



January 3, 2008

Mayor Sanders and Council Members
City of San Diego
202 C Street
San Diego, CA 92101

Re: Lead Hazard Prevention & Control Ordinance

Dear Mayor Sanders and Council Members:

The San Diego Association of REALTORS[®] is deeply concerned about the risks associated with lead hazards found in the home. REALTORS[®] are an integral part of the communities that we live and work in and we are directly impacted by the needless effects of this health hazard. As concerned citizens, the members of the San Diego Association of REALTORS[®] are troubled that the "Lead Hazard Prevention and Control Ordinance" adopted by the Land Use and Housing Committee on August 4, 2004 falls short of the goal to prepare a comprehensive program addressing the range of lead hazards found in the home. The San Diego Association of REALTORS[®] is opposed to this proposed ordinance and respectfully requests that you do not support the adoption of this flawed measure.

Since August of 2004 many things have changed in the City of San Diego. The city is no longer in a position, if it ever was, to pass an ordinance that will be the first of its kind in the nation. Creating a new bureaucracy at a time when the city is looking to become more efficient is not prudent. More importantly, it has been almost four (4) years since there has been any substantive discussions regarding the proposed ordinance and the appropriate ways to address childhood lead poisonings.

In its current form, the ordinance proposes to prevent poisonings by requiring a lead inspection at the "point of sale." Point of sale is a flawed concept because it relies on the housing market to address an issue or problem, which means it could take decades to ensure that the pre-1978 homes are inspected. Generally speaking, point of sale mandates are ineffective, inefficient at reaching the larger population, and tend to discriminate against consumers who do not purchase properties after the effective date of the legislation. In some real estate markets it takes approximately 15 years to overturn the bulk of the housing supply. Why should a community wait so long to make such an important change? Furthermore, this ordinance does nothing to address other sources of lead poisonings, as paint is estimated to account for only 28% of the cases in the City of San Diego.

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A healthy alternative to point of sale is to develop a program that will educate homeowners on the need to inspect or retrofit and allow them to do so on a voluntary basis with incentives. Most homeowners will do what is best for them and their families.

Of great concern is that the current ordinance will not target the areas in the most need. According to data provided by the County of San Diego Childhood Lead Poisoning Prevention Program, from 1991-2000 there were 377 cases of poisonings in the city for an average of 47 cases per year. Taking into account the 28% figure as stated by the Department of Environmental Services, that would be roughly 13 cases a year possibly caused by lead paint. In addition, the cases reported in that time frame were primarily concentrated in 2 zip codes; 92113 and 92114. These areas have been deemed high risk areas because of the age of construction, density of children, and income levels.

This ordinance unfairly burdens home buyers and sellers with obtaining a *Lead Risk Assessment* by a *Certified Lead Inspector/Assessor* while only requiring a *Visual Inspection* by a *Responsible Person* at the turnover of tenancy for rental units built before January 1, 1979. In addition, home buyers are required to file a *Lead-safe Certificate* or *Lead-Free Certificate* along with the associated fee while inspection, testing, and correction documents for rental housing shall be maintained for three (3) years and shall be made available to the City of San Diego only upon request. Unlike the *visual inspection*, the proposed requirements for a home sale involve financial obligations, for the inspection and any hazard corrections, that will likely push homeownership further out of reach for many San Diegans.

Since 2002, the City of San Diego has received various grants totaling approximately \$10 Million. This amount of funding should have been enough to make considerable progress in addressing lead poisonings in the home. Before the city passes a measure that has significant financial impacts, there needs to be a thorough review of the efforts to date and the grant closeout reports. It is possible that improving and/or altering current methods could make significant strides in targeting the problem without creating budgetary shortfalls.

The San Diego Association of REALTORS® is deeply concerned about the safety of children and exposure to lead hazards and as such, has signed a Memorandum of Understanding with the city to assist a Lead Hazard Training classes for REALTORS® so they may better advise their clients. We have also suggested 12 alternatives which the city can implement to enhance its education, outreach efforts, and testing of children especially in the areas known to have higher instances of lead poisonings.

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It has been over 4 years since all of the stakeholders have met to discuss solutions for this important issue. SDAR is committed to being a part of the solution to the problem. Therefore, we highly recommend that this ordinance not be adopted with the "point of sale" provision and rather be referred back to a task force where outreach and prevention methods can be reevaluated, as well as a thorough review of our 12 alternatives.

We would very much appreciate meeting with you to discuss our concerns further. To schedule a meeting or if you should have any questions or need further information, please do not hesitate to contact me at 619-846-1211.

Sincerely,

Michael T. Mercurio
Executive Vice President

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