of Rochester

	July 2006	July 2007	Change
Total Vacant Houses	2,854	2,810	-2%
City-owned	649	458	-29%
Privately-owned	2,205	2,352	7%

Source: NET Bureau

As of July 2006, at the start of the lead ordinance, the city had 2,854 vacant houses. This dropped to 2,810 by July 2007, due in part to the city's aggressive demolition program (Table 10). The number of privately owned vacant homes, however, increased by 7%, or by 147. It will be important to continue to follow this trend.

During the year prior to the ordinance, July 2005 to June 2006, the city had 171 vacate orders. In the first year of the ordinance (July 2006 through June 2007) this rose to 203, or a 19% increase. Vacate orders are made when a house is considered a serious health or safety hazard and is not habitable, which can include reasons such as raw sewage, or, as of the date of the lead ordinance, a lead hazard. City staff conducted a case review of reasons for the vacate orders, and estimate that 43 of the 203 vacate orders made in the year following the ordinance included peeling paint or a lead dust hazard as a cause.

Telephone Survey of Property Owners

The objective of the ordinance is to increase the number of homes inspected for lead paint hazards and to ensure those found to be at risk are made lead-safe. This can only happen successfully if the process used to engage property owners, both owner-occupants and investors, is manageable and as streamlined as possible.

To measure investor experience with the lead ordinance the evaluation team designed a survey instrument to be used in a telephone survey of property owners whose two-family housing units were inspected under the new ordinance in Year One. Only two-family structures were included in order to keep the questions about units and costs for repairs consistent across survey respondents. The survey was reviewed by the Advisory Council as well as the president of the New York State Coalition of Property Owners and Businesses, and the president of the Housing Council. A copy of the survey can be found in Appendix D.

The City of Rochester generated a list of property owners who had undergone a City inspection on their property during the first year of the ordinance. The database provided by the City included the owners' name, phone number, and selected property information. CGR provided a phone survey firm, Metrix Matrix, with over 1,000 names and numbers, in random order. Some phone numbers were not current, and some were called three times with no answer. However, of the 373 landlords that were reached by phone, 200 completed the survey, for a response rate of 54%.

Respondents were split nearly evenly between smaller landlords—those who own five or fewer properties (54%)—and larger landlords who own six or more (47%) (Table 11). Respondents who own or operate multiple properties were asked to answer questions for a single property that underwent inspection during year one of the ordinance. In reference to these properties, respondents were well distributed across the six NET areas, with a somewhat higher proportion in NET areas B (Lyell) and F (Norton), but very similar to the distribution among all 2-family properties inspected during year one. The primary reason for an inspection was a C of O process, or a DHS QHI. The value of the reference properties were also well distributed by housing value, with 50% reporting a value of less than $40,000, compared to 52% of all those 2-families inspected in year one.

Table 11: Landlord Respondent Property Characteristics, Compared to All 2-Family Inspections in Year One

	Respondents		All 2-family
	N	%	inspections
Total	200	100%	100%
Properties Owned/Operated			
1 to 5	107	54%	NA
6 or more	93	47%	NA
NET Area			
A- Charlotte/Maplewood	19	10%	9%
B- Lyell Ave	44	22%	21%
C- Genesee St	33	17%	17%
D- Highland Ave/ South Wedge	17	9%	9%
E- Webster Ave	20	10%	12%
F- Norton St	67	34%	32%
Reason for Inspection			
C of O inspection	92	46%	51%
DHS QHI	83	42%	32%
Complaint from tenant	14	7%	10%
Referral	7	4%	4%
Vacate Notice	4	2%	2%
NET Survey	0	0%	1%
Property Value			
Less than $30,000	42	21%	25%
$30,000 - $39,999	57	29%	27%
$40,000 - $59,999	60	30%	27%
$60,000 +	41	21%	20%

Of the 200 respondents, 24 landlords reported that the reference property had been cited for a lead violation (Table 12), a lower proportion than those in the entire city database of inspections (8% of units inspected citywide had interior violations due to a failed visual inspection or dust wipe test, and 19% had exterior violations. Some have both types, so the total with violations is somewhat less than 27%). CGR compared the list of landlords completing the survey to the City's list of inspected properties, and found that in fact 57 (29%) of the surveyed landlords had been cited for lead hazards, similar to the citywide rate. Some who self-reported lead hazards were not actually cited, while several who did not self-report a lead hazard were cited by the City. It is possible that landlords are confused about the differences between a code violation, and a lead-related violation in some cases. This is a question the research team will pursue with a landlord focus group this fall.

Table 12: Respondents Who Reported Their Property Was Cited for a Lead Hazard

	Respondents	%
Total	24	100%
Monthly Rental Rate of Cited Properties (n=22)		
Less than $450	11	52%
$450 or more	10	48%
Property Occupied When Cited? (n=24)		
Yes	17	71%
No	7	29%
Tenants Relocated During Repairs? (n=16)		
Yes	0	0%
No	16	100%

Among the self-reported cited properties 71% (17) were occupied at the time they were cited, but none of tenants relocated during repairs (one person with tenants did not answer the question).

Table 13: Total Cost of Repairs by Property Value

	All Respondents		Property Value <$40,000		Property Value >=$40,000	
	N	%	N	%	N	%
Total Respondents	183	100%	89	100%	94	100%
Total Cost of Repairs*						
$0	63	34%	21	24%	42	45%
$1 to $250	25	14%	16	18%	9	10%
$251 to $1000	42	23%	24	27%	18	19%
$1001 to $2500	25	14%	15	17%	10	11%
$2501 to $5000	16	9%	7	8%	9	10%
$5001+	12	7%	6	7%	6	6%
Median Cost	$300		$400		$120	
Mean Cost	$1,726		$2,265		$1,211	
Respondents with costs $1+ (n=120)			(n=68)		(n=52)	
Median Cost	$950		$800		$1,000	
Mean Cost	$2,618		$2,964		$2,165	

*Difference between property value categories statistically significant, p<.10.

The survey asked respondents about the total cost of repairs made in response to the lead law, as well as the extent of repairs made in response to the law (either in anticipation of an inspection or in response to a violation). Among the 183 respondents who answered the question about cost, one-third said they did not spend any money on repairs, while about one-third (37%) spent between $1 and $1,000, and the remaining 30% spent more than $1,000 (Table 13). Respondents whose reference property was valued at less than $40,000 spent more on repairs than those with higher values; this is likely because the lower valued properties were in poorer condition and more in need of updates such as windows, paint, and porch repair or replacement; this is consistent with national evaluation data (Wilson et al., 2006).

Table 14: Total Cost of Lead Repairs In Rochester, Among Landlords Spending Money on Repairs, Versus Nationally

	Rochester			
	All with Costs $1+	Hired a Contractor	Did Work Themselves	Nationally
	(n=120)	(n=33)	(n=82)	(n=1,223)
Median Cost	$950	$1,500	$800	$5,635
Mean Cost	$2,618	$3,623	$2,316	NA
5th Percentile	$50	$93	$29	$360
95th Percentile	$9,900	$21,100	$7,425	$12,060

Source: CGR survey of Rochester landlords; NCHH, 2004

Compared to the national evaluation, repair costs in Rochester appear to be lower (Table 14). In the national study, all landlords

used contractors for their lead hazard repair work, and all repairs were in compliance with EPA standards. Comparing the Rochester landlords who used a contractor to the national figures shows that Rochester landlords spent a median of $1,500 compared to the national median of $5,635. An important note, however, is that the landlords on the national level were often conducting more major rehabilitation, such as window replacements, and were required by their funding source (HUD) to address all lead hazards using standard treatments. In the Rochester survey, more landlords were repairing or repainting windows, for example, than replacing them.

According to the national evaluation of lead treatment strategies, six variables significantly influence costs:

- Treatment intensity
- Size of building (in square feet)—An 800 square foot home costs 10% less than a 1,000 square foot home, the median in the study
- Type of building (single unit v. multiple unit) – homes in single unit buildings cost 23% more than homes in multi-unit buildings
- Percent of leaded interior paint in poor condition—Units with double the median level of lead-based paint in poor condition incurred costs six times the median
- Number of dwellings treated by a contractor
- Whether hazardous waste requirements are placed on the contractor (not applicable in Rochester)

Table 15: Window Repairs or Replacements

	All Respondents		Respondents Spending >$0 on Repairs	
Window(s) Replaced?				
Yes*	54	40%	52	44%
No	82	60%	66	56%
If 'Yes', how many?				
<5	18	35%	18	35%
5 to 9	10	19%	9	18%
10 to 14	12	23%	12	24%
15+	12	23%	12	24%
Median	9		8	
Window(s) Repaired/Painted?				
Yes	94	70%	90	77%
No	40	30%	27	23%
If 'Yes', how many?				
<5	16	17%	15	17%
5 to 9	25	27%	24	27%
10 to 14	25	27%	23	26%
15+	27	29%	27	30%
Median	10		10	

**One respondent who replaced windows did not provide cost information, and one indicated costs of $0.*

The survey asked about the type of repairs made to properties

specifically in response to the new lead law. Among all respondents answering this question, 40% replaced windows, with nearly half (46%) of those replacing 10 or more windows (Table 15). Among those respondents who said they spent money on repairs, 44% said they replaced windows.

Replacing windows clearly increased the cost of repairs. While the overall median for of repairs was $300 (Table 13), the median was $2,500 among those who replaced windows. It should be noted that cost estimates might be overestimates for single-unit repairs; while the survey asked respondents to answer for a single unit, they may have responded for the full structure.

A higher proportion of respondents indicated they repaired or painted windows, 70% of those responding to this question. This includes 77% of respondents who said they spent money on repairs.

Table 16: Interior Trim, Porches, Siding Repairs or Replacements

	All Respondents		Respondents Spending >$0 on Repairs	
Interior Trim Repaired/Painted?				
Yes	90	66%	86	72%
No	46	34%	33	28%
Porch(es) Replaced/Repaired?				
Yes	51	38%	48	41%
No	84	62%	70	59%
If 'Yes', how many?				
1	31	62%	29	62%
2	14	28%	14	30%
3+	5	10%	4	9%
Exterior Siding Replaced?				
Yes	23	17%	23	19%
No	112	83%	95	81%

Two-thirds of respondents said that they repaired or painted interior trim, including 72% of those who spend money on repairs (Table 16). More than one-third replaced or repaired porches, and nearly one in five replaced exterior siding on the reference property. Clearly many landlords made repairs to surfaces typically associated with lead hazards both on the interior and exterior of their properties.

Respondents were asked if they did any other lead-related work, and 53 respondents said they had. Respondents mentioned planting grass or putting mulch over bare soil; tearing out or cleaning the carpets; refinishing hardwood floors; painting interior walls or exterior siding or trim; scraping and painting garage exteriors; and cleaning and mopping.

Respondents were asked who conducted the lead hazard control work, and whether that person had received Lead Safe Work Practices training. Overall 58% of respondents stated that they did the work themselves, while 26% hired a private contractor (Table 17). Others used a property manager or employee, friends or family. Respondents with more than five units were more likely to indicate they did the work themselves.

Table 17: Person Conducting Lead Hazard Work and Safe Work Practices Training

	All Respondents		<=5 Units Owned		>5 Units Owned	
	N	%	N	%	N	%
Who did the lead hazard control-related work?*	127	100%	63	100%	64	100%
Self (property owner)	74	58%	31	49%	43	67%
Propery manager/employee	10	8%	4	6%	6	9%
Private contractor	33	26%	23	37%	10	16%
Other	10	8%	5	8%	5	8%
Did the person who did this work receive Lead Safe Work Practices training?**	130	100%	65	100%	65	100%
Yes	94	72%	41	63%	53	82%
No	25	19%	14	22%	11	17%
Don't know	11	8%	10	15%	1	2%

* Statistifically significant difference between # of units (p<0.10); ** Statistifically significant (p<0.05).

A high proportion of respondents indicated that the person who completed the work had received proper training (72%), while an additional 8% did not know. Larger landlords (more than 5 units owned) were more likely than smaller landlords to indicate that the person completing the work had received lead safe work practices training. Owners completing the work prior to citation would not have been legally required to use lead safe work practices-trained workers.

Lead safe work practices training is available from several resources in the Rochester area, including the Housing Council (which provided training to 444 individuals during year one of the ordinance), Cornell University, through its School of Industrial Labor Relations (451 individuals), Lead Connections (871 individuals), and Atrium Environmental Health & Safety Services, LLC (43 individuals).

Most respondents reported using private funds or a bank loan to conduct the lead hazard control work (93% of respondents who reported spending $1 or more on repairs) (Table 18). Landlords with more than 5 units were somewhat more likely to report they received grant funding, but the sample size is very small and no conclusions should be drawn from this point. When asked how they will offset the cost of repairs, about one in three respondents stated they will not make other improvements, 23% say they will sell the property, and 17% say they will increase the rent.

Table 18: Financing of Lead Hazard Work and Impact on Property Value

	All Respondents		<=5 Units Owned		>5 Units Owned	
	N	%	N	%	N	%
Total Respondents	120	100%	57	100%	63	100%
How did you pay for the lead hazard control work?						
Grant program	9	8%	3	5%	6	10%
Bank loan/private funds	111	93%	54	95%	57	90%
Other	7	6%	1	2%	6	10%
How will you offset the cost of the repairs?						
Increase rent	20	17%	8	14%	12	19%
Not making other improvements*	35	29%	12	21%	23	37%
Sell the property*	28	23%	9	16%	19	30%
Other	12	10%	5	9%	7	11%
Don't know	2	2%	0	0%	2	3%
Do you think the investment you made in the property will improve the value of the property?**						
Yes	59	49%	33	58%	26	41%
No	50	42%	18	32%	32	51%
Don't know	9	8%	6	11%	3	5%

Note: Categories may total to more than 100% because respondents could select more than one option.

* Statistically signficant difference (p<.10); **Statistically significant difference (p<.05)

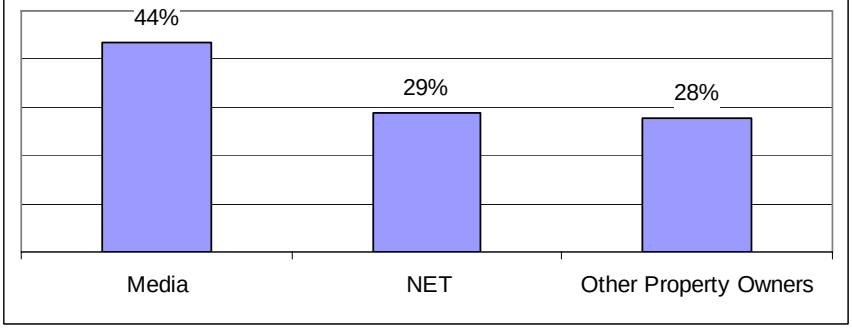
About one-half of respondents say the improvements they've made will increase the value of the property; smaller landlords were more likely than larger landlords to feel this way (58% and 41%, respectively).

Nearly one-third of respondents stated that they hope to sell the property in the next two years, but this response did not vary substantially among those who were and were not cited, nor by the size of the landlord's holdings. Those with lower valued properties were seven percentage points more likely than those with higher valued properties to say they would like to sell, but this difference was not statistically significant.

Among those who say they will sell, 56 provided comments on their reasons. The most prevalent reason, stated by thirteen respondents was either the 'ordinance' or 'city policy.' Eleven respondents said they will sell because of 'bad tenants.'

Nearly half the respondents heard about the lead law through the media, while the remainder heard about it either through NET and the C of O process, or through fellow property owners and landlord associations.

Figure 3: How Did you Learn About the Lead Law?



Among the 178 respondents who knew about the law and expressed an opinion in it both before and after it was implemented, 36% were unfavorable before implementation and 41% were favorable. At the time of the survey, 35% were unfavorable and 46% were favorable, showing a slight increase in positive feelings about the ordinance (statistically significant at the $p<.05$ level). It is interesting though that while 9% of respondents started out unfavorable and became either neutral or favorable over time, 3% started out favorable and became unfavorable or

Table 19: Overall Position on the Law Before and After Implementation

		After			
		Unfavorable	Neutral	Favorable	Total
Before	Unfavorable	28%	7%	2%	36%
	Neutral	5%	11%	7%	23%
	Favorable	2%	1%	38%	41%
	Total	35%	19%	46%	100%

neutral.

On balance it appears that experience with the law is more likely to improve landlords' perceptions of the law than to increase opposition.

Landlord Comments

At the conclusion of the survey, landlords were asked if they had any additional comments, and 117 of the 200 provided some (59%). Of those providing comments, 26% indicated a need for more financial aid or tax incentives for the landlords. Many refer to a need for more grants, and easier pathways to secure grants. Some state that they are not making much money on the properties, and simply don't have the resources to make substantial repairs.

"I think if the city is going to enforce they should back it up with grants or something. Just to make it fair."

"Have a lot more funds and grants and loans and no pay back if I kept the property for a period of time for investor purposes."

Nearly one-quarter (23%) said it is important to educate tenants and hold them responsible for the condition of the properties. Others referred to a need for increased owner/investor education.

"I think the city just needs to have almost a one-stop resource center for landlords, to learn about the law and how to take care of remediating any problems."

"Most landlords don't know exactly what's required. The carpet has to be perfectly clean. You can't sweep it. You can't vacuum it. You have to clean it in a certain order. You have to clean the windows first and then the carpet. You have to know which order to clean."

"Education classes for the low income to keep on eye on things so they can let the landlord know if there is a problem."

"Educate tenants on how to keep property. The Lead law is not a permanent solution."

Twenty percent of those with comments said the law is not fair to landlords, and 9% (11 respondents) said the law should be abolished. Some of those who feel it is unfair point out that the

lead was in the paint decades ago, and now landlords are being held responsible for that. Some also point out that tenants need to be responsible for their children and need to clean their homes more thoroughly and be more watchful of what their children put in their mouths.

"I know one thing they blew it out of proportion, the lead is in the paint when we buy it. The landlords are getting the rough end of the stick."

"I think it's unfair to landlords who have tenants who destroy properties and then hold the landlord responsible for it. It's not my fault tenants let their kids eat paint chips. I can't stand outside of their house twenty four hours a day, seven days a week."

The survey also generated some positive comments, or acknowledgement of the dangers of lead paint.

" I think everything is just the way it should be as far as them inspecting homes. They need to check them and make the landlords get rid of the lead paint."

"As long as you maintain your property you won't have a problem."

" I somewhat think it's unfair but I understand the big picture."

The Greater Rochester Health Foundation has issued an RFP to establish a one-stop center in Rochester to serve many of the needs noted by respondents, particularly those regarding additional information and resources for both tenants and landlords.

RECOMMENDATIONS BASED ON YEAR ONE RESULTS

The research team has a number of recommendations in response to analysis of evaluation data from the city inspections, county blood lead tests and positive investigations, housing data, and the landlord survey.

Landlord Issues

- With such a high proportion of property owners doing their own lead repair work, the city and county should ensure that sufficient training is available for them to learn to do the repairs safely.

- More than one quarter of those doing the work may not have received training—this is another reason to be sure training is available and that landlords are made aware of it.

- Since cost data from the landlord survey suggests a wide range of lead safety measures being used, and because interim controls are not long-term fixes, training and education regarding ongoing maintenance is critical.

- Increase education programs regarding the availability from the city of $100 grants to help cover the cost of dust wipe tests when private clearance must be achieved. A flyer with the grant information is currently included with the Notice and Order that notifies the owner of the need for a dust wipe test, but perhaps additional notification could occur.

Policy

- The City's expansion of dust wipe tests in year two of the ordinance is likely to improve the impact of the law, given that 15% of dust wipes result in identification of a lead hazard that would otherwise have gone undetected.

- Given that a number of property owners delay scheduling dust wipe tests, and some with failed dust wipes are taking longer than expected to achieve clearance, the City should take advantage of its newly granted enforcement opportunity under an amendment to the lead paint ordinance passed by City Council in September 2007 that allows the City to cite owners with a lead violation if they do not complete dust wipe tests within 60 days.

- With so many landlords asking for financial relief to help with repair costs, we recommend that additional grant programs or tax credits be established for high-cost, effective repairs, such as window replacement. Further, access to existing grant programs should be facilitated.

- There is clearly an ongoing need for education of both property owners and residents. Local resources for outreach and education should be coordinated to make sure these messages are being delivered clearly, consistently, and effectively.

Operating Issues

- Given the lower than expected rates of lead hazard identification on both visual survey and dust wipe testing, we recommend that a risk assessment be conducted in a random sample of properties that passed city inspection to determine effectiveness of the visual survey and dust wipe test protocol. The assessment should occur as soon as possible following the inspection to reduce the chance of surface disturbances.

- Develop and implement a "Rochester module" to be incorporated in lead safe work practices trainings that explains requirements under the lead law, describes resources available to property owners, and encourages use of standard treatments.

- We recommend that the MCDPH begin coding children's blood lead level tests by city versus suburbs to allow internal ongoing tracking of trends by this geographic distinction, particularly with the City ordinance now in place. This information could also be of interest to the City School District.

- We recommend the City consider altering its database to allow for easier monitoring of lead ordinance outcomes, such as dust wipe test lead level results, and dates of inspection and follow-up. The City has some information and data available only in paper format, such as landlord phone numbers and the reasons for housing vacate orders, that could be entered electronically when collected.

PLANS FOR YEAR TWO

Year two of the evaluation will include an update of the analysis of the city inspection data, county blood lead data, county positive investigations, and housing data, but will not include a repeat of the landlord survey. Here we outline plans for additional research tasks, as well as plans for a landlord focus group and interviews with City Council.

Research Items

- The first year of the evaluation found 13 positive properties from 2004-2005 in which lead hazards were found two years later during year one of the ordinance. A more in-depth case study could explore how much time elapsed between clearance of the property as a result of the county investigation, and the violation cited by the city under the ordinance. Ideally the case study would determine whether the lead hazards found in 2006-2007 were on the same surfaces or new areas.

- Analyze violation data to determine the most common hazards in the ordinance-inspected properties. The research team could look at whether common hazards are more likely to be owner or tenant (or shared) responsibility so that education and training can be appropriately targeted.

- A more careful review of lead dust test results could be conducted in year 2. The City is unable to provide lead dust test result lead levels for analysis. If such data were available it would be of interest to analyze lead dust results to identify housing characteristics that typically result in high dust lead levels. NCHH has studied this issue and has developed a housing assessment tool that predicts homes that will have high dust levels. Thinking long term, such a tool could possibly be used instead of lead dust tests and could reduce costs.

- The research team has requested that the City begin recording dust test results electronically, and will include these data in the analysis in year two. In addition, the research team will explore how many inspected units fail the lead dust test the first time versus and the second time.

- The research team will ask the City for lead dust wipe test results by case type (C of O, QHI, complaint), to determine whether outcomes vary among them.

Focus Group with Landlords

The survey of landlords generated some useful information in regards to the lead ordinance. But it also raised some questions, such as: why was there a mismatch between self-report of lead violations and the actual issuance of violations as found in the

city's database? Did the landlords know about the small grants available to offset the costs of the dust wipe testing? To continue the dialogue with landlords without repeating a survey, in year two of the evaluation we plan to hold a focus group with landlords to probe on any questions raised by the survey or incompletely answered by the survey. This process will be informed by the Advisory Committee.

City Council Interviews

CGR will meet with approximately five City Council members to discuss the interim report and determine whether the results improve their level of understanding about the role and impact of the ordinance. We will use these meetings in part to determine further whether any changes are needed for the evaluation of year two results.

Because some Council members in office this fall will be new, and were not in place when the ordinance was passed, we will be sure to meet with both new council members as well as some who were in office when the ordinance was passed.

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APPENDIX A: CITY OF ROCHESTER LEAD ORDINANCE

Ordinance No. 2005-393
Updated 9/15/07

Chapter 90, Property Code

Article III. Lead-Based Paint Poisoning Prevention.

§90-50. Policy and intent.

It is the policy of the City of Rochester to help prevent the poisoning of its residents by requiring that the presence of deteriorated lead-based paint on the interior and exterior of pre-1978 residential structures and on the exterior of pre-1978 non-residential structures be identified and be correctly addressed by reducing and controlling lead-based paint hazards which may be present in order to prevent human exposure to such hazards.

§90-51. Legislative findings.

A. Lead poisoning poses a serious public health threat to children and adults in the City of Rochester.

B. Younger children are particularly susceptible to the hazards of lead-based paint since their bodies are still developing. Fetuses are also vulnerable to the effects of lead-based paint because pregnant women can transfer lead to their fetuses, which can result in adverse developmental effects.

C. A small amount of lead can cause elevated blood lead levels resulting in serious and irreversible developmental damage, particularly in children under the age of six years.

D. Exposure to lead hazards from deteriorated lead-based paint is a primary cause of elevated blood lead levels in humans.

E. Structures built before 1978 are the most likely to contain lead-based paint hazards.

F. Residential properties are more likely than are non-residential properties to be a source of exposure to lead-based paint hazards by children.

G. Children living in older, poorly maintained homes are disproportionately at risk for lead-based paint hazards.

H. The exposure to lead-based paint hazards in the City of Rochester is most common, and presents the most serious risk, to young children residing in rental housing built before 1978.

I. It is essential to the overall public health of persons in the City of Rochester, and particularly for children younger than six years of age, that they be protected from exposure to lead-based paint hazards.

J. According to the environmental impact statement, proposed lead-based paint poisoning prevention legislation could have a cost impact on the rental housing market as high as $540 million, depending on the alternative chosen.

K. The application of lead-based paint poisoning prevention legislation to the owner-occupied housing market could cause extensive housing abandonment in at least nine distinct neighborhoods.

L. Although unquestionably positive, the potential health benefits of lead-based paint poisoning prevention legislation are difficult to quantify since the number of people at-risk is undetermined, the transient nature of tenants makes targeting difficult, the mere presence of lead in a structure does not necessarily lead to human exposure to lead-based paint hazards, and the generally agreed-upon group at greatest risk, children from 0-6 years of age, are significantly transient.

§90-52. Definitions.

ABATEMENT means any set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards (see definition of “PERMANENT"). Abatement includes: (1) The removal of lead-based paint and dust-lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil-lead hazards; and (2) All preparation, cleanup, disposal, and post abatement clearance testing activities associated with such measures.

CERTIFIED means licensed or certified to perform such activities as risk assessment, lead-based paint inspection, or abatement supervision by the United States Environmental Protection Agency (EPA) in accordance with 40 CFR Part 745, Subpart L.

CERTIFIED LEAD-BASED PAINT INSPECTOR means an individual who has been trained by an accredited training program, as defined by 40 CFR §745.223, and certified by EPA pursuant to 40 CFR §745.226 to conduct lead-based paint inspections. A certified lead-based paint inspector also samples for the presence of lead in dust and soil for the purposes of clearance testing.

CERTIFIED RISK ASSESSOR means an individual who has been trained by an accredited training program, as defined by 40 CFR §745.223, and certified by EPA pursuant to 40 CFR §745.226 to conduct risk assessments. A certified risk assessor also samples for the presence of lead in dust and soil for the purposes of clearance testing.

CHEWABLE SURFACE means an interior or exterior surface painted with lead-based paint that a young child can mouth or chew. A chewable surface is the same as an “accessible surface'' as defined in 42 U.S.C. 4851b(2). Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.

CLEARANCE EXAMINATION means an activity conducted following lead-based paint hazard reduction activities to determine that the hazard reduction activities are complete and that no soil-lead hazards or settled dust-lead hazards, as defined in this Article, exist in the dwelling unit or worksite.

COMMON AREA means a portion of a residential property that is available for use by occupants of more than one dwelling unit. Such an area may include, but is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, on-site day care facilities, porches, basements, attics, garages and boundary fences.

COMPONENT means an architectural element of a dwelling unit or common area identified by type and location, such as a bedroom wall, an exterior window sill, a baseboard in a living room, a kitchen floor, an interior window sill in a bathroom, a porch floor, stair treads in a common stairwell, or an exterior wall.

CONTAINMENT means the physical measures taken to ensure that dust and debris created or released during lead-based paint hazard reduction are not spread, blown or tracked from inside to outside of the worksite.

DETERIORATED PAINT means any interior or exterior paint or other coating that, through a visual assessment, is found to be peeling, chipping, crazing, flaking, abrading, chalking or cracking, or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate, or a chewable surface that contains visual signs of chewing.

DRIPLINE means the area within 3 feet surrounding the perimeter of a building.

DRY SANDING means sanding without moisture and includes both hand and machine sanding.

DUST-LEAD HAZARD means surface dust that contains a dust-lead loading (area concentration of lead) at or exceeding the levels promulgated by the EPA pursuant to section 403 of the Toxic Substances Control Act.

DWELLING UNIT means a: (1) Single-family dwelling, including attached structures such as porches and stoops; or (2) Housing unit in a structure that contains more than 1 separate housing unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or separate living quarters of 1 or more persons.

ENCAPSULATION means the application of a covering or coating that acts as a barrier between the lead-based paint and the environment and that relies for its durability on adhesion between the encapsulant and the painted surface, and on the integrity of the existing bonds between paint layers and between the paint and the substrate. Encapsulation may be used as a method of abatement if it is designed and performed so as to be permanent (see definition of “PERMANENT").

ENCLOSURE means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment. Enclosure may be used as a method of abatement if it is designed to be permanent (see definition of “PERMANENT").

EVALUATION means a risk assessment, a lead hazard screen, a lead-based paint inspection, paint testing, or a combination of these to determine the presence of lead-based paint hazards or lead-based paint.

FRICTION SURFACE means an interior or exterior surface that is subject to abrasion or friction, including, but not limited to, certain window, floor, and stair surfaces.

g means gram, mg means milligram (thousandth of a gram), and ug means microgram (millionth of a gram).

HAZARD REDUCTION means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls or abatement or a combination of the two.

HEPA VACUUM means a vacuum cleaner device with an included high- efficiency particulate air (HEPA) filter through which the contaminated air flows, operated in accordance with the instructions of its manufacturer. A HEPA filter is one that captures at least 99.97 percent of airborne particles of at least 0.3 micrometers in diameter.

IMPACT SURFACE means an interior or exterior surface that is subject to damage by repeated sudden force, such as certain parts of door frames.

INTERIM CONTROLS means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards. Interim controls include, but are not limited to, repairs, painting, temporary containment, specialized cleaning, clearance, ongoing lead-based paint maintenance activities, and the establishment and operation of management and resident education programs.

LEAD-BASED PAINT means paint or other surface coatings that contain lead equal to or exceeding 1.0 milligram per square centimeter or 0.5 percent by weight or 5,000 parts per million (ppm) by weight.

LEAD-BASED PAINT HAZARD means any condition that causes exposure to lead from dust-lead hazards, soil-lead hazards, or lead-based paint that is deteriorated or present

in chewable surfaces, friction surfaces, or impact surfaces, and that would result in adverse human health effects.

LEAD-BASED PAINT INSPECTION means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

LEAD HAZARD INFORMATION PAMPHLET means the most recent publication of the LEAD HAZARD INFORMATION PAMPHLET means the pamphlet developed by the EPA, the United States Department of Housing and Urban Development and the Consumer Product Safety Commission pursuant to Section 403 of the Toxic Substances Control Act (15 U.S.C. 2686), entitled “Protect Your Family From Lead in Your Home.”

OCCUPANT means a person who inhabits a dwelling unit.

OWNER means a person, firm, corporation, nonprofit organization, partnership, government, guardian, conservator, receiver, trustee, executor, or other judicial officer, or other entity which, alone or with others, owns, holds, or controls the freehold or leasehold title or part of the title to property, with or without actually possessing it. The definition includes a vendee who possesses the title, but does not include a mortgagee or an owner of a reversionary interest under a ground rent lease.

PAINT STABILIZATION means repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint.

PAINT TESTING means the process of determining, by a certified lead- based paint inspector or risk assessor, the presence or the absence of lead-based paint on deteriorated paint surfaces or painted surfaces to be disturbed or replaced.

PAINT REMOVAL means a method of abatement that permanently eliminates lead-based paint from surfaces.

PAINTED SURFACE TO BE DISTURBED means a paint surface that is to be scraped, sanded, cut, penetrated or otherwise affected by rehabilitation work in a manner that could potentially create a lead-based paint hazard by generating dust, fumes, or paint chips.

PERMANENT means an expected design life of at least 20 years.

REDUCTION means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

REHABILITATION means the improvement of an existing structure through alterations, incidental additions or enhancements. Rehabilitation includes repairs necessary to

correct the results of deferred maintenance, the replacement of principal fixtures and components, improvements to increase the efficient use of energy, and installation of security devices.

REPLACEMENT means a strategy of abatement that entails the removal of building components that have surfaces coated with lead-based paint and the installation of new components free of lead-based paint.

RESIDENTIAL PROPERTY means a dwelling unit, common areas, building exterior surfaces, and any surrounding land, including outbuildings, fences and play equipment affixed to the land, belonging to an owner and available for use by residents, but not including land used for agricultural, commercial, industrial or other non-residential purposes, and not including paint on the pavement of parking lots, garages, or roadways.

RISK ASSESSMENT means: (1) An on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards; and (2) The provision of a report by the individual or firm conducting the risk assessment explaining the results of the investigation and options for reducing lead-based paint hazards.

SOIL-LEAD HAZARD means bare soil on residential property that contains lead equal to or exceeding levels promulgated by the U.S. Environmental Protection Agency pursuant to section 403 of the Toxic Substances Control Act.

TENANT means the individual named as the lessee in a lease, rental agreement or occupancy agreement for a dwelling unit.

VISUAL ASSESSMENT means a visual examination for, as applicable: (1) Deteriorated paint; (2) Visible surface dust, debris and residue found as part of an inspection pursuant to Section 90-55, a risk assessment or clearance examination; or (3) The completion or failure of a lead-based paint hazard reduction measure as part of a clearance examination.

WET SANDING or WET SCRAPING means a process of removing loose paint in which the painted surface to be sanded or scraped is kept wet to minimize the dispersal of paint chips and airborne dust.

WINDOW TROUGH means the area between the interior window sill (stool) and the storm window frame. If there is no storm window, the window trough is the area that receives both the upper and lower window sashes when they are both lowered.

WIPE SAMPLE means a sample collected by wiping a representative surface of known area, as determined by ASTM E1728, “Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques,” or equivalent method, with an acceptable wipe material as defined in ASTM E 1792, “Standard Specification for Wipe Sampling Materials for Lead

in Surface Dust.''

WORKSITE means an interior or exterior area where lead-based paint hazard reduction activity takes place. There may be more than one worksite in a dwelling unit or at a residential property.

§90-53. Presumptions and obligations.

A. For purposes of this article, all paint on the interior or exterior of any residential building on which the original construction was completed prior to January 1, 1978, shall be presumed to be lead-based. [Amended 7-18-2006 by Ord. No. 2006-224]

B. For purposes of this article, all paint on the exterior of any non-residential structure on which the original construction was completed prior to January 1, 1978 shall be presumed to be lead-based.

C. Any person seeking to rebut these presumptions shall establish through the means set forth in Section 90-56 that the paint on the building or structure in question is not lead-based paint.

D. Residential buildings shall be maintained free of lead-based paint hazards. [Amended 7-18-2006 by Ord. No. 2006-224]

§90-54. Violations.

A. Deteriorated paint violation.

The interior and exterior of any residential building on which the original construction was completed prior to January 1, 1978, and the exterior of any nonresidential structure on which the original construction was completed prior to January 1, 1978, shall be maintained in a condition such that the paint thereon does not become deteriorated paint, unless the deteriorated paint surfaces total no more than: [Amended 7-18-2006 by Ord. No. 2006-224]

(1) 20 square feet on exterior surfaces;

(2) 2 square feet in any one interior room or space; or

(3) 10 percent of the total surface area on an interior or exterior type of component with a small surface area. Examples include windowsills, baseboards, and trim.

B. Bare soil violation.

Bare soil shall not be present within the dripline of any residential building on which the original construction was completed prior to January 1, 1978. [Amended 7-18-2006 by Ord. No. 2006-224]

C. Dust-lead hazard violation.

A dust-lead hazard shall be identified and cited in accordance with the procedures set forth in § 90-55, Inspection for violations. [Added 3-14-2006 by Ord. No. 2006-37]

D. Dust sample violation.

A dust sample violation shall be cited upon a failure by an owner of a property to timely cause dust samples to be taken and certified test results to be submitted to the NET Lead Inspection Unit in accordance with the procedures set forth in § 90-55, Inspection for violations. [Added 8-21-2007 by Ord. No. 2007-305

§90-55. Inspection for violations.

All inspections, including, but not limited to, inspections performed as part of an application for a certificate of occupancy pursuant to § 90-16 of the City Code, a renewal of a certificate of occupancy, or based upon the filing of a complaint, shall include a visual assessment for deteriorated paint and bare soil violations. With respect to units located in the high-risk area identified by the Mayor or the Mayor's designee, when the visual assessment identifies no deteriorated paint violation, the owner shall cause dust samples to be taken and certified test results to be obtained in accordance with the protocols established in 40 CFR 745.227(e)(8)(v)(B) to determine whether a dust-lead hazard exists. The owner shall be given 60 days to cause the dust samples to be taken and to submit all certified test results to the NET Lead Inspection Unit. If all certified test results are not submitted within the specified time, a dust sample violation shall be cited. When a dust-lead hazard is identified and not cleared, a dust-lead hazard violation shall be cited. A certification of clearance as described in § 90-57 shall be required in order to clear a dust-lead hazard violation. The high-risk area to be identified by the Mayor or the Mayor's designee shall, at a minimum, consist of those census block groups which cumulatively encompass an area in which no fewer than 90% of the units identified by the County Health Department for inspections in conjunction with its elevated blood-lead level inspections for the period of the preceding five years are located. Where the filing of a complaint leads to an inspection, the inspection shall include the unit which is the focus of the complaint and all common areas.

§90-56. Remedy for violations.

Following a visual assessment which results in the citation of a deteriorated paint violation, the violation may be removed only by one of the following methods:

A. Certification by a lead-based paint inspector or risk assessor that the property has been determined through a lead-based paint inspection conducted in accordance with the federal regulations at 40 CFR §745.227(b) not to contain lead-based paint.

B. Certification by a lead-based paint inspector or risk assessor that all cited violations of § 90-54, Violations, have been abated, or interim controls implemented, and clearance has been achieved in accordance with standards found at 40 CFR 745.227(e), regardless of whether abatement has been achieved or interim controls implemented, and provided, however, that the property has been inspected pursuant to those standards since the deteriorated paint or dust-lead hazard violation was last cited. [Amended 3-14-2006 by Ord. No. 2006-37]

C. Certification by the Rochester Housing Authority or other state or federal supervising agency which regulates an assisted housing program stating that the property is in compliance with the inspection and clearance requirements of the housing program or, with respect to federally assisted housing, the requirements of 24 CFR Part 35, provided, however, that with respect to the Federal Housing Choice Voucher program, the property has been inspected pursuant to those requirements since the deteriorated paint was last detected.

D. Where only exterior deteriorated paint violations, including deteriorated paint violations on an open porch, and/or bare soil violations are cited, clearance may be established through a visual assessment by a City inspector after reduction measures have been implemented. [Amended 3-14-2006 by Ord. No. 2006-37]

§90-57. Standards for clearance examination and report.

The remedy available through Section 90-56B shall require that a clearance examination be completed for a property upon which a deteriorated paint violation has been cited in accordance with the following requirements:

A. Qualified personnel. Certification of clearance shall be issued by:

(1) A certified risk assessor; or

(2) A certified lead-based paint inspector.

B. Required activities.

(1) A clearance examination shall include a visual assessment, dust sampling, submission of samples for analysis for lead, interpretation of sampling results, and preparation of a report. Examinations shall be performed in dwelling units, common areas and exterior areas in accordance with this section and the steps set forth at 40 CFR 745.227(e)(8) and (9).

(2) A visual assessment shall be performed to determine if deteriorated paint surfaces and/or visible amounts of dust, debris, paint chips or other residue are present. Both exterior and interior painted surfaces shall be examined for the presence of deteriorated paint. If deteriorated paint and visible dust, debris or residue are present in areas subject to dust sampling, they must be eliminated prior to the continuation of the clearance examination. If exterior painted surfaces have been disturbed by the hazard reduction, maintenance or rehabilitation activity, the visual assessment shall include an inspection of the ground and any outdoor living areas close to the affected exterior painted surfaces. Visible dust or debris in such outdoor living areas shall be cleaned up and visible paint chips on the ground shall be removed.

(3) Dust samples shall be wipe samples and shall be taken on floors, excluding open porches, and, where practicable, interior windowsills and window troughs. Dust samples shall be collected and analyzed in accordance with 40 CFR 745.227(f) and (g). [Amended 3-14-2006 by Ord. No. 2006-37]

C. Report.

The clearance examiner shall ensure that an examination report is prepared that provides documentation of the examination.

(1) The report shall include the following information:

(a) The address of the residential property and, if only part of a multi-family property is affected, the specific dwelling units and common areas affected.

(b) The date(s) of the examination;

(c) The name, address, and signature of each person performing the examination, including their EPA certification number;

(d) The results of the visual assessment for the presence of deteriorated paint and visible dust, debris, residue or paint chips;

(e) The results of the analysis of dust samples, in ug/sq.ft., by location of sample; and

(f) The name and address of each laboratory that conducted the analysis of the dust samples, including the identification number for each such laboratory recognized by EPA under section 405(b) of the Toxic Substances Control Act (15 U.S.C. 2685(b)).

(2) When abatement is performed, the report shall be an abatement report in accordance with 40 CFR §745.227(e)(10).

D. Clearance standards.

Where a deteriorated paint or dust-lead hazard violation has been cited, the dust-lead standards in 40 CFR 745.65(b) shall be met before a Certificate of Occupancy may be issued or a violation removed. [Amended 3-14-2006 by Ord. No. 2006-37]

E. Requirement to avoid conflict of interest regarding clearance inspection.

All examinations shall be performed by persons or entities independent of those performing hazard reduction or maintenance activities.

F. This Section shall not apply to the situations set forth in Section 90-56D.

§90-58. Lead-safe hazard reduction and control.

A. No person shall disturb or remove lead-based paint, or in any other way generate excessive dust or debris during work on the interior or exterior of any existing

building or structure except in accordance with the requirements of this section and §§ 90-59 and 90-60. If a residential building is not owner occupied and is in the high-risk area, then the owner or the owner's agent will be required to complete certified Lead Safe Work Practices training prior to conducting any lead paint reduction activity, provided that such training is available to the public for free or at a nominal cost, and except that such training shall not be required with respect to paint hazards below the de minimis levels identified in § 90-60E. [Amended 3-14-2006 by Ord. No. 2006-37

B. Exemptions.

This Section shall not apply to activities that disturb or remove paint where the activities are being performed on buildings on which construction was completed on or after January 1, 1978.

C. Sign required when exterior lead-based paint (or presumed lead-based paint) is disturbed:

(1) Not later than the commencement date of any lead-based paint hazard reduction work, the owner, or the contractor when the owner has entered into a contract with a contractor to perform such work on the exterior of a building or structure, shall post signs in a location or locations clearly visible to the adjacent properties stating the following:

LEAD-BASED PAINT HAZARD REDUCTION WORK IN PROGRESS

PUBLIC ACCESS TO
WORK AREA
PROHIBITED

POSTED IN ACCORDANCE WITH CHAPTER 90
OF THE CITY OF ROCHESTER CODE

FOR FURTHER INFORMATION, PHONE ----------

(2) The sign required by this subsection shall be not less than 24 inches square and shall be in large boldface capital letters no less than one-half inch in size, and shall contain the notification in both English and Spanish. The sign required by this subsection shall remain in place until the lead-

based paint hazard reduction work has been completed.

(3) Where it is not possible to post signs in a conspicuous location or locations clearly visible to the adjacent properties, the owner, or where the owner has entered into a contract with a contractor to perform lead-based paint hazard reduction work, the contractor shall provide the notice in written form, such as a letter or memorandum, to the occupants of adjacent properties.

E. Notice to tenants.

Where lead-based paint hazard reduction work is to be performed on the interior or exterior of buildings occupied by one or more tenants, not less than three business days before any lead-based paint hazard reduction work is to commence, the owner shall provide the following information:

(1) Contents of notice.

Provide written notice to tenants of the building on which the work is being performed that lead-based paint hazard reduction work is being performed. This notice, which shall be in both English and Spanish, shall be in compliance with the EPA pre-renovation notification rules set forth in 40 CFR Part 745, Subpart E, shall be in the form of a sign, letter or memorandum, and shall prominently state the following:

Work is scheduled to be performed beginning _____ (date) on this property that may disturb or remove lead-based paint. The persons performing this work are required to follow federal and local laws regulating work with lead-based paint. You may obtain information regarding these laws, or report any suspected violations of these laws, by calling the City of Rochester at _____ (a number to be designated by the City). The owner of this property is also required to provide tenants with a copy of the lead hazard information pamphlet. Retaliatory action against tenants is prohibited by Section 90-63 of the Municipal Code.

(2) The owner shall provide all tenants in the building with a copy of the lead hazard information pamphlet.

F. Notice by contractor.

Where lead-based paint hazard reduction work is being performed by a contractor on residential property, the contractor shall at least three business days prior to the commencement of such work, notify the property owner of potential lead hazards during the project by delivering to the owner a copy of the lead hazard information pamphlet.

G. Early commencement of work by owner.

A property owner may commence, or may authorize a contractor to commence, lead-based paint hazard reduction work less than three business days after providing notices required above when such work must be commenced immediately to correct an emergency condition, such as work necessitated by non-routine failures of equipment, that were not planned but result from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment and/or property with significant damage.

H. Early commencement of work requested by tenant.

Upon written request of a tenant, an owner may commence or authorize a contractor to commence, lead-based paint hazard reduction work on that tenant's unit less than three business days after providing notices required in subsection E above.

§90-59. Occupant protection and worksite preparation.

A. Occupant protection.

(1) Occupants shall not be permitted to enter the worksite during hazard reduction activities (unless they are employed in the conduct of these activities at the worksite) until after hazard reduction work has been completed and clearance has been achieved.

(2) Occupants shall be temporarily relocated during hazard reduction activities and until a clearance examination has been successfully completed on the occupant's unit, and occupants who relocate to a unit not owned by their landlord shall not be liable for rent accruing during that time, except relocation shall not be necessary if:

(a) Treatment will not disturb lead-based paint, dust-lead hazards or

soil-lead hazards;

(b) Only the exterior of the dwelling unit is treated, and windows, doors, ventilation intakes and other openings in or near the worksite are sealed during hazard control work and cleaned afterward, and entry free of dust-lead hazards, soil-lead hazards and debris is provided;

(c) Treatment of the interior will be completed within one period of 8-daytime hours, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, and treatment does not create other safety, health or environmental hazards (e.g., exposed live electrical wiring, release of toxic fumes, or on-site disposal of hazardous waste); or

(d) Treatment of the interior will be completed within 15 calendar days, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, treatment does not create other safety, health or environmental hazards; and, at the end of work on each day, the worksite and the area within at least 10 feet of the containment area is cleaned to remove any visible dust or debris, and occupants have safe daily access to sleeping areas, and bathroom and kitchen facilities.

(3) The dwelling unit and the worksite shall be secured against unauthorized entry, and occupants' belongings protected from contamination by dust-lead hazards and debris during hazard reduction activities. Occupants' belongings in the containment area shall be relocated to a safe and secure area outside the containment area, or covered with an impermeable covering with all seams and edges taped or otherwise sealed.

(4) In addition to protections afforded elsewhere by law, if interior hazard reduction activities will not be or are not completed within sixty calendar days, occupants shall have the right to terminate their lease and shall have no further obligation to pay rent under that rental agreement, provided, however, that this subsection shall not relieve the occupant of the obligation to pay any previously accrued rent for which he or she is otherwise liable.

B. Worksite preparation.

(1) The worksite shall be prepared, including the placement of containment barriers, to prevent the release of leaded dust, and contain lead-based

paint chips and other debris from hazard reduction activities within the worksite until they can be safely removed. Practices that minimize the spread of leaded dust, paint chips, soil and debris shall be used during worksite preparation.

(2) A warning sign shall be posted at each entry to a room where hazard reduction activities are conducted when occupants are present; or at each main and secondary entryway to a building from which occupants have been relocated. Each warning sign shall be as described in 29 CFR §1926.62(m), except that it shall be posted irrespective of employees' lead exposure and, to the extent practicable, provided in the occupants' primary language.

§90-60. Safe work practices.

A. Lead-based paint shall not be applied to any exterior or interior surface.

B. Prohibited methods.

The following methods of paint removal shall not be used:

(1) Open flame burning or torching.

(2) Machine sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control.

(3) Abrasive blasting or sandblasting without HEPA local exhaust control.

(4) Heat guns operating above 1100 degrees Fahrenheit or charring the paint.

(5) Dry sanding or dry scraping, except dry scraping in conjunction with heat guns or within 1.0 foot of electrical outlets, or when treating defective paint spots totaling no more than 2 square feet in any one interior room or space, or totaling no more than 20 square feet on exterior surfaces.

(6) Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance in accordance with regulations of the Consumer Product Safety Commission at 16 CFR §1500.3, and/or a hazardous chemical in accordance with the Occupational Safety and Health

Administration regulations at 29 CFR §§1910.1200 or 1926.59, as applicable to the work.

C. Worksite preparation.

The worksite shall be prepared in accordance with Section 90-59B.

D. Specialized cleaning.

After hazard reduction activities have been completed, the worksite shall be cleaned using cleaning methods, products and devices that are successful in cleaning up dust-lead hazards, such as a HEPA vacuum or other method of equivalent efficacy, and lead-specific detergents or equivalent.

E. *De minimis* levels.

Safe work practices are not required when maintenance or hazard reduction activities do not disturb painted surfaces that total more than:

(1) 20 square feet on exterior surfaces;

(2) 2 square feet in any one interior room or space; or

(3) 10 percent of the total surface area on an interior or exterior type of component with a small surface area. Examples include windowsills, baseboards, and trim.

§90-61. Emergency actions, weather conditions.

A. For emergency actions necessary to safeguard against imminent or immediate danger to human life, health or safety, or to protect property from further structural damage, including demolitions ordered pursuant to Sections 47A-16B & C of the Municipal Code, occupants shall be protected from exposure to lead in dust and debris generated by such emergency actions to the extent practicable. This exemption does not apply to any work undertaken subsequent to, or above and beyond such emergency actions, other than the demolitions noted above.

B. Performance of lead-based paint hazard reduction or lead-based paint abatement on an exterior painted surface as required under this Article may be

delayed for a reasonable time during a period when weather conditions render impossible the completion of conventional construction activities, provided however, that this limitation shall continue only for the period in which work cannot be performed in the work safe manner as provided for herein.

§90-62. Exemptions.

A. This Article shall not apply to properties taken by a governmental entity in a foreclosure proceeding which are vacant and secured and: (1) scheduled for demolition, or (2) scheduled for sale within twelve months.

B. The requirements of §§ 90-54 through 90-57 which are applicable to residential buildings shall not include single-family owner-occupied dwellings. [Amended 7-18-2006 by Ord. No. 2006-224]

§90-63. Prohibition of retaliatory action.

A. It is unlawful for an owner, or any person acting on his or her behalf, to take any retaliatory action toward a tenant who reports a suspected lead-based paint hazard to the owner or to the City. Retaliatory actions include but are not limited to any actions that materially alter the terms of the tenancy (including rent increases and non-renewals) or interfere with the occupants' use of the property.

B. There shall be a rebuttable presumption that any attempt by the owner to raise rents, curtail services, refuse to renew or attempt to evict a tenant within six months after any report to the City or the owner or any enforcement action in connection with a suspected lead hazard is a retaliatory action in violation of this section, except that in instances of nonpayment of rent or commission of waste upon the premises by the tenant no such presumption shall apply. After six months from the date of the reporting of a suspected lead hazard, or the most recent activity related to any enforcement action, the defense of retaliatory eviction shall remain available to the tenant, but without the benefit of the presumption created by this section.

C. The provisions of this section shall not be given effect in any case in which it is established that the condition from which the complaint or action arose was caused by the tenant, a member of the tenant's household, or a guest of the tenant. Nor shall it apply in a case where a tenancy was terminated pursuant to the terms of a lease as a result of a bona fide transfer of ownership.

§90-64. Notification to County of violations.

The City shall continue to send notices to the County of Monroe listing any health and safety violations found in properties inspected by the City. Any violation of Section 90-54 shall be included on that list.

§90-65. Database for properties.

A. The City shall maintain a database, accessible to the public, of all residential properties where lead hazards have been identified, reduced and controlled with funds received by the City from the United States Department of Housing and Urban Development which require that such a database be maintained. The City shall further maintain a database of all residential properties granted a Certificate of Occupancy after the effective date of this ordinance.

B. The databases created pursuant to this section shall be kept available for “walk-in” inspection by the public. No person requesting access shall be required to complete a Freedom of Information request in order to view this database.

APPENDIX B: LIST OF ADVISORY COMMITTEE MEMBERS

Lead Ordinance Evaluation Advisory Committee

Alma Balonon-Rosen
Local Office Director
Enterprise Community Partners

Molly Clifford
NET Director
City of Rochester

Dan Condello
Financial Assistance Coordinator
Monroe County Department of Human Services

Bret Garwood
Director of Development Services
Bureau of Housing and Project Development
City of Rochester

James Graham
Executive Director
Genesis REI, LLC

Derrick Hazle
Executive Director
Coalition to Prevent Lead Poisoning

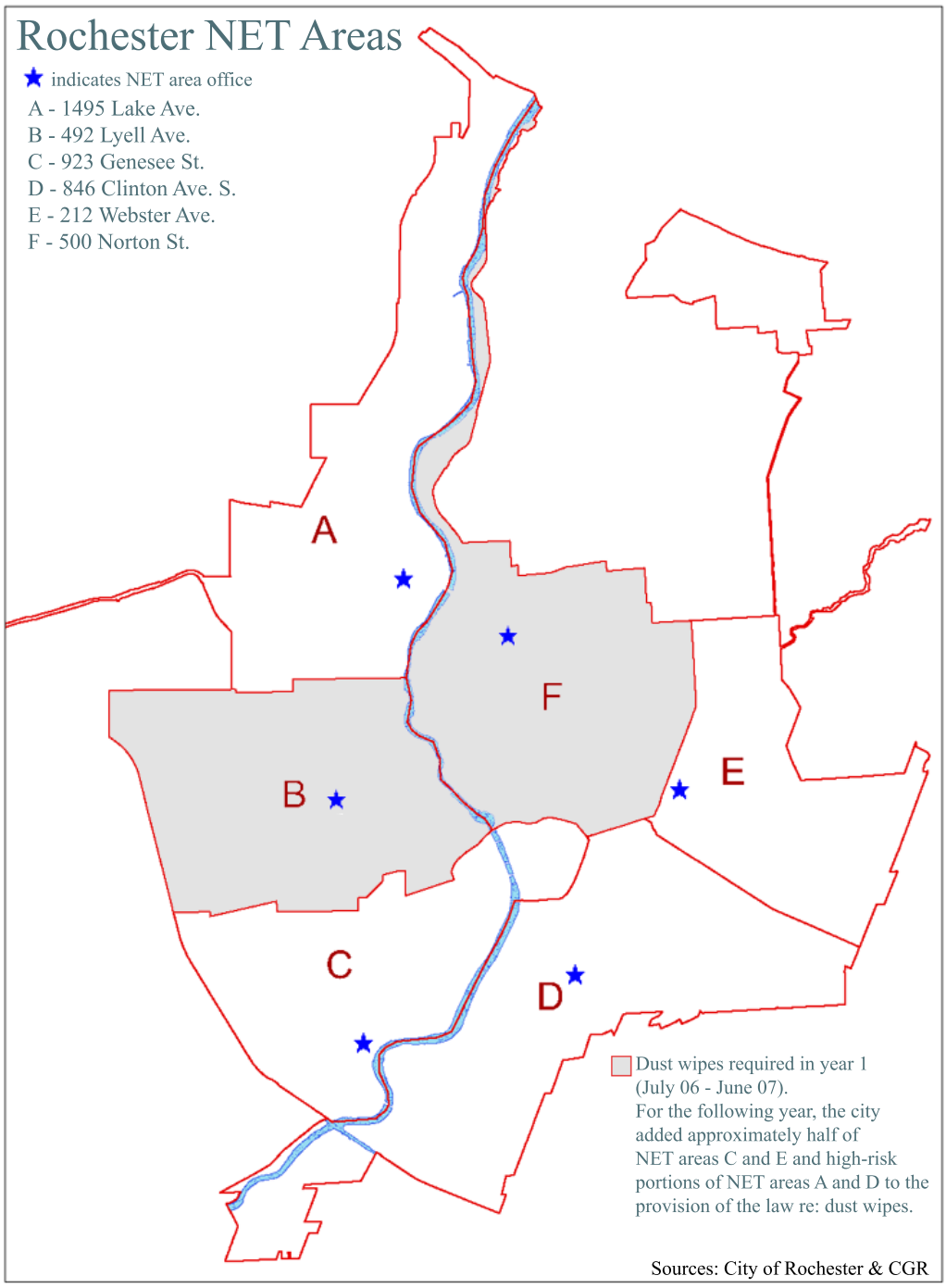
Dawn Hyde
Program Coordinator
Monroe County Dept of Public Health

Wade Norwood
Director, Safety Net Initiative
Finger Lakes Health Systems Agency

Joan Roby-Davison
Executive Director
Group 14621

Karen Wingender
CEO
Greater Rochester Association of REALTORS®, Inc.

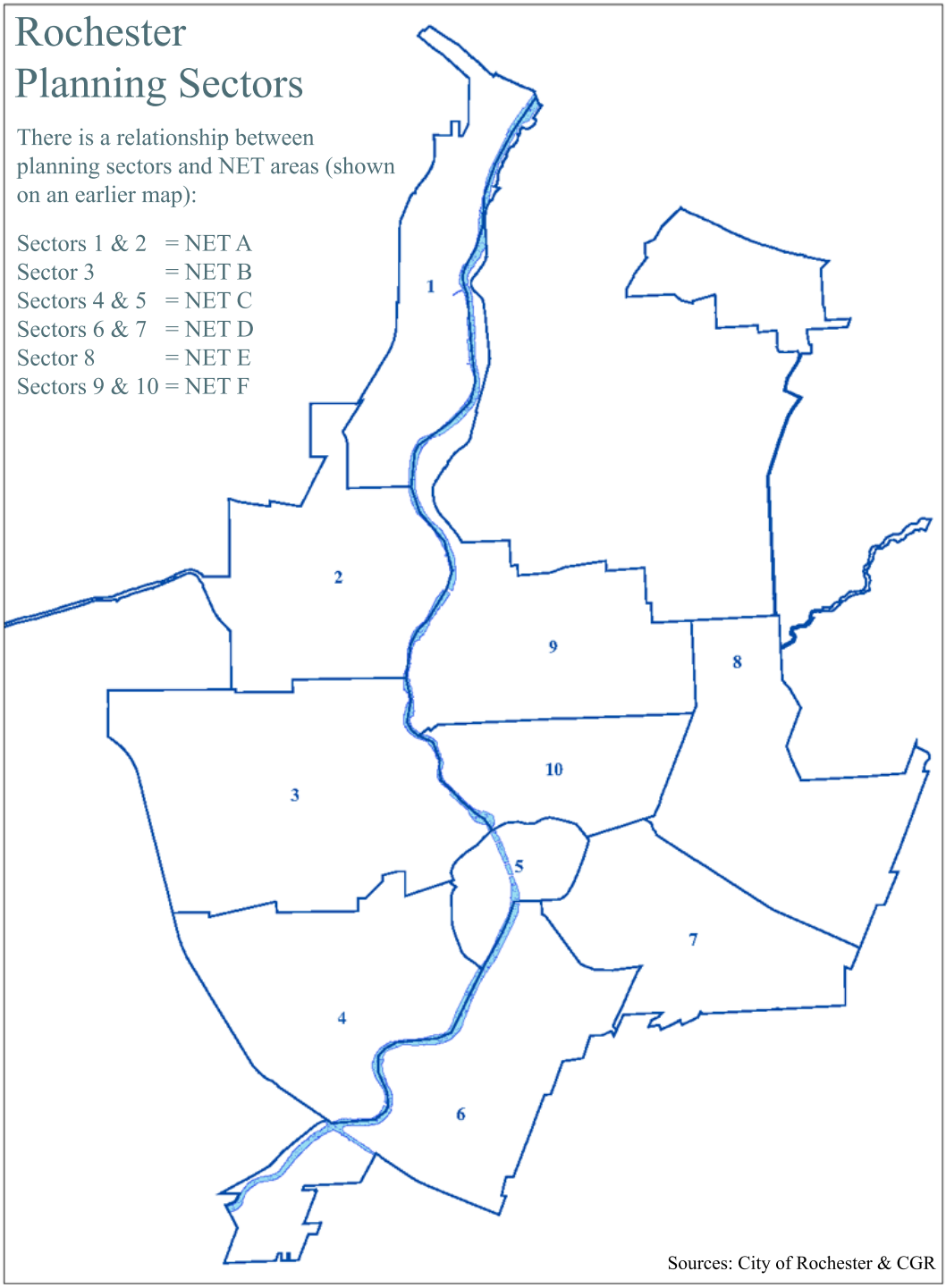
APPENDIX C: NET AREA AND PLANNING SECTOR MAPS


Rochester NET Areas
indicates NET area office
A - 1495 Lake Ave.
B - 492 Lyell Ave.
C - 923 Genesee St.
D - 846 Clinton Ave. S.
E - 212 Webster Ave.
F - 500 Norton St.
A
B
C
D
E
F
Dust wipes required in year 1 (July 06 - June 07).
For the following year, the city added approximately half of NET areas C and E and high-risk portions of NET areas A and D to the provision of the law re: dust wipes.
Sources: City of Rochester & CGR

Rochester
Planning Sectors

There is a relationship between planning sectors and NET areas (shown on an earlier map):

Sectors 1 & 2 = NET A
Sector 3 = NET B
Sectors 4 & 5 = NET C
Sectors 6 & 7 = NET D
Sector 8 = NET E
Sectors 9 & 10 = NET F



Sources: City of Rochester & CGR

APPENDIX D: LANDLORD SURVEY

PROPERTY OWNERS SURVEY

Intro: *Hello, this is [name] calling on behalf of CGR, a nonprofit research organization located here in Rochester. We are calling in regards to the City of Rochester's one-year-old lead law. That law is being evaluated now and we need your help as a property owner to provide feedback. Your name was selected at random from the list of all properties that have been inspected within the past year. No personal identification information is required and only summary group results will be reported. Would you be willing to participate in this short phone survey?*

Section A

A1. What is the total number of apartment units that you operate in the City of Rochester: _____

We understand that a property located at [address] underwent a city inspection in [month/year]. Are you the owner/operator of that property? [If yes, continue with survey. If no, thank and discontinue.]

A2. During the most recent city inspection, was this property cited for any lead hazard violation?
___Yes ___No (Skip to C1) ___Don't know yet (Skip to C1)

Section B: Tenant issues (cited units only)

Please answer the following questions for the property at [address]. If both units were inspected and cited at the same time, please answer for just the downstairs unit, or pick one if they are side-by-side.

B1. What is the current monthly rental rate for this unit? $_____/month

B2. When the unit was cited for a lead hazard, was it occupied? ___Yes ___No (Skip to C1)

B3. What happened to the tenants while the work was being done? Did they
__Stay in the property (skip to C1)
__Relocate to relatives/friends at their own expense while work was done
__Relocate at your expense (estimated cost: _____)
__Don't know (skip to C1)

B4. How long were the tenants relocated? __days [If response is in weeks, convert to days]

Section C: Property Repairs (all respondents)

In preparing for the inspection, or in responding to a lead violation, you may have made repairs to the property. We would like to document just those costs associated with repairs made because of the lead law.

C1. Please tell me the total cost of repairs just in response to the lead law: $_____ (estimate or range is OK)

C2. I'd like to ask you about the types of repairs you made. Again, please focus *only on the work that was done specifically related to the lead law*.

Component	**Details**
A. Did you replace any windows?	__Yes. If so, how many? _____ __No __Don't know
B. Did you repair or paint any windows?	__Yes. If so, how many? _____ __No __ Don't know
C. Did you repair or paint any interior trim?	__Yes __No
D. Did you replace or repair any porches?	__Yes. If so, how many? _____ __No __ Don't know
E. Did you replace any exterior siding?	___Yes, all siding ___Yes, some siding ___No __ Don't know

F. Did you do any other lead-related work?	Briefly Describe:

C3. Who did the lead hazard control-related work? Was it
__Yourself (Property owner)
__A Property manager/employee
__A Private Contractor
__Or some Other person (Describe: _____)
__ Don't know

C4. Did the person who did this work receive Lead Safe Work Practices Training?
__Yes
__No
__Don't know

C5. How did you pay for the lead hazard control work? (Check all that apply)
__ Grant program
__ Bank loan/myself/private funds
__ Other (Describe:_____)
__ Don't know

C6. How will you offset costs associated with the repairs?(Check all that apply)
__ Rent will be increased
__ By not making other improvements
__ Will sell the property
__ Other (Describe: _____)
__ Don't know

C7. Do you think the investment you made in the property will improve the value of the property?
__ Yes
__ No
__ Don't Know

Section D: Intent to sell, Perceptions of Law, Comments (all respondents)

D1. Do you hope to sell this property within the next one to two years? ___Yes ___No (Skip to D3) __ Don't know (Skip to D3)

D2. If so, why? _____

D3. What was your position on the lead law when it was initially considered by City Council?
__ Unfavorable __Neutral __Favorable __Didn't know about it

D4. Now that the law is in place, what is your position on the law?
__ Unfavorable __Neutral __Favorable ___Don't know about it

D5. How did you learn about the lead law?
__ Media (news/TV)
__ Other property owners/professional associates
__ NET inspector/ C of O process

D6. Do you have any comments or suggestions for changes to the lead law?

_____
_____
_____

D7. If you would like a copy of the final report when it is available, please give us your email address or mailing address. This contact information will be kept separate from the survey data.

NAME: _____
ADDRESS: _____
_____
EMAIL: _____