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Lead Paint Enforcement

The United States Environmental Protection Agency's Region I office (serving Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont) is undertaking an initiative to enforce federal laws that require landlords, property management companies, real estate agencies, and sellers of property to inform prospective purchasers and lessees of the presence of lead-based paint and lead-based paint hazards in pre-1978 housing. EPA has said that it believes that "enforcement of this law will ensure that potential lessees and purchasers are receiving information necessary to protect themselves and families from lead-based paint hazards prior to them being obligated to purchase or rent pre-1978 housing."

On October 1, EPA Region I announced enforcement actions against two New Hampshire companies for failing to properly notify home buyers and renters of risks from exposure to lead paint. The complaints against Senecal Properties and Lacerte Realty include proposed penalties of \$33,892 against Senecal and \$13,200 against Lacerte. Then on October 3, EPA Region I announced the settlement of a case with the Franklin Pierce Law Center for its failure to notify tenants of lead risks in student housing. In the settlement, the Franklin Pierce Law Center agreed to spend at least \$103,265 to fully abate lead-based paint inside their rental housing and to pay a fine of \$22,374.

Earlier this year, James T. Aneckstein of Manchester, New Hampshire was sentenced to fifteen months imprisonment and ordered to pay \$40,000 for failing to provide information about the lead hazards in an apartment to the mother of a two year-old. The child ultimately died of lead intoxication.

In addition to these cases and a handful of other lead-related cases EPA Region I has taken since starting the initiative, more than 80 inspections have been conducted in New England.

The following activities are required before the purchaser or lessee is obligated under any contract to purchase or lease pre-1978 housing:

- The seller or lessor must provide the purchaser or lessee with an EPA-approved lead hazard information pamphlet such as the pamphlet developed by EPA, HUD, and the Consumer Product Safety Commission, titled *Protect Your Family from Lead in Your Home*.
- The seller or lessor must disclose to the purchaser or lessee the presence of any known lead-based paint and/or lead-based paint hazards and provide any additional information, records or reports available concerning the known lead-based paint and/or lead-based paint hazards.
- The seller must permit the home buyer a 10-day period to conduct risk assessment or a lead-based paint inspection.
- Each contract to sell or to lease target housing must include certain notification and disclosure language.

If you have any questions regarding this Client Alert, or about our Real Estate, Environmental & Land Use Department, please do not hesitate to contact us. Please visit us on the web at www.wiggin.com.

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