



Lead-based paint

Background

The use of lead-based paint in homes prior to 1978 presents the potential for exposure that may put young children and pregnant women at risk of developing lead poisoning. Breathing or swallowing lead dust in these populations have been shown to cause learning disabilities, attention deficit disorder, decreased intelligence and damage to the nervous system.

Federal law requires anyone selling a home built before 1978 to disclose any available information regarding lead-based paint hazards on the property, including reports or results from any assessment or inspection in the seller's possession. The law also requires sellers or their agents to provide literature from the U.S. Environmental Protection Agency that explains the risks of lead exposure. The law gives buyers 10 days to do their own inspection or risk assessment for lead hazards, though this time period may be changed by mutual agreement.

Some authorities have proposed adding further requirements at the point of sale, such as requiring lead inspections before a property can be sold, or requiring sellers to encapsulate lead-based paint by painting over it to eliminate direct exposure.

Analysis

Since the ban on lead-based paints was adopted in the 1970s, public awareness of the risks of lead exposure has increased significantly. Widespread media coverage, messages from medical professionals and the adoption of disclosure requirements in the 1990s have all further contributed to public awareness. It is now widely understood by the public that housing built before 1978 is likely to present some level of risk of lead exposure, and that other environmental factors such as consumer products may also present some lead risks.

At this point, the level of public awareness no longer warrants additional point-of-sale requirements on buyers. Point-of-sale mandates delay and complicate the already long and complicated transaction process, creating a financial detriment to the participants and negatively affecting real estate values in the community. Proactive education on the risks of lead exposure must continue, and education arms both buyer and seller with the information they need to make their own decisions. If the buyer feels it is necessary, they already have the freedom to negotiate with the seller to make reasonable requests for repairs before completing the transaction.

Position

The Greater San Diego Association of REALTORS® opposes any further point-of-sale mandates related to lead-based paint. Existing mandates are adequate to ensure buyers can make informed decisions about whether to pursue further investigation or remediation through mutual, voluntary agreements with the seller.

