



ALAMEDA COUNTY
**Healthy Homes
Department**

ACHHD & Lead Poisoning Prevention Program Presentation

SUMMARY OF LEAD LITIGATION COURT ORDER

Overall Timeline of Paint Lawsuit



Lead Paint Litigation

<https://www.sccgov.org/sites/cco/overview/impact/pages/lead-paint-litigation.aspx>

Holding Lead Paint Manufacturers Accountable for Selling and Marketing a Product that Poisons Thousands of California Children Each Year*(County of Santa Clara, et al. v. Atlantic Richfield, et al.)*

On October 15, 2018, the U.S. Supreme Court denied requests by former lead paint manufacturers—Sherwin-Williams Company, NL Industries, Inc., and ConAgra Grocery Products—to review a California Court of Appeal’s decision requiring those companies to pay several hundred million dollars to identify and clean up lead paint in millions of homes built before 1951 in Santa Clara County and nine other California cities and counties. The public nuisance lawsuit was filed in 2000 by then-Santa Clara County Counsel Ann Ravel on behalf of the People of the State of California (People). The County of Santa Clara served as the lead public entity in the case as other cities and counties joined the litigation, including the City and County of San Francisco; the Cities of Oakland and San Diego; and the Counties of Alameda, Los Angeles, Monterey, San Mateo, Solano, and Ventura.

In 2014, the Santa Clara County Superior Court ruled that the former lead paint manufacturers were responsible for marketing lead paint as a safe product despite knowing that the product was highly toxic, especially to children. Although lead paint was banned for residential use in 1978, it remains present in millions of homes in California and continues to poison tens of thousands of California children each year. Judgement was set at \$1.15 Billion.

In 2017, the Court of Appeal upheld the Superior Court’s decision to hold the former lead paint manufacturers responsible for creating a public nuisance in the ten cities and counties. However, the Court of Appeal limited the scope of the remedy to pre-1951 homes in the ten cities and counties and remanded the case to the Superior Court for a hearing on the appointment of a receiver to administer the abatement fund.

Since then, the Superior Court has set the amount of the abatement fund at \$409 million. Est. \$45 million for Alameda County/Oakland. The Superior Court must now decide on a receiver to administer the fund and distribute the monies to the ten cities and counties.

1 past practices regarding lead detection, removal, and prevention. Each jurisdiction shall be
2 entitled to receive up to the following maximum percentage and distribution from the fund:²⁵

3 Alameda* 9% \$103,500,000

4 (*including the residents of the City of Oakland)

5 Los Angeles 55% \$632,500,000

6 Monterey 2% \$23,000,000

7 San Mateo 5% \$57,500,000

8 Santa Clara 9% \$103,500,000

9 San Diego 7% \$80,500,000

10 San Francisco 7% \$80,500,000

11 Solano 2% \$23,000,000

12 Ventura 4% \$46,000,000

Based on original
judgement of 1.1
billion to address pre
1978 housing

13
14 The jurisdictions shall apply for grants from the Fund with a three-step program as
15 described. Exterior abatement and remediation is excluded from this order.

Number of Pre 1951 homes

Jurisd.	Oakland	Berkeley	Emeryville	City of Alameda	Remainder of County	Total
# homes						
% of homes						100%
\$ eligible						\$

Funding and Timeframe for Implementation

- Jurisdictions have four years to complete abatement activities.
- The start date is the day that all funds are deposited with the court approved Receiver

Abatement Plan Includes

- Testing interior surfaces in homes to identify lead-based paint presence and the lead-based paint hazards;
- Remediation of lead-based paint on friction surfaces (including windows, floors, and doors) by either replacement of the building component or by encapsulation or enclosure of the lead paint;
- Dust removal, covering contaminated soil, proper disposal of waste, post-hazard control cleanup and dust testing, and occupant and worker protection;

Abatement Plan Includes (continued)

- Repairing building deficiencies that might cause the corrective measures to fail (i.e. water leaks) to ensure durability of the lead hazard control measures; and
- Educating families and homeowners about lead poisoning prevention and paint-stabilization techniques to remediate lead based paint hazards.

Abatement Plan Excludes

- Institutional groups, including:
 - correctional facilities,
 - nursing homes, dorms,
 - non-family military housing,
 - mental health psychiatric rehabilitation residences
 - alcohol/detox living facilities,
 - supervised apartment living quarters for youths over 16,
 - schools, and
 - non-home based day care centers
- Housing designated exclusively for the elderly or occupied by the elderly, unless children are regularly present;

The Abatement Plan Excludes

(continued)

- Houses not occupied by young children for which clear evidence exists that demolition will occur within two years;
- Houses constructed after 1980; and
- Properties documented by an inspection to not contain any lead-based paint.

Establishing Priority Groups

- Qualifying properties will be divided into two Priority groups.
- Priority will be based upon a severity of lead based paint hazards criteria; properties having a higher risk priority will be remediated first.

Priority Group 1

Priority 1 Group includes:

- Housing containing children with elevated blood lead levels (EBLs) and actionable lead hazards;
- Housing with a history of repeated poisonings occupied by a young child who has not yet developed an EBL.
- Housing with repeated lead-related non-compliance notices and/or with ten or more code violations in the past 4 years;
- Housing identified as “high risk” or located in high-risk census tracts and neighborhoods

Priority Group 2

Priority Group 2 is lower risk and should be remediated only after most of the higher risk Priority Group 1 buildings have been completed. Group 2 includes:

- Properties with no history of lead poisoning;
- Properties built after 1950 or not in high risk areas;
- Properties that have been “gutted”, or completely remodeled post-1980;

Administration of the Plan

- To receive the funding, each jurisdiction must submit grant applications to the State on a specific needs basis.
- Money will be supervised by the County Boards of Supervisors and/or City Councils.
- The abatement plan will be administered through each jurisdiction's existing public health, housing, environmental health or other lead poisoning prevention program

Jurisdiction Responsibilities

- Establish the priority of inspection and Lead Hazard Control work;
- Conduct workforce development;
- Conduct a public education campaign;
- Conduct bidding for and payment of hazard control contractors;

Jurisdiction's Responsibilities

- Contract with independent contractors to conduct inspections and assessments;
- Design and perform lead hazard control plans for each property;
- Design any needed repairs to ensure viability of hazard control;
- Conduct all clearance tests;

Jurisdiction Responsibilities (continued)

- Keep and maintain a public database of all enrolled properties, the dates of inspection, and the method of hazard control;
- Keep a complete listing of properties that have failed to enroll in the Plan or failed to undergo actionable lead hazard control, which should be made available/accessible to the public.

QUESTIONS ???

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"Our Vision is that every person in Alameda County will live in a safe and healthy home."

The Alameda County Healthy Homes Department provides innovative, multi-disciplinary programs

that offer consultations, case management, technical assistance, and services to prevent lead poisoning and promote health and safety in the home.



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