

TRANSMITTAL

To:

THE COUNCIL

Date: 02/16/2016

From:

THE MAYOR

TRANSMITTED FOR YOUR CONSIDERATION. PLEASE SEE ATTACHED.

A handwritten signature in blue ink, appearing to read 'Eric Garcetti', is written over a faint circular official seal.

(Ana Guerrero)

ERIC GARCETTI
Mayor



Eric Garcetti, Mayor
Rushmore D. Cervantes, General Manager

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February 12, 2016

Council File: **15-0463**
Council District: Citywide
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Honorable Eric Garcetti
Mayor, City of Los Angeles
Room 303, City Hall
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Los Angeles, CA 90012

Attention: Mandy Morales, Legislative Coordinator

**DEVELOPMENT OF AN ENHANCED REPAIR PROGRAM TO STRENGTHEN THE
SYSTEMATIC CODE ENFORCEMENT PROGRAM (C.F. 15-0463)**

SUMMARY

On April 22, 2015, the City Council instructed the Los Angeles Housing and Community Investment Department (HCIDLA), with the assistance of the City Attorney, to report back to the Council on the feasibility of strengthening the Systematic Code Enforcement Program (SCEP) by developing an enhanced repair program with recommendations on what would trigger the need for enhanced repairs (Motion: Cedillo/Bonin).

HCIDLA has completed its review of the issues raised in the motion concerning inadequate repairs, reoccurring code violations and the idea of developing an enhanced repair program. In conclusion, the Department found that developing a distinct "enhanced repair program" is not necessary. Instead, making procedural changes and specific amendments to the Los Angeles Municipal Code, and possibly to the Contractors' State License Law, would have the greater potential of improving the quality of repairs, reduce reoccurring code violations and thereby enhance the Systematic Code Enforcement Program. For example, with respect to procedural changes, HCIDLA intends to do the following:

1. As a six-month pilot program in the SCEP Central and East regions, modify HCIDLA's procedure for responding to complaints about housing problems by having housing inspectors meet with the tenant/complainant first, verify the problem and afterwards give the property owner a 30-day notice informing the owner about the problem and how to correct the problem. If the owner corrects the problem within the 30-day period, then HCIDLA would not assess a fee for the inspection. HCIDLA reasons that this pilot program procedure would be an improvement over the current procedure because currently, the property owner only has 15 days to correct a problem, and most reoccurring problems, such as water damage, cannot be detected and properly repaired within 15 days.
2. As a six-month pilot project in the City of Los Angeles Promise Zone, establish a pre-repair conference with property owners whose properties have a history of reoccurring code violations (problem properties). This procedure would give HCIDLA the opportunity to give owners of problem properties guidance on how to make quality repairs that conform to industry standards before a potentially inadequate repair is attempted.

The above described procedural changes are proposed as pilot programs in limited geographic areas to test the changes and determine the feasibility of going citywide.

With respect to code amendments, HCIDLA recommends that the City amend Division 81 of Article 1 of Chapter IX of the Los Angeles Building Code, titled Existing Buildings, to add sections regarding lead-safe work practices for buildings built before 1978. Amending the Building Code to include lead-safe work practices would aid in furtherance of enforcing existing state and federal laws related to lead-safe work practices and certification requirements for contractors and workers in the building trades. Similarly, HCIDLA recommends that the City consider initiating a legislative amendment to the Contractors' State License Law to require a more comprehensive examination for contractors on lead-safe work practices.

HCIDLA staff discussed the conclusions and recommendations contained in this report in meetings with representatives of the Renters' Day Coalition and with representatives of the Department's landlord/tenant working group consisting of a partnership of tenant and landlord advocates (Apartment Association of Greater Los Angeles, Bet Tzedek, California Apartment Association, Coalition for Economic Survival, Inner City Law Center, Legal Aid Foundation of Los Angeles, LACAN, LA Human Right to Housing Collective, and others).

RECOMMENDATIONS

The General Manager of HCIDLA respectfully requests that:

- I. Your office schedule this report back at the next available meeting(s) of the Housing Committee and forward it to City Council for review and approval immediately thereafter.
- II. The City Council with the concurrence of the Mayor instruct HCIDLA to report back to the Housing Committee on the outcome of the following pilot programs within 90 days of program ending:

- A. The HCIDLA six-month pilot program in the SCEP Central and East regions wherein HCIDLA will modify its procedure for responding to complaints about housing problems by having housing inspectors meet with the tenant/complainant first, verify the problem and afterwards give the property owner a 30-day notice informing the owner about the problem and how to correct the problem.
 - B. The six-month pilot program in the City of Los Angeles Promise Zone wherein HCIDLA will conduct a pre-repair conference with property owners whose properties have a history of reoccurring code violations or where there are other indicators that the property owner may need guidance on how to make adequate repairs.
- III. The City Council with the concurrence of the Mayor direct the City Attorney, in consultation with the Housing and Community Investment Department, and the Department of Building and Safety, to prepare amendments to the Los Angeles Municipal Code establishing regulations for lead-safe work practices in residential buildings built before 1978, including penalties for violations thereof.
- IV. The City Council with the concurrence of the Mayor examine the feasibility for the City to initiate a legislative amendment to Chapter 9 of Division 3 of the Business and Professions Code, known as the Contractors' State License Law, to establish a comprehensive examination for contractors on lead-safe work practices and certification requirements.

BACKGROUND

In mid-1997, responding to a highly critical report by the independent *Blue Ribbon Citizen's Committee on Slum Housing* about the City's process for receiving code complaints and conducting inspections in multifamily rental housing, the City undertook a major reform effort that led to the establishment of the Systematic Code Enforcement Program (SCEP). This program is unique to building code enforcement efforts nationwide because rather than being complaint driven, it is systematic in nature.

HCIDLA manages the SCEP program in accordance with the provisions of Article 1 of Chapter XVI of the Los Angeles Municipal Code, known as the Los Angeles Housing Code. The Housing Code sets forth the requirements for regular periodic inspections (SCEP inspections) of all rental-housing units in the City. Currently, there are approximately 113,000 properties comprised of 760,000 rental-housing units within scope of the City's Housing Code. Consistent with the requirements of the Housing Code, HCIDLA makes every effort to have its housing inspectors perform a SCEP inspection of each multi-unit rental property at least once every three years. Additionally, the Housing Code authorizes complaint-based inspections. Housing inspectors make complaint-based inspections in response to a tenant or other person reporting a deficiency or a code violation in a rental-housing unit.

SCEP inspections and complaint-based inspections are governed by the enforcement timelines specified by the City's Housing Code. For instance, pursuant to the Housing Code, when a housing inspector finds a condition at a rental property that is a code violation, the inspector must issue an

order to the property owner that instructs the property owner to correct the condition within 30 days. Afterwards, the inspector must perform a compliance inspection no later than 15 days from the date specified in the order for compliance (LAMC §161.704 [Attachment 1]). If the compliance inspection reveals that the condition still exists, then HCIDLA must conduct a General Manager's enforcement hearing within 21 days of the compliance date (LAMC §161.801.1 [Attachment 2]). If at the time of the enforcement hearing the condition still exists, the General Manager may order one or more of ten enforcement actions against the property owner that may ultimately lead to placing the property in the Rent Escrow Account Program and referring the violation to the City Attorney for prosecution (LAMC §161.805 [Attachment 3]). Essentially, the Housing Code enforcement timeline functions as a conveyor belt, and the only real opportunity to provide compliance guidance to property owners about making quality repairs comes after a violation has been cited and the owner has failed to repair the condition and eliminate the violation. For instance, HCIDLA's Property Management Training Program and SCEP's Case Management Program both provide guidance to property owners about making repairs; however, they are triggered by referral to a General Manager's enforcement hearing, which is near the end of the enforcement process. By making the procedural changes recommended herein, HCIDLA intends to improve the quality of repairs and reduce or eliminate reoccurring code violations by providing more guidance to property owners about making repairs at the front-end of the enforcement process.

DISCUSSION

Recommendation II.A: *The six-month pilot program in the SCEP Central and East regions wherein HCIDLA will modify its procedure for responding to complaints about housing problems by having housing inspectors meet with the tenant/complainant first, verify the problem and afterwards give the property owner a 30-day notice informing the owner about the problem and how to correct the problem.*

Currently, upon receiving a complaint about a housing problem, SCEP staff sends a Complaint Notification Letter (also known as a Courtesy Notice) to the property owner. The Courtesy Notice is not required by the Housing Code. SCEP management adopted the Courtesy Notice procedure in response to property owner allegations that many tenants do not tell owners about problems in their rental units and instead, complain to HCIDLA, thus denying owners the opportunity to make a repair and eliminate the problem before SCEP staff opens a complaint case, schedules a complaint inspection and writes a repair order alleging a code violation.

The Courtesy Notice identifies, among other things, the problem or alleged violation and the location of the alleged violation thus giving the property owner an opportunity to repair the condition before a complaint inspector visits the site to inspect. The Courtesy Notice states, "*We [Department] will conduct an inspection in approximately 15 days. If our inspection reveals the conditions reported or observed are violations of the City of Los Angeles Municipal Code, we will issue a notice requiring you to correct any deficiencies cited. Any related inspection and enforcement costs will be assessed.*" Generally, an inspector visits a site approximately two weeks after sending a Courtesy Notice. Upon inspection, if the alleged violation is not in existence or the owner had corrected the condition, the complaint case is closed and there is no charge to the owner. However, if the alleged violation is observed during the inspection then the inspector issues a "Notice and Order to Comply" to the property owner, which provides not more than 30 days to

correct the cited violation. The owner is charged at least \$403.00 (\$201.50 for the initial inspection and \$201.50 for the compliance inspection).

HCIDLA staff has reviewed the Courtesy Notice procedure and found that the procedure does not give the complaint inspector the opportunity to see the actual condition or the extent of the condition that the tenant had reported. Therefore, the ability of the inspector to determine the underlying problem that caused the alleged condition is reduced. For instance, in a situation where HCIDLA receives a complaint about peeling paint, sends a Courtesy Notice to the property owner about the “peeling paint,” and the property owner or manager had repainted the room just in time for the complaint inspection. At inspection, the inspector will be unable to determine whether the cause of the alleged peeling paint was due to deteriorating paint, a plumbing leak, a roof leak or interior condensation. Moreover, because the room was freshly painted there is no evidence of a code violation or any problem. After a short period, the problem may reoccur and the ceiling might collapse because of an undetected plumbing leak. This scenario usually occurs in the bathrooms of older multi-story buildings and if it does, the residents are at risk of injury.

Therefore, as a six-month pilot project, HCIDLA intends to eliminate the Courtesy Notice so that a complaint inspector can meet the tenant/complainant, see the actual condition complained about before a repair is attempted, identify the problem, and then advise the property owner or manager as to the proper investigative steps to take and the appropriate type of contractor needed to correct the problem. Similar to the Courtesy Notice procedure, HCIDLA would not assess a complaint inspection fee to property owners who repair and eliminate a code violation within the 30-day compliance period of the first Notice and Order to Comply. HCIDLA selected the SCEP Central and East regions for the pilot program because these regions contain a high percentage of older buildings that are typically the source of housing complaints. For example, the SCEP Central region contains 19,531 properties of which 18,421 of the properties were built before 1978 (94% pre-1978). Likewise, the SCEP East region contains 29,226 properties of which 27,215 of the properties were built before 1978 (83% pre-1978).

Recommendation II.B: *The six-month pilot program in the City of Los Angeles Promise Zone wherein HCIDLA will conduct a pre-repair conference with property owners whose properties have a history of reoccurring code violations or where there are other indicators that the property owner may need guidance on how to make adequate repairs.*

Although the Housing Code requires a SCEP inspection at least once every three years, it also delineates criteria which may be used to decide whether to conduct inspections more frequently. HCIDLA recommends using some of these criteria to identify owners who must have a pre-repair conference with SCEP inspection staff. The recommended criteria are as follows:

1. Any *owner* who in the previous three years has been the subject of:
 - a. Orders by other City or County agencies relating to health and safety
 - b. Orders imposed by the HCIDLA General Manager pursuant to the Housing Code
 - c. A case in the Citywide Nuisance Abatement Program
2. The current condition of the premises, including the number, nature and severity of violations found.
3. The history of the *property* in the previous three years, including whether it has been the subject of:

- a. Orders by other City or County agencies relating to health and safety
 - b. Orders imposed by the HCIDLA General Manager pursuant to the Housing Code
 - c. A case in the Citywide Nuisance Abatement Program
4. Any other criteria determined by HCIDLA to be indicative of the existence of, or the potential to cause, health or safety violations.

Having a pre-repair conference provides an opportunity for SCEP inspectors and the owner to discuss the what, where, why, and how to make an effective repair meeting industry standards, or how to find an appropriate contractor. It also gives the SCEP inspector an opportunity to assess the ability and willingness of the property owner to correct the problem. Clearly, understanding the requirements of rental housing operations and consequences of not maintaining the property in compliance with the building code standards for rental housing will help to prevent code violations from reoccurring. HCIDLA selected the City of Los Angeles Promise Zone (the “Zone”) for this particular pilot program because the Zone has an easily quantifiable dynamic of property ownership types that HCIDLA has historically had to give guidance about making repairs. For example, the ownership types are as follows: 69% mom and pop, 21% LLC, 5% LP, 3% Inc., and 2% trusts.

Recommendation III: *The City Council with the concurrence of the Mayor direct the City Attorney, in consultation with the Housing and Community Investment Department, and the Department of Building and Safety, to prepare amendments to the Los Angeles Municipal Code establishing regulations for lead-safe work practices in residential buildings built before 1978, including penalties for violations thereof.*

Over one million housing units, accounting for nearly 80% of the city’s housing, were built before 1980, and are likely to have lead-based paint hazards. Since 1990, thousands of children in the City of Los Angeles have been exposed to lead-based paint hazards. In fact, the United States EPA Region 9, 2011-2014 Strategic Plan for Children’s Health identified lead poisoning in California as the “greatest direct environmental threat to children.” Therefore, HCIDLA seeks an amendment to Division 81 of Article 1 of Chapter IX of the Los Angeles Building Code, titled Existing Buildings, to add sections regarding work practices for lead based paint on buildings built before 1978. The sections would govern containment of the work area, protection of floors and furnishings, protection of personal property, clean-up standards, notification requirements and other essential elements. HCIDLA recommends that this amendment is necessary to allow it to more effectively regulate maintenance and repair activities in existing pre-1978 rental housing to prevent the creation of lead hazards that cause lead poisoning in children, adult residents and workers. In addition, because the requirements would be in the City’s Building Code, contractors, architects, engineers, and workers in the building trades would become more aware of the requirements.

Recommendation IV: *The City Council with the concurrence of the Mayor examine the feasibility for the City to initiate a legislative amendment to Chapter 9 of Division 3 of the Business and Professions Code, known as the Contractors’ State License Law, to establish a comprehensive examination for contractors on lead-safe work practices and certification requirements.*

United States EPA Region 9 2011-2014 Strategic Plan for Children's Health identified lead poisoning in California as the "greatest direct environmental threat to children." Lead is a highly toxic metal that may cause a range of health problems, especially in young children. When children ingest lead paint chips or inhale lead contaminated dust, the lead is absorbed into the body, which can cause damage to the brain and other vital organs, like the kidneys, nerves and blood. Lead may also cause behavioral problems, learning disabilities, seizures and in extreme cases, death. Some symptoms of lead poisoning may include headaches, stomachaches, nausea, tiredness and irritability. Children who are lead poisoned may show no symptoms.

HCIDLA staff has reviewed the Contractors' State License Law and found that, even though the EPA has identified that lead poisoning in California is the "greatest direct environmental threat" to children's health, the law does not provide for a comprehensive examination concerning lead-safe work practices and lead-safe certification. Therefore, to raise contractor awareness of lead-safe work practices and awareness of the EPA Lead-Safe Certification Program the Department recommends that the City examine the possibility for the City to initiate legislative action to amend the Contractors' State License Law to include a requirement for a comprehensive examination regarding lead-safe work practices and lead-safe certification.

FISCAL IMPACT STATEMENT


No fiscal impact to the City's General Fund.

Prepared by:



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Attachments

Attachment 1: LAMC §161.704
Attachment 2: LAMC §161.801.1
Attachment 3: LAMC §161.805

cc: Honorable Eric Garcetti
Housing Committee

SEC. 161.704. TIME TO COMPLY.

(Added by Ord. No. 173,011, Eff. 1/30/00.)

SEC. 161.704.1. GENERAL.

(Added by Ord. No. 173,011, Eff. 1/30/00.)

Except as provided otherwise in this article, the order shall give the owner not more than 30 days to correct the violation. If the inspections or reinspections do not occur within the time frames stated in this division, it does not remove the obligation of the owner or person in charge or control of the premises to comply with any orders or notices.

SEC. 161.704.2. REINSPECTIONS.

(Added by Ord. No. 173,011, Eff. 1/30/00.)

Except as provided otherwise in this article, the Department shall reinspect the building or dwelling unit within 5 days or as soon thereafter as possible, but no later than 15 days, of the compliance date specified in the order, and again within 5 days or as soon thereafter as possible, but no later than 15 days, of any extended compliance dates.

SEC. 161.801. GENERAL MANAGER'S HEARING.
(Added by Ord. No. 173,011, Eff. 1/30/00.)

SEC. 161.801.1. GENERAL.
(Added by Ord. No. 173,011, Eff. 1/30/00.)

Whenever a violation has not been corrected by the time specified for compliance, the General Manager shall hold a hearing within 21 calendar days of the date specified for compliance. If the hearing does not occur within the time frame stated in this division, it does not remove the obligation of the owner or other responsible parties to comply with any orders or notices, nor does it limit the General Manager's authority to issue orders at the hearing.

SEC. 161.805. DECISION.

(Added by Ord. No. 173,011, Eff. 1/30/00.)

After considering all relevant evidence and arguments, the General Manager shall issue a written decision within ten working days of the hearing. This decision is to be supported by written findings which separately provide the basis for each order imposed. Where it is determined that the violation has not been corrected, the General Manager may make any of the following orders, as appropriate:

- (1) Order that the violation be referred to the City Attorney's office for prosecution.
- (2) Order a rent reduction.
- (3) Order the building or dwelling units be accepted into REAP. **(Amended by Ord. No. 173,810, Eff. 4/16/01.)**
- (4) Order the building or dwelling units be accepted into the Urgent Repair Program or any successor programs.
- (5) Impose inspection fees pursuant to Division 9 of this article for all inspections after the second until compliance is attained, and for any periodic inspection ordered to take place in less than three years.
- (6) Order that, after compliance has been obtained, the next periodic inspection be conducted within three to 24 months, depending on the severity of the violations, the history of the property, the criteria set forth in Section 161.602.1 and any other criteria set forth by regulation indicating a risk of recurring violations.
- (7) If the violation poses a present, imminent, extreme and immediate hazard or danger to life or limb, health or safety, or if the building or dwelling unit has been ordered vacated by any government agency, order that the owner pay relocation assistance to the tenants, in the amounts and following the procedures set forth in Section 151.09G and any accompanying regulations, regardless of whether the building or dwelling unit is subject to the RSO.
- (8) Order the person or entity who owns, manages or controls the premises to attend property management training as set forth in Section 154.00, *et seq.*
- (9) Order that the property be referred to the Receivership Program.
- (10) Issue an Order of Abatement and have it recorded against the property.